



City of Hamilton

**SPECIAL CITY COUNCIL
REVISED**

22-008

Friday, April 8, 2022, 11:00 A.M.

Due to the COVID-19 and the Closure of City Hall (CC)

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Call to Order

1. APPROVAL OF AGENDA

(Added Items, if applicable, will be noted with *)

2. DECLARATIONS OF INTEREST

3. COMMUNICATIONS

- 3.1. Correspondence from the Honourable Kate Manson-Smith, Deputy Minister, Ministry of Municipal Affairs and Housing respecting the More Homes for Everyone Plan.

Recommendation: Be received.

4. STAFF REPORTS

- 4.1. City of Hamilton's Response to the Provincial Bill 109, More Homes for Everyone Act, 2022 (PED22112) (City Wide)

*4.1.a. Presentation - City of Hamilton Response to the Provincial Bill 109, More Homes for Everyone Act, 2022

5. CONFIRMING BY-LAW

5.1. 067

To Confirm the Proceedings of City Council

6. ADJOURNMENT

March 31, 2022

Good Afternoon,

On March 30, 2022, the government released its [More Homes for Everyone Plan](#), that proposes targeted policies and initiatives for the immediate term to address market speculation, protect homebuyers and increase housing supply.

Details about the range of measures in the government's plan can be found in the news release here: [Ontario is Making It Easier to Buy a Home | Ontario Newsroom](#).

The More Homes for Everyone Plan is informed by a three-part consultation with industry, municipalities and the public. This includes the Rural Housing Roundtable and the first ever Ontario-Municipal Housing Summit, letters to all 444 municipalities asking for their feedback, and follow-up meetings with the leaders of municipal organizations. On behalf of the ministry, thank you for being part of our consultations and sharing your valuable input.

The government also introduced [Bill 109 - the More Homes for Everyone Act, 2022](#), and is seeking feedback on the changes proposed under the legislation and on other initiatives, through a series of housing related public consultations. This includes seeking input on how to support gentle density for [multi-generational and missing middle housing](#), as well as addressing [housing needs in rural and northern communities](#). These and other related consultations can be found through the [Environmental Registry of Ontario and the Ontario Regulatory Registry](#).

The government committed to prioritizing implementation of the [Housing Affordability Task Force's recommendations](#) over the next four years, with a housing supply action plan every year, starting in 2022-23. To facilitate this, the government plans to establish a Housing Supply Working Group, that would engage with municipal and federal governments, partner ministries, industry, and associations to monitor progress and support improvements to its annual housing supply action plans.

Ontario looks forward to continued collaboration with municipalities to address the housing crisis and hear your ideas and advice on the More Homes for Everyone Plan.

Sincerely,



Kate Manson-Smith

Deputy Minister

- c. Joshua Paul, Assistant Deputy Minister – Housing Division
- Sean Fraser, Assistant Deputy Minister – Planning and Growth Division
- Caspar Hall, Assistant Deputy Minister – Local Government Division



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Mayor and Members City Council
COMMITTEE DATE:	April 8, 2022
SUBJECT/REPORT NO:	City of Hamilton's Response to the Provincial <i>Bill 109, More Homes for Everyone Act, 2022</i> (PED22112) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Tiffany Singh (905) 546-2424 Ext. 1221
SUBMITTED BY:	Steve Robichaud Director, Planning and Chief Planner Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That Council receive Report PED22112 as the basis for written comments on *Bill 109*, including the attached table containing staff responses on each amendment, attached as Appendix "A" to Report PED22112;
- (b) That the Mayor submit a letter to the Minister of Municipal Affairs and Housing and ERO outlining the City of Hamilton's comments regarding *Bill 109, More Homes for Everyone Act, 2022*;
- (c) That upon Royal Assent of *Bill 109, More Homes for Everyone Act, 2022* – Schedule 5 Amendments to the *Planning Act*, staff be directed and authorized to prepare the necessary amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan, as well as any required policies and procedures to give effect to the proposed changes, and undertake an analyses on staffing impacts across the organization as well as any financial implications, and report back to the June 14, 2022 Planning Committee meeting.

EXECUTIVE SUMMARY

OUR Vision: To be the best place to raise a child and age successfully.
OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.
OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

On March 30, 2022 the Province announced the More Homes for Everyone Plan, and introduced Bill 109, *More Homes for Everyone Act, 2022*. Based on stakeholder consultations and recommendations from the Housing Affordability Task Force (HATF), the Government of Ontario has brought forward its first round of legislative and policy changes. Although *Bill 109*, brings forward many legislative amendments that will directly impact the municipal planning approval process, it does not provide the full scope of legislative changes that were recommended in the HATF Report, issued February 8, 2022.

As with the HATF Report, the changes contained in *Bill 109* are based largely on the premise that the cause of the housing affordability crisis is an increase in population and a lack of housing unit supply and does not respond to the fact that housing costs in Ontario have increased at a significantly higher rate compared to incomes. The amendments are intended to reduce red tape, accelerate development timelines, and streamline approvals.

Staff support the general intention of streamlining processes to assist in increasing the supply of housing, but *Bill 109* does not recognize that the planning approvals process is a partnership involving the municipality, the Applicant, the community and external agencies and Provincial Ministries. The planning process is not linear but reiterative and Applicants play a significant role in both the timing of, and the quality of submissions and resubmissions. Staff have concerns regarding the implications of the legislative amendments and consequences that some of the amendments will cause. The outcome of some of the proposed changes may be counterproductive to the intent of the plan and *Bill 109*.

If passed as currently written, Bill 109 will significantly alter local decision-making on development applications and approval processes, and the way in which market-based housing and affordable housing is delivered throughout the Province. These proposed changes will not speed up the process to advance housing supply but will instead lead to significant delays in the approval of comprehensive growth management and places local level decisions in the hands of the Ontario Land Tribunal (OLT).

Staff request endorsement of Report PED2212 as the written comments responding to the Ministry on *Bill 109*, are due Monday, April 11, 2022. In addition, upon proclamation of the proposed changes in *Bill 109*, staff request authorization to schedule a public meeting of the Planning Committee in June, 2022 (ahead of the proposed legislative changes to the *Planning Act* tentatively scheduled to take effect July 1, 2022) to consider an Urban Hamilton Official Plan (UHOP) and Rural Hamilton Official Plan (RHOP) amendment, any recommended policies and procedures to give effect to the proposed changes and staffing and financial implications.

Alternatives for Consideration – N/A

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

- Financial:** At this time there are no immediate financial implications associated with the recommendations contained in this Report. However, if changes are implemented through *Bill 109* such as changes to review timelines, refunding Applications, and new Ontario Land Tribunal procedures, they will have significant financial impacts and will have to be assessed in more detail.
- Staffing:** At this time there are no immediate staffing implications associated with the recommendations contained in this Report. However, if changes are implemented through *Bill 109* such as changes to review timelines, refunding Applications, and new Ontario Land Tribunal procedures, these changes will have significant staffing impacts and will have to be assessed in more detail.
- Legal:** At this time there are no immediate legal implications associated with the recommendations contained in this Report. However, if changes are implemented through *Bill 109* such as changes to review timelines, refunding Applications, and new Ontario Land Tribunal procedures, they will have significant legal impacts and will have to be assessed in more detail. Additional financial and staffing resources may be required to respond to these potential legal implications.

HISTORICAL BACKGROUND

On December 6, 2021, the Province of Ontario created a Housing Affordability Task Force (HATF) consisting of nine members with the mandate of determining ways in which to address housing affordability across the Province.

On January 19, 2022, the Minister of Municipal Affairs and Housing hosted a Provincial-Municipal Housing Summit for Ontario's Big City Mayors and Regional Chairs. The purpose of the Summit was to identify further opportunities for collaboration between all levels of government to address the housing affordability crisis and to develop performance indicators that governments can use to accelerate and incent new housing supply.

On February 8, 2022, the Province received and released a report from the HATF, which included 58 recommendations intended to increase the supply of market housing. On March 30, 2022 Council approved Report PED22071 containing staff-level responses to the HATF recommendations, identifying where clarity was needed, implications, and gaps of information.

On March 30, 2022, the Province of Ontario took the first step in implementing recommendations of the HATF by releasing its More Homes for Everyone Plan, and the introduction of *Bill 109, More Homes for Everyone Act, 2022*. The Bill received a second reading on April 5, 2022 and has been referred to the Standing Committee in the Ontario Legislative Assembly for consideration on April 11, 2022. If passed, this Bill would make changes to the *Planning Act*, the *City of Toronto Act, 2006*; the *Development Charges Act, 1997*; the *New Home Construction Licensing Act, 2017*; and, the *Ontario New Home Warranties Plan Act* in an effort to, among other goals, incentivize the timely processing of certain applications to bring housing to market and increase transparency. The *Planning Act* stands to see the most considerable change.

The Province has posted *Bill 109* and associated documents on Ontario's Regulatory Registry and is accepting public input on all schedule changes until April 29, 2022.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

This Section focuses largely on an analysis of the recommended *Planning Act* changes introduced in the proposed *Bill 109* – Schedule 5.

1. Official Plan Amendments and Approvals

Bill 109 proposes to amend the *Planning Act* providing the Minister with new discretionary authority when making decisions to suspend the 120-day time period for filing a non-decision appeal of an official plan or official plan amendment (OPA) where the Minister is the approval authority which is generally an OPA to implement all or part of a Municipal Comprehensive Review/Growth Plan Conformity Exercise. Presently, a non-decision appeal can be filed 120 days after the official plan or OPA is received by the Minister. This may enable the Minister additional time to consult with a municipality to clarify or resolve matters that may impact the Minister's decision. It could also result in increased timing for a decision and implementation that could cause more confusion and delay.

In addition, proposed changes to the *Planning Act* would enable the Minister to refer all or part(s) of an official plan matter (Municipal Comprehensive Reviews, Official Plan Amendments, or new Official Plans), to the OLT for either a recommendation on whether the Minister should approve or modify the OPA or for a final decision. The operational details on these new provisions has not been provided. This process could cause significant delays and increased costs for planning staff, legal staff, and consultants to participate in hearings.

These amendments will impact the timing of the Provincial decisions on the proposed Municipal Comprehensive Review (MCR) OPA which implements Council's No Urban

Boundary Expansion decision. These mechanisms would delay a decision on the City's future growth. By referring the City's MCR OPA to the OLT, a hearing on an urban boundary expansion would require 15 weeks of hearing time but based on scheduling and procedural considerations could take two years to accommodate. Furthermore, the cost of retaining lawyers, planners, consultants, and engineers would be significant (\$1 to \$2 M dollar range). These delays would, in turn, impact the timelines of other City initiatives already underway that implement Council's decision, such as intensification strategies, master plans, growth-related funding tool updates etc.

Staff do not support this change, as it would further delay approvals, cause more confusion, and significantly increase the financial costs of municipalities due to expenses associated with the tribunal litigation process.

2. Refunding Application Fees

Additional changes are proposed to the *Planning Act* legislation that would apply punitive consequences in the form of fee refunds from municipalities to gradually refund site plan, zoning by-law and official plan amendment Application fees to an Applicant if a decision is not made within the legislated timelines of receiving the complete application. The following chart describes the tiered refunding timeline:

	No Refund	50% Refund	75% refund	100% Refund
Zoning By-law Application	Decision made within 90 days	Decision made within 91 and 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
Combined Official Plan Amendment and Zoning By-law Application	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
Site Plan Application	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

The implementation of these measure will have major financial impacts the City. Based on the 2022 activity forecasts and historic processing timeframes, this would result in an approximate \$5 M dollar levy impact as the fee revenues would be required to be refunded and staffing and related costs would have to be absorbed by the tax levy and result in the need to increase staffing involved in the development approvals process

across the organization. This will result in more upfront work on the part of applicants including coordination with external agencies for permits and approvals before the intake of an Application by the City. If implemented the City will be required to update our UHOP and RHOP to include Design Review Panel and Community Consultation requirements etc. in advance of submitting an Application. Clarity is also needed to understand if the City's current Conditional Site Plan Approval would constitute an approval decision.

