



**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
Planning Division

<b>TO:</b>	Chair and Members Planning Committee
<b>COMMITTEE DATE:</b>	July 5, 2016
<b>SUBJECT/REPORT NO:</b>	Bill 73 – <i>Smart Growth for Our Communities Act, 2015</i> – Changes to the <i>Planning Act</i> (PED16152) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Anita Fabac Manager of Development Planning, Heritage and Design (905) 546 - 2424 Ext.1258  Steve Robichaud Director of Planning and Chief Planner
<b>SUBMITTED BY:</b>	Jason Thorne General Manager Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATION**

- (a) That the motion regarding Minor Variances attached as Appendix “B” to Report PED16152 be approved by Council;
- (b) That the motion regarding advisory committees on planning matters attached as Appendix “C” to Report PED16152 be approved by Council;
- (c) That the motion regarding the application of the new parkland dedication rate of one hectare for every 500 units attached as Appendix “D” to Report PED16152 be approved by Council; and,
- (d) That the Province be requested to expand the scope of its review of the Ontario Municipal Board (OMB) to include a review of the OMB’s operations, practices and procedures, as well as alternatives to the OMB.

**EXECUTIVE SUMMARY**

Between October 2013 and January 2014, the Ministry of Municipal Affairs and Housing (MMAH) consulted with municipalities, the public and other stakeholders on what changes were needed for the land use planning and appeal system. The City provided

**SUBJECT: Bill 73 – *Smart Growth for Our Communities Act, 2015* – Changes to the *Planning Act* (PED16152) (City Wide) - Page 2 of 7**

---

comments and recommendations for legislative and procedural changes to the Province in early 2014, which were outlined in Report PED14004. The *Smart Growth for Our Communities Act* received its first reading in the Legislature on March 5, 2015 and second reading on April 21, 2015. Additional comments were made to the Province on the proposed Bill, which were outlined in Report PED15093. These reports did not review the changes proposed to the *Development Charges Act, 1997*.

The result of the Provincial consultation has led to Bill 73 – *Smart Growth for Our Communities Act, 2015* which amends the *Planning Act*. On December 3, 2015, the Province passed Bill 73. It is expected that the majority of the changes to the *Planning Act* will come into force on July 1, 2016.

This Report outlines the changes proposed by Bill 73 and the implications for the City of Hamilton. It also contains a summary of previous recommendations made to the Province on Bill 73 and how those comments have been incorporated into the amendments to the *Planning Act*. It also includes recommendations and motions for Council approval to address minor variance application exemptions, planning advisory committees and the new parkland dedication rate as provided for by the changes to the *Planning Act*.

***Alternatives for Consideration – N/A***

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

Financial: The financial implications of the changes to the *Planning Act* are not known at this time, however, the changes will add procedural steps and additional costs that are not currently captured in the City's Fee By-law and these changes may result in an increase in development application fees. Staff will assess and monitor the financial impacts, if any, of these changes.

With respect to the Parkland Dedication changes to the *Planning Act*, the new maximum rate of one hectare of land per 500 units means that the City will now collect the equivalent of 20.0 sq m per unit whereas previously the City could collect the equivalent of 33.3 sq m of land per unit. As part of the parkland dedication by-law review, staff will be assessing the implications of the 40% reduction in the amount of land required to be dedicated for parkland on the City's parkland acquisition strategy.

Staffing: N/A

Legal: N/A

## **HISTORICAL BACKGROUND**

In October of 2013, the Provincial Government announced a review of the “Land Use Planning and Appeal System” and “Development Charges in Ontario”. The need for this review was the result of the number of changes made to the planning system over recent years and continuing concerns raised about parts of the land use planning and appeal system. The purpose of the review was to ensure that the land use planning and appeal system in Ontario is “predictable, transparent, cost-effective and responsive to the changing needs of communities”.

Between 2013 and 2015, the Ministry of Municipal Affairs and Housing (MMAH) consulted with municipalities, the public and other stakeholders on what changes were needed for the land use planning and appeal system. The City provided comments and recommendations for legislative and procedural changes to the Province in early 2014, which were outlined in Report PED14004 and in 2015, which were outlined in Report PED15093.

On December 3, 2015, the Province passed Bill 73. Some of the amendments made by Bill 73 are already in effect however it is expected that the majority of the changes will come into force on July 1, 2016.

## **POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

The land use planning and appeal system is guided by the *Planning Act* which sets out how land use decisions are made and how they can be appealed to the Ontario Municipal Board (OMB).

## **RELEVANT CONSULTATION**

N/A

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

1. Certain changes to the *Planning Act* came into force on Royal Assent on December 3, 2015. These include the following:
  - Subsection 1(2) has been amended to restrict the ability of ministries other than the Ministry of Municipal Affairs and Housing to be added as a party to an Ontario Municipal Board appeal;
  - Subsection 3(10) has been amended to extend the review cycle of the Provincial Policy Statement from five to ten years;

**SUBJECT: Bill 73 – *Smart Growth for Our Communities Act, 2015* – Changes to the *Planning Act* (PED16152) (City Wide) - Page 4 of 7**

---

- Subsections 4(1) and 4(2) have been amended to remove the references to “referral”, as the Minister does not have the powers for site plan approvals that could be delegated; and,
- Subsection 22.1 has been added to provide certainty that when new policies or laws come into effect, applications for official plan amendments are subject to the previous policies or laws only if the required supporting material (i.e. complete application) has been submitted prior to the transition date. This section relates to future legislative (or policy) changes and how to treat official plan amendments when those changes occur.

It is expected that the remaining changes will come into force on July 1, 2016.

A number of new or revised *Planning Act* regulations will need to be considered in connection with the legislative changes. These regulations will provide direction on a range of matters including giving notice of planning applications and public participation in the planning process. Upon issuance of the regulations by the Province, staff will make all necessary administrative changes.

