




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	August 9, 2022
SUBJECT/REPORT NO:	Process, Staffing and Fee Changes to Implement Bill 13 and Bill 109 (PED22112(c)) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Anita Fabac (905) 546-2424 Ext. 1258 Tiffany Singh (905) 546-2424 Ext. 1221 Ken Coit (905) 546-2424 Ext. 7557 Steve Robichaud (905) 546-2424 Ext. 4281
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the Bill 109 Risk Identification and Recommendations report, prepared by BMA Management Consulting Inc., dated July 2022, attached as Appendix “A” to Report PED22112(c), be approved;
- (b) That the 2023 Tariff of Fees for Planning and Engineering Development Applications, attached as Appendix “B” to Report PED22112(c) be approved and incorporated into the User Fees and Charges By-law, effective January 1, 2023;
- (c) That any fee refunds required to be issued as a result of the new Bill 109 provincial regulations be funded by the Development Fee Stabilization Reserve (Reserve No. 110086) and reported to Council annually through the annual budget process;
- (d) That the creation of two FTEs for a Solicitor and one FTE for a Legal Clerk within the Legal Services Division be referred to the 2023 Operating Budget;

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- (e) That an exception be made to the City's Budgeted Complement Control (Policy No: CBP – 1) to provide the General Manager of Planning and Economic Development with the delegated authority to undertake the following, provided that all costs are fully fee-funded and will have no impact on the levy:
 - i) increasing permanent complement or increasing temporary complement beyond 24 months for staff working in development approvals;
 - ii) changing complement type (i) from Temporary to Permanent. (ii) from Temporary (less than 24 month duration) to Temporary (longer than 24 month duration) and/or (iii) deleting one position and adding a new position which would be expected to change the pay band for the new position higher by more than one band, for staff working in development approvals;
- (f) That the General Manager of Corporate Services report to Council three times per year through the regular Tax and Rate Operating Budget Variance Report on any new permanent positions created through the delegated authority;
- (g) That the Urban Hamilton Official Plan Amendment, attached as Appendix "C" to Report PED22112(c), to implement Bill 13 and Bill 109, be approved, in accordance with the requirements of the *Planning Act* on the following basis:
 - i) That the draft Urban Hamilton Official Plan Amendment, attached as Appendix "C" to Report PED22112(c), which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (h) That the Rural Hamilton Official Plan Amendment, attached as Appendix "D" to Report PED22112(c), to implement Bill 13 and Bill 109, be approved, in accordance with the requirements of the *Planning Act* on the following basis:
 - i) That the draft Rural Hamilton Official Plan Amendment, attached as Appendix "D" to Report PED22112(c), which has been prepared in a form satisfactory to the City Solicitor, be enacted by Council;
- (i) That the by-law to delegate approval authority to pass a by-law to remove a Holding symbol, for a temporary use by-law and for other minor zoning by-law amendments to the Director Planning and Chief Planner or their designate, attached as Appendix "E" to Report PED22112(c), be approved and forwarded to Council to be passed upon the draft Rural and Urban Hamilton Official Plan Amendments, attached as Appendix "C" and "D" to Report PED22112(c), becoming final and binding;
- (j) That the Bill 109 Transition Framework, attached as Appendix "I" to Report PED22112(c), be approved.

EXECUTIVE SUMMARY

The purpose of this report is to implement the changes to the *Planning Act* as a result of Bill 13 and Bill 109. To assess the financial, staffing and process implications of Bill 109, BMA Management Consultants Inc. was retained. This report contains the consultant's analysis and recommendations of the financial, process, development application fees and staffing implications resulting from Bill 109 and the City's approach to responding to Bill 109 to minimize impact to the levy for the refunding of development application fees.

This report also contains the proposed Official Plan amendments to both the Urban and Rural Official Plans and required by-laws to address the legislative *Planning Act* changes made by Bill 13 and Bill 109. The proposed amendments to implement Bill 13 include delegating authority to the Director of Planning and Chief Planner the ability to pass a holding by-law, temporary use by-law, or after consulting with Planning Committee a minor zoning by-law amendment. A delegating authority by-law is also required and is attached as Appendix "E" to Report PED22112(c). The proposed amendments relating to Bill 109 include updates to the other information and materials required to deem a *Planning Act* application complete, notification requirements outlined in the Official Plans to address the legislative changes relating to required application fee refunds, and other amendments and by-law updates to address development application process changes.