In order to process a Zoning By-law Amendment or an OPA jointly with a Zoning By-law amendment, in accordance with the proposed changes, the number of staff involved in development approvals would need to approximately double in number. If the legislated timelines are not met, this would lead to a loss in revenue that would need to be absorbed by municipal levies. If implemented, this measure may in turn slow down the development process and opportunities to establish more meaningful dialogue between developers and the community and work collaboratively with Applicants. It will require Applicants to do more work upfront without much guidance from City Planners and will require City staff to be more stringent when deeming an Application complete. These changes reduce the ability of staff to negotiate to find consensus and may cause premature decisions on applications, including more refusals resulting in more litigation time and expenses at the OLT. Another consequence to this change is the impact it will have on retaining staff and attracting talent to public sector development planning jobs. Legal Services estimates that up to at three additional lawyers and three additional law clerks would be required to deal with the expected increase in OLT appeals starting in 2023.

Because Applicants require time to review and respond to the comments received as a result of the initial Application, the Province should consider amending *Bill 109* to adopting the changes made to the *Ontario Heritage Act* under *Bill 108* where both the municipality and the land owner can agree to a pause to the "time clock" to allow for continued discussion and negotiations to occur.

Staff do not support this. Furthermore, the change may cause more confusion for applicants and significantly increase the financial costs of municipalities due to staffing, covering costs of refunds or the expenses associated with the tribunal litigation process.

3. Community Infrastructure and Housing Accelerator (CIHA) Tool

The proposed Community Infrastructure and Housing Accelerator Tool (CIHA) would enable municipalities to request a CIHA order designed to accelerate planning processes for municipalities. The CIHA tool allows municipalities to submit a request to the Minister of Municipal Affairs and Housing to expedite zoning approvals for local priorities such as market-rate housing, non-profit housing, buildings that facilitate economic development, mixed-use developments, and community infrastructure such

as long-term care facilities. This tool resembles the current Minister's Zoning Order (MZO), but with added public consultation requirements to ensure that residents have an opportunity to provide feedback and exempts Council from having to ensure that the requested CIHA from local Official Plan Conformity. It should be noted that the CIHA cannot be used in the Greenbelt Area. In addition, the Minister's existing zoning order powers remain unchanged, and so the Minister can continue to make Minister zoning orders without a request from the municipality.

Generally, staff are supportive of this tool that can assist with expediting approvals in unique situations for priority developments. However, the CIHA Proposed Guidelines are vague and there is concern regarding potential misuse of this tool to facilitate ad hoc employment conversions, the provision of servicing outside urban boundaries, and development in areas that may conflict with comprehensive growth management process. If this tool is to be implemented, it should only apply to areas that align with the provision and timing of municipal servicing infrastructure.

4. Amendments to Site Plan Control

Municipalities are required to delegate authority to approve site plan control applications to a designated authorized person (officer, employee, or agent of the municipality). At present, municipal council may, but is not obligated to, delegate its authority to approve site plan Applications. The City of Hamilton is a leader in employing delegated site plan authority and has had a positive experience expediting site plan control development Applications as a result of this streamlined process.

Related to the refund of Application fee changes noted above, a new complete Application process for site plan Applications is proposed. This process follows the complete Application process that applies to official plan amendment and zoning bylaw amendment Applications. Staff support this change as it will add clarity to the application process and for deeming an application complete.

Amendments to Section 41 of the *Planning Act* include increasing the timeline to appeal a site plan application for non-decision is increased from 30 days to 60 days. This amendment is supported by the City staff.

5. Amendments to Subdivision Control

New legislation would also allow the Minister to prescribe matters that are not permitted to be imposed as conditions to subdivision approval. It is not clear what these potential matters may be. Furthermore, it is not clear what the intent is behind this amendment or the need for provincial intervention into local municipal affairs for subdivision approvals. Until further information is released it is difficult to assess the impacts of this amendment. The City does not support the amendment allowing the Province to set

standards for subdivision conditions, without knowing what the extent of their prescriptions may include. Municipalities should retain authority to set conditions that are reasonable and in keeping with the development proposed in the subdivision.

An additional amendment is proposed that is an administrative change to allow lapsed plans of subdivisions to be reinstated, one time only, where there are purchase and sale agreements, and the application lapsed within the last the past five years. Staff are in support of this change.

6. Growth-Related Funding Tools Changes

The Province is proposing changes to growth-related funding charges such as Development Charges, Parkland Dedication and Community Benefits Charge (CBC), with the goal of creating more transparency and certainty relating to fees or levies charged by municipalities to developers. Amendments include reporting requirements for municipalities to post annual financial reports for growth-related charges on their websites. As the effect of these changes is to provide additional transparency, staff support these changes.

Should Council adopt a community benefit charge by-law that is currently under review by staff, then this CBC by-law will require a five-year review (every five years) to determine whether there is any need for revision. If the municipality does not pass a resolution declaring whether a revision to the by-law is needed, the community benefit charge by-law will expire. This amendment will have no impact on the work being completed currently on the City's Community Benefit Charge By-law and Strategy project. Staff supports opportunities for review, amendments and transparency.

Amendments also include implementing a tiered alternative parkland dedication rate, that would only apply to Transit-Oriented Community (TOC) developments. For smaller sites that are five hectares or less, parkland dedication would be up to 10% of the land or its value. For sites larger than five hectares, parkland dedication would be up to 15% of the land or its value. In addition, the Minister of Infrastructure could identify encumbered parkland and deem the conveyance of the land to count towards any parkland dedication requirements imposed by the City.

Clarity is needed in understanding the geographic radius of Transit-Oriented Community Projects. Based on the limited detailed provided by the Province, staff are concerned that the proposed changes will limit the City's ability to ensure that there is adequate parkland in established areas as the number of households and population increases as a result of re-urbanization and re-development. It is unclear if they would contain the same parameters as a Protected Major Transit Station Area (PMTSA) as identified in the Growth Plan. In order to implement the proposed changed the City's Parkland Dedication By-law 18-126 would need to be updated to implement definitions for

Transit-Oriented Communities (TOC) and their geographic location. In addition, the proposed tiered alternative parkland dedication rate, for TOC developments would need to be included.

Conclusion

The City of Hamilton has already implemented a number of actions to streamline planning approvals, plan for intensification, and bring housing supply to the market quicker, in an effort to address housing affordability within our jurisdiction. The City has conformed to Provincial targets in efforts to increase housing supply. Of note, 2021 was an all-time record year for new housing construction in Hamilton. The City of Hamilton has had a strong record for keeping applications moving and working collaboratively with local development industry to bring supply of units to the market.

The City's residential intensification rate has increased from 34% in 2011 to 66% in 2021, with the same staffing levels. The challenge that the City of Hamilton now faces is how to create the right conditions to encourage and promote residential intensification. To achieve the existing intensification targets, the City has proactively accomplished the following:

- Pre-zoned the Light Rail Transit (LRT) corridor;
- Adopted new commercial and mixed-use zoning;
- Updated our downtown secondary plan and pre-zoned the downtown;
- Introduced City-wide zoning to allow for Secondary Units and Detached Units (laneway housing); and,
- Currently bringing forward zoning by-law changes to allow up to four units on a lot.

The City of Hamilton has made many efforts to streamline the development approvals process and prioritize files only to then see the lands sitting vacant for some time. Based on the City's Vacant Residential Land Areas and Unit Potential Analysis (December 2020), there were 34,570 potential units in the City of Hamilton. More focus should also be on providing tools or mechanisms to ensure proposed developments get built and in a reasonable time and conversely, if development does not proceed in a timely fashion, the ability to sunset approvals to allow for the allocation of servicing capacity.

The current Provincial response narrowly focuses on upgrading more decision-making power to the Province and OLT to catalyse market-rate unit supply. However, this swing to more provincial control over local processes and discretion will result in less accountability for getting the community building details right, increased litigation costs, delayed decisions, greater confusion on processes, and difficulty retaining and attracting municipal planning staff. Some of the proposed changes in *Bill 109* are an unnecessary overreach with punitive costs to municipalities. Some of the proposed

amendments will lead to greater animosity between the community and the development industry due to the lack of consensus building opportunity that the planning process plays. The City encourages the Province to reconsider amendments that would result in increased OLT litigation and to instead add mechanisms that ensure proposed developments get built in a reasonable time and to consider more tools and funding opportunities to increase the supply of deeply affordable housing.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Healthy and Safe Communities

Hamilton is a safe and supportive City where people are active, healthy, and have a high quality of life.

Clean and Green

Hamilton is environmentally sustainable with a healthy balance of natural and urban spaces.

Built Environment and Infrastructure

Hamilton is supported by state-of-the-art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

Culture and Diversity

Hamilton is a thriving, vibrant place for arts, culture, and heritage where diversity and inclusivity are embraced and celebrated.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" to Report PED22112 - City of Hamilton Response to *Bill 109, More Homes for Everyone Act, 2022*

Appendix "B" to Report PED22112 - Key Changes in the More Homes for Everyone Plan

TS:sd

Proposed Bill 109, *More Homes for Everyone Act, 2022*

SCHEDULE 2

O. Reg. 82/98 under the DEVELOPMENT CHARGES ACT, 1997

The Schedule amends the *Development Charges Act, 1997* with respect to the publication of the statement of the treasurer under section 43 of the Act.

Proposed Change	Explanation of Change	Comments
<p>1. Subsection 43 (2.1) of the <i>Development Charges Act, 1997</i> is repealed and the following substituted:</p> <p>(2.1) The council shall ensure that the statement is made available to the public,</p> <p>(a) by posting the statement on the website of the municipality or, if there is no such website, in the municipal office; and</p> <p>(b) in such other manner and in accordance with such other requirements as may be prescribed.</p>	<ul style="list-style-type: none"> • The proposal is aimed at enhancing transparency of development charges (DCs) by improving municipal reporting requirements. This would apply only to municipalities that levy DCs. • It would require a municipal treasurer, in their annual treasurer's statement, to set out whether the municipality still anticipates incurring the capital costs projected in the municipality's DC background study for a given service. If not, an estimate of the anticipated variance from that projection would be provided along with an explanation for it. • The proposed amendment would enhance existing reporting requirements for municipalities that levy DCs. • Municipalities are required to prepare a DC background study, in which they provide projected expenditures on DC-eligible capital. • This background study is used to inform their DC by-law and the charges levied on development. • Annually, the municipality would be required to account for any variance based on 	<p>Variations</p> <ul style="list-style-type: none"> • There are many ways that variances from the DC Background Study can occur. The drafted regulation proposal only refers to capital costs. The capital projects are supported via DC collections which are subject to the pace of growth realized and prudent fiscal management requires that the timing of the capital projects in the study be deferred (or accelerated) to align with realized and anticipated growth patterns. • The City requests that the Province release a full draft of the proposed language changes to O.Reg. 82/98 and include a consultation period so that municipalities may provide more robust feedback. <p>Resourcing</p> <ul style="list-style-type: none"> • The effect of a capital cost variance reconciliation every year is to add an administrative burden onto municipal staff. The 5-year limit on a DC background study ensures that the DC rates being collected remain reasonably current; an annual reconciliation of capital costs will be a new requirement that may require additional resources, processes and technology. • The ability of a municipality to complete the identified

	<p>whether they are spending on the capital costs for a service that they had projected over their DC by-law period.</p> <ul style="list-style-type: none"> The proposed regulatory amendments would amend existing reporting requirements to require publication of additional information that municipalities would likely already have available. As such, the financial impact on the municipal sector is expected to be minimal. 	<p>variance analysis (once confirmed via specific regulation language) will depend on the sophistication of the software and tools that each municipality is using for DC forecasting and may require some municipalities to invest in more sophisticated software and hire additional resources.</p> <ul style="list-style-type: none"> If implemented, the City requests that a transition period be considered so that necessary software and staffing enhancements can be made. The City further requests that the costs incurred with any upgrades and additional staffing requirements be added as an eligible category within the DC Act or be eligible for reimbursement by the Province to avoid levying these incremental costs on the general property tax levy. <p>Value</p> <ul style="list-style-type: none"> The DC Background study utilizes information from many long-term plans and as such, is a long-term plan itself. It is unclear how the information from such a capital cost variance analysis will be used and how it will address Ontario’s housing supply crisis. The City requests that the Province detail how an annual DC capital cost variance review will aid in Ontario’s housing supply crisis or what other value is expected to be achieved.
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<p>2. Subsection 60 (1) of the Act is amended by adding the following clause:</p> <p>(t.0.1) prescribing the manner in which a statement is to be made available and other requirements for the purposes of clause 43 (2.1) (b).</p>		<ul style="list-style-type: none"> The City supports this section of the Proposal, which meets the objective to enhance transparency of DCs.
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SCHEDULE 3

NEW HOME CONSTRUCTION LICENSING ACT, 2017

The Schedule amends the *New Home Construction Licensing Act, 2017*.