2. Appendix “A” to Report PED16152 outlines the changes proposed to the *Planning Act* and implications for Hamilton. There are changes proposed to the *Planning Act* which relate to upper-tier municipalities, which as they do not apply to the City, have not been discussed in this Report. Many of the changes proposed to the *Planning Act* implement what the City already does and considers to be best practice for land use planning in the City.

Many of the changes result in no immediate effect or change required and are administrative. Implementation of some changes as a result of the *Planning Act*, including:

- how notice is given;
- information contained in notices;
- dispute resolution procedures;
- Section 37 (Bonusing) reporting;
- cash in lieu of parkland reporting; and,
- 90 day extension for an Official Plan Amendment before a non-decision appeal can be made.

These changes will require future administrative / procedural changes that Planning staff will initiate upon issuance of regulations by the Province on these matters.

### Minor Variances

Council has the discretion to prepare and adopt a By-law to establish minor variance criteria (refer to item 11 of Appendix “A” to Report PED16152. Staff are in the process of determining the implications of such a By-law, what criteria could be applied and the process for consulting with stakeholders prior to enactment of a minor variance criteria By-law.

Also with respect to minor variances, the *Planning Act* has been changed to state that in the two years following an owner-initiated site specific rezoning, applications for a further minor variance are no longer permitted. The only exception is where council has declared, by resolution, that an application can proceed. This exemption can be application specific, class specific or general in nature. Staff have reviewed the *Planning Act* and advise that an exemption could be granted for matters where a staff error occurred in the drafting of a site specific zoning by-law and a variance would be required to address this error. Staff have prepared a motion, as outlined in Recommendation (a) of this Report, and attached as Appendix “B” to Report PED16152, to give effect to this matter. Any other exemptions from the two year time period will require Council ratification.

### Planning Advisory Committees

With respect to planning advisory committees, the *Planning Act* requires that every single-tier and upper-tier municipality appoint a planning advisory committee. The committee shall be chosen by Council and shall include at least one resident who is neither a member of a municipal council nor an employee of the municipality. The City has a number of advisory committees that deal with land use planning matters that meet these criteria including Hamilton Municipal Heritage Committee, Agricultural and Rural Affairs Committee, etc. Utilizing existing advisory committees and reducing duplication would allow the City to utilize existing resources in providing advice on land use planning matters and is consistent with the current best practice of consulting with the existing advisory committees on planning related matters. Staff have reviewed the *Planning Act* and advise that utilizing existing advisory committees would address the requirement of the *Planning Act*. Staff have prepared a motion, as outlined in Recommendation (b) of this Report, and attached as Appendix “C” to Report PED16152, to give effect to this matter.

### Parkland

The alternate requirement outlined in the *Planning Act* for parkland dedication where cash in lieu of land required has been established will require changes to the Parkland Dedication By-law (refer to item 10 of Appendix “A” to Report PED16152). Currently the City’s Parkland Dedication By-law includes a rate of

one hectare of net land area for each 300 dwelling units proposed (section 4. a. ii) of By-law 09-124). The change means that whereas under the one hectare per 300 unit provision the City of Hamilton would collect the equivalent of 33.3 sq m of land (either land or cash in lieu or a combination of both). The City will now collect the equivalent of 20 sq m per unit under the revised *Planning Act* provision of one hectare per 500 units. This is a 40% reduction in the amount of land required to be dedicated for parkland. Staff are currently undertaking a review of the Parkland Dedication By-law. In order to give effect to the alternate requirement outlined in the *Planning Act* until the review of the By-law is completed, staff have prepared a motion, as outlined in recommendation (c), and attached as Appendix “D” to Report PED16152, directing staff to apply the new rate of one hectare for every 500 units with respect to section 4. a. ii. of the By-law in accordance with the *Planning Act*, as amended by Bill 73.

3. Report PED15093 included a number of recommendations resulting from the initial consultation on Bill 73 that were endorsed by Council and forwarded to the Province. Appendix “E” to Report PED16152 includes these recommendations and whether these comments were addressed in the final version of Bill 73.

It is staffs’ understanding that a review of the OMB will be initiated in the near future. A number of the recommendations of Report PED15093 related to OMB reform. Council requested that the Province “expand the scope of the review to include a review of Ontario Municipal Board (OMB) operations, practices and procedures, as well as alternatives to the OMB.” As these comments are still applicable, the recommendation from Report PED15093 has been included as recommendation (d) to Report PED16152 to reconfirm the position of Council.

A recommendation by the City regarding Bill 73 was also include relating to inclusionary zoning. While not included in Bill 73, on May 16, 2016, the Province introduced legislation (Bill 204) that, if passed, would allow municipalities to require private sector developers to include affordable housing units in the developments. In the coming months, the Province will consult with municipalities, developers and other interested parties on this matter.

## **ALTERNATIVES FOR CONSIDERATION**

N/A

## **ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN**

### **Strategic Priority #2**

Valued & Sustainable Services

*WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.*

**Strategic Objective**

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.
- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

**Strategic Priority #3**

Leadership & Governance

*WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.*

**Strategic Objective**

- 3.1 Engage in a range of inter-governmental relations (IGR) work that will advance partnerships and projects that benefit the City of Hamilton.
- 3.4 Enhance opportunities for administrative and operational efficiencies.

**APPENDICES AND SCHEDULES ATTACHED**

- Appendix "A": Changes to the *Planning Act*
- Appendix "B": Minor Variance Motion
- Appendix "C": Planning Advisory Committee Motion
- Appendix "D": Parkland Dedication Rate Motion
- Appendix "E": Recommendations from Report PED15093

:AF/mo