The City's best practices of discounting agricultural development application fees and providing fee relief for affordable housing development fees will continue.

Alternatives for Consideration – See Page 18

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial It is staff's intention to minimize, to the maximum extent possible, the need to issue fee refunds as a result of the new provincial legislation. The total gross annual fee revenues that would be "at risk" if refunds are required is approximately \$5.3 million.

The recommended new Tariff of Fees for Planning and Engineering Development Application attached as Appendix "B" to Report PED22112(c) is estimated to result in annualized increased revenues of approximately \$2.2 million, based on 2022 application volumes. A forecast for 2023 revenues based on forecasted 2023 application volumes will be presented to Council as part of the 2023 Budget process.

Report PED22112(c) is recommending that the General Manager of Planning and Economic Development be provided the delegated authority

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to create new permanent FTEs to meet the new provincial timelines, provided the positions are fully fee-funded. The creation of these positions will have no impact on the levy.

Report PED22112(c) is also recommending that the creation of three FTEs within the Legal Services Division to support an anticipated increase in appeals before the Ontario Land Tribunal (OLT) be referred to the 2023 Operating Budget.

Staffing: Recommendation (e) of Report PED22112(c) would give the General Manager of Planning and Economic Development the delegated authority to create the necessary new permanent FTEs to meet the new provincial timelines, provided the positions are fully fee-funded and will have no impact on the levy.

The consultant's report attached as Appendix "A" to Report PED22112(c) estimates 20 fee supported staff will be needed to address Bill 109, and six tax supported staff to address an anticipated increase in OLT appeals. If Recommendation (e) is supported by Council, the General Manager, in consultation with the relevant Directors, will identify a priority list of positions to be created in the short-term, and initiate the recruitment process. Any new positions created would be reported to Council by the General Manager of Corporate Services through the regular (three times per year) Tax and Rate Operating Budget Variance Report.

Report PED22112(c) is also recommending that the creation of three FTEs within the Legal Services Division to support an anticipated increase in appeals before the Ontario Land Tribunal (OLT) be referred to the 2023 Operating Budget.

Legal: See above under Financial and Staffing Implications.

Statutory authority to impose a tariff of fees for Planning Applications is granted to the City of Hamilton through Section 69 of the *Planning Act*. Municipalities are required to pass by-laws for the purpose of collecting fees related to the processing of Planning Applications. No notice is required to be given under the *Planning Act*, however, an applicant may pay the fee under protest and appeal to the Ontario Land Tribunal (OLT). As required by the *Planning Act*, Council shall hold at least one Public Meeting to consider an Official Plan Amendment. Notice of these Amendments has been posted in the Hamilton Spectator, as required by the *Planning Act*.

HISTORICAL BACKGROUND

On October 7, 2021, the Province of Ontario introduced Bill 13, the *Supporting People and Businesses Act, 2021*. The Bill proposed to amend the *Planning Act* to allow councils to delegate the authority to pass zoning by-laws that are of a minor nature to a committee of council or staff. This could include decisions for temporary use by-laws, the lifting of holding provisions and other minor zoning by-law amendments.

On November 24, 2021, Council endorsed Report PED21220 containing the City's responses to Bill 13, generally supporting the proposed changes as they would provide flexibility and reduce application processing timeframes for by-laws considered minor in nature. Bill 13 received Royal Assent on December 2, 2021.

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

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 endorsed Report PED22071 containing staff-level responses to the HATF recommendations, identifying where clarity was needed, potential implications, and gaps of information. On the same day, the Province of Ontario released the More Homes for Everyone Plan and introduced Bill 109, the *More Homes for Everyone Act, 2022*.

On April 8, 2022, Council endorsed Report PED22112 containing staff-level responses to Bill 109, and directed staff to prepare necessary amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan, as well as any other required policies and procedures, to give effect to the proposed changes. Staff were also directed to undertake an analysis of staffing impacts across the organization as well as financial implications and to report back to Planning Committee.

On April 14, 2022, Bill 109 received Royal Assent. The Bill amended the *Planning Act* to require municipalities to refund development application fees if a decision is not made within legislative timelines and require complete applications for Site Plan Control applications. These changes come into effect January 1, 2023.

On June 22, 2022, Council endorsed Report PED22112(a), amending the City's existing delegated authority by-laws to ensure it complies with the legislative requirements of Bill 109 for delegated site plan approval authority. Additional reports were planned for subsequent Planning Committee meetings to address other parts of Council's direction for Report PED22112.

