



Bill 109

# Risk Identification and Recommendations Report

**City of Hamilton**

July 2022

BILL 109 RISK IDENTIFICATION AND RECOMMENDATIONS

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## 1 BACKGROUND

On December 6, 2021, the Province appointed a Housing Affordability Task Force (HATF) to provide the government with recommendations to address market housing supply and affordability.

On February 8, 2022, HATF released their report with 58 recommendations. The recommendations focus on changes to planning policies and zoning, approval and appeals processes, and government supports.

On March 30, 2022, under the banner of the *More Homes for Everyone Plan*, the Province issued a number of proposals aimed at addressing the housing supply crisis, including Bill 109 – *More Homes for Everyone Act, 2022* with proposed extensive changes to the *Planning Act* and *Development Changes Act, 1997*. Bill 109 received both third reading and Royal Assent on April 14, 2022, for implementation of changes commencing January 1, 2023.

A report was prepared by City staff on April 8, 2022 called *City of Hamilton's Response to the Provincial Bill 109, More Homes for Everyone Act, 2022 (PED22112) (City Wide)*. In this report, a preliminary analysis and summary of comments was provided to Planning Committee.

A major concern of the City which will have a significant impact to the City's processes and finances is the gradual mandatory refunds for Zoning By-law Amendments, Combined Zoning/Official Plan Amendments and Site Plans for non-decisions within timelines.

Bill 109 included additions to the *Planning Act* which will require Municipalities to issue application fee refunds if a decision is not made by Council within 90 days for a Zoning By-law Amendment application and 120 days for joint Official Plan Amendment and Zoning By-law Amendment applications, and if an approval is not granted by the delegated staff authority within 60 days for a Site Plan Control application.

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The following table provides a summary of Bill 109 changes and how refund amounts would be required, commencing January 1, 2023:

	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	Approval within 60 days	Approval within 61 and 89 days	Approval within 90 and 119 days	Approval 120 days or later

Also, applicants gain the right to appeal to the Ontario Land Tribunal (OLT) if decisions are not made within the mandated timeframe or are denied approval. Based on analysis that has been undertaken by the City and other municipalities across Ontario, municipalities are rarely meeting the proposed mandated timelines for OPA and ZBA, therefore, without changes in application processes and/or hiring additional staff, there will be a significant impact on planning revenues and have an impact on the tax levy.

As stated in report PED22112, 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 iterative and applicants play a significant role in both the timing of, and the quality of submissions and re-submissions. Staff have concerns regarding the implications of the legislative amendments and consequences that some of the amendments will cause. As has been documented by municipalities across Ontario, the outcome of some of the proposed changes may be counterproductive to the intent of the plan and *Bill 109*.

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## 1.1 Additional Review of Bill 109

Since the presentation of the preliminary findings and comments provided to Council in April 2022, the City of Hamilton, with the assistance of BMA Management Consulting Inc. undertook a more detailed review of the financial, process and staffing implications related to the implementation of Provincial changes to the *Planning Act* through Bill 109, *More Homes for Everyone Act*, 2022. This report focuses specifically on the changes that will be implemented January 1, 2023 as noted in the background section above; Zoning, Site Plan and Official Plan Amendments. However, changes to other work processes have also been analyzed, with recommendations for additional changes commencing in 2023 as processes and timing of reviews in other applications will also need to be updated.

With mandated changes being implemented January 1 2023, the City must make decisions in the near future to update its processes and resource requirements, both of which require time to implement.

## 1.2 Study Benefits

The study has many benefits, including, but not limited to:

- Ensuring that the City is processing planning applications in the most efficient and effective manner;
- Ensuring that the department's strategies, services and resources are aligned to avoid refunding application revenues;
- Ensuring that the City is able to meet future demand for services under the new timeframes imposed by Bill 109;
- Identifying alternate service delivery options and work processes;
- Identifying staffing implications in order to achieve new deadlines without losing revenues through the mandated refund deadlines;

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- Providing Council and decision-makers with options to make informed decisions; and
- Identifying practices that are being planned in other jurisdictions.

### 1.3 Key Analysis Undertaken

There are four key areas of focus in this engagement:

- **Staffing** which includes an understanding of the existing staffing levels, the time required to undertake a review from pre-consultation, acceptance of application to approval, the staff member currently providing the service. Based on current processes, an examination of opportunities to create efficiencies in service delivery models and an identification of the number of staff required to adhere to the new legislated timeframes was undertaken. Staffing review within Planning, Growth Management and Legal was undertaken.
- **Financials** focused on the potential levy impact due to refunded fees under the current staffing model and processes. Also, updated fees were calculated based on increased staffing to meet the deadlines without providing a refund and changes in work processes. In addition, levy impact due to increased OTL hearings has been analyzed.
- **Current work processes** for Site Plans, Zoning By-law Amendments, Official Plan Amendments, Formal Consultation and Holding Provisions were undertaken to help address legislated timeframes and identify ways to shorten the time for approval/denial of an application as well as shift processes to non-refundable fees. This analysis included identifying potential changes in the acceptance and definition of complete applications and identification of options with respect to dedicated staff resources for the applications impacted by Bill 109 and leading practices. This included process mapping exercises with staff to determine existing processes, opportunities for efficiencies, an analysis of hours, number of applications, identification of bottlenecks and delays for each application type. This also took into consideration the definition of major and minor applications.
- **Benchmarking** of similar sized municipalities, including single tier municipalities and GTA municipalities for their Bill 109 proposed approaches was also undertaken. This proved to be somewhat challenging as all Ontario municipalities are currently in the analysis phase

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of their processes to address the new requirements under Bill 109, similar to the City of Hamilton. Where available, examples have been provided which reflects strategies that are being proposed in other jurisdictions. It should be noted that at the time of this report completion, no identified reports were brought forward to Councils across peer municipalities that were in the form of formal recommendations for approval. Rather, at this stage the focus was on problem identification and the presentation of potential options.

A presentation was made by BMA in July 2022 to the City's Senior Leadership Team which included draft findings and recommendations with the overall direction as follows:

- That staff pursue a strategy that aims to not have to issue development application refunds. The implications of this strategy include the following considerations:
  - Reduced response times for circulations of Zoning By-law Amendment applications and joint Official Plan Amendment and Zoning By-law Amendment applications to internal Departments and external agencies.
  - Changes to community engagement and public input into staff recommendations on Zoning By-law Amendment applications and joint Official Plan Amendment and Zoning By-law Amendment applications.
  - A likely need for staff to recommend more denials, not because of staff opposition to the proposal in principle but because of unresolved issues.
  - The need to be flexible and nimble when it comes to staff resourcing, including seeking delegated authority to create FTEs if necessary to respond to increased application volumes and new timeframes.