Proposed Change	Explanation of Change	Comments
<p>1. Clause 38 (1) (c) of the <i>New Home Construction Licensing Act, 2017</i> is repealed and the following substituted:</p> <p>(c) neither the Applicant, nor any interested person in respect of the Applicant, has carried on or is carrying on activities,</p> <p>(i) that are in contravention of this Act or the regulations, or that will be in contravention of this Act or the regulations if the Applicant is issued a licence, or</p> <p>(ii) that are in contravention of prescribed legislation, or that will be in contravention of prescribed legislation if the Applicant is issued a licence;</p>	<ul style="list-style-type: none"> Section 38 is amended to provide that the registrar may consider whether the activities of an Applicant are, or will be if issued a license, in contravention of the Act, the regulations or prescribed legislation. The proposed amendments aim to help address the issue of inappropriate or unethical behaviour by vendors and to enhance the Home Construction Regulatory Authority's (HCRA) enforcement powers, among other. <p>The proposed amendments include:</p> <ul style="list-style-type: none"> Enhancing consumer protection by giving additional tools to the HCRA, such as ensuring the registrar does not require a complaint to be received to take certain actions within subsection 56(4) of the Licensing Act. 	<p>Staff have no concerns or objections to these changes.</p>
<p>2. Section 56 of the Act is repealed and the following substituted:</p> <p>(1) The registrar may,</p> <p>(a) Receive complaints concerning conduct that may be in contravention of</p>	<ul style="list-style-type: none"> Increasing the maximum amount of a fine that the Discipline Committee may impose if a licensee 	

<p>this Act, the regulations or prescribed legislation;</p> <p>(b) make written requests to licensees for information regarding complaints; and</p> <p>(c) attempt to mediate or resolve complaints, as appropriate, concerning any conduct that comes to the registrar's attention that may be in contravention of this Act, the regulations or prescribed legislation.</p> <p>(2) A request made under clause (1) (b) shall indicate the nature of the complaint.</p> <p>(3) A licensee who receives a request made under clause (1) (b) shall provide the requested information to the registrar.</p> <p>56.1 If the registrar is of the opinion, whether as a result of a complaint or otherwise, that a licensee has contravened any provision of this Act, the regulations or prescribed legislation, the registrar may do any of the following, as the registrar considers appropriate:</p> <ol style="list-style-type: none"> 1. Give the licensee a written warning, stating that if the licensee continues with the activity that led to the alleged contravention, action may be taken against the licensee. 2. Require the licensee to take further educational courses. 3. Require the licensee, in accordance with the terms, if any, that the registrar specifies, to fund educational courses for persons that the licensee 	<p>contravenes the Code of Ethics, from \$25,000 to \$50,000 for individual licensees, and \$100,000 for non-individual licensees.</p> <ul style="list-style-type: none"> • Establishing the authority for the Discipline Committee to impose an additional fine in an amount equal to the monetary benefit acquired by a licensee as a result of a breach of the Code of Ethics. • Clarifying the authority for the Discipline Committee to consider repeat contraventions as part of its determination when imposing fines for any type of Code of Ethics violations. • Increasing the maximum administrative penalty amount from \$10,000 to \$25,000. • Establishing the authority for an assessor to impose an additional administrative penalty in an amount equal to the monetary benefit acquired by a person as a result of a contravention. • Creating the authority for a court to impose an additional fine for a conviction in an amount equal to the monetary benefit acquired by a person as a result of an offence. • Clarifying that the registrar can review whether an Applicant's past or ongoing conduct either is or will be in contravention of the Licensing Act and prescribed legislation. 	
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<p>employs or to arrange and fund the courses.</p> <p>4. Refer the matter, in whole or in part, to the discipline committee.</p> <p>5. Take an action under section 40, subject to section 43.</p> <p>6. Take further action as is appropriate in accordance with this Act.</p>	<ul style="list-style-type: none"> • Clarifying under the Licensing Act that an assessor may impose an administrative penalty if the person has contravened, or is contravening, a prescribed provision of the Ontario New Home Warranties Plan Act or the regulations or the by-laws made under it. • The proposed legislative amendments are not expected to create a burden on the new home construction sector as builders and vendors should be adhering to the requirements and rules currently set out under the Licensing Act and its regulations. The proposed amendments are intended to deter future conduct issues and to give the HCRA the tools to better protect consumers. 	
<p>3. (1) Paragraph 3 of subsection 57 (4) of the Act is repealed and the following substituted:</p> <p>Impose such fine as the committee considers appropriate, subject to subsections (4.1), (4.2) and (4.3), to be paid by the licensee to the regulatory authority or, if there is no regulatory authority, to the Minister of Finance.</p>	<ul style="list-style-type: none"> • There are no costs or cost savings to small businesses associated with the Ministry's proposed amendments. 	
<p>4. Section 57 of the Act is amended by adding the following subsections:</p> <p>(4.1) Subject to subsection (4.2), the maximum amount of the fine mentioned in paragraph 3 of subsection (4) is,</p> <p>(a) \$50,000, or such lesser amount as may be prescribed, if the licensee is an individual; or</p> <p>(b) \$100,000, or such lesser amount as may be prescribed, if the licensee is not an individual.</p> <p>(4.2) The total amount of the fine referred to in subsection</p>		

<p>(4.1) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the licensee as a result of a failure to comply with the code of ethics.</p> <p>(4.3) In making its order to impose a fine under paragraph 3 of subsection (4), the discipline committee shall consider any prior determination of the committee that the licensee failed to comply with the code of ethics and, subject to the maximum amount of the fine referred to in subsection (4.1), may impose a more severe fine having regard to the prior determination.</p>		
<p>5. Section 71 of the Act is amended by adding the following subsection:</p> <p>(4.1) In addition to any other penalty imposed by the court and despite the maximum fine referred to in subsection (4), the court that convicts a person or entity of an offence under this section may increase a fine imposed on the person or entity by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person or entity as a result of the commission of the offence.</p>		
<p>6. 5 (1) Subsection 76 (1) of the Act is repealed and the following substituted:</p> <p>76 (1) An assessor may, by order, impose an administrative penalty against a person in accordance with this section and the regulations</p>		

<p>made by the Minister if the assessor is satisfied that the person has contravened or is contravening,</p> <p>(a) a prescribed provision of this Act or the regulations;</p> <p>(b) a condition of a licence, if the person is the licensee;</p> <p>(c) a prescribed provision of the <i>Ontario New Home Warranties Plan Act</i> or the regulations or the by-laws of the warranty authority made under it; or</p> <p>(d) a prescribed provision of the <i>Protection for Owners and Purchasers of New Homes Act, 2017</i> or the regulations made under it.</p> <p>76(4) Subject to subsection (4.1), the amount of an administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations made by the Minister, but the amount of the penalty shall not exceed \$25,000.</p> <p>76 (4.1) The total amount of the administrative penalty referred to in subsection (4) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the contravention.</p>		
<p>7. Subsection 84 (1) of the Act is amended by adding the following clause:</p> <p>(g.1) governing fines that the discipline committee or the appeals committee may impose, including the criteria to be considered in</p>		

determining the amount, the procedure for making an order for a fine and the rights of the parties affected by the procedure;		
8. Section 17 of Schedule 4 (New Home Construction Licensing Act) to the <i>Rebuilding Consumer Confidence Act, 2020</i> is repealed.		

SCHEDULE 4

ONTARIO NEW HOME WARRANTIES PLAN ACT

The Schedule amends the *Ontario New Home Warranties Plan Act*.

Proposed Changes	Explanation of Change	Comments
<p>1. Clause 22.1 (1) (j) of the <i>Ontario New Home Warranties Plan Act</i> is repealed and the following substituted:</p> <p>(j) extending the time of expiration of a warranty provided for under subsection 13 (1), including establishing any conditions for such an extension, in respect of an item that is missing or remains unfinished or work performed or materials supplied after the date specified in the certificate under subsection 13 (3);</p>	<ul style="list-style-type: none"> • If approved, the changes would provide Tarion regulatory authority to extend the duration of statutory warranties for items in a new home that are not completed when the warranties for the home begin (i.e. when a home is completed for the homeowner's possession). • Tarion's authority would be subject to the Minister's approval and the Lieutenant Governor in Council (LGIC) would retain its existing authority to make these regulations. 	Staff have no concerns or objections to these changes.
<p>2. Clause 23 (1) (g) of the Act is amended by striking out “22.1 (l) or (v)” and substituting “22.1 (1) (l) or (v)”.</p> <p>Clause 23 (1) (j) of the Act is repealed and the following substituted:</p> <p>(j) subject to the approval of the Minister, specifying warranties under clause 13 (1) (c) and the time of expiration of those warranties;</p>	<ul style="list-style-type: none"> • Make other minor housekeeping amendments to correct cross references in the Warranties Act. 	

<p>Subsection 23 (1) of the Act is amended by adding the following clause:</p> <p>(j.1) subject to a regulation described in clause 22.1 (1) (j) and to the approval of the Minister, extending the time of expiration of a warranty provided for under subsection 13 (1), including establishing any conditions for such an extension, in respect of an item that is missing or remains unfinished or work performed or materials supplied after the date specified in the certificate under subsection 13 (3);</p> <p>Clause 23 (1) (m.1) of the Act is amended by striking out “22.1 (t)” and substituting “22.1 (1) (t)”</p>		
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SCHEDULE 5

PLANNING ACT

The Schedule makes various amendments to the *Planning Act*.

Proposed Change	Explanation of Change	Comments
MCR/OPA Approvals		
<p>1. Section 17 of the <i>Planning Act</i> is amended by adding the following subsections 17 (40.1) to (40.1.3):</p> <p>Notice to suspend time period</p> <p>(40.1) If the approval authority in respect of a plan is the Minister, the Minister may suspend the time period described in subsection (40) by giving notice of the suspension to the municipality that adopted the plan and, in the case of a plan amendment adopted in response to a request under section 22, to the person or</p>	<ul style="list-style-type: none"> • New subsections 17 (40.1) to (40.1.3) provide rules respecting when the Minister as an approval authority can provide notice to suspend the period of time after which there may be appeals of the failure to make a decision in respect of a plan. • Provide the Minister of Municipal Affairs and Housing with new discretionary authorities when making decisions to: "stop the 120-day decision making clock" on official plans and amendments that are before the Minister for approval if more time is needed. 	<ul style="list-style-type: none"> • If the Minister elects to suspend the 120-day timeline, this would likely result in a delay of the decision on the MCR OPA. • If the Minister elects to refer the MCR OPA to the Tribunal for a hearing, this would likely result in a significant delay of a decision. • Staff participation in any hearing (Legal, Staff and Consultants) would be significant. Costs would likely be in the \$1 to \$2 M dollar range.

