

**CHANGES TO THE *PLANNING ACT: SMART GROWTH FOR OUR COMMUNITIES ACT, 2015***

<b>CHANGES TO THE <i>PLANNING ACT</i> THROUGH BILL 73</b>		<b>IMPLICATIONS FOR HAMILTON</b>
1. New Matters of Provincial Interest	Section 2 of the <i>Planning Act</i> has been amended to include the promotion of built form that is well designed, encourages a sense of place and provides for quality public spaces.	No immediate effect. Built form is already addressed comprehensively through policies on urban design in the Official Plans.
2. Official Plans	A comprehensive review is only required 10 years after a new Official Plan comes into effect and every 5 years after that unless it is replaced by another new Official Plan. If the Official Plan is amended rather than replaced with a new plan, a five year review is required. Council has the discretion to combine a provincial plan conformity exercise when updating the Official Plan under Section 26 of the Planning Act.	No immediate effect. Only applies to the next Official Plan review.
	For the adoption of a new Official Plan, appeals of the entire Official Plan (global appeals) are no longer permitted.	No immediate effect. Only applies if the next comprehensive Official Plan review results in a whole new plan.
	There are no appeals permitted of any part of an Official Plan that implements certain matters relating to vulnerable areas under the <i>Clean Water Act</i> , and the Greenbelt, Protected Countryside and specialty crop areas under the <i>Greenbelt Act</i> .	No immediate effect. This is already addressed comprehensively in the Official Plans. Only applies if the next comprehensive Official Plan results in a whole new plan.
	Any requests for an amendment to a new Official Plan before the second anniversary of the first day that any part of the new plan comes into force are not permitted. The only exception is where council has declared by resolution that a private request for an	No immediate effect. Only applies if the next comprehensive Official Plan review results in a whole new plan.

	amendment may proceed.	
	When the Minister is the approval authority, a copy of a proposed new Official Plan or an amendment must be submitted to the Minister 90 days before the municipality gives notice of the public meeting required under Section 17 of the Planning Act.	No immediate effect. Only applies if the next comprehensive Official Plan review results in a whole new plan. Growth conformity exercises are approved by the Minister.
3. Zoning By-laws	No private amendments are allowed in the two years following the simultaneous repeal and replacement of the entire Zoning By-law (global replacement) until after the second anniversary of the new by-law. 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.	No immediate effect. Only applies if there is a global replacement of the Zoning By-law.
4. Decisions and Notices	In giving written notice of the adoption of an Official Plan or Official Plan amendment, a new Zoning By-law or Zoning By-law amendment, and a draft Plan of Subdivision decision, the notice must now contain a brief explanation of the effect, if any, that written and oral submissions received prior to the council decision and / or at a public meeting had on council's decision to adopt the plan.	Upon issuance of a regulation from the Province, staff will amend notices to include this explanation.
	It is now mandatory, rather than optional, for an Official Plan to contain a description of the measures and procedures for informing and obtaining the views of the public for new Official Plans, Official Plan amendments, new Zoning By-laws and Zoning By-law amendments, Plans of Subdivision and Consents to sever. All other types of <i>Planning Act</i> approvals remains discretionary.	No immediate effect. Policies regarding public consultation on planning matters are already contained in the Official Plans.

	<p>A council or any person can request up to an additional 90 days for a council decision on a privately initiated amendment to an Official Plan if notice is given before the initial 180 days expires. The first notice is the one that governs and the party issuing the notice may terminate the extension at any time by written notice. Without an extension, the time period for decisions on these applications remains 180 days.</p>	<p>This is discretionary. Upon issuance of a regulation from the Province, staff will develop a procedure to give effect to the opportunity for an extension.</p>
	<p>For decisions relating to Official Plan amendments, Zoning By-law amendments, Plans of Subdivision and Consents, notice may be given by email. The giving of notice by email shall be deemed to be completed on the day that the sending by email of the notice was completed.</p>	<p>City Clerk’s staff to determine whether notice of decisions will be provided by email in consultation with Legal Services and Planning staff.</p> <p>Does not include notice of decisions for Minor Variance.</p>
<p>5. Appeals</p>	<p>Where an appellant claims in their appeal to the OMB that there is inconsistency with the Provincial Policy Statement, details of such claim must be provided in the appeal of Council’s decision. This requirement applies whether the appeal is from the adoption or the approval of an official plan or a Zoning By-law amendment.</p>	<p>Failure to provide these details will provide grounds for the appeal to be dismissed without a hearing.</p>
	<p>Policies in an Official Plan that identify forecasted population and employment growth as set out in the Growth Plan are exempt from appeals.</p>	<p>No immediate effect. Only applies the next time the Official Plan is updated to reflect the Provincial population and employment growth targets.</p>