On July 5, 2022, Planning Committee approved Report PED22112(b) authorizing staff to undertake public and stakeholder consultation on the proposed amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan to implement Bill 13 and Bill 109 and report back summarizing input received from consultation with recommended final amendments to the Urban Hamilton Official Plan and Rural Hamilton Official Plan in August 2022.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The Provincial Planning Policy framework is established through the *Planning Act* (Section 3) and the Provincial Policy Statement (PPS). It provides municipal governments with the direction and authority to guide development and land use planning through official plans, secondary plans and zoning by-laws. The *Planning Act* requires that all municipal land use decisions affecting planning matters be consistent with policy statements and plans issued by the Province. Bill 13 and Bill 109 have made amendments to *Planning Act* application(s) processes which requires municipalities to respond to these changes.

The proposed amendments to the Urban and Rural Hamilton Official Plans seek to streamline application processes by providing greater clarity on submission requirements and deeming a complete or incomplete application, and reducing time to pass holding by-laws, temporary use by-laws and some minor zoning by-law amendments by delegating this authority to staff. The proposed policy amendments ensure that the delivery of planning services and decisions continues to respond to the needs of the City's customers and stakeholders in addition to responding to legislative changes as a result of Bill 13 and Bill 109.

RELEVANT CONSULTATION

The Senior Leadership Team and staff from within the Planning Division, Growth Management Division, Transportation Planning and Parking Division, and Legal Services Division were consulted in the drafting of this report, recommendations and appendices.

Consultation was held with the development industry and other interested stakeholders. The following methods of engagement were utilized:

Newspaper

- Preliminary notice of the proposed Official Plan Amendments was advertised in the Hamilton Spectator on July 7, 2022, following receipt of Report PED22112(b) by Planning Committee. Notice was also circulated by email to various community groups and development industry stakeholders.

- Notice of proposed changes to the Tariff of Fees By-law was advertised in The Hamilton Spectator on July 8, 2022.

Engage Hamilton

- The proposed Official Plan Amendments were posted publicly for commenting through the City's online engagement platform – Engage HQ (<https://engage.hamilton.ca/>). The page received 311 visits.

Stakeholder Meetings

- Conservation Halton, Hamilton Conservation Authority, Grand River Conservation Authority and the Niagara Peninsula Conservation Authority were consulted on Bill 109 on May 30, 2022.
- The proposed Official Plan Amendments were presented to the Development Industry Liaison Group (DILG) at a special meeting on July 12, 2022.

The comments received on the proposed Official Plan Amendments is summarized in Appendix “F” to Report PED22112(c).

ANALYSIS AND RATIONALE FOR RECOMMENDATION

1. Key Principles and Considerations

There were a number of key principles and considerations that have led to the proposed recommendations:

- Council has consistently operated under the principle that development should pay for itself, and therefore the guiding principle in developing the City's response to the legislative changes was that refunds of development application fees should be avoided to the maximum extent possible (the total gross annual fee revenues that would be “at risk” if refunds are required is approximately \$5.3 million).
- While Council will continue to have the discretion to defer/refer development applications at Planning Committee or Council back to staff, this will incur a financial penalty in the form of a refund.
- To meet the legislative changes related to “decisions” on affected development applications, a decision has been determined to be a decision of Council (as opposed to Committee).
- The current Conditional Site Plan Approval granted by staff through delegated authority will meet the legislative changes related to “approvals” however any delay in granting conditional approval or inability to do so due to incomplete information or lack of timely staff comments will incur financial penalty in the form of a refund.
- The City's response to the legislative changes requires a fundamental shift in how the City processes applications and engages with the community and applicants in the processing of development applications.

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- The City's best practices of discounting agricultural development application fees (50% of the fee) and providing fee relief for affordable housing development fees will continue.
- Previous fee reviews undertaken in 2012 and 2019 consisted of ensuring that the City's fees followed applicable legislation and that they were fair, reasonable and reflective of the actual cost of providing these services. These reviews were based on activity based, full cost analysis for the time and resources that directly related to the review of development applications. The current review, as outlined in Appendix "A" to Report PED22112(c), is based on the same principles identified above but included timely decision making with respect to the 60, 90 and 120 days legislative requirements, staff interviews, updated process mapping, review and application of average productive hours based on 2022 operating costs to ensure a full cost recovery, activity-based methodology and fees.