<p>public body that requested the amendment.</p> <p>Same</p> <p>(40.1.1) The effect of a suspension under subsection (40.1) is to suspend the time period referred to in subsection (40) until the date the Minister rescinds the notice, and the period of the suspension shall not be included for the purposes of counting the period of time described in subsection (40).</p> <p>Same</p> <p>(40.1.2) For greater certainty, the Minister may make a decision under subsection (34) in respect of a plan that is the subject of a notice provided under subsection (40.1) even if the notice has not been rescinded.</p> <p>Same, retroactive deemed notice</p> <p>(40.1.3) If a plan was received by the Minister on or before March 30, 2022, a decision respecting the plan has not been made under subsection (34) before that day and no notice of appeal in respect of the plan was filed under subsection (40) before that day,</p> <p>(a) the plan shall be deemed to have been received by the Minister on March 29, 2022; and</p> <p>(b) the Minister shall be deemed to have given</p>	<ul style="list-style-type: none"> • New subsections 17 (55) to (64) provide a process for the Minister as an approval authority to refer plans to the Ontario Land Tribunal for a recommendation or a decision. 	<ul style="list-style-type: none"> • The process would cause confusion and delay for both the resolution of the existing Elfrida appeals to the 2013 Official Plan based on the 2006 GRIDS. • This amendment may impact the timing of the Provincial decision on the forthcoming Municipal Compressive Review (MCR) Official Plan Amendment which implements Council’s <i>No Urban Boundary Expansion</i> decision. • Other city initiatives already underway that implement Council’s decision, such as intensification strategies, master plans and the Development Charges update may also be delayed, potentially for more than a year. • There is no regulated timeline if referred to OLT and would pose significant risk to other associated implementing initiatives. This would impact workplans and strategic initiatives/plans for work to be completed concurrently and be comprehensive of all elements.
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<p>notice under subsection (40.1) on March 30, 2022.</p> <p>Referral to Tribunal for recommendation</p> <p>(55) If the approval authority in respect of a plan is the Minister, the Minister may, before making a decision under subsection (34), refer all or part of the plan to the Tribunal for a recommendation.</p> <p>Record to Tribunal</p> <p>(56) If the Minister refers all or part of a plan to the Tribunal under subsection (55) or (61), the Minister shall ensure that a record is compiled and provided to the Tribunal.</p> <p>Recommendation</p> <p>(57) If the Minister refers all or part of a plan to the Tribunal under subsection (55), the Tribunal shall make a written recommendation to the Minister stating whether the Minister should approve the plan or part of the plan, make modifications and approve the plan or part of the plan as modified or refuse the plan or part of the plan and shall give reasons for the recommendation.</p> <p>Hearing or other proceeding by Tribunal</p> <p>(58) Before making a recommendation under subsection (57), the Tribunal may hold a hearing or other proceeding and if the Tribunal does so, it shall provide notice</p>		
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<p>of such hearing or other proceeding to,</p> <p>(a) the municipality that adopted the plan; and (b) any person or public body who, before the plan was adopted, made oral submissions at a public meeting or made written submissions to the council.</p> <p>Copy of recommendation</p> <p>(59) A copy of the recommendation of the Tribunal shall be sent to each person who appeared before the Tribunal and to any person who in writing requests a copy of the recommendation.</p> <p>Decision on plan</p> <p>(60) After considering the recommendation of the Tribunal, the Minister may proceed to make a decision under subsection (34).</p> <p>Referral to Tribunal for decision</p> <p>(61) If the approval authority in respect of a plan is the Minister, the Minister may, before making a decision under subsection (34), refer the plan to the Tribunal for a decision.</p> <p>Hearing by Tribunal</p> <p>(62) If the Minister refers a plan to the Tribunal under subsection (61), the Tribunal may hold a hearing or other proceeding and if the Tribunal does so, it shall provide notice</p>		
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<p>of such hearing or other proceeding to,</p> <p>(a) the municipality that adopted the plan; and (b) any person or public body who, before the plan was adopted, made oral submissions at a public meeting or made written submissions to the council.</p> <p>Decision by Tribunal</p> <p>(63) Subsections (50) and (50.1) apply, with necessary modifications, to a referral for a decision made under subsection (61).</p> <p>Referral of matters in process</p> <p>(64) For greater certainty, a plan that was submitted to the Minister for approval prior to the day section 1 of Schedule 5 to the <i>More Homes for Everyone Act, 2022</i> comes into force may be the subject of a referral under subsection (55) or (61) if a decision respecting the plan has not yet been made under subsection (34).</p>		
<p>2. Section 19.1 of the Act is amended by striking out “34 to 39” and substituting “34, 35 to 39”.</p>	<ul style="list-style-type: none"> Amendment carves out the Application of proposed Community Infrastructure and Housing Accelerator (“CIHA”) tool set out under s. 34.1 in planning areas without municipal organization 	
<p>3. Subsection 21 (3) of the Act is repealed and the following substituted:</p> <p>Exception</p>	<ul style="list-style-type: none"> Amendment to section 21(3)(a) sets out that there is no right of appeal of a Minister’s decision on an OPA where the Minister referred the matter to the OLT for a recommendation pursuant to the proposed section 17(55). 	

<p>(3) Subsection 17 (36.5) applies to an amendment only if it is,</p> <p>(a) an amendment that has been the subject of a referral to the Tribunal for a recommendation pursuant to subsection 17 (55); or</p> <p>(b) a revision that is adopted in accordance with section 26.</p>		
Zoning By-law Fee Refunds		
<p>4. Clause 34 (10.3) (b) of the Act is amended by adding “or (11.0.0.0.1), as the case may be,” after “subsection (11)”.</p> <p>Section 34 of the Act is amended by adding the following subsection:</p> <p>(10.12) With respect to an Application received on or after the day subsection 4 (2) of Schedule 5 to the <i>More Homes for Everyone Act, 2022</i> comes into force, the municipality shall refund any fee paid pursuant to section 69 in respect of the Application in accordance with the following rules:</p> <ol style="list-style-type: none"> 1. If the municipality makes a decision on the Application within the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall not refund the fee. 2. If the municipality fails to make a decision on the Application within the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality 	<ul style="list-style-type: none"> • New subsection 34 (10.12) provides rules respecting when municipalities are required to refund fees in respect of Applications under that section. • As of January 1st, 2023, timeline-based zoning bylaw amendment Application refunds would be applied if a municipality does not make a decision within the required statutory timelines. The following refund schedule is proposed: <ul style="list-style-type: none"> • 50% fee refund if a decision is not reached within 90 days (or 120 days with a concurrent official plan amendment Application); • 75% fee refund if a decision is not reached within 150 days (or 180 days with a concurrent official plan amendment Application); and, • 100% fee refund if a decision is not reached within 210 days (or 240 days with a concurrent official plan amendment Application). 	<p>Deeming an Application Complete:</p> <ul style="list-style-type: none"> • To ensure that the City has all required information needed to make a timely decision, the complete Application list in the Official Plan may need to be amended to include Design Review Panel consideration and Community Information Meeting Minutes as requirements of a complete Application. • Currently attendance at DRP occurs after Application submission. • Similarly, the Community Information Meeting is currently held after Application submission. • These meeting requirements will need to be moved earlier in the process as part of complete Application to ensure that the outcomes of these meetings can be considered as part of the Application review process within the timeframe. <p>Impacts on Staffing</p>

<p>shall refund 50 per cent of the fee.</p> <p>3. If the municipality fails to make a decision on the Application within the time period that is 60 days longer than the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund 75 per cent of the fee.</p> <p>4. If the municipality fails to make a decision on the Application within the time period that is 120 days longer than the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund all of the fee.</p>		<ul style="list-style-type: none"> • In order to process a Zoning By-law amendment or an Official Plan Amendment jointly with a Zoning By-law amendment, in accordance with the proposed changes to ensure 100% of the funds remain with the City, the number of Planners needed would be approximately 17. Approximately 18 additional Planners would be needed to process site plans, condominiums, subdivisions, formal consultations and part lot control Applications. • This would result in corresponding increases in staffing needs across the organization for those Divisions involved in the development approvals process. • Additional staff would likely be needed to account for additional OLT appeals and hearings. • Legal Services estimates that up to six (6) new FTEs would be required to deal with the anticipated increase in OLT appeals starting in 2023: three (3) lawyers and three (3) law clerks • Challenges in filling vacancies due to the current job market. • Not truly 90 days, still required to publish the agenda and schedule for Council. The Planning Act reflects calendar days, not working days of which there would be less days available.
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		<p>Impacts on Revenues</p> <ul style="list-style-type: none"> • Potential loss of up to \$5 M dollars in Application fees (combined with site plans Application fees) which would need to be absorbed by the Levy. <p>Other Considerations</p> <ul style="list-style-type: none"> • Work/job satisfaction would decline as the development approvals process would become more focused on timelines rather than good planning and protection of the public interest. • Reduced time for public engagement. • Limited time and opportunity to negotiate with Applicants. • Possible increase in the number of appeals to the Ontario Land Tribunal as a result of more Applications being recommended for denial in order to meet legislated timelines. • May require more front-end work on the part of Developers prior to Application submission.
<p>New Minister’s Zoning Order</p>		
<p>5. The Act is amended by adding the following section new subsections 37 (54) to (59):</p> <p>Minister’s order at request of municipality</p> <p>Request for order</p>	<ul style="list-style-type: none"> • An additional type of Minister’s order is added to the Act in section 34.1. These orders are made by the Minister at the request of a municipality. This section sets out the process and rules respecting such orders. • The Minister’s existing zoning order powers remain unchanged. This new process 	<ul style="list-style-type: none"> • The Community Infrastructure and Housing Accelerator (“CIHA”) tool allows municipalities to pass a resolution to request that the Minister of Municipal Affairs and Housing to expedite approvals for local priorities such as market-rate housing, non-profit housing, and long-term care facilities.

<p>34.1 (1) The council of a municipality may pass a resolution requesting that the Minister,</p> <p>(a) make an order that involves the exercise of the municipality’s powers under section 34, or that may be exercised in a development permit by-law; or</p> <p>(b) amend an order made under subsection (9) of this section.</p> <p>No delegation</p> <p>(2) A council may not delegate its powers under subsection (1).</p> <p>Content of resolution</p> <p>(3) A resolution referred to in clause (1) (a) shall identify,</p> <p>(a) the lands to which the requested order would apply; and,</p> <p>(b) the manner in which the exercise of the municipality’s powers under section 34, or that may be exercised in a development permit by-law, would be exercised in respect to the lands.</p> <p>Same</p> <p>(4) A resolution referred to in clause (1) (b) shall identify the requested amendments to the order.</p> <p>Same</p> <p>(5) For greater certainty, the inclusion of a draft by-law with the resolution shall be deemed to satisfy the requirements of clause</p>	<p>formalizes requirements for the Minister to exercise this power, but the Minister still has the discretion to make zoning orders without a request from a municipality.</p> <ul style="list-style-type: none"> • Creating a new tool (Community Infrastructure and Housing Accelerator – Proposed Guideline) specifically designed to accelerate planning processes for municipalities. • The Community Infrastructure and Housing Accelerator is aimed to help municipalities expedite approvals for housing and community infrastructure, like hospitals and community centres, with requirements for both consultation and public notice. • The tool could not be used in the Greenbelt, maintaining the government’s commitment to protecting this valued area. • Council would be required to pass a council motion and host a public meeting to discuss the use of a CIHA for a project. • Council would then submit a request for Minister of Municipal Affairs, who could request further information from the City or issue an order, including modifying the order sought or imposing conditions. • The Minister may require the owner of the land to which the order applies to enter into an agreement setting out the conditions of the order, and this agreement may be registered on title. 	<ul style="list-style-type: none"> • The CIHA tool resembles Minister’s Zoning Orders (MZO’s), but with added public consultation requirements to ensure that residents have an opportunity to provide feedback. • Staff support tools that can assist with expediting approvals in unique situations for priority developments.
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<p>(3) (b) or subsection (4), as the case may be.</p> <p>Consultation</p> <p>(6) Before passing a resolution referred to in subsection (1), the municipality shall,</p> <ul style="list-style-type: none">(a) give notice to the public in such manner as the municipality considers appropriate; and,(b) consult with such persons, public bodies and communities as the municipality considers appropriate. <p>Forwarding to Minister</p> <p>(7) Within 15 days after passing a resolution referred to in subsection (1), the municipality shall forward to the Minister,</p> <ul style="list-style-type: none">(a) a copy of the resolution;(b) a description of the consultation undertaken pursuant to clause (6) (b);(c) a description of any licences, permits, approvals, permissions or other matters that would be required before a use that would be permitted by the requested order could be established; and,(d) any prescribed information and material. <p>Other information</p> <p>(8) The Minister may require the council to provide such other information or material that the Minister considers necessary.</p> <p>Orders</p>	<ul style="list-style-type: none">• Where an order is issued, the Minister provides a copy to the municipal clerk, who is then has 15 days to provide a copy of the order to the landowner and any other prescribed bodies, as well as make the order available to the public.• The Minister is required to have guidelines in effect for the CIHA tool to be available. Draft guidelines were released on the ERO and are open for comment until April 29, 2022.	
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(9) The Minister may make an order,

- (a) upon receiving a request from a municipality under subsection (1), exercising the municipality's powers under section 34, or that may be exercised in a development permit by-law, in the manner requested by the municipality with such modifications as the Minister considers appropriate; and,
- (b) upon receiving a request from the municipality or at such other time as the Minister considers advisable, amending the order made under clause (a).

