




Hamilton

INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	November 5, 2024
SUBJECT/REPORT NO:	Implementation Plan for Area of Employment Changes Under the <i>Planning Act</i> and Provincial Planning Statement, 2024 (PED24203) (City Wide)
WARD(S) AFFECTED:	City Wide
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SIGNATURE:	

BACKGROUND

On August 20, 2024, the Province of Ontario released the final version of the new Provincial Planning Statement, 2024 and announced the date of enactment for changes to “Area of Employment” in the *Planning Act*. These changes are in effect as of October 20, 2024. From announcement to implementation, the province provided two months (equalling 42 workdays) for local municipalities to implement these significant changes into Official Plan policy.

The changes made to the “Area of Employment” definition in the *Planning Act* has significantly reduced the permitted uses in these areas from what may be permitted in many of Hamilton’s designated Employment Areas, specifically excluding uses like standalone retail, commercial, office and institutional uses. The policies of the new Provincial Planning Statement, 2024 now permit removal of lands from employment areas through conversions outside of a municipally led comprehensive review. Decisions on privately initiated requests for removal/conversions would be subject to appeal to the Ontario Land Tribunal if the lands are not within an “Area of Employment” under the *Planning Act*.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Planning Division staff have prepared an implementation plan to address the *Planning Act* definition change to “Area of Employment” and new policies of the Provincial Planning Statement, 2024. The two-phase implementation plan described in this report involves future strategic amendments to the Urban Hamilton Official Plan policies to bring them into alignment with new provincial directives, followed by a comprehensive employment area policy review workplan. Planning Division staff will need to work closely with Economic Development, Development Planning, and Legal Services staff to ensure that any policy amendments result in the continued success of established Employment Areas across the City.

POLICY CONSIDERATIONS

Provincial Policy Context

Planning Act

In April 2023, changes to the “Area of Employment” definition in the *Planning Act* were introduced through Bill 97 – *Helping Homebuyers, Protecting Tenants Act, 2023*. The province had stated that the change to the “Area of Employment” definition is intended to increase housing supply. Planning Division staff outlined key areas of concern related to Area of Employment and other policy changes in Report PED23145, notably that certain Employment Areas across the city would not be considered “Area of Employment” per the proposed definition. Bill 97 received royal assent on June 8, 2023, however the implementation date of the changes to “Area of Employment” in the *Planning Act* was not assigned at that time.

On August 20, 2024, the Ontario Government announced that the revised *Planning Act* definition of “Area of Employment” would come into effect on October 20, 2024. The definition narrows the list of permitted uses in “Area of Employment” to only include manufacturing and associated research and development, warehousing and goods movement, limited retail and office and ancillary uses associated with a primary manufacturing or warehousing use, and any other prescribed business and economic uses under the *Planning Act*. Institutional uses and stand-alone commercial, retail and office use shall be excluded from “Area of Employment.” See attached Appendix “A” to Report PED24203 for relevant *Planning Act* excerpts.

Additional provisions are included under Section 1, sub. (1.1) and (1.2) of the *Planning Act* to allow for the continuation of lawfully established excluded uses, but with the requirement that the local official plan policy not allow further introduction of these uses in “Area of Employment”.

The *Planning Act* changes related to the permitted uses in an “Area of Employment” require significant amendments to the land use permissions of Hamilton’s existing Employment Area designations and may impede future economic development in these areas if not addressed quickly. If local policies are not amended expeditiously to align with the revised *Planning Act* definition, there is a threat that applications could be made to remove/convert lands from employment areas for non-employment uses, with potential for appeal of municipal decision to the Ontario Land Tribunal. Approval of sensitive, non-employment uses (e.g., residential) within designated Employment Lands can create new land use compatibility conflicts related to odour, noise, vibration, etc.

Provincial Planning Statement, 2024

The Provincial Planning Statement, 2024, which took effect on October 20, 2024, contains a change in policy direction that would allow removal of lands from Employment Areas at any time, whereas previously these “conversions” were only considered through a city-initiated Municipal Comprehensive Review. The Provincial Planning Statement has also changed the definition of Employment Area to specifically reference, and expand on, the definition of “Area of Employment” in the *Planning Act*:

“Employment Area: those areas designated in an official plan for clusters of business and economic activities including manufacturing, research, and development in connection with manufacturing, warehousing, goods movement, associated retail and office, and ancillary facilities. An employment area also includes areas of land described by subsection 1(1.1) of the *Planning Act*. Uses that are excluded from employment areas are institutional and commercial, including retail and office not associated with the primary employment use listed above.”

Appendix “B” attached to Report PED24203 provides excerpts of the Provincial Planning Statement, 2024 related to Employment Areas.

Policy 2.8.2.3(c) of the Provincial Planning Statement expands on the definition of Employment Areas, notably that it signals that public service facilities will not be permitted. The definition of public service facilities in the Provincial Planning Statement, 2024 includes police and fire protection which may prove problematic if there are plans to locate these emergency facilities in existing employment areas.

The permission to entertain private conversion requests at any time, coupled with reliance on the narrow *Planning Act* definition of “Area of Employment,” may result in piecemeal erosion of the City’s current Employment Area designated lands, should an applicant be successful in arguing that they are not within an “Area of Employment.” To get ahead of these potential interpretations, it is important that the City adopt an interim

approach by implementing the strict definition of “Area of Employment” from the *Planning Act* into the Urban Hamilton Official Plan policies for all Employment Area designated lands.

The Ontario Government released ERO Posting 019-9065 seeking input on transition matters related to the new Provincial Planning Statement, 2024. As discussed in Report PED24192 submitted to Planning Committee on November 5, 2024, staff provided comments requesting 18 months to complete the necessary policy review, conduct appropriate consultation, and update the City’s employment policies. As of the date that this report was drafted, transition regulations specific to the changes to employment area policies in the Provincial Planning Statement, 2024 have not been announced.

Official Plan Context

Permitted Uses

The Urban Hamilton Official Plan identifies Employment Areas as an integral component of the City’s Urban Structure and provides a policy framework for orderly development of the four Employment Area land use designations - Industrial Land, Business Park, Airport Employment Growth District, and Shipping and Navigation.

A range of uses are permitted in the City’s existing Employment Area designated lands which complement their primary functions as locations for jobs associated with specific sectors. Limited office, retail, and commercial uses, as well as public service facilities like fire stations are also permitted in various employment designations. The uses permitted in the City’s Employment Areas align with the permissions ascribed to these areas through earlier definitions of “Area of Employment” in the *Planning Act*, and through implementing policy documents like the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe. The broad range of permitted uses allowed for integration of ancillary and accessory uses to serve the employers and employees of these areas and contribute to their overall economic diversity.

The effect of the legislation changes will mean that the City’s land use policies for permitted uses in Employment Areas and implementing regulations like the Zoning By-law will no longer be aligned with the “Area of Employment” definition in the *Planning Act*. Areas that continue to permit uses that are now excluded under the *Planning Act* definition like stand-alone office, retail, commercial and institutional uses, will no longer be considered as “Area of Employment” under the *Planning Act*, and therefore not protected from appeals from decisions related to requests for conversion to non-employment uses.

Planning Division staff estimate that most, if not all, of the City's approximately 4,200 hectares of employment area designated lands are affected by the *Planning Act* changes to permitted uses within an "Area of Employment".

Employment Area Land Supply

Urban Hamilton Official Plan Amendment No. 167 implemented conformity-related amendments to the Urban Area land use planning policies, including Council-approved requests for Employment Area conversions. The total area of conversions for non-employment uses was approximately 59 hectares, effectively exhausting the estimated 60-hectare employment area land supply surplus to 2051 calculated through the earlier Land Needs Assessment reports.

To ensure the continued protection of the City's urban Employment Area land supply base and maintain control over decisions related to potential conversions that may negatively affect supply, amendments to Official Plan policies are required to align with the recent legislative and policy changes.

PROPOSED IMPLEMENTATION PLAN

Planning Division staff understand that the local Official Plan Amendments required to respond to the *Planning Act* legislation changes and new Provincial Planning Statement, 2024 must be developed quickly, but also thoughtfully so that impacts to existing employment areas are carefully considered. A two-phase approach is being developed to first ensure that all existing local employment area designated lands are considered "Area of Employment" per the *Planning Act* definition, followed by consideration of policy and possible mapping amendments to align with the new directives of the Provincial Planning Statement, 2024.

Phase 1 – Alignment with *Planning Act* definition

The City of Hamilton must implement changes to the permitted uses of the Employment Area designations to align with the revised definition of Area of Employment in the *Planning Act* as a first step.

Staff will prepare and process an Urban Hamilton Official Plan Amendment, as well as amendment to the West Harbour Setting Sail Secondary Plan area, to expressly state the permitted uses in the Employment Area designations shall be in alignment with the *Planning Act* definition of "Area of Employment." Planning Staff are confirming with Legal Services staff and Ministry of Municipal Affairs and Housing staff to determine if the amendments can be processed under a routine Official Plan Amendment (section 17 of the *Planning Act*) or if they are a conformity-related amendment to be undertaken

as part of a municipal Official Plan Review (section 26 of the *Planning Act*, requiring Provincial approval).

Policies must be included to specifically exclude any other uses that are not permitted under the *Planning Act* definition from the existing employment areas. This will require policies to also permit the continuation of lawfully established excluded uses such as stand-alone retail, commercial, fire and emergency services, and office uses. Existing residential uses in the residential enclaves in the Bayfront Industrial Area and Stoney Creek Business Park will also need to be considered to allow their continuation as lawfully established uses in the employment areas.

Phase 2 – Comprehensive Policy Update to Employment-Related Policies

The second phase of work would be a detailed review of the City’s existing employment area policies to consider what uses should be permitted in each designation, and if a restructuring of the land use designations is required. This phase will include:

- A re-assessment of the City’s employment land need to the current planning horizon of 2051 that takes into consideration the exclusion of standalone office and other excluded uses in the *Planning Act* definition of “Area of Employment”. This work is necessary for establishing a new baseline for protection of employment land supply over the long term. Provincial Planning Statement (2024) policy 2.8.2.5 specifically notes that any consideration of removal of lands from an employment area must demonstrate that the land is not required for the employment area uses over the long term.
- Potential revisions to existing employment area boundaries to determine if any locations should be removed from an Area of Employment, and redesignated. Staff note that any city-initiated boundary changes would need to be considerate of all employment area removal and land use compatibility policies of the Provincial Planning Statement, 2024. Planning staff will be working closely with staff in Economic Development to ensure any policy changes avoid negative impacts to established employment areas, including business parks.
- Review and introduce potential revisions to the regulations of the 14 Industrial zones in Zoning By-law No. 05-200 and their applicability to Employment Area properties. Special exceptions will be considered for lawfully established uses which no longer comply with the permitted uses for an Area of Employment.
- Consideration of potential amendments to Commercial designation policies in the Urban Hamilton Official Plan and implementing zoning regulations to ensure

appropriate locations are available for uses now excluded from the “Area of Employment” definition in the *Planning Act*.

- Investigation of whether industrial, manufacturing, and small-scale warehousing could be located in strategic growth areas near frequent transit service without causing adverse effects on intensification potential for sensitive land uses, in response to new policy 2.8.1.2 in the Provincial Planning Statement.

Planning Division staff will include a detailed work and consultation plan for Phase 2 as part of its recommendation report supporting the city initiated Official Plan Amendments identified in Phase 1.

CONSULTATION

Planning Division staff have requested clarification from the Ministry of Municipal Affairs and Housing on the intended effect of the new “Area of Employment” definition in the *Planning Act*, and the employment area policies of the Provincial Planning Statement, 2024. Staff have requested guidance from Provincial staff regarding the appropriate process for implementation and have not received a detailed response as of the date of preparing this report.

Sustainable Communities staff have consulted with other municipalities and professional networks across the province to understand the approach other jurisdictions are taking. Some municipalities (Cities of Toronto and St. Catharines) have already implemented policies to their employment areas to ensure their definition was consistent with the *Planning Act* and that lawfully established excluded uses were able to continue. Other municipalities (Town of Oakville, City of Mississauga) are also in a similar position to the City of Hamilton and bringing forward interim solutions to ensure that their employment lands are identified as “Area of Employment.” Many municipalities have also just completed their required Official Plan reviews and are now having to re-consider their enabling employment area policies in the context of the *Planning Act* changes and new Provincial Planning Statement, 2024 which represents a considerable amount of work.

Sustainable Communities staff have also been consulting internally with other staff in the Planning Division, specifically in Economic Development, Development Planning, Zoning By-law Reform, and Heritage and Urban Design. It will be necessary to coordinate an approach across sections to ensure that there is clear understanding of the policy framework that will be in effect, since this will have impacts on application processing and approvals.

Due to the short timeframe from August 2024 to October 2024 to plan and begin to address the employment area policy changes, Planning Division staff have not had opportunity to consult with landowners in the affected areas. Notification of a future Urban Hamilton Official Plan Amendment for Phase 1 will be distributed in accordance with the statutory requirements of the *Planning Act*. Planning Division staff will be consulting in more detail with affected landowners and businesses in the employment areas as part of Phase 2.

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report PED24203 – *Planning Act* excerpts related to Area of
Employment

Appendix “B” to Report PED24203 – Provincial Planning Statement policy excerpts
related to Employment.

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