The goal of the Planning and Economic Development Department has always been to streamline processes to create consistent, predictable and customer-focused services. Through previous continuous improvement initiatives including concurrent application reviews, expanded use of AMANDA and digital development applications and LEAN reviews of development planning processes, City staff have implemented changes to create as many efficiencies as possible with the available staff compliment. The proposed process and staffing changes will continue to create operational efficiencies where possible to reduce processing timeframes, however, fundamental changes and staffing increases are required to minimize any impact to the levy from refunding application fees.

2. Process Changes

The following process changes are proposed in order to meet the legislative timelines to ensure development application fees are not refunded and result in no impact to the levy.

Site Plans

The following outlines some of the changes to the Site Plan Approval process:

- Require that a Formal Consultation Process is completed for all applications to determine requirements for a complete application before a Site Plan application is submitted.
- Require a more rigorous and time limited review of Site Plan Applications to determine the acceptance or denial of a Complete Application.
- Less opportunity to work with applicants during the Site Plan Control approval process.

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In response to the legislative changes required by Bill 109 staff will be implementing changes to the current Site Plan Approval process to minimize situations in which Conditional Site Plan Approval cannot be granted within 60 days. These include requiring a Formal Consultation, a more involved review of Site Plan applications before deemed complete and making the existing Development Review Team (DRT) meeting with the applicant optional based on staff needs and schedule constraints.

The Formal Consultation process will be more rigorous than the current process, which can be in the form of either a Formal Consultation application or a Preliminary Site Plan Review application and will be required for all Site Plan Approval Applications regardless of complexity or location. This process will be used to develop the requirements for a complete application and identify any major concerns based on the applicants' proposal. It is anticipated that the DRT will be moved to the Formal Consultation process to allow for staff to work with the applicant. In limited cases where previous applications have been submitted, the application is very limited in scope or to aid in transition to the new process and fulsome studies have already been provided, exemptions may be granted as assessed by the Manager of Heritage and Urban Design.

The process will now include a review of applications against requirements identified at the Formal Consultation and Terms of Reference outlined in the Official Plan to determine if an application can be deemed complete and accepted or deemed incomplete and required to be resubmitted. This will provide the applicant with more information early in the process and reduce review times during the Site Plan review. It will minimize instances when Conditional Site Plan cannot be granted due to incomplete information or outstanding studies. The process to clear site plan conditions after Conditional Approval will remain similar to the existing process with the introduction of some more tracking tools to encourage more coordinated and complete resubmissions to minimize staff review times. Fees for reviewing of submissions to clear site plan conditions will also be broken out from the Site Plan Approval Application fee as a separate fee.

Formal Consultation

The following outlines the fundamental changes to the Formal Consultation processes:

- The Formal Consultation fee will no longer be a credit towards a future application.
- Strengthened process with the development of Terms of References for all studies required.
- The opportunity to have a process that does not require a meeting of the Development Review Team based on staff needs and schedule constraints.

While there would now be a fee, rather than a credit proposed for a Formal Consultation, this would not preclude City staff from continuing to meet with applicants

to discuss preliminary proposals and obtaining preliminary feedback in advance of formal applications as has always been the City's practice.

Zoning By-law Amendments/Official Plan Amendments

The following outlines the fundamental changes to the Zoning By-law Amendment or joint Zoning By-law Amendment/Official Plan Amendment processes:

- Shortened time to deem an application complete.
- Implementation of internal intake meetings after application submission.
- Determination of Statutory Public Meeting date at time of application submission which will be included in the Notice of Complete Application mailed to property owners within 120 metres and on the sign posted on the property.
- Reduced circulation time to internal Departments and external Agencies.
- Reduced circulation time to the public for comments.
- No opportunity to include public comments in staff reports.
- No opportunity to find a mutually agreeable solution or have an iterative dialogue on applications with applicants.
- Require community engagement by applicants prior to submission of an application rather than the current practice of after submission of an application.
- Potential increase in recommendation for denial of applications by staff.
- Prioritization of new Zoning By-law Amendment applications (and those submitted jointly with an Official Plan Amendment application) and Site Plan applications over existing applications to ensure timelines are met.
- Decoupling subdivision and condominium applications and no joint application fee reduction of 25%.
- Only two Zoning By-law Amendment application fees (complex and secondary suites).