Lands covered by orders

(10) An order under subsection (9) shall apply to the lands requested by the municipality with such modifications as the Minister considers appropriate.

Non-Application to Greenbelt Area

(11) An order under subsection (9) may not be made in respect of any land in the Greenbelt Area.

Non-Application to order

(12) Despite any Act or regulation, the following do not apply to the making of an order under subsection (9):

1. A policy statement issued under subsection 3 (1).
2. A provincial plan.

<p>3. An official plan.</p> <p>Conditions</p> <p>(13) The Minister may, in an order under subsection (9), impose such conditions on the use of land or the erection, location or use of buildings or structures as in the opinion of the Minister are reasonable.</p> <p>Same</p> <p>(14) When a condition is imposed under Subsection (13),</p> <ul style="list-style-type: none">(a) the Minister or the municipality in which the land in the order is situate may require an owner of the land to which the order applies to enter into an agreement with the Minister or the municipality, as the case may be;(b) the agreement may be registered against the land to which it applies; and,(c) the Minister or the municipality, as the case may be, may enforce the agreement against the owner and, subject to the <i>Registry Act</i> and the <i>Land Titles Act</i>, any and all subsequent owners of the land. <p>Application of subs. (12) to licences, etc.</p> <p>(15) If a licence, permit, approval, permission or other matter is required before a use permitted by an order under subsection (9) may be established and the resolution referred to in subsection (1) includes a request that the Minister act under this subsection, the</p>		
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Minister may, in an order under subsection (9), provide that subsection (12) applies, with necessary modifications, to such licence, permit, approval, permission or other matter.

Coming into force

(16) An order made under subsection (9) comes into force in accordance with the following rules:

1. If no condition has been imposed under subsection (13), the order comes into force on the day the order is made or on such later day as is specified in the order.

2. If a condition has been imposed under subsection (13), the order comes into force on the later of,

i. the day the Minister gives notice to the clerk of the municipality that the Minister is satisfied that all conditions have been or will be fulfilled, and

ii. the day specified in the order.

Copy of order to clerk

(17) After making an order under subsection (9), the Minister shall provide a copy of the order to the clerk of the municipality in which the land in the order is situate.

Same, conditions fulfilled

(18) When the Minister gives notice to the clerk for the purposes of subparagraph 2 i of subsection (16), the Minister shall provide a copy of the order that does not

include the conditions imposed under subsection (13).

Same, not revocation

(19) For greater certainty, the provision of a copy of the order that does not include the conditions imposed under subsection (13) is not a revocation of the order originally provided to the clerk.

Publication and availability

(20) The following publication rules apply with respect to an order under subsection (9):

1. Within 15 days after receiving a copy of the order pursuant to subsection (17) or (18), as the case may be, the clerk shall,

- i. provide a copy of the order to the owner of any land subject to the order and to any other prescribed persons or public bodies, and
- ii. make the order available to the public in accordance with the regulations, if any.

2. The clerk shall ensure that the order remains available to the public until such time as the order is revoked.

3. If the municipality in which the lands subject to the order are situate has a website, the clerk shall ensure that the order is published on such website.

Revocation order

(21) The Minister may, by order, revoke an order under subsection (9).

Copy of revocation order to clerk

(22) The Minister shall provide a copy of an order under subsection (21) to the clerk of the municipality in which the land is situate.

Publication of revocation order

(23) The following publication rules apply with respect to an order under subsection (21):

1. Within 15 days after receiving a copy of the order pursuant to subsection (22), the clerk shall,

- i. provide a copy of the order to the owner of any land subject to the order and to any other prescribed persons or public bodies, and
- ii. make the order available to the public in accordance with the regulations, if any.

2. If the municipality in which the lands subject to the order are situate has a website, the clerk shall ensure that the order is published on such website.

Conflict

(24) In the event of a conflict between an order under subsection (9) and a by-law under section 34 or 38 or a predecessor of those sections, the order prevails to the extent of the conflict, but in all other respects the by-law remains in full force and effect.

<p>Guidelines</p> <p>(25) Before an order may be issued under subsection (9), the Minister must establish guidelines respecting orders under subsection (9) and publish the guidelines in accordance with subsection (26).</p> <p>Same, publishing</p> <p>(26) The Minister shall publish and maintain the guidelines established under subsection (25) on a website of the Government of Ontario.</p> <p>Same, content</p> <p>(27) Guidelines under subsection (25) may be general or particular in Application and may, among other matters, restrict orders to certain geographic areas or types of development.</p> <p>Non-Application of <i>Legislation Act, 2006</i>, Part III</p> <p>(28) Part III (Regulations) of the <i>Legislation Act, 2006</i> does not apply to an order under subsection (9) or (21) or to a guideline under subsection (25).</p> <p>Deemed zoning by-law</p> <p>(29) An order under subsection (9) that has come into force is deemed to be a by-law passed under section 34 for the purposes of the following:</p> <ol style="list-style-type: none">1. Subsections 34 (9), 41 (3) and 47 (3) of this Act.2. Sections 46, 49, 67 and 67.1 of this Act.		
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<p>3. Subsection 114 (3) of the <i>City of Toronto Act, 2006</i>.</p> <p>4. The <i>Building Code Act, 1992</i>.</p> <p>5. Any other prescribed Act, regulation or provision of an Act or regulation.</p>		
<p>Community Benefits Charge Reporting</p>		
<p>6. Section 37 of the Act is amended by adding the following subsections:</p> <p>Regular review of by-law</p> <p>(54) If a community benefits charge by-law is in effect in a local municipality, the municipality shall ensure that a review of the by-law is undertaken to determine the need for a revision of the by-law.</p> <p>Same, consultation</p> <p>(55) In undertaking the review required under subsection (54), the municipality shall consult with such persons and public bodies as the municipality considers appropriate.</p> <p>Resolution re need for revision</p> <p>(56) After conducting a review under subsection (54), the council shall pass a resolution declaring whether a revision to the by-law is needed.</p> <p>Timing of review</p> <p>(57) A resolution under subsection (56) shall be passed at the following times:</p> <ol style="list-style-type: none"> 1. Within five years after the by-law was first passed. 	<ul style="list-style-type: none"> • New subsections 37 (54) to (59) require regular reviews of community benefits charge by-laws and provide rules respecting such reviews • Require municipalities with a community benefits charge (CBC) by-law to undertake and complete a review, including consulting publicly, on their by-law at least once every five years. • The proposed changes to Growth-Related Funding Tools such as the Community Benefit Charge is intended to create more transparency and certainty relating to fees or levies charged to developers, by Requiring municipalities to post annual financial reports for growth-related charges on their website. • Proposed changes are related to administrative components after a CBC By-law is passed. • Mandating a five-year review cycle of CBCs, with a requirement that councils pass a bylaw to indicate if changes are required similar to the DCs process. 	<ul style="list-style-type: none"> • Proposed changes will have no impact to the current CBC project work being completed by staff. • The proposal is estimated to represent a minimal increase in administrative costs for municipal staff to review the by-law, including consulting with the public, and to prepare a resolution for council. • Review process does not provide a process for what needs to be done if Council decides that the CBC By-law needs revising. The proposed amendment raises the following issues/questions: <ul style="list-style-type: none"> ○ No timeline/deadline for any action or outcome is identified if Council passes a resolution that a revision is necessary. In other words what needs to be done and by what date? ○ New s.37(54) uses the word “revision” does that mean repeal and replace or amend the existing CBC By-law? ○ Can Council amend the CBC By-law? There is no process or content in s.37 regarding amendments to CBC By-laws.

<p>2. If more than five years have passed since the by-law was first passed, within five years after the previous resolution was passed pursuant to subsection (56).</p> <p>Notice</p> <p>(58) Within 20 days of passing a resolution pursuant to subsection (56), the council shall give notice, on the website of the municipality, of the council’s determination regarding whether a revision to the by-law is needed.</p> <p>Failure to pass resolution</p> <p>(59) If the council does not pass a resolution pursuant to subsection (56) within the relevant time period set out in subsection (57), the by-law shall be deemed to have expired on the day that is five years after the by-law was passed or five years after the previous resolution was passed pursuant to subsection (56), as the case may be.</p>		<ul style="list-style-type: none"> ○ Does s.37(9) apply if Council only amends CBC, in other words is a new CBC Strategy required? In the alternative can the original strategy be an updated?
<p>Site Plan Control</p>		
<p>7. (1) Subsection 41 (3.1) of the Act is repealed and the following substituted:</p> <p>Consultation</p> <p>(3.1) The council may, by by-law, require Applicants to consult with the municipality before submitting plans and drawings for approval under subsection (4).</p> <p>Same</p> <p>(3.2) Where a by-law referred to in subsection (3.1) does not apply, the municipality shall permit Applicants to consult with the</p>	<ul style="list-style-type: none"> • A requirement that municipalities delegate the authority to approve site plans from Council to a designated authorized person. • Amendments would require the mandatory delegation of decisions relating to site plan control from municipal councils to planning staff for Applications received on or after July 1st, 2022. • An extension of the review period for site plan control Applications from 30 to 60 days; and, 	<ul style="list-style-type: none"> • City of Hamilton already employs delegated authority for Site Plan Control Applications. <p>Deeming an Application Complete:</p> <ul style="list-style-type: none"> • Requires a review and update to the UHOP/RHOP and other terms of reference documents regarding development approvals before January 2023 to define a complete Application and areas of Application specifically for buildings less than 25 units.