6. OMB and Non-Decision Appeals	When hearing a decision on a non-decision appeal, the OMB will now be required to have regard for any information and material that municipal council received, including written and oral submissions received from the public, even if council did not make a decision.	Upon issuance of a regulation from the Province, staff will amend procedures to give effect to this.
7. Mandatory Planning Advisory Committee	The appointment of a planning advisory committee will now be mandatory. The members shall be chosen by council and must include at least one resident who is neither a member of council nor an employee of the municipality.	Existing City advisory committees will be deemed to qualify as a planning advisory committee. Staff have included a motion in Report PED16152 to give effect to this.
8. Dispute Resolution of Appeals	Municipal council's will be empowered to use mediation, conciliation or other dispute resolution techniques to attempt to resolve an appeal of an Official Plan, an Official Plan amendment, a Zoning By-law amendment, Plans of Subdivision and Consents. Where Council chooses this option, the 15 day period in which an appeal is normally to be forwarded to the OMB is extended to 75 days. Participation is voluntary but the extension will apply regardless of whether any appellant accepts the invitation. Notice must be given by the Municipality.	No immediate effect. Dispute resolution has been available to staff since 2003, as outlined in Report PD03105 "Public Participation and Mediation in the Planning Approval Process".
9. Section 37	Payments made pursuant to Section 37 must be deposited into a special account that can only be used for the facilities and services identified in the municipality's Section 37 By-law. The money can be invested in accordance with the Municipal Act, with any earnings from the investments being paid into the special account. Council is to receive an annual publicly available	This will be reviewed by City staff as part of its Section 37 (bonusing) work.  The City Treasurer will be required to make this information available to Council.

	statement of funds.	
10. Parkland	A municipality must prepare a parks plan that examines the need for parkland. This will only apply to Official Plan policies adopted after the effective date of the Bill 73 amendments.	No immediate effect. The City undertakes parks planning as a best practice.  This will not apply where cash in lieu payment has already been made or arrangements for payment in lieu have already been made to the satisfaction of Council.
	An alternate requirement for parkland dedication where cash-in-lieu of land is required has been established. The change permits one hectare of parkland for every 500 units, instead of the current one hectare of land for every 300 units.	A recommendation has been included in Report PED16152 to give effect to this.
	Council is to receive an annual publicly available statement of funds.	Finance has confirmed that this information is currently made publicly available on an annual basis.
11. Committee of Adjustment	<p>Council may set minor variance criteria, in addition to the 4 test criteria that already exist, to be prescribed by by-law. Procedural matters include:</p> <ul style="list-style-type: none"> <li>• New criteria that were not in force on the day an application was made do not apply;</li> <li>• With limited exceptions, the process for adopting a local variance criteria by-law is the same as for adopting a new zoning by-law under Section 34;</li> </ul>	Upon issuance of a regulation from the Province, staff will assess, evaluate, consult and report back to Planning Committee on the need for minor variance criteria.

	<p>and,</p> <ul style="list-style-type: none"> <li>Local variance criteria by-laws will not be deemed to be retroactive to the date they were passed by Council. It will come into force after the appeal period expires, once all of the appeals are withdrawn, or once the by-law is approved by the OMB.</li> </ul>	
	<p>In the two years following an owner-initiated site specific rezoning, applications for a further minor variance are precluded. 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.</p>	<p>Staff to prepare a motion for Council resolution to outline when a minor variance application may proceed.</p>
	<p>In providing written reasons for a decision, the decision must now contain a brief explanation of the effect, if any, that written and oral submission received by the Committee had on the Committee's decision to approve or refuse a requested variance.</p>	<p>Upon issuance of a regulation from the Province, staff will amend notices to give effect to this.</p>
<p>12. Development Permit System</p>	<p>Municipalities may establish a Development Permit System. The Lieutenant Governor in Council may make regulations to amend development permit by-laws and related Official Plan policies.</p>	<p>The Development Permit System is a mechanism to control and limit growth. The City has experience with a similar model (Niagara Escarpment Commission) and will continue to review and determine its appropriateness for the City.</p>