Holding Provision Removals

The following outlines the changes to the Holding Provision removal process:

- Increased use of Holding Provision to address outstanding requirements for internal Departments and external Agencies.
- Implementation of routine and complex Holding Provision application processes and fees. A routine application would be applied when the Holding Provision only applies to a requirement of an outside Agency. A complex application would be applied with the Holding Provision applies to a requirement on an internal Department and in some cases an outside agency.
- Implementation of a resubmission fee after the initial submission.

3. Recommended Fees

The proposed fee schedule is attached as Appendix “B” to Report PED22112(c) and is addressed in recommendation (b) of this report. The proposed fee changes relate to the new work processes using the 2022 operating budget and salaries as per the consultant’s report attached as Appendix “A” to Report PED22112(c). Inflationary increases will be required for 2023.

Fees changes are proposed only for Official Plan Amendments, Zoning By-law Amendments (including Holding Removals) and Site Plan applications. As discussed previously the 25% fee reduction for joint applications will no longer be part of the fee schedule and has been removed.

As required by the *Municipal Act*, notice of the proposed changes to the Tariff of Fees By-law was posted in The Hamilton Spectator on July 8, 2022, at least 30 days prior to the Planning Committee meeting.

4. Staffing

Ontario Land Tribunal (OLT) and Staffing for Legal Services

Based on anticipated increases in appeals as well as providing legal interpretations and the preparation of legal agreements, there is the need for an additional two solicitors and one law clerk in the Legal Services Division. Based on the current active appeals, there is very limited time available with existing staff resources to address any increase in appeals and to support other aspects of service provided by Legal such as legal reviews, opinions, research and preparation of agreements. Based on the analysis undertaken by the consultant, there could be an estimated 28 new appeals per year as a result of Bill 109. As such, additional resources in the Legal Services Division are required.

Staffing and Resourcing for Development Approvals

This report is recommending that the General Manager of Planning and Economic Development be provided the delegated authority to create the necessary FTEs to respond to the pressures of the new provincial requirements, and that the General Manager of Corporate Services provide updates to Council on any positions that are created under this delegated authority as part of the regular (three times per year) Tax and Rate Operating Budget Variance Report.

The City’s Budgeted Complement Control (Policy No: CBP – 1) was last amended in 2016 through Report FCS16024. That policy sets out the following change scenarios and applicable approval process required:

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- 1) Transferring Complement
 - i. From one department to another requires Council approval.
 - ii. From one division to another within a department requires Council approval.
 - iii. Within a division, is at the discretion of the General Manager of that department.

- 2) Increasing Complement
 - i. Of Permanent complement requires Council approval.
 - ii. Of Temporary complement for a duration of 24 months or longer, requires Council approval.
 - iii. Of Temporary complement for a duration of less than 24 months, is at the discretion of the General Manager providing that adequate financial resources are available (cannot create an unfavourable budget variance).

- 3) Decreasing Complement
 - i. Where no impact to program / service levels will occur is at the discretion of the General Manager subject to collective agreements.
 - ii. Where an impact to program / service levels is expected, must be approved by Council.

- 4) Changing Complement Type
 - i. From Temporary to Permanent requires Council approval.
 - ii. From Temporary, less than 24 month duration, to Temporary longer than 24 month duration, requires Council approval.
 - iii. Deleting one position and adding a new position which would be expected to change the pay band for the new position higher by more than one band, requires Council approval.

Recommendation (e) to Report PED22112(c) is recommending that an exception be made to (2)(i), (2)(ii) and (4) of the policy such that the General Manager of Planning and Economic Development would have the delegated authority to:

- a) increase permanent complement or increase temporary complement beyond 24 months for staff working in development approvals;
- b) change complement type (i) from Temporary to Permanent. (ii) from Temporary (less than 24 month duration) to Temporary (longer than 24 month duration) and/or (iii) delete one position and add a new position which would be expected to change the pay band for the new position higher by more than one band, for staff working in development approvals.

Currently, the City's Chief Building Official within the Planning and Economic Development Department already has such a delegated authority through the Building Enterprise Model, for the creation of any positions that are fully funded by Building Permit fees. This report is recommending that a similar delegated authority be extended to the General Manager of Planning and Economic Development for the purpose of creating permanent FTEs for the processing of development applications, provided the positions are fully fee funded and do not impact the levy.