<p>municipality as described in that subsection.</p> <p>Prescribed information</p> <p>(3.3) If information or materials are prescribed for the purposes of this section, an Applicant shall provide the prescribed information and material to the municipality.</p> <p>Other information</p> <p>(3.4) A municipality may require that an Applicant provide any other information or material that the municipality considers it may need, but only if the official plan contains provisions relating to requirements under this subsection.</p> <p>Refusal and timing</p> <p>(3.5) Until the municipality has received the plans and drawings referred to in subsection (4), the information and material required under subsections (3.3) and (3.4), if any, and any fee under section 69,</p> <p style="padding-left: 40px;">(a) the municipality may refuse to accept or further consider the Application; and</p> <p style="padding-left: 40px;">(b) the time period referred to in subsection (12) of this section does not begin.</p> <p>Response re completeness of Application</p> <p>(3.6) Within 30 days after the Applicant pays any fee under section 69, the municipality shall notify the person or public body that the plans and drawings referred to in subsection (4) and the information and material required under subsections (3.3)</p>	<ul style="list-style-type: none"> • Establishing complete Application requirements for site plan Applications, with options for recourse within 30 days if an Application has not been deemed “complete” by municipalities • A number of amendments are made to section 41. A number of subsections are added that set out the rules respecting consultations with municipalities before plans and drawings are submitted for approval and respecting completeness of Applications made under this section. • New subsection (11.1) provides for rules respecting when municipalities are required to refund fees. • After municipalities have implemented the above site plan control changes, timeline-related changes would take effect to further ensure that strict approval timelines be adhered to for all site plan Applications received on or after January 1st, 2023. • Municipalities would be required to gradually refund site control Application fees if a decision has not been made on an Application within the required timelines, as outlined below: <ul style="list-style-type: none"> ○ 50% of the fee refunded if the plans and drawings are not approved within 60 days from the date the municipality received the complete Application and fee; 	<ul style="list-style-type: none"> • Impacts on staffing will be across departments to review Applications to ensure complete Applications through pre consultations on transportation, engineering, waste management, storm water etc. • See Zoning Comments above regarding staffing implications. • Clarity needed around status of City’s current Conditional Site Plan Approval constituting approval under these changes. • Clarity needed as to the approval timeframe for outside agencies such as Conservation Authorities and the Ministry of Environment, Conservation and Parks that clear site plan conditions and that can take several months to process and are not within municipal staff’s control. • See Zoning Comments above regarding staffing implications.
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<p>and (3.4), if any, have been provided, or that they have not been provided, as the case may be.</p> <p>Motion re dispute</p> <p>(3.7) Within 30 days after a negative notice is given under subsection (3.6), the Applicant or municipality may make a motion for directions to have the Tribunal determine,</p> <ul style="list-style-type: none">(a) whether the plans and drawings and the information and material have in fact been provided; or(b) whether a requirement made under subsection (3.4) is reasonable. <p>Same</p> <p>(3.8) If the municipality does not give any notice under subsection (3.6), the Applicant may make a motion under subsection (3.7) at any time after the 30-day period described in subsection (3.6) has elapsed.</p> <p>Final determination</p> <p>(3.9) The Tribunal's determination under subsection (3.7) is not subject to appeal or review.</p> <p>(2) Subsection 41 (4) of the Act is amended by striking out the portion before paragraph 1 and substituting the following:</p> <p>Approval of plans or drawings</p> <p>(4) No person shall undertake any development in an area designated under subsection (2) unless the authorized person</p>	<ul style="list-style-type: none">○ 75% of the fee if the plans and drawings are not approved within 90 days from the date the municipality received the complete Application and fee; and,○ 100% of the fee if the plans and drawings are not approved within 120 days from the date the municipality received the complete Application and fee.	
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referred to in subsection (4.0.1) or, where an appeal has been made under subsection (12), the Tribunal has approved one or both, as the authorized person may determine, of the following:

(3) Section 41 of the Act is amended by adding the following subsection:

Authorized person

(4.0.1) A council that passes a by-law under subsection (2) shall appoint an officer, employee or agent of the municipality as an authorized person for the purposes of subsection (4).

(4) Subsection 41 (6) of the Act is amended by striking out "the council of".

(5) Section 41 of the Act is amended by adding the following subsection:

Refund

(11.1) With respect to plans and drawings referred to in subsection (4) that are submitted on or after the day subsection 7 (5) of Schedule 5 to the *More Homes for Everyone Act, 2022* comes into force, the municipality shall refund any fee paid pursuant to section 69 in respect of the plans and drawings in accordance with the following rules:

1. If the municipality approves the plans or drawings under subsection (4) within the time period referred to in subsection (12), the municipality shall not refund the fee.
2. If the municipality has not approved the plans or drawings under subsection (4)

<p>within the time period referred to in subsection (12), the municipality shall refund 50 per cent of the fee.</p> <p>3. If the municipality has not approved the plans or drawings under subsection (4) within a time period that is 30 days longer than the time period referred to in subsection (12), the municipality shall refund 75 per cent of the fee.</p> <p>4. If the municipality has not approved the plans or drawings under subsection (4) within a time period that is 60 days longer than the time period referred to in subsection (12), the municipality shall refund all of the fee.</p> <p>(6) Subsection 41 (12) of the Act is amended by striking out "30" and substituting "60".</p> <p>(7) Subsection 41 (13) of the Act is repealed and the following substituted:</p> <p>Classes of development, delegation</p> <p>(13) Where the council of a municipality has designated a site plan control area under this section, the council may, by by-law, define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (4) or (5).</p> <p>(8) Section 41 of the Act is amended by adding the following subsection:</p>		
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<p>Transition</p> <p>(15.1) This section as it read immediately before the day subsection 7 (8) of Schedule 5 to the <i>More Homes for Everyone Act, 2022</i> comes into force continues to apply with respect to plans and drawings that were submitted for approval under subsection (4) of this section before that day.</p> <p>(9) Section 41 of the Act is amended by adding the following subsection:</p> <p>Same</p> <p>(15.2) This section as it read immediately before July 1, 2022 continues to apply with respect to plans and drawings that were submitted for approval under subsection (4) on or after the day subsection 7 (8) of Schedule 5 to the <i>More Homes for Everyone Act, 2022</i> comes into force but before July 1, 2022.</p>		
Alternative Parkland Dedication Rate for Transit Oriented Communities		
<p>8. Section 42 of the Act is amended by adding the following subsections:</p> <p>Exception, transit-oriented community land (3.2) Subsections (3.3) and (3.4) apply to land that is designated as transit-oriented community land under subsection 2 (1) of the <i>Transit-Oriented Communities Act, 2020</i>.</p> <p>Same, alternative requirement</p> <p>(3.3) A by-law that provides for the alternative requirement authorized by subsection (3) shall not require a conveyance or payment in lieu that is greater than,</p>	<ul style="list-style-type: none"> • Amendments are made to sections 42 and 51.1 with respect to parkland requirements on land designated as transit-oriented community land under the <i>Transit-Oriented Communities Act, 2020</i>. • Implement a tiered alternative parkland dedication rate for Transit-Oriented Communities (TOCs) to provide increased certainty of parkland requirements: <ul style="list-style-type: none"> ○ For sites less than or equal to five hectares, parkland would be dedicated up to 	<ul style="list-style-type: none"> • Clarity is needed in understanding the geographic radius of Transit-oriented Community Projects. Would it be the same parameters as a Protected Major Transit Station Area (PMTSA)? • Proposed changes to Growth-Related Funding Tools such as parkland dedication requirements generally intends to increase transparency by requiring annual financial reports for parkland dedication be posted on our website. • Parkland Dedication By-law 18-126 would need to be updated to implement

<p>(a) in the case of land proposed for development or redevelopment that is five hectares or less in area, 10 per cent of the land or the value of the land, as the case may be; and</p> <p>(b) in the case of land proposed for development or redevelopment that is greater than five hectares in area, 15 per cent of the land or the value of the land, as the case may be.</p> <p>Deemed amendment of by-law</p> <p>(3.4) If a by-law passed under this section requires a conveyance or payment in lieu that exceeds the amount permitted by subsection (3.3), the by-law is deemed to be amended to be consistent with subsection (3.3).</p> <p>Encumbered land, identification by Minister of Infrastructure</p> <p>(4.27) The Minister of Infrastructure may, by order, identify land as encumbered land for the purposes of subsection (4.28) if,</p> <p>(a) the land is designated as transit-oriented community land under subsection 2 (1) of the <i>Transit-Oriented Communities Act, 2020</i>;</p> <p>(b) the land is,</p> <ol style="list-style-type: none"> i. part of a parcel of land that abuts one or more other parcels of land on a horizontal plane only, ii. subject to an easement or other restriction, or iii. encumbered by below grade infrastructure; and 	<p>10% of the land or its value</p> <ul style="list-style-type: none"> ○ For sites greater than five hectares, parkland would be dedicated up to 15% of the land or its value <ul style="list-style-type: none"> ● Encumbered parkland could be identified through an order by the Minister of Infrastructure and would be deemed to count towards any municipal parkland dedication requirements. This would help ensure that TOC developments can provide new homes and parkland for use by the community. 	<p>definitions for transit-oriented communities and their geographic location. In addition, the proposed tiered alternative parkland dedication rate, for Transit-Oriented Community (TOC) developments. The following alternative rate would need to be included:</p> <ul style="list-style-type: none"> - Sites ≤ 5 hectares would have a parkland dedication up to 10% of the land or its value. - Sites > 5 hectares would have a parkland dedication up to 15% of the land or its value.
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<p>(c) in the opinion of the Minister of Infrastructure, the land is capable of being used for park or other public recreational purposes.</p> <p>Same, conveyance of described land (4.28) If land proposed for development or redevelopment includes land identified as encumbered land in an order under subsection (4.27), the encumbered land,</p> <p>(a) shall be conveyed to the local municipality for park or other public recreational purposes; and (b) despite any provision in a by-law passed under this section, shall be deemed to count towards any requirement, set out in the by-law, applicable to the development or redevelopment.</p> <p>Same, non-Application of <i>Legislation Act, 2006</i>, Part III (4.29) Part III (Regulations) of the <i>Legislation Act, 2006</i> does not apply to an order made under subsection (4.27).</p>		
Plans of Subdivision and Retroactive Approvals		
<p>9. (1) Section 51 of the Act is amended by adding the following subsection:</p> <p>Same, exception (25.1) With respect to an Application made on or after the day a regulation made pursuant to this subsection comes into force, despite subsection (25), the approval authority may not impose conditions respecting any prescribed matters.</p>	<ul style="list-style-type: none"> • New rules are added to section 51 with respect to extensions of approvals by approval authorities. • A one-time discretionary authority which allows municipalities to reinstate draft plans of subdivision which have lapsed within five years without a new Application. This only applies where units have not been pre-sold. • The establishment of a regulation-making authority to 	<ul style="list-style-type: none"> • Until the regulation is released, difficult to determine the impacts. • Does this imply that future regulations will prescribe the possible conditions purview? Currently we can impose anything we deem reasonable, is that being removed? • Can the municipality impose conditions of approval and will it be limited to that as prescribed by future regulation only?

<p>(2) Subsection 51 (33) of the Act is repealed and the following substituted:</p> <p>Extension</p> <p>(33) The approval authority may extend the approval for a time period specified by the approval authority, but no extension under this subsection is permissible if the approval lapses before the extension is given, even if the approval has been deemed not to have lapsed under subsection (33.1).</p> <p>Deemed not to have lapsed</p> <p>(33.1) If an approval of a plan of subdivision lapses before an extension is given, the approval authority may deem the approval not to have lapsed unless,</p> <p>(a) five or more years have passed since the approval lapsed; (b) the approval has previously been deemed not to have lapsed under this subsection; or, (c) an agreement had been entered into for the sale of the land by a description in accordance with the draft approved plan of subdivision.</p> <p>Same</p> <p>(33.2) Before an approval is deemed not to have lapsed under subsection (33.1), the owner of the land proposed to be subdivided shall provide the approval authority with an affidavit or sworn declaration certifying that no agreement had been entered into for the sale of any land by a description in accordance with the draft approved plan of subdivision.</p>	<p>determine what can and cannot be required as a condition of a draft plan of subdivision approval, with the goal of preventing scope creep.</p> <ul style="list-style-type: none"> • Power given to the Minister to make regulations <ul style="list-style-type: none"> ○ prohibiting certain matters from being the subject of conditions of draft plan approval. ○ setting out planning matters that the Minister can require a municipality to report on, if the Minister asks for a report. ○ regarding the types of securities that can be used to secure municipal requirements as part of the approvals process. 	<ul style="list-style-type: none"> • An administrative change to allow lapsed plans of subdivisions to be revived, one time only, where there are purchase and sale agreements, and the Application lapsed within the last 5 years. • The legislation says “MAY” so the municipality is not bound to deem the plan as not having lapsed? Can conditions be updated if we use this option? • Administratively, do we need to issue a formal letter of lapsing to cover off 33.1(b)? • Is there any appeal mechanism, if the municipality chooses not to deem it as not having lapsed?
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<p>Same, new time period</p> <p>(33.3) If an approval authority deems an approval not to have lapsed under subsection (33.1), the approval authority shall provide that the approval lapses at the expiration of the time period specified by the approval authority.</p>		
Parkland		
<p>10. Section 51.1 of the Act is amended by adding the following subsections:</p> <p>Conveyance of described land</p> <p>(2.4) If land proposed for a plan of subdivision includes land identified as encumbered land in an order under subsection 42 (4.27), the encumbered land,</p> <p>(a) shall be conveyed to the local municipality for park or other public recreational purposes; and</p> <p>(b) despite any provision in a by-law passed under section 42, shall be deemed to count towards any requirement applicable to the plan of subdivision under this section.</p> <p>Exception, transit-oriented community land</p> <p>(3.3) Subsection (3.4) applies to land that is designated as transit-oriented community land under subsection 2 (1) of the <i>Transit-Oriented Communities Act, 2020</i>.</p> <p>Limits on subs. (2) re conveyance percentage</p> <p>(3.4) The amount of land a municipality may require to be conveyed under subsection (2) or the amount of a payment in lieu a</p>	<ul style="list-style-type: none"> the ability of the province to declare land in a transit-oriented community that has easements or below-grade infrastructure as being “encumbered”, with the effect that the land must be conveyed for parkland, with full credit for parkland dedication. 	<ul style="list-style-type: none"> Proposed changes to Growth-Related Funding Tools such as parkland dedication requirements generally intends to increase transparency by requiring annual financial reports for parkland dedication be posted on our website.

municipality may require under subsection (3.1) shall not exceed,

(a) if the land included in the plan of subdivision is five hectares or less in area, 10 per cent of the land or the value of the land, as the case may be; or

(b) if the land included in the plan of subdivision is greater than five hectares in area, 15 per cent of the land or the value of the land, as the case may be.