#### 1.4 Goal/Outcome of Study

The goal of this study is to provide Council with a number of strategies and recommendations to avoid any fee refunds commencing January 1, 2023 and to continue to operate the Planning Development as a fully funded fee support program. This will require extensive changes but is necessary to align with the City's Strategic Connections:

- *Integrated Growth and Development*
- *Trust and Confidence in City Government*
- *Fiscal Health and Financial Management*
- *Healthy, Respectful and Supportive Workplace*

## 2 RISK IDENTIFICATION AND PEER REVIEW

The following section of the report provides an assessment of the impacts that are attributed to Bill 109 with respect to Zoning, Official Plan Amendments and Site Plan applications and associated mandated refund timeframes that will come into effect January 1, 2023.

As the City has consistently taken the approach to fund all development related application costs from fees, this presents a new challenge for Hamilton as well as other Ontario municipalities. The information presented in this section of the report is based on independent analysis undertaken by BMA, research of strategies being considered by peer municipalities as well as input and analysis by the City's Planning and Economic Development Department, Public Works Department and Legal staff that are directly involved in the application processes and the Ontario Land Tribunal (OLT) appeals.

It is anticipated that significant changes will be required to existing work processes, resources available for reviewing planning and development applications and OLT appeals. The changes are required to mitigate future fee refunds under Bill 109 and avoid any tax levy impacts. It also reinforces a commitment to maintain planning standards for all new development applications and adhere to the City's strategic directions.

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2.1 Most Planning Fee Revenues Are Attributed to Applications Subject to Refunds

2022 Budgeted Revenues	TOTAL REVENUE	Planning Budget	Growth Budget	Transportation Budget	W&WW Budget
45561 - Part Lot Control Fee	\$ 79,500	\$ 65,111	\$ 14,390	\$ -	\$ -
45627 - Plan of Subdivision Fees	\$ 412,720	\$ 137,848	\$ 227,409	\$ 33,843	\$ 13,620
45698 - Condominium Fees	\$ 239,455	\$ 184,141	\$ 42,623	\$ 12,691	\$ -
45466 - Committee Of Adjust Fee	\$ 1,318,775	\$ 1,068,389	\$ 250,386	\$ -	\$ -
45655 - Land Division Consent Fee	\$ 361,365	\$ 229,105	\$ 132,260	\$ -	\$ -
Removal Holding Provision	\$ 172,880	\$ 104,938	\$ 48,406	\$ 8,471	\$ 11,064
Misc	\$ 194,575	\$ 185,625	\$ 8,950	\$ -	\$ -
45617 - Site Plan Control	\$ 3,003,830	\$ 1,649,103	\$ 973,241	\$ 201,257	\$ 180,230
45683 - Official Plan Appl Fees	\$ 707,640	\$ 364,435	\$ 252,627	\$ 61,565	\$ 29,013
45697 - Zoning Application Fees	\$ 1,609,670	\$ 977,070	\$ 450,708	\$ 78,874	\$ 103,019
<b>Total</b>	<b>\$ 8,100,410</b>	<b>\$ 4,965,764</b>	<b>\$ 2,401,000</b>	<b>\$ 396,700</b>	<b>\$ 336,946</b>
<b>Total Fees Subject to Refunds</b>	<b>\$ 5,321,140</b>	<b>\$ 2,990,607</b>	<b>\$ 1,676,576</b>	<b>\$ 341,695</b>	<b>\$ 312,262</b>
% of Total	66%	60%	70%	86%	93%

The table above reflects the 2022 total budgeted revenues by type of application and isolates under the highlighted area, revenues that are subject to potential refunds once the new mandated requirements begin in 2023. In 2022, of the total forecast of \$8.1 million in fee revenues forecast, \$5.3 million (66%) is potentially subject to refunds should the City not meet the decision deadlines (approve/deny). Note that the table includes revenues attributed to the Growth Management, Planning, Transportation and Water/Wastewater Budgets which are built into the fee calculations.

Based on analysis from staff of existing processing times, there is a significant financial risk under the existing processes and staffing levels. This situation is not unique to Hamilton. Reports published by other peer municipalities reflect similar risks. For example:

- City of Toronto - Currently meeting the timeframes 1.2% of the time with an estimated loss of fee revenue of \$45.5 million (Report dated April 22, 2022 to the Planning and Housing Committee).
- City of Brampton - Currently meeting the timeframes 5.5% of the time with an estimated loss of fee revenue of \$5.1 million (Report dated May 15, 2022).
- Town of Oakville – Identifies at least \$2.9 million that could be at risk in 2023 (Report dated April 19, 2022).

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2.2 New Mandated Refunds Presents Significant Financial Risks



The graph above reflects the average timelines for approvals of OPAs and ZBAs from 2015-2021 from application receipt to approval/denial as provided by staff from statistics maintained on Hamilton applications and presented in the 2022 Budget.

In each year, the average number of days for OPA & ZBA far exceeds the mandated times identified in Bill 109, putting at risk a substantial amount of future fee revenues. Built into the current application processes is ample opportunity for departments, outside agencies and the public to identify issues and address concerns that need to be resolved prior to approval. This approach minimizes the number of application appeals.

As has been identified by City staff and from research undertaken across the peer municipalities surveyed, there are many reasons why timeframes are typically not being met, including but not limited to the following:

- Collaborative City Applicant Approach - working with applicants and stakeholders to find mutually agreeable solutions is beneficial to the applicant but additional time and resources are expended to achieve the desired outcome;
- Applications may have inadequate information and there are quality related issues on some applications;

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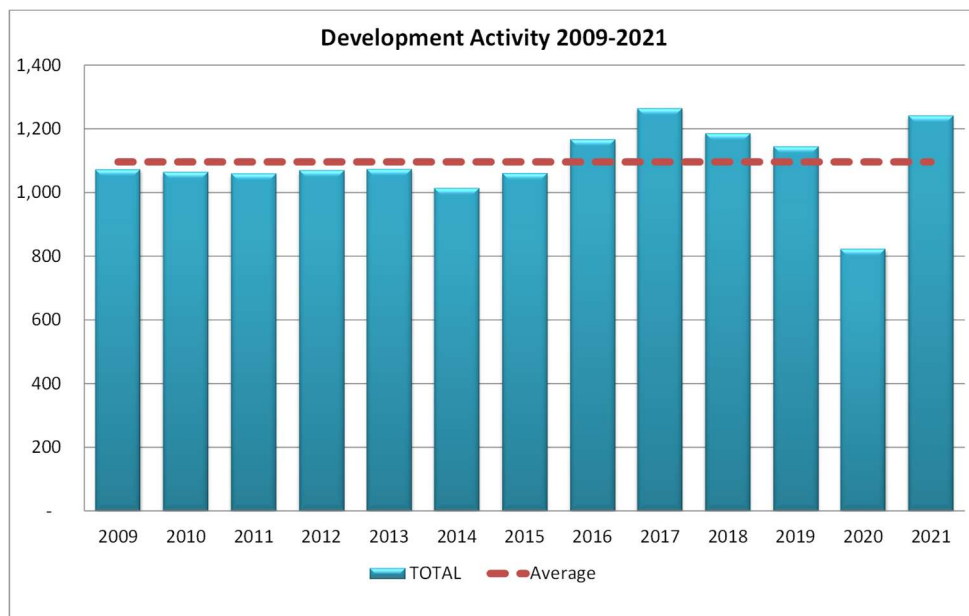
- The application review process is iterative. The time that an applicant takes to respond to staff comments plays a large role in the overall approval timelines;
- There is shared responsibility of public agencies and applicants and other external commenting agencies not under the City's control;
- Insufficient existing staff resources;
- Extensive community engagements with relatively long notification periods to seek input from all stakeholders;
- Availability of Council/Committee meeting times (e.g., summer);
- Lack of technology to expedite file review and comments;
- Zoning by-law complexities;
- High demand periods causing increased workloads;
- Extensive time required to prepare and attend OLT hearings for Planning and Legal staff; and
- Other administrative responsibilities that take away time from application reviews.

Regardless of these widely held concerns and challenges across Ontario municipalities, many of which are beyond the direct control of the municipality, Bill 109 requires all municipalities to make significant changes in work processes to meet new requirements and mitigate financial implications.

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### 2.3 High Volume of Activity and More Complex Applications

Applications	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022(f)
OPA (all types)	18	17	20	21	17	19	23	27	41	25	16	28	24	38
ZBA (all types)	57	52	76	58	72	50	59	67	87	59	54	46	55	74
Condos (all types)	11	18	16	10	21	14	19	16	12	16	8	15	22	7
Site Plans (all types)	135	162	196	249	242	161	186	192	234	223	179	130	205	223
Subdivision (all types)	9	5	18	12	14	11	17	18	10	11	5	9	10	14
Severances	105	183	123	106	109	120	112	107	114	157	135	94	132	108
Minor Variances	351	320	305	309	289	361	386	444	470	428	466	268	455	456
FC	225	130	156	155	131	122	114	163	139	139	139	148	178	166
OTHER	162	178	150	150	179	156	145	133	158	128	143	85	161	41
<b>TOTAL</b>	<b>1,073</b>	<b>1,065</b>	<b>1,060</b>	<b>1,070</b>	<b>1,074</b>	<b>1,014</b>	<b>1,061</b>	<b>1,167</b>	<b>1,265</b>	<b>1,186</b>	<b>1,145</b>	<b>823</b>	<b>1,242</b>	<b>1,128</b>



The table and graph above reflect the number of new applications received by City Planning Division from 2009 to 2021. In addition, staff have a number of previous years applications not finalized. The result is an approximate 40 files per staff which is extremely high and is not an achievable level of work to meet the new mandated timelines. The volume of activity varies annually by type of application. In 2021, the number of applications increased by approximately 50% over the previous year and 15% above the 10-year average. This increased level of activity is forecast to continue in future years.

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Under Bill 109, the clock on refunds is based on the date that the application is received, not when it is reviewed by staff. It should further be noted that the number of days before a refund is to be issued is not related to working days, it is based on calendar days. This does not take into consideration statutory holidays, weekends and Council/Committee schedules.

With tighter timeframes to complete an application review and make a decision on approval/denial before the refund period approaches will require new streamlined work processes and additional resources. Further, as will be discussed later in the report, flexibility in staffing will be needed to manage workloads and avoid refunds. This flexibility requires the ability to make timely decisions on the number and the type of staff expertise that are required (e.g., technicians, clerical, planners, etc.).

It should be noted that over the past decade, increased development infill applications which are very time-consuming as well as increases in the complexity of the applications further strains existing staff resources. As identified in the peer research, this is a common problem experienced across Ontario.

### 2.4 Existing Active Development Proposals is Significant

Based on a report prepared by the City staff (August 5, 2022), there are 78 active development proposals for ZBAs/OPAs:

- 26 are 2022 files
- 18 are 2021 files
- 14 are 2020 files
- 20 are pre-2020 files

This includes 37 combined OPA/ZBA applications and 41 ZBAs. Staffing resources will be required to address the existing active development applications.

## 2.5 Existing Application Intake Processes Create Risks to Refunds

The City’s current process is to work with applicants to find mutually agreeable solutions. Some delays that are experienced are attributed to the quality of submissions which require re-submissions and would likely be denied without being able to work with the applicant.

The current standard for the majority of municipalities surveyed is to deem an application complete without undertaking qualitative criteria analysis at intake due to timing and resources. In some cases, the result is often that submissions may contain a complete list of submitted materials, but that the content contained within may include errors and lacks critical detail that would be identified after the intake of the application takes place. Under current procedures, applicants commonly engage with the City staff in a productive iterative process that requires additional time but leads to successful outcomes.

If applications are not reviewed to ensure completeness of application upon acceptance of an application, this will increase the risk of refunds that presently does not exist. Currently, within the City, applications are also not prioritized upon intake but prioritization based on set criteria will need to be considered to avoid refunds, with future priority being given to applications to which a refund applies (Zoning, OPAs and Site Plans) and/or dedicated resources to process these applications.

To avoid issuing refunds of development application fees, some municipalities are considering rendering decisions solely on whether the initial submissions meet the standards and are acceptable for an application to be deemed complete. Another option being considered by some municipalities is to review applications immediately upon receipt and implement a stricter, up-front technical and quality review and a much more rigorous “completeness” review to ensure applications are fully accurate and appropriate prior to agreeing to “start the clock” with the likely outcome of more refusals of incomplete applications. Denying applications may lead to increased appeals to the OLT requiring staff time that is not recoverable through a fee and therefore have a tax levy impact. This would potentially require different resources and skill sets for intake of applications. Another option being considered by other municipalities is to add a requirement that studies be signed off by a registered professional planner.



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As will be described later in the report, changes to work processes and new strategies will be needed, with the potential for changes in staff roles and responsibilities.

### 2.6 Staffing - Filling Vacancies, Aligning Staff to Workloads and Bill 109

The City has a number of vacant positions across PED that have proven challenging to fill in a competitive employment market. In the Planning Division, there are currently three vacancies that have proven difficult to fill but are required to avoid any delays in meeting new mandated timelines. Staffing to maximum approved complement is a problem that is not unique to Hamilton and has been reported across a number of GTA municipalities.

Bill 109 will have significant impacts on the City's ability to review applications in a timely way and will have the impact of the need to retain additional staff to undertake the review of the development applications to avoid application fee refunds.

Staff will feel additional pressure to meet deadlines to avoid refunds and meet new turnaround times. A detailed staffing analysis is provided later in the report to address backlogs that exist, new deadlines and forecast workloads. Flexibility is required for management to identify and be able to post positions as required within an approved budget.

### 2.7 Existing Community Engagement Strategies Will Challenge Bill 109 Timeframes

Staff are concerned that Bill 109 will negatively impact the public consultation process. The current community engagement process focuses on receiving as much feedback during the application processes as possible. Hamilton takes a collaborative approach in reviewing applications and working with applicants and the community to find mutually agreeable solutions.

Based on research of peer municipalities, community consultation has been identified as a future risk under Bill 109, as the clock begins once an application is received. Strategies are being recommended that will result in expedited consultation processes and with options that will

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include a reduction in the amount of time available for stakeholders to provide feedback and incorporate into staff reports on a formal basis.

## 2.8 Re-Circulation Processes and Number of Commenting Departments Create Delays

Many of the existing application review processes allow for multiple re-submissions that requires re-circulation to commenting departments and agencies which creates delays in application approval. With the introduction of a refund requirement tied to the application approval/denial, the City will not be able to continue this time-consuming process. Reducing the allowable number of re-submissions has been considered and will be discussed later in the report.

There are numerous City Departments that are currently providing comments at the initial stages of the application process for the Zoning, OPA and Site Plans. While all stakeholders should continue to be consulted, there is a need to assess and evaluate when these departments will be involved in the process. For some departments, this could be addressed through approving an application subject to the clearing of Holding provisions which is not subject to the refund mechanism under Bill 109. It is anticipated that this will result in an increase in the number of Holding provisions as well as the time and associated fee involved.

## 2.9 Delays in Processing Applications Due to Applicant Response Times

Under the existing application processes, it is common for delays between staff requiring additional information and the time it takes for the applicant and their consulting team to make their next submission. Notably in Bill 109, the timelines do not include a “stop the clock” mechanism to account for the time that the applicant takes to respond to additional requirements.

Another consideration, as raised by a GTA municipality for external delays is whether, under Bill 109, an applicant may deliberately delay their response for revisions or requests for information

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in a planning process. This type of delay, which is beyond the control of the municipality, could extend the timing of the planning process beyond the “no penalty” period of the legislated timeframe.

Through the peer research undertaken, another GTA municipality is investigating an option to address this concern. Due to the complexity of applications, applicants often take a long time to respond to staff comments and resubmit revised documentation for review. Staff in Brampton recommend a review of legislated authority or private legal agreements between the City and applicants to “stop the clock” whereby review timelines could be paused during times when the submission is with the applicant for revisions, as well as when Council is unable to make decisions. However, this option may require further changes to the *Planning Act*.

## 2.10 Changes to the Fee Structure and Fee Updates Are Needed

The last comprehensive user fee review was undertaken in 2018/19. Since this time and as a result of Bill 109 provisions, there is a need to revisit the calculation of fees to reflect changes to policies and practices resulting from shortening the timeframe for applications impacted by Bill 109 and to avoid refunds.

The City currently provides a discount for joint applications where applications are made for an OPA, ZBA, Approval of a Draft Plan of Subdivision or Condominium, or any combination thereof, whereby the total fees is reduced by 25%. Given that there are new mandated refunds for ZBA, OPA and Site Plans with different timeframes attached, this practice should be reconsidered as this puts at risk a greater amount of fees to be refunded and a missed opportunity to recover the full cost of service.

There are also currently different fees based on the complexity of the applications (e.g., Zoning – Routine and Complex). However, under Bill 109, there is no differentiation between the timelines for refunds. As such, analysis of how these fees will be structured and services provided was undertaken.

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There is also an existing City policy whereby the Formal Consultation fee is credited to the future application if submitted within 12 months. As this is not part of the refundable Bill 109 requirements, consideration on the extent and objectives of Formal Consultation, the work processes now and in the future as well as the associated fee were analyzed. Opportunities were identified to enhance the Formal Consultation process to support review studies required in advance of application submission. Consideration has also been given to the current practice of crediting the fee to the future application.

### 2.11 Council/Committee Regular Schedule of Meetings

To avoid refunds associated with the Bill 109 mandated timeframes, the existing schedule of meetings where there are fewer meetings during the summer months, consideration may need to be given to additional meetings. There are also risks associated with periods near an election cycle which could also cause delays in decisions and timeframes.

### 2.12 Resources to Support Ontario Land Tribunals Will Need To Be Revisited

Management is concerned that the changes as a result of Bill 109 will impact local decision making and potentially move decision making to the OLT. This is consistent with reported findings from peer municipalities and is of concern for three reasons; the OLT process is not recoverable from fees; the process is slower and it requires significant resources.

The City of Toronto, Peel Region, City of Burlington, Town of Oakville and the City of Brampton to name but a few identified an anticipated increase in OLT hearings. This is anticipated because, in order to meet the new timelines, the municipality would in all likelihood need to make decisions on applications based on the information submitted without being able to work with the applicant or stakeholders on changes, resulting in more refusals of applications. This would potentially increase appeals with the result that the applications would be handled through OLT processes. An analysis was undertaken and will be reflected later in the report to identify resource requirements in the City of Hamilton for Legal as well as Planning to support these processes.

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The City, through this process has evaluated various options to mitigate the potential increases in OLT appeals. Having said this however, regardless of what strategies are used to avoid additional appeals, there will inevitably be increases related to external factors beyond the City's control.

### 2.13 Technologies Are Lagging Which Creates Inefficiencies

The City of Hamilton is lagging other municipalities in its use of technology and online services which could help expedite the application review process and provide additional opportunities for community engagement. The City would benefit from a platform where all commenting agencies are able to share information efficiently. The applicants would also benefit from real time online updates of the status of applications. This would also create staff efficiencies by reducing the significant number of calls received from applicants checking on the status of their application which is time-consuming for staff and takes away time available to complete the application review.

As stated in a report to Planning Committee (July 5, 2022 PED22151), staff continue to work with the AMANDA Implementation Team to add enhancements to the database that will allow for the creation of more detailed reporting. Furthermore, the long-term goal of the Planning Division is to make this information available on an interactive map accessed through the City of Hamilton website, and an e-mail system will provide notification of when a new application is received.

### 3 RECOMMENDATIONS AND RATIONALE

This report provides a number of recommendations to address changes resulting from Bill 109 and the analysis of risks. Detailed analysis was undertaken of all work processes, with a focus on Zoning By-law Amendments, Official Plan Amendments and Site Plans. The overall goal is to avoid, to the extent possible the requirement to refund fees and continue to see Hamilton recovering the full cost of service from application fees.

The City of Hamilton is in a difficult position, along with other Ontario municipalities, as with short timeframes whereby Bill 109 will come into effect, there is a need to quickly and decisively update its current approach to processing development applications to meet Provincially mandated timelines and avoid refunds.

The analysis and recommendations presented in this section of the report was undertaken by BMA and City management staff, using all available information with respect to staffing, levels of activity, expenditures, work processes and fees. Assumptions in some areas are required in terms of future workloads and activities. As shown in earlier in the report, activities vary considerably from year to year. This analysis represents the use of the most recent trends and activity levels.

### 3.1 Enhance and Strengthen Formal Consultation (FC) Processes

- The City is following leading practice in the use of Formal Consultation (FC) which requires applicants to attend a meeting to understand the standards and expectations.
- A comprehensive FC meeting at the very beginning of the process reduces delays caused by incomplete or low-quality applications and ensures greater co-ordination between the applicant, the municipality and all other third parties involved in the approval process. As stated by AMO in a report called *Streamlining The Municipal Development Review Process (2020)*, this is the most important step to streamline development approvals.
- The FC review is not part of the formal legislated application review and therefore not subject to the timelines for refunds. To improve process efficiencies and manage the legislated review timelines, it is recommended that the City strengthen the FC process that is already in place.
- Undertaking this work early in the process, before the application is received will make for an overall quicker approval process during ZBAs, OPAs and Site Plans.
- It is also recommended that the FC include a review by all external agencies for complex applications so that high level technical issues are addressed and concerns mitigated. This also provides the applicant time to make the necessary changes to the submission of the application.
- Expanded use of FC will help ensure studies are accurate and meet standards.

### 3.2 Introduce Formal Consultation (FC) Non-Refundable Fees

- The City has a FC fee of \$1,260 which is credited to the application for Official Plan, Zoning and Subdivision/Condo. A decision was made by Management during the 2018/19 comprehensive Planning and Development Fee review to discount the fee from a customer service perspective (originally calculated at approximately \$8,000).
- Process mapping updates were completed during the 2022 review process to reflect the changes to the steps in future FCs and have been reflected in the calculated fee. As there are two processes based on whether there is a need or not for a meeting of the Development Review Team (DRT), two different fees were calculated. Decisions on whether to discount the fee will be made by Management and Council, as has been the practice in the past.
- It is recommended that the updated fee for 2023 become non-refundable January 1, 2023. The FC process is completed, regardless of whether an application is subsequently submitted and therefore the costs should be recovered (whether discounted or not). Further, if an application is submitted and approval/denial are not provided during the mandated timeframes, the City is able to keep the non-refundable FC fee revenues to offset any possible refunds that may be required under the new refund requirements.
- For Site Plan applications, it is recommended that the former preliminary site plan review fee be replaced by a mandatory formal consultation fee.
- Transition – where FC has already occurred or has been waived, processes will be in place to rely on the FC document/waiver for all applications submitted before December 31, 2022. For applications submitted on January 1, 2023 and before August 12, 2022, the FC waiver will still be valid and subject to enhanced pre-submission public consultation.



### 3.3 Change Intake of Application Processes and Requirements

- As stated by AMO in a recent report on leading practices for development applications, municipal governments can encourage better quality applications and approvals by publishing all essential information and requirements. This information can be made available through the municipal website or through guides available at municipal offices.
- This will require a review by the municipality of how applications will be deemed complete given that it is the trigger to "start the clock" for new mandated timelines.
- It is recommended that the City update checklists and standards for acceptance of applications to support an efficient receipt of application with stricter acceptance guidelines. This will provide further clarity on standards and requirements during the approval process for developers and reduce the number of incomplete applications submitted. Applicants should have access to a comprehensive checklist of documents, supplementary reports, surveys or studies that will be required for them to submit a complete application. They should also be aware of the level of detail required to ensure the decision-making process goes smoothly. Also, terms of reference will be established for all studies.
- In order to meet mandated timeframes to avoid refunds the following changes are recommended in review times:
  - Reduce the existing timeframe of 5 days in which the review of an application for completeness is undertaken to 1-2 days to allow the circulation process to begin earlier.
  - Reduce the existing timeframe of the Cartographic Technician to prepare necessary maps from 5 days to 1-2 days.
- Flexibility in resourcing intake services will be required to address peak time periods where the number of applications is high. This requires improved flexibility with staff resourcing to meet the new timeframes to avoid refunds.

### 3.4 Streamline Neighbourhood Consultation Processes

- The existing processes are very time-consuming and with lengthy public notification lead times. Improvements will be accomplished by making the following changes:
  - Reduce public notification period from 17 days to 7-10 days for neighbourhood consultation combined with committing to public consultation when the sign is posted and notice of complete application is given at the beginning of the process.
  - Require community consultation meetings prior to acceptance of a complete application.
  - Provide verbal updates of community comments (post staff report preparation) as there will be insufficient time to meet deadlines for the report.

### 3.5 Shorten Application Review Time For Commenting Agencies and Departments

- The commenting period for internal departments and outside agencies which is currently at 30 days will be reduced to 10-15 days under the new processes.
- While difficult to enforce outside agencies adherence to these timeframes, consideration should be given to establishing/updating memorandum of understanding or service agreements. Management have met with the commenting agencies regarding this change.

### 3.6 Eliminate Re-Circulations From Refundable Application Processes

- It is recommended that there be a reduction in allowable re-submissions ZBA, OPA and Site Plan applications. Allowing multiple submissions slows the process and increases the likelihood of refunds.

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- Decisions will be made based on available information and can be approved subject to Holding provisions.

### 3.7 Consider Additional Council/Committee Meeting Requirements

- In order to meet the mandated timeframes, consideration must be given to additional meetings for decision-making, particularly during summer months.

### 3.8 Expand Use of "Holding (H)" Provisions for ZBAs/OPAs and Update Fees

- As stated by AMO, Municipal staff have the option of recommending an application be conditionally approved in their report to council as a leading practice. This means that the development is approved on the condition that certain requirements are met in a timely manner. Council can establish timelines for inspection to enforce conditional approvals. The applicant must be informed that clearing conditions is their responsibility to secure final approval from Council. This helps keep the process moving while clarifying responsibilities.
- In order to meet the mandated timeframes, there is a need to reconsider who is involved in the review process once an application is received. This does not eliminate the review from being undertaken but the detailed review would be moved to a Holding provision (e.g., Public Works) to allow a decision on the application.
- "Holding (H)" provisions enable ZBAs and for joint ZBAs/OPAs to be endorsed with conditions attached. The conditions may be related to the completion of technical studies, receiving clearances from external agencies, etc. The zoned land use permissions are not in effect until the conditions are cleared by staff, and the Holding (H) is removed through the passing of a By-law to "lift" the Holding symbol.

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- The use of Holding provisions supports the City's ability to meet the legislated timelines and avoid mandatory reimbursements. It is anticipated that the number of Holding provisions will increase under the new processes.
- When conditions are met and development is ready to occur, the Holding symbol "H" can be removed by an amending by-law and delegated to staff to improve efficiencies and customer service. This reduces the need for additional reviews from the refundable application fee processes.
- This approach provides additional time to review studies that cannot be reasonably undertaken within new deadlines by moving to the Holding provisions.
- Moving forward, staff will establish criteria based on OP policies to warrant when the use of a Holding provision is appropriate and in the public interest. This will ensure a more customer-friendly and efficient process, while still protecting the interests of the City.

### 3.9 Establish A New Removal of "H" Holding Provision Fee For Complex Applications

- There are currently two Removal of "H" Holding Fees (Routine and Downtown). Based on changes in work processes impacted by Bill 109, it is recommended that a third fee be added to reflect complex applications. Complex is related to city requirements, routine for agency requirements.
- There is a significant increase in the hours and processes of these provisions, particularly in the area of Growth Management to review background studies and other provisions.
- A process mapping exercise was undertaken for the calculation of all Removal of Complex "H" Holding Provisions and is included in the summary of user fees.

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### 3.10 Charge for Re-submission in Removal of "H" Holding after the Second Submission

- A new fee will be charged for re-submissions on the third re-submission application for the review portion of the cost.

### 3.11 Update Definitions for Zoning Applications in the Fee Structure

- Under Bill 109, all zoning applications will be assessed using one timeframe mandated for refunds. Through the re-engineering process, the two Planning processes (ZAR and ZAC) will be the same in the future.
- A process mapping exercise was undertaken for zoning applications to calculate fees.

### 3.12 Eliminate 25% Discount for Joint Applications, Maintain 50% Discount for Agricultural Applications

- Currently the City allows concurrent applications to be submitted and reviewed for the same development application. For example, a ZBA and OPA; a ZBA and Subdivision (SB) or a ZBA and SP are processed simultaneously to support overall review. In the case of timelines, staff have observed that OPAs or SBs take longer to review than ZBAs, due to the complexity of reviews and clearances of conditions.
- In order to meet Bill 109 and *Planning Act* requirements, staff recommend de-linking concurrent application reviews for Subdivision from OPA/ZBA and evaluation of each application separately and in an established sequence based on new mandated timelines. It is further recommended that the discount be eliminated. Processes will be separate as Subdivision is not subject to mandated refunds under Bill 109. As there are additional revenue risks, this practice is not recommended in the future.
- Maintain agricultural discount of 50% because zoning by-law amendment, in most cases, complement consent.

### 3.13 Site Plan Control Segregation of Fee

- Currently, the application of Site Plans includes conditional approval and clearing of conditions. These processes will be separated whereby up to condition approval is subject to refund and a separate fee for to the clearing of conditions will be implemented.

### 3.14 Charge for Site Plan Re-Submissions After 2<sup>nd</sup> Re-Submission

- Currently, the City allows for three re-submissions and only charges for re-submissions after the 4<sup>th</sup> re-submission. Due to changes in timeframes and mandate refunds, it is recommended that this occurs after the second re-submission. This is a fair and equitable approach.
- Supports full cost recovery and is consistent with practices in other jurisdictions.

### 3.15 Increase Staffing Levels - New Work Processes, Mandated Refunds and OLT Hearings

- There are two areas where staffing increases are needed; development application processes that are recovered through application fees and OLT hearings that are funded from the tax base.
- To be financially sustainable and avoid unnecessary increases to taxpayer funding requirements, the City must secure resource capacity to process applications within the mandated timeframes. This will also require changes in some of the application fees.
- To support improved service delivery and expedited review processes requires an understanding of appropriate staffing requirements for development reviews. A detailed analysis was undertaken of the processes, new mandated deadlines, existing backlogs and anticipated activity levels.
- Based on the analysis undertaken, the City has not adjusted its staffing levels according

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to workloads in recent years and is struggling to keep up in Development Planning, Growth Management, Legal and Public Works related to processing applications and also in preparing for and attending OLT hearings. This is reflected in the significant backlogs and delays in processing applications. This will become even more of a challenge when new timeframes are in place and refunds will be required.

- The divisions within the Corporation that are involved in the development application processes as well as the OLT hearings were reviewed to align resources to process changes. Management from each division were consulted through the analysis process.
- Based on the staffing resource needs, there is a need for flexibility for Management to nimbly address staff resource challenges in a timely manner.
- Due to challenges earlier identified regarding the ability to attract staff in a competitive work environment, the future state staffing may require a list of critical positions within PED to prioritize position postings and develop a workforce strategy based on skill needs.
- There is also a need to be flexible and nimble when it comes to staff resourcing, including seeking delegated authority to create FTEs if necessary to respond to increased application volumes and new timeframes.
- A review of job descriptions may also be needed to ensure they are sufficiently generic to provide flexibility to move staff to area of greatest need.
- The process may also involve assigning some of the existing tasks to more junior staff in the work processes, e.g., Planner to Planning Technician and consideration of contracted positions.
- Reduced timelines mean staff will have less time to respond to the public. Strategies will be developed to ensure staff have the capacity to deal with public concerns in a shorter and more intense timeframe.

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Fee Recoverable Staffing Requirements

- Development Planning - The number of files currently being managed by Development Planning is approximately 40 per planner at any given time. This exceeds a reasonable staff to file ratio. Given the new timeframes for processing applications, the existing staff complement must be increased.
- Based on a review of reasonable workloads for Planning to meet the mandated new timelines, there is a need for addition of 12 new Planning Development FTEs. This would address existing file backlog and future projected applications. The total staff complement in Planning Development is 17, however there are three existing vacancies. This reflects an immediate need for additional resources.
- Based on new proposed process changes and the projected increase in Holding provisions, there is a need for six FTEs in Growth Management, one FTE in Transportation and one FTE in Public Works (Water).

Tax Funded OLT Related Staffing Requirements

- There is a need for an additional two Solicitors and one Law Clerk in Legal to support OLT hearings, anticipated increases in appeals as well as providing legal interpretations and the preparation of legal agreements.
- Development Planning would also require two additional FTEs to support the anticipated additional OLT hearings and preparation for the existing planned meetings as well as increases in the anticipated appeals. Growth Management requires one additional FTE.
- The following provides the rationale and analysis:
  - There are currently two Solicitors dedicated to supporting Planning and Development as well as Clerical support staff. Legal Services are also supplemented by external legal resources, as required. Even a modest increase in hearings due to Bill 109 will require additional staff or external counsel.



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- There are currently 16 active appeals for non-decision. Based on an analysis of existing contested OLT matters scheduled for 2023, is estimated that 85-100% (or more) of legal assigned staff for these hearings will be required. This leaves very limited time availability with existing resources to address any increase in appeals and to support other aspects of service provided by Legal such as legal reviews, opinions, research and the preparation of agreements.
- Due to the number of existing appeals and in review of the matters for 2023, there are times where both Solicitors are in hearings, with no time available to address other roles and responsibilities. It is not uncommon for both dedicated staff resources to be unavailable for two weeks at a time.
- Based on a review of previous files, legal identified that appeals tend to have periods where there is high activity and limited time available for other matters. There is significant preparation time in addition to the hearings. In addition to appeals before the tribunal that are contested, there are negotiated settlements which also take a considerable amount of time. Based on a review undertaken by Legal, approximately 70% are negotiated settlements with the remainder contested.
- Based on analysis undertaken, there is an estimated increase of 28 new appeals (Bill 109) plus existing appeals.
- Further, Development Planning and Growth Management staff are heavily involved in OLT hearings to prepare for and attend tribunals. Analysis was undertaken on the time to prepare for and attend OLT hearings.

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Summary of Recommended Staffing Changes

The following table reflects the staffing increases recommended:

Department	# of FTE
<b>Fee Supported Staffing Requirements</b>	
Planning Application Processing	12
Growth Management	6
Transportation	1
Public Works (Water)	1
<b>Tax Supported Staffing Requirements</b>	
Planning OLT Appeal	2
Legal	3
Growth Management	1
<b>Total Staff Requirements</b>	<b>26</b>

3.16 Undertake A Review of Salaries to Ensure Competitive with Market

- Management have noted that it is difficult to compete for new hires as a result of a tight employment market to attract skilled staff. This has been identified as an issue in other municipalities as well but given the need for additional staff in Legal, Planning, Growth Management and Transportation, this is a priority.

### 3.17 Expedite Use of Technologies

- The focus should be on improvements to information sharing, updating of files and providing applicants with real time status updates of applications. Digital solutions can be helpful on many fronts. It can reduce staff time required for in-person interaction with applicants before, during and after development approvals by providing information they need. Because everyone has access to all information in the application it assists in:
  - Receiving documents and supporting documents from applicants
  - Circulation to internal and external departments and status of review
  - Tracking of Application

### 3.18 Continuous Improvement on New Work Processes

- There is no single “fix-all” that will improve development application processes other than through continuous examination and refinement. This requires identifying and standardizing as many processes as possible to foster an environment of consistency, accountability and transparency.

### 3.19 Update Fees Based on New Work Processes

#### Legislative Review

Section 69 of the *Planning Act*, allows municipalities to impose fees through by-law for the purposes of processing planning applications. In determining the associated fees, the *Act* requires that:

“The Council of a municipality, by by-law, and a planning board, by resolution, may establish a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality

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or to a committee of adjustment or land division committee constituted by the Council of the Municipality or to the planning board in respect of the processing of each type of application provided for in the tariff.”

As stated above, the Planning Act stipulates that fees be designed “to meet only the anticipated cost.” In setting the fees, direct costs, support function costs directly related to the service provided and general overhead indirect costs related to the service provided have been included in the fee calculation.

Process—Analysis of Fees

The work accomplished in the analysis of the proposed fees for service involved the following key steps:

- ***Departmental Staff Interviews:*** Interviews were held with staff to review the work processes involved in each fee recoverable service and the development of work process templates for staff to complete. Discussion was also held with respect to the existing fee structure, issues and challenges identified with the fees from a customer service and administrative perspective and the identification of areas where services are provided and new fees should be established.
- ***Process Mapping:*** Data was collected for each application type that was under review, including, time estimates and volume of activity. Process maps were developed for each fee based on information provided by staff directly involved in the delivery of services and updated to reflect new processes or groups involved in the review process. Utilization of time estimates is a reasonable and defensible approach, especially since these estimates were developed by experienced staff members who understand service levels and processes unique to the City of Hamilton.
- ***Estimate Average Productive Hours:*** The average productive hours available were calculated for staff involved in the review process (deducting vacation time, holidays, average sick time, training from total hours). The productive hours were used to determine the productive hourly rate for each employee involved in the application process.

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- **Operating Costs:** Data was collected based on the 2022 Operating Budget to identify the indirect and direct costs. All direct and indirect costs were entered into a model to calculate fees.
- **Fee Calculation:** The full cost of providing service for each application type was established by applying an activity-based costing methodology.

The Table below summarizes the calculated fees for new work processes using the 2022 Operating Budget and salaries. Inflationary increases will be required for 2023.

Planning and Growth Fee Schedule		Existing 2022 Fee	Total Proposed
<b>1</b>	<b>Official Plan Amendment (Rural or Urban)</b>	\$ 34,945	\$ 42,520
<b>2</b>	<b>Rezoning Application</b>		
	Routine	\$ 25,320	N/A
	Secondary Suites	\$ 6,330	\$ 6,120
	Complex (includes the first 10 units)	\$ 36,815	\$ 29,290
	Plus Residential per unit Fee after the 10th unit up to a maximum of 50 additional units (Units 11 - 60)	\$ 570	\$ 400
	Plus Non-Residential per square metre charge up to a maximum 5,000 square metres	\$ 10	\$ 7
	Removal of a 'H' Holding Provision (Routine)	\$ 4,060	\$ 8,250
	Removal of a 'H' Holding Provision (Downtown)	\$ 5,920	\$ 23,950
	Removal of a 'H' Holding Provision (Complex) NEW		\$ 23,310
	Removal of a 'H' Holding Provision Resubmission NEW		\$ 4,860
<b>3</b>	<b>Site Plan Control</b>		
	Preliminary Site Plan Review	\$ 11,810	N/A
	Site Plan Formal Consultation		\$ 11,700
	Full Application (plus applicable per unit or per square metre charge)	\$ 25,350	\$ 8,760
	Full Application - Clearing of conditions (plus applicable per unit or per square metre charge)		\$ 16,930
	Amendment to an Approved Site Plan (plus applicable per unit or per square metre charge)	\$ 14,805	\$ 5,800
	Amendment to an Approved Site Plan - Clearing of conditions (plus applicable per unit or per square metre charge)		\$ 11,520
	Minor Application (plus applicable per unit or per square metre charge)	\$ 14,080	\$ 10,280
	Minor Application - Clearing of conditions (plus applicable per unit or per square metre charge)		\$ 8,810
	Resubmission (on the 3 <sup>rd</sup> occasion and thereafter)	\$ 790	\$ 1,450
	1 & 2 Family Residential on the Hamilton Beach Strip (outside of Heritage Conservation District) (DAB)	\$ 9,880	\$ 10,830
	Plus per unit Residential charge for first 10 units for Vertical Developments including Institutional	\$ 1,005	\$ 1,005
	Plus per unit Residential charge for additional units (11-50 units to a max of 50 units) for Vertical Developments including Institutional	\$ 605	\$ 605
	Plus per square metre charge for new gross floor area for non-residential developments prior to the issuance of final site plan approval to a maximum of 5,000 m2 for industrial and 50,000 m2 for commercial for Vertical Developments	\$ 10	\$ 10
	1 & 2 Family Residential, including accessory buildings and structures, decks, and additions on properties within the Existing Residential (ER) Zone in Ancaster (DAER)	\$ 2,440	\$ 2,440
	Engineering Special Studies	Consultant Fee	Consultant Fee+ 25% Project Management Fee
	Peer Review Administration Fee	N/A	Consultant Fee + \$ 550
	Review of Special Studies		\$ 1,400
	Extension of Lapsed Site Plan Control Application	\$ 750	\$ 1,460
<b>Notes:</b>			
Vertical Development capped at \$36,540.			
Agricultural Uses are at 1/2 of Applicable Fee.			
<b>4</b>	<b>Formal Consultation for OPA, ZBA, Subdivision and Condo</b>	\$ 1,260	
	Formal Consultation with DRT meeting		\$ 8,840
	Formal Consultation without DRT meeting		\$ 7,610
<b>5</b>	<b>Miscellaneous Fees</b>		
	Engineering Consultation Fee Outside of Any Application	N/A	\$ 3,200

### 3.20 Explore a "Stop the Clock" Mechanism Related to Applicant Delays

- A review of legislated authority or private legal agreements between the City and applicants to "stop the clock" whereby review timelines could be paused during times when the submission is with the applicant for revisions is worth pursuing.
- The ability to "stop the clock" as a result of applicant delays would benefit both the City and the applicant as it provides time to address concerns and avoid denials simply because the refund date may be pending. This would need to be explored further.
- This would require *Planning Act* changes.

## 4 Financial Implications

### 4.1 Fee Recoverable Increase in Expenditures

A high-level analysis of the increase in staff related expenditures was undertaken based on the recommendations for new staff that would be recoverable from fees. The estimated increase in expenses, assuming all 20 positions would be filled is approximately \$2.2 million. As will be shown in the next section of the report, with increases in fee revenues, this is expected to have no impact to the levy. Further, the City has a Planning and Development Reserve Fund that could be used to address any revenue shortfalls in the short-term. It should be noted that this is a continuous improvement process which is already in place at the City. Much work has been undertaken, but finetuning will be required over the next year as new processes are implemented and staff resources are aligned.

### 4.2 Increase in Expenditures Recoverable from the Tax Levy

The estimated increase in expenses, assuming all 6 positions would be filled is approximately \$715,000 to provide additional services related to OLT appeals. This includes three positions in Legal, two positions in Planning and one position in Growth Management.

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4.3 Fee Revenue Forecast

A financial forecast was developed using the updated calculated fees and the recommendations contained in this report. As shown below, there is an increase in revenues of \$2.2 million. This assumes a full cost recovery approach to Formal Consultation which is not currently the practice in the City of Hamilton.

2022 Budgeted Revenues	2022 TOTAL REVENUE	Calculated REVENUE
45561 - Part Lot Control Fee	\$ 79,500	\$ 79,500
45627 - Plan of Subdivision Fees	\$ 412,720	\$ 412,720
45698 - Condominium Fees	\$ 239,455	\$ 239,455
45466 - Committee Of Adjust Fee	\$ 1,318,775	\$ 1,318,775
45655 - Land Division Consent Fee	\$ 361,365	\$ 650,215
Removal Holding Provision	\$ 86,440	\$ 1,371,613
Formal Consultation	\$ 182,700	\$ 1,281,800
Misc	\$ 11,875	\$ 11,875
45617 - Site Plan Control	\$ 3,629,760	\$ 2,974,495
45683 - Official Plan Appl Fees	\$ 707,640	\$ 1,148,040
45697 - Zoning Application Fees	\$ 1,696,110	\$ 1,448,964
<b>Total</b>	<b>\$ 8,726,340</b>	<b>\$ 10,937,452</b>



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## 5 Summary

On March 30, 2022, under the banner of the *More Homes for Everyone Plan*, the Province issued a number of proposals aimed at addressing the housing supply crisis, including Bill 109 – *More Homes for Everyone Act, 2022* with proposed extensive changes to the *Planning Act* and *Development Changes Act, 1997*. Bill 109 received both third reading and Royal Assent on April 14, 2022, for implementation of changes commencing January 1, 2023.

The following table provides a summary of Bill 109 changes and how refund amounts would be required, commencing January 1, 2023:

	No Refund	50% Refund	75% refund	100% Refund
<b>Zoning By-law Application</b>	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
<b>Combined Official Plan Amendment and Zoning By-law Application</b>	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
<b>Site Plan Application</b>	Approval within 60 days	Approval within 61 and 89 days	Approval within 90 and 119 days	Approval 120 days or later

Also, applicants gain the right to appeal to the Ontario Land Tribunal (OLT) if decisions are not made within the mandated timeframe or are denied approval. Based on analysis that has been undertaken by the City and other municipalities across Ontario, municipalities are rarely meeting the proposed mandated timelines, therefore, without changes in application processes and/or hiring additional staff, there will be a significant impact on planning revenues and have an impact on the tax levy.

Since the presentation of the preliminary findings and comments provided to Council in April 2022, the City of Hamilton, with the assistance of BMA Management Consulting Inc. undertook

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a more detailed review of the financial, process and staffing implications related to the implementation of Provincial changes to the *Planning Act* through Bill 109, *More Homes for Everyone Act, 2022*.

A risk assessment was undertaken, along with an extensive analysis of implications and options for Council consideration. This included changes in work processes, increases in staffing, changes in fees and a realignment of resources to address Bill 109 requirements.

With mandated changes being implemented January 1 2023, the City must make decisions in the near future to update its processes and resource requirements, both of which require time to implement.

The impact of staffing recommendations associated with processing development applications will be recovered from fees and should not impact the levy. However, this is based on assumptions with respect to the approval of fee changes and activity levels.

The tax levy impact is \$715,000 as a result of anticipated increases in OLT appeals.