Staff are recommending this approach for the following reasons:

- Timing – Limiting the ability to create positions only through Council approval would create delays in recruitment as staff reports would have to be prepared, and Council approval would have to be sought, each time new positions were created.
- Phasing – Delegated authority would make it easier for staff to conservatively phase the creation of new positions on an “as-needed” basis, rather than trying to fully forecast future needs and seek advance approval for a “bundle” of new positions.
- Flexibility – Delegated authority would allow staff to quickly respond to increased activity levels, and particularly to monitor workload demands within specialized roles, such as natural heritage planning, cultural heritage planning, urban design, transportation planning, etc.
- Adjusting to Labour Market Uncertainties – Delegated authority would allow staff to respond to uncertainties in the labour market. For example, where recruitment proves to be unsuccessful for a given role or position, staff could instead recruit for an alternative role, in order to address needs.
- Anticipating Vacancies – Where management becomes aware of pending departures, such as retirements, delegated authority would allow staff to immediately post and recruit a permanent replacement, rather than having to wait until the retiring staff person has vacated their position.

While the purpose of Report PED22112(c) is to seek Council's approval with respect to staffing levels, it is important to note that meeting the resourcing challenges of the new provincial timelines will require a response beyond just the addition of new staffing resources.

The management team within the Planning and Economic Development Department is currently working with Human Resources staff on other actions and strategies with respect to recruitment and retention, including a salary competitiveness review for key roles within the development approvals process, review of recruitment strategies, such as promotion of job postings and use of recruitment consultants, and developing additional on-boarding and engagement activities to better support and retain existing staff.

Recent Changes in Staff Complement in Planning and Economic Development

Council last approved an increase to planning and development fees (outside of the annual inflationary increase) through Report PED19015(a) that was approved by General Issues Committee on March 22, 2019. That fee increase was phased in, with effective dates of May 1, 2019 and January 1, 2020. At that time, the estimated increased annual fee revenues were \$1.8 million broken down as follows:

- Planning Division / Growth Management / Division: \$1.076 million
- Hamilton Water: \$190,000
- Building Division: \$336,000
- Transportation Planning: \$176,000
- Legal Services: \$40,000

At the same time as the fee increase was approved, GIC also approved Report PED19066 with respect to the re-investment of the increased fees. Council directed that \$750,000 of the projected revenue increase be allocated to a levy reduction in the Planning and Economic Development Department. For any additional increased revenues, Council directed that staff report back with recommendations for the utilization of these revenues. Council further directed that staff undertake a workforce attraction and retention strategy and salary competitiveness survey, and “a review of the applicability of the Building Enterprise model to the Department’s development approvals function”.

Given the uncertainties that were emerging in the housing and development market in late 2019, followed by the onset of COVID in March 2020, staff did not at that time report back with any recommended staffing increases. On July 5, 2021, staff recommended, and Council approved, through Report PED21151, the creation of three new permanent FTEs and the conversion of one temporary FTE to a permanent FTE within the Planning and Growth Management Divisions representing an annual, fully fee-funded impact of \$488,100.

Overall, since 2015, the following enhancements have been approved by Council within the Planning and Growth Management Divisions, representing the net addition of 13.0 FTE over the last seven years:

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Growth Management Division:

	Position	FTE
2015	Project Manager	2.00
	Development Coordinator	1.00
	Admin Secretary	1.00
2017	Project Manager	1.00
2018	Director - Growth Planning	(1.00)
	Senior Project Manager	1.00
	Project Manager	2.00
	Development Clerk	1.00
	Co-op Student	(1.00)
2021	SPM Construction	1.00
	Project Manager	1.00
	Development Coordinator	1.00

Planning Division:

	Position	FTE
2015	Business Facilitator	2.00
2021	Senior Project Manager Urban Design	1.00

Development Fee Stabilization Reserve

Any excess fee revenues beyond what is utilized in a given Budget year, as well as any revenues that are deferred because they are received in one Budget year, but for work that will be undertaken in subsequent Budget years, are allocated to the Development Fee Stabilization Reserve (Reserve No. 110086).

Given the high levels of development activity in the City in recent years, the City has been able to grow the reserve to a much healthier and sustainable level than where it was just a few years ago. The net annual contributions from fees to the Development Fee Stabilization Reserve have averaged \$1,692,000 million over the last 5 years. The table below provides an historical trend in the reserve balance.

Development Fee Stabilization Reserve 2021 Year-End Balance



5. Bill 13 Implementation – Delegated Authority

Staff are recommending that the authority to pass a by-law to lift a holding symbol, establish a temporary use or extend a temporary use by-law, or a minor zoning by-law amendment be delegated to the Director of Planning and Chief Planner or their designate. To implement these legislative changes, Official Plan policies are included in Appendix “C” and “D” to Report PED22112(c), as well as a delegated authority by-law attached as Appendix “E” to Report PED22112(c).

Lifting a Holding Symbol is currently delegated to the Director of Planning and Chief Planner and is not subject to a public meeting under the Planning Act. Establishing a temporary use or extending a temporary use by-law, or a minor zoning by-law amendment (with the exception of correcting typographical or mapping errors) will continue to be subject to a Statutory Public Meeting under the *Planning Act* with the only change being that the Director of Planning or Chief Planner will have the authority to pass a by-law instead of Council.

Staff will ensure that in the situation where a Statutory Public Meeting is not required, that the Ward Councillor will be contacted with an explanation of the purpose and effect of the by-law.

6. Official Plan Amendments

The final draft Official Plan Amendments attached as Appendix “C” and “D” to Report PED22112(c), reflects some minor changes and clarifications to address the comments received through the consultation period.

Two letters were received from stakeholders, which are attached as Appendix “G” to Report PED22112(c) and summarized in Appendix “F” to Report PED22112(c). As well, 12 responses were received through the Engage Hamilton webpage, which are attached as Appendix “H” to Report PED22112(c) and also summarized in Appendix “F” to Report PED22112(c).

7. Transition

To address Official Plan Amendment, Zoning By-law Amendment, Holding Removal and Site Plan applications and Formal Consultation documents submitted during August 12, 2022 and December 31, 2022 and January 1, 2023 and August 12, 2023, a Transition Framework has been developed and is attached as Appendix “I” to Report PED22112(c) and is addressed in recommendation (j) of this report. Upon approval, staff will implement the transitions and effective periods to ensure that relevant documents are respected but where necessary a public consultation report be required, and Formal Consultations waivers/extensions not be granted.

8. Next Steps

Upon adoption of this report and its appendices by Council, the following are the next steps needed to further address the legislative changes proposed by Bill 13 and Bill 109:

- Upon approval of the Municipal Comprehensive Review Official Plan Amendment by the Minister, review the need for additional policy changes to both Official Plans.
- Update public notice language and signage and report back to Planning Committee on these changes in Q1 2023.
- Undertake staff hiring.
- Communicate changes with the industry and other key stakeholders on the changes proposed through this report.
- Update application forms, the City’s website and brochures relating to the development approvals processes impacted through this report.
- Update the AMANDA system.
- Undertake staff training of new processes and fees.
- Explore a “stop the clock” mechanism with the Province.
- Continuous examination and refinement of processes and staffing needs.

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As indicated previously, the changes resulting from Bill 109 will take effect January 1, 2023. The changes resulting from Bill 13 will take effect upon approval by Council.

ALTERNATIVES FOR CONSIDERATION

1. Council could reduce, modify, or defer any changes to the development and engineering fees. This is not recommended as it would not allow the fees to be adjusted to accurately reflect the new alignments of work that will result from the new provincial regulations.
2. Council could decide to delegate authority to the General Manager of Planning and Economic Development to create permanent positions, but only on a time-limited basis (e.g. for the next 12-18 months) or for a maximum number of new positions.
3. Council could decide not to delegate authority to the General Manager of Planning and Economic Development to create permanent positions, and instead require that any new positions be approved individually by Council, in accordance with the current Budgeted Complement Control Policy (i.e. maintain the status quo).

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.

Built Environment and Infrastructure

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

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(c) – Bill 109 Risk Identification and Recommendations report prepared by BMA Management Consulting Inc., July 2022
- Appendix “B” to Report PED22112(c) – 2023 Tariff of Fees for Planning and Engineering Development Applications
- Appendix “C” to Report PED22112(c) – Draft Urban Hamilton Official Plan Amendment
- Appendix “D” to Report PED22112(c) – Draft Rural Hamilton Official Plan Amendment
- Appendix “E” to Report PED22112(c) – Bill 13 Delegated Authority By-law
- Appendix “F” to Report PED22112(c) – Comments on the Draft Urban and Rural Hamilton Official Plan Amendments
- Appendix “G” to Report PED22112(c) – Stakeholder Letters
- Appendix “H” to Report PED22112(c) – Engage Hamilton Responses
- Appendix “I” to Report PED22112(c) – Bill 109 Transition Framework