11. The Act is amended by adding the following section:

Reporting on planning matters

64 A council of a municipality or planning board, as the case may be, shall,

(a) if requested by the Minister, provide such information to the Minister on such planning matters as the Minister may request; and

(b) report on the prescribed planning matters in accordance with the regulations.

12. Subsection 70.1 (1) of the Act is amended by adding the following paragraphs:

26. prescribing conditions for the purposes of subsection 51 (25.1);

30.0.1 for the purposes of section 64,

i. prescribing the planning matters in respect of which municipalities and planning boards must report and the information about the planning matters that must be included in a report,

<p>ii. identifying the persons to whom a report must be provided,</p> <p>iii. specifying the frequency with which reports must be produced and provided, and</p> <p>iv. specifying the format in which a report must be provided;</p>		
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Surety Bonds

<p>13. The Act is amended by adding the following section:</p> <p>Regulations re surety bonds and other instruments</p> <p>70.3.1 (1) The Minister may make regulations,</p> <p>(a) prescribing and defining surety bonds and prescribing and further defining other instruments for the purposes of this section;</p> <p>(b) authorizing owners of land, and Applicants for approvals in respect of land use planning matters, to stipulate the specified types of surety bond or other instrument to be used to secure an obligation imposed by the municipality, if the municipality requires the obligation to be secured as a condition to an approval in connection with land use planning, and specifying any particular circumstances in which the authority can be exercised.</p> <p>Definition</p> <p>(2) In this section,</p> <p>“other instrument” means an instrument that secures the performance of an obligation.</p>	<ul style="list-style-type: none"> • New section 70.3.1 provides the Minister with authority to make certain regulations respecting surety bonds and other instruments in connection with approvals with respect to land use planning. • Authorize owners of land and Applicants to stipulate the type of surety bonds and other prescribed instruments used to secure agreement obligations in connection with local approval of land use planning matters. • Would come into force on a date to be named by proclamation by the LGIC. 	<ul style="list-style-type: none"> • The City of Hamilton accepts surety bonds already. Appendix “A” to Report FCS21056 provides our Surety Bond Policy and Agreement Template. • The City’s subdivision agreement outlines a developer’s security requirements. The words “surety bond” was inserted into Subsections a) and e) after the City’s Finance Department received approval from Council in 2021 to accept surety bonds as a form of security under subdivision and other City servicing agreements. • Clarity required from Province – what type or agreements would be required to accept surety bond as well as letter of credit? • Finance staff have indicated there has been concern that developers are seeking surety bonds as a ‘right’ for Development Charge deferral security. • What relief will be provided to municipalities if collection risk occurs as a result? • How does the City’s adopted surety bond template language compare to what the Province
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		<p>would require in the regulation?</p> <ul style="list-style-type: none"> • The City has standards about what institutions are acceptable to provide a surety bond (or letter of credit) – would the regulation address what licenses, risk standards, etc. issuing institutions need to meet or would municipalities need to accept from any institution? • Vague language in legislation may be interpreted in courts in the favour of the payor – this appears to increase municipal risk / lessen ability of the municipality to set risk tolerance.
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Additional Information:

- Bill 109 has passed second reading as of Monday, April 4th and has been referred to the Standing Committee in the Legislative Assembly of Ontario. **The deadline for written submissions is Monday, April 11th, 2022 at 7:00 pm.**
- Bill 109 - <https://www.ola.org/en/legislative-business/bills/parliament-42/session-2/bill-109>
- Blackline Version - <https://www.osler.com/osler/media/Osler/Content/PDFs/Bill-109-Blackline-Planning-Act-COTA.PDF>
- The refund of fees is proposed to be as follows:

	No Refund	50% Refund	75% refund	100% Refund
ZBA	Decision made within 90 days	Decision made within 91 and 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
OPA/ZBA	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
SP	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

- The Ministry also announced an investment of \$19 million increased funding for the Ontario Land Tribunal in order to help clear out case backlogs and made the appeal process more efficient.
- Effective March 30, 2022, the Non-Resident Speculation Tax (NRST) rate was increased to 20 per cent and expanded province wide. As a result, the NRST may apply on the purchase or acquisition of an interest in residential property located anywhere in Ontario by individuals who are foreign nationals (individuals who are not Canadian citizens or permanent residents of Canada) or by foreign corporations or taxable trustees. Learn more <https://www.fin.gov.on.ca/en/bulletins/nrst/index.html>. The NRST applies in addition to the general Land Transfer Tax (LTT) in Ontario.
- Proposed changes to the Ontario Building Code have been included to reflect modern building practices and address challenges that slow the delivery of housing projects:
 - Allowing up to 12-storey mass timber buildings;
 - Streamlining modular multi-unit residential building approvals across the province;
 - Enabling more low-rise and infill multi-residential opportunities by exploring opportunities to allow one entrance/exit for 4-6 storey residential buildings; and,
 - Exploring options to allow residential and commercial occupancy for super-tall buildings that are still under construction.

Hamilton Fire Department’s Comments Regarding proposed OBC Changes mentioned in the More Homes for Everyone Plan:

- **Allowing up to 12-storey mass timber buildings;**

Due to the significant fire load and conflagration potential of “mass timber buildings”, the following must be considered:

- Containment - Increase building containment features to mitigate the spread of smoke and fire.
 - Suppression - Increase suppression features (sprinklers and standpipe systems) to help contain the spread of smoke and fire.
 - Fire Alarm and Detection - Increase fire alarm detection devices (smoke detectors, flame/heat detectors, etc.) to provide early/advanced detection and alerting of fire situation to building occupants.
 - Means of Egress - Increase containment requirements for required exits to allow for greater protection of occupants when evacuation of the building is necessary. Any reduction to present requirement for number of entrance/exit points would pose a risk to fire and life safety.
 - Water Supply - an adequate and sustainable water supply in accordance with current accepted standards would be necessary.
- **Streamlining modular multi-unit residential building approvals across the province;**
 - A standardized approach would be beneficial to ensure consistency and compliance with existing Fire and Life Safety standards are established in this process. Further guidance and direction would be necessary.

- Modular multi-unit residential buildings – streamlining efforts should not undermine applicable Ontario Building Code standards, particularly regarding the containment provisions between modular units to limit and control the spread of smoke and fire.
- **Enabling more low-rise and infill multi-residential opportunities by exploring opportunities to allow one entrance/exit for 4-6 storey residential buildings; and,**
 - This represents a significant reduction to existing Fire and Life Safety standards and cannot be endorsed. Reducing the number of possible evacuation routes for building occupants poses a serious threat to life safety by extending evacuation times. It also poses a significant hazard and delay for firefighters engaging in fire suppression and rescue operations.
- **Exploring options to allow residential and commercial occupancy for super-tall buildings that are still under construction.**

Risks due to construction and the potential for fire or other life safety hazards must be weighed against benefits of early occupancy. Specific requirements should be established to ensure the safety of occupants.

- Construction engineers, owners/developers etc., should be required to develop standardized, comprehensive pre-occupancy plans. Plans should outline specific steps to ensure the safety of building occupants, including:
 - a) Temporary entrance / exit provisions during active construction, provision of adequate water supplies on all occupied floors or parts of floors, active fire alarm alerting and fire control / sprinkler and standpipe systems on all habitable floors, separations and containment provisions in accordance with current Fire and Life Safety standards between occupied and un-occupied areas of the building.
 - b) Creation, dissemination, and localization of a Fire Safety Plan prior to occupancy, including training for building maintenance and security personnel to ensure occupants are familiar with building evacuation procedures.
 - c) Establishment of a Fire Access Route prior to occupancy to ensure Fire Department and Emergency Service access to the building and its life safety systems are known and accessible.
 - d) Commissioning / area restriction requirements for habitable and non-habitable portions of the building respectively.

Key Changes in the More Homes for Everyone Plan

- The Minister is authorized to refer Municipal Comprehensive Reviews (MCRs) Official Plan Amendments (OPAs), or new Official Plans (new OP), to the Ontario Land Tribunal (OLT) for a recommendation or decision on whether an official plan, or part of it, should be approved, approved with modification, or refused;
- Where the Minister refers all or part of an Official Plan to the Tribunal for a recommendation, there is no right of appeal;
- Allow the Minister to pause the 120-day decision-making timeline on official plans;
- Requiring municipalities to refund fees if decisions on Zoning By-law Amendment and Site Plan Control Applications within the prescribed timelines are not met;
- Requiring municipalities to delegate site plan approval authority from municipal Councils to staff, extending site plan review timelines, and applying complete Application rules to site plan control;
- Increasing the timeline to appeal a site plan Application for non-decision from 30 days to 60 days;
- Allow municipalities a one-time discretionary authority to extend draft plan approval for plans of subdivision that have lapsed within the last five years, subject to consumer protection provisions;
- Increased powers for the Minister to:
 - Prohibit certain matters from being the subject of conditions of draft plan approval;
 - Require public reporting from municipalities to monitor development Applications/Approvals; and,
 - The type of securities that can be used to secure municipal requirements as part of the approval process;
- A new process for municipalities to request the Minister to make a zoning order, which is being called the “Community Infrastructure and Housing Accelerator” (CIHA). Guidelines for its use include a Council motion and a public meeting;
- Alternative parkland requirements for lands in a designated transit-oriented community;
- Regular reviews of community benefits charge by-laws and rules respecting such reviews;

- The ability of the province to declare land in a transit-oriented community that has easements or below-grade infrastructure as being “encumbered”, with the effect that the land must be conveyed for parkland contribution requirements;
- An investment of \$19 M increased funding for the Ontario Land Tribunal in order to address backlogs and streamline appeal processes;
- Increasing the Non-Resident Speculation Tax (NRST) rate to 20% and expanding it province wide;
- The creation of a Housing Supply Working Group to collect data and monitor progress on the municipal implementation of provincial initiatives and determine improvements to annual housing supply action plans;
- The creation of a Centre of Realty Excellence (CORE) that would assess the Provincial surplus land portfolio for projects such as long-term care facilities and non-profit housing opportunities;
- Changes to the Ontario Building Code have been included to reflect modern building practices and address challenges that slow the delivery of housing projects:
 - Allowing up to 12-storey mass timber buildings;
 - Streamlining modular multi-unit residential building approvals across the province;
 - Enabling more low-rise and infill multi-residential opportunities by allowing one entrance/exit for 4-6 storey residential buildings; and,
 - Exploring options to allow residential and commercial occupancy for super-tall buildings that are still under construction.
- Increased Provincial jurisdiction on local planning processes and decision making;
- Penalizing municipalities financially for decision-making timelines not being met when delays may not rest with municipalities;
- Decreased opportunity for public engagement;
- Increasing appeal rights and uploading decision-making to the OLT;
- Reduction in development fees and increase in legal tribunal fees;
- Limited opportunity for staff to work collaboratively on Applications with the development industry;

- Improved transparency regarding growth-related funding tools (i.e. development charges, parkland dedication and community benefits charge), but with increased administrative processes;
- Pivoting away from growth paying for growth leading to the cost of growth being shifted to existing ratepayers through higher user fees and property taxes;
- The emphasis is on expediting approvals, but not providing tools or mechanisms to ensure proposed developments are actually built and in a reasonable time; and,
- Increase in staff resources across the organization to meet the legislated timeframes.

