

City Comments for Proposed Legislative Changes Proposed by Ontario Bill 17	
Affected Legislation and Sections	Comments
<b>Proposed Changes to the <i>Building Code Act</i>, 1992 (Schedule 1 of Bill 17)</b>	
<p><b>Restrictions on Building Materials Evaluation Commission</b></p> <p>New Subsection 28 (6) of the Act and repeal of Clause 29 (1) (a) of the Act.</p>	<p>City staff are supportive of this change as it will assist with streamlining this process and removes additional regulatory steps for innovative materials, systems or building designs that have already been reviewed and approved at the federal level.</p> <p><b>City staff are supportive of this change.</b></p>
<p><b>Restrictions on Municipalities to Pass By-laws Respecting the Construction or Demolition of Buildings</b></p> <p>New subsection 35 (1.1) of the Act.</p>	<p>The proposed changes mean that the city will no longer be able to rely on its general powers to regulate construction or demolition and to create local requirements that differ from the Building Code. This amendment would prohibit municipalities from imposing green standard requirements, through passing a by-law under the Municipal Act on the construction of buildings.</p> <p>City staff note that this proposed amendment is very broad. The City should be empowered to enact standards and by-laws related to construction and demolition if these measures do not conflict with the Ontario Building Code such as Green Building Standards. Hamilton City Council very recently endorsed Green Building Standards for new industrial, commercial, institutional, and residential development within Hamilton's urban area that is subject to a plan of subdivision or site plan control application. While the City's approach did not include passing a by-law under the Municipal Act, this proposed change, and the direction of the province to limit a municipality's power, could impact the ability of municipalities to implement standards and objectives intended to mitigate climate change. The City further suggests that comprehensive green building standards should be integrated into the Ontario Building Code to provide consistency across the province, while recognizing the importance of municipally specific climate change mitigation strategies.</p> <p>Staff note that the City's Urban Hamilton Official Plan contains many policies that require development to incorporate sustainable building and design elements. The City's Green Building Standards were intended to inform and provide guidance on how these policy goals could be achieved. In the absence of Green Building Standards, how these policies can be complied with is less clear and more ambiguous for applicants and developers.</p> <p><b>City staff are not supportive of this change.</b></p>

<b>Proposed Changes to the <i>Building Transit Faster Act, 2022</i> (Schedule 2 to Bill 17)</b>	
<p><b><i>Building Transit Faster Act Applies to all Provincial Transit Projects</i></b></p> <p>Addition of definition of “provincial transit project”</p>	<p>City staff are currently preparing a proposed Official Plan Amendment to implement the Major Transit Station Area policies of the Provincial Planning Statement and the Protected Major Transit Station Area requirements of the <i>Planning Act</i>. The proposed change to the <i>Building Transit Faster Act, 2022</i> does not impact this work.</p> <p>Hamilton’s LRT was already identified as a “priority transit project” for the purposes of the <i>Building Transit Faster Act</i> under an Ontario Regulation. Accordingly, the proposed change will not impact the City’s LRT project.</p> <p><b>City staff are supportive of this change.</b></p>
<b>Proposed Changes to the <i>City of Toronto Act, 1997</i> (Schedule 3 to Bill 17)</b>	
<p><b>Removal of Site Plan Control for the Placement of Portable Classrooms</b></p> <p>Amendment to Subsection 114 (1.1) of the Act.</p>	<p>City staff have no comments on this change as it relates to the <i>City of Toronto Act</i>. Please refer to the related change to the <i>Planning Act</i> for further comment.</p>
<p><b>Complete Application Materials and Person Authorized to Practice a Prescribed Profession</b></p> <p>Subsection 4.4.1 is added, and Subsections 114 (23) are amended.</p>	<p>City staff have no comments on this change as it relates to the <i>City of Toronto Act</i>. Please refer to the related change to the <i>Planning Act</i> for further comment.</p>

<b>Proposed Changes to the <i>Metrolinx Act, 2006</i> (Schedule 5 to Bill 17)</b>	
<p><b>Information From Municipalities to Support Provincial Transit Project</b></p> <p>Definition of “agencies” repealed. Subsection 1 (a) of the Act is amended. Section 31.0.1 of the Act is added. Section 46 of the Act is amended.</p>	<p>City staff are supportive of this change and the establishment of an information and data sharing framework between the province and municipalities to support the development of a provincial transit project or transit-oriented community project. This will allow for greater collaboration between the province and municipalities on the development and implementation of priority transit projects to expedite their delivery.</p> <p><b>City staff are supportive of this change.</b></p>
<b>Proposed Changes to the <i>Ministry of Infrastructure Act, 2011</i> (Schedule 6 to Bill 17)</b>	
<p><b>Information From Municipalities to Support Provincial Transit Project</b></p> <p>Amends the <i>Ministry of Infrastructure Act, 2011</i> by repealing Section 7.1 and paragraph 2.1 of subsection 19 (2). New Section 10.1 is added to the Act.</p>	<p>City Staff are supportive of this change and the establishment of an information and data sharing framework between the province and municipalities to support the development of a provincial transit project or transit-oriented community project. This will allow for greater collaboration between the province and municipalities on the development and implementation of priority transit projects to expedite their delivery.</p> <p><b>City staff are supportive of this change.</b></p>
<b>Proposed Changes to the <i>Planning Act</i> (Schedule 7 to Bill 17)</b>	
<p><b>Schools Permitted on All Parcels of Urban Residential Land</b></p> <p>Section 16 of the Act is amended and new Section 35.1.1 is added to the Act</p>	<p>The City of Hamilton’s present official plan and zoning structure for elementary and secondary school sites and ancillary uses does not restrict the appropriate delivery of school sites to the community, as the Official Plan generally permits school sites across the “Neighbourhoods” designation, which encompasses the city’s low, medium and high density residential areas, provided they generally have access to a collector or major or minor arterial road to ensure accessibility for cars and buses and to encourage the use of public transit.</p> <p>The City of Hamilton and the local school boards have developed an integrated planning process, based on early engagement that ensures the appropriate and efficient delivery of school sites. This includes the identification of new school sites early in the planning process, typically through a</p>