A full analysis of each recommendation is provided in Appendix “A” – City of Hamilton Response to *Bill 109*, More Homes for Everyone Act, 2022, attached to Report PED22112.

Through the Council approval of Report PED22071 (which received Council approval on March 30, 2022), staff comments were provided to request the Province requesting consideration for the following gaps on the HATF Report:

- Supply of housing is not just about the number of units, but also about the type of housing, including diversity of form, tenure, and size (e.g. number of bedrooms);
- Decisions about how to increase supply must be sustainable in terms of the cost to service, the cost to deliver and maintain those services, environmental performance, as well as providing necessary social infrastructure and other forms of infrastructure required to build complete communities;
- Recognition that development approval processes involve other agencies and approval authorities that may contribute to processing delays (heritage permits, conservation authorities, CN rail, etc.) outside of the municipalities control;
- Narrowly focusing on planning approvals to boost supply does not necessarily equate to making homes affordable enough to combat the housing affordability crisis that the Province is facing. The More Homes for Everyone Plan fails to address labour shortages, material costs, and living wage incomes and other factors contributing the cost disparity; and,
- The proposed changes fail to provide any tool or mechanism to provide deeply affordable housing, similar to the HATF Report, it appears to be an afterthought, and not a strategic objective.



Hamilton

City of Hamilton Response to the Provincial Bill 109, More Homes for Everyone Act, 2022

April 8, 2022

More Homes for Everyone Plan & Bill 109

- ❑ March 30, 2022 the Province announced the More Homes for Everyone Plan and introduced Bill 109, *More Homes for Everyone Act, 2022*

- ❑ Bill 109 contains legislative amendments to:
 - the *Planning Act*;
 - the *City of Toronto Act, 2006*;
 - the *Development Charges Act, 1997*;
 - the *New Home Construction Licensing Act, 2017*; and,
 - the *Ontario New Home Warranties Plan Act*

- ❑ Received 2nd reading on April 4, 2022 and has been referred to the Standing Committee in the Ontario Legislative Assembly for consideration on **April 11, 2022**.



More Homes for Everyone Plan & Bill 109

Key Legislation Uploading Decision-Making Powers to the Minister or Tribunal Include:

- The Minister is authorized to refer MCRs/OPAs/New OPs to the Ontario Land Tribunal (OLT) for a recommendation or decision;
- Where the Minister refers all or part of an Official Plan to the Tribunal for a recommendation, there is no right of appeal;
- Allow the Minister to pause the 120-day decision-making timeline on official plans;
- Increased powers for the Minister to:
 - Prohibit certain matters from being the subject of conditions of draft plan approval;
 - Require public reporting to monitor development Applications; and,
 - The type of securities that can be used to secure municipal requirements.
- A new process for municipalities to request the Minister to make a zoning order - “Community Infrastructure and Housing Accelerator” (CIHA). Requiring a Council motion and a public meeting.



More Homes for Everyone Plan & Bill 109

Key Amendments to the Planning Act - Application Process Changes:

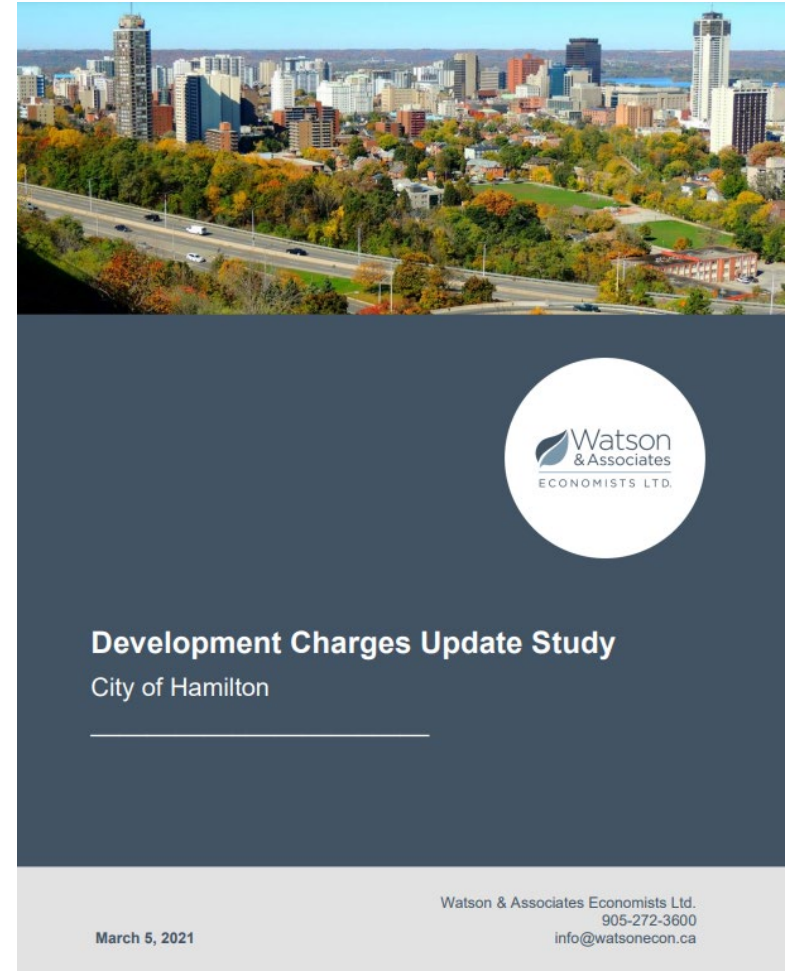
- Requiring municipalities to refund fees if decisions on Planning Applications are not met;
- Requiring municipalities to delegate site plan approval authority to staff, extending site plan review timeline to 60 days, and applying complete application rules to site plan control; and,
- Allow municipalities a one-time discretionary authority to extend draft plan approval for plans of subdivision that have lapsed within the last five years.

	No Refund	50% Refund	75% refund	100% Refund
ZBA	Decision made within 90 days	Decision made within 91 and 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
OPA/ZBA	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
SP	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

More Homes for Everyone Plan & Bill 109

Key Amendments to the Planning Act - Growth-Related Funding Tools:

- Alternative parkland requirements for lands in a designated transit-oriented community;
- The ability of the province to declare encumbered land in a transit-oriented community that has easements or below-grade infrastructure as conveyed land for parkland contribution requirements;
- Increased reporting on growth-related funding tools (DCs, Parkland Dedication, and CBCs); and,
- Regular reviews of community benefits charge by-laws and rules respecting such reviews.



More Homes for Everyone Plan & Bill 109

Key Ontario Building Code Changes Proposed:

- Allowing up to 12-storey mass timber buildings;
- Streamlining modular multi-unit residential building approvals across the province;
- Enabling more low-rise and infill multi-residential opportunities by exploring opportunities to allow one entrance/exit for 4-6 storey residential buildings; and,
- Exploring options to allow residential and commercial occupancy for super-tall buildings that are still under construction.



More Homes for Everyone Plan & Bill 109

Key Programs and Funding Offered:

- \$19 M funding for the Ontario Land Tribunal in order to address backlogs and streamline appeal processes;
- Increasing the Non-Resident Speculation Tax (NRST) rate from 15 to 20% and expanding it province wide;
- Creating a Housing Supply Working Group to collect data and monitor progress on the municipal implementation of provincial initiatives and determine improvements to annual housing supply action plans; and,
- Creating a Centre of Realty Excellence (CORE) that would assess the Provincial surplus land portfolio for projects such as long-term care facilities and non-profit housing opportunities.



More Homes for Everyone Plan & Bill 109

Some Consequences of the Changes Proposed:

- Increased Provincial jurisdiction on local planning and decision making;
- Penalizing municipalities financially for decision-making timelines not being met when delays may not rest with municipalities;
- Decreased opportunity for public engagement and consensus-building;
- Increasing appeal rights and uploading decision-making to the OLT – less accountability for local community building;
- Reduction in development fees, but shifting to a larger cost for litigation tribunal processes;
- Limited opportunity for staff to work collaboratively on applications with the development industry;
- Pivoting away from growth paying for growth shifting the cost of growth to existing ratepayers;
- Increase in staff resources needed across the organization to meet the legislated timeframes.

More Homes for Everyone Plan & Bill 109

Gaps of Information:

- The emphasis is on expediting approvals, but not providing tools or mechanisms to ensure proposed developments are actually built and in a reasonable time;
- No tools addressing deeply affordable housing or other aspects contributing factors to the housing affordability problem (incomes and need for living wage considerations);
- A disconnect on how to sustainably plan and service increasing unit supply to build complete communities;
- A failure to recognize that ON is diverse in many ways and housing supply issues, and the factors contributing to those issues, are different across the ON

More Homes for Everyone Plan & Bill 109

What the City of Hamilton Already Does in Alignment with this Plan & Bill:

- Conform to Provincial targets and efforts to increase housing supply;
- Streamlined planning approval process;
- An effective preliminary application process to better equip applicants with making complete applications for efficiency once application is submitted;
- Delegated Site Plan Authority to Staff;
- Surety Bonds implemented as a financing option;
- Proactive updates to achieve the existing intensification targets:
 - Pre-zoned the Light Rail Transit (LRT) corridor;
 - Adopted new commercial and mixed-use zoning;
 - Updated our downtown secondary plan and pre-zoned the downtown;
 - Introduced City-wide zoning to allow for Secondary Units and Detached Units (laneway housing); and,
 - Currently bringing forward zoning by-law changes to allow up to four units on a lot.

More Homes for Everyone Plan & Bill 109

Next Steps:

- Respond to the Ministry of Municipal Affairs prior to Standing Committee in the Ontario Legislative Assembly (**April 11, 2022**).

RECOMMENDATIONS:

- a) That Council receive Report PED22112 as the basis for written comments on *Bill 109*, including the attached table containing staff responses on each amendment, attached as Appendix “A” to Report PED22112;
- b) That the Mayor submit a letter to the Minister of Municipal Affairs and Housing and ERO outlining the City of Hamilton’s comments regarding *Bill 109, More Homes for Everyone Act, 2022*;
- c) That upon Royal Assent of *Bill 109, More Homes for Everyone Act, 2022* – Schedule 5 Amendments to the *Planning Act*, staff be directed and authorized to prepare the necessary amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan, as well as any required policies and procedures to give effect to the proposed changes, and undertake an analyses on staffing impacts across the organization as well as any financial implications, and report back to the June 14, 2022 Planning Committee meeting.

CITY OF HAMILTON

BY-LAW NO. 22-

To Confirm the Proceedings of City Council at its special meeting held on April 8, 2022

**THE COUNCIL OF THE
CITY OF HAMILTON
ENACTS AS FOLLOWS:**

- 1. The Action of City Council at its meeting held on the 8th day April, 2022, in respect of each motion, resolution and other action passed and taken by the City Council at its said meeting is hereby adopted, ratified and confirmed.

- 2. The Mayor of the City of Hamilton and the proper officials of the City of Hamilton are hereby authorized and directed to do all things necessary to give effect to the said action or to obtain approvals where required, and except where otherwise provided, the Mayor and the City Clerk are hereby directed to execute all documents necessary in that behalf, and the City Clerk is hereby authorized and directed to affix the Corporate Seal of the Corporation to all such documents.

PASSED this 8th day of April, 2022.

F. Eisenberger
Mayor

A. Holland
City Clerk