	<p>Secondary Planning process, and an expedited site plan process. This integrated process requires that school sites are considered early in the process and provides predictability for the developer, school boards, the public, and the city and ensures that schools are in optimal locations, such as co-located adjacent to municipal parks and facilities.</p> <p>City staff have concerns that permitting schools and ancillary uses on any urban residential lands, being any zone where a residential use is permitted, could result in schools being in sub-optimal locations and the loss of the associated benefits.</p> <p>Should elementary and secondary school permissions be extended to all lands permitting urban residential uses in the city, a comprehensive review will be required of the official plan policies and zoning provisions across the range of designations and zones which permit residential uses, to appropriately permit elementary and secondary school uses.</p> <p>Staff note that the City’s institutional zones also permit uses that are typically ancillary to school sites, such as day nurseries. City staff would require further clarity from the province on what uses ancillary uses to a school are required to be permitted on parcels of urban residential land.</p> <p><b>City staff do not support this change and request further clarity on what ancillary uses are to be permitted.</b></p>
<p><b>Minister Approve Changes to Official Plan with Respect to Complete Application Requirements</b></p> <p><b>Regulation Making Authority on What Can and Cannot be Considered for a Complete Application</b></p> <p>New subsections 17 (21.1) and (21.2) of the Act. Amendments to</p>	<p>The City does currently have a comprehensive list of technical studies within its Urban Hamilton Official Plan and Rural Hamilton Official Plan to address complete application requirements. The City is also currently developing Terms of References for these studies to provide certainty and clarity to applicants on what the studies should evaluate, as well as the opportunity to scope the studies in collaboration with City staff.</p> <p>However, new studies and reports may be required as new issues/concerns arise in the future that need to be addressed in the evaluation of an application. Municipalities need to retain the authority and have the discretion to determine what studies should be required based on locally-specific conditions. A one-size-fits-all approach does not appropriately account for local conditions and may lead to inefficient, and potentially unsafe development. This is compounded by previous Provincial changes that removed mandatory pre-consultation, where the City previously was able to provide guidance on required submission materials, and the scope and details of those required studies and materials. Municipalities are losing the ability to identify the materials for development applications they determine are needed to review, evaluate, and make sound recommendations.</p>

<p>Subsection 22 (5), 34 (10.2), 41 (3.4), 51 (18) or 53 (3).</p>	<p>Furthermore, by restricting new reports/studies from being added to Official Plans, there is a risk that new trends/best management practices, including those related to public health and safety, may not be captured and that administrative changes to these Official Plan policies may take longer with the required Ministerial approval.</p> <p><b>City staff do not support this change.</b></p> <p><b>As an alternative, City staff recommend that the province work with municipalities and other stakeholders to develop Provincial criteria or terms of reference for certain technical studies to ensure consistency and transparency for the preparation and evaluation of such studies across the province, while also allowing some contextual flexibility.</b></p>
<p><b>Complete Application Materials and Person Authorized to Practice a Prescribed Profession</b></p> <p>New Subsections 22 (6.0.1), 34 (10.3.1), 41 (3.5.1), 51 (19.0.1), and 53 (4.0.1)</p>	<p>The <i>Planning Act</i> requires a municipality to deem an application complete within 30 days of receipt, which means that City staff typically do not have time to evaluate the details of submitted materials prior to deeming development applications complete. City staff note that the city has not implemented a “pre-submission” screening process where staff complete a preliminary review of submission materials and provide feedback on the content prior to deeming the application complete. City staff deem an application complete based on the study or plan being submitted and not on the quality of the study or plan. City staff note that it has not experienced any significant issues with unqualified parties submitting materials for review and relies on the expertise of all professionals retained on an application. Accordingly, there is no impact of this legislative change on the City’s current process for deeming an application complete.</p> <p>The City has prepared detailed terms of references for the materials and studies required for a complete application that identify which professionals can prepare each type of technical study or plan for submission. What is important is the quality of the study or plan that is reviewed after an application is deemed complete and in making a recommendation for Council to consider, however this is not part of the Bill 17 changes.</p> <p><b>City staff are supportive of this change.</b></p> <p><b>City staff also recommend that the province work with municipalities and other stakeholders to develop Provincial criteria or terms of reference for certain technical studies to ensure consistency on the preparation and evaluation of such studies across the province, while also allowing some regional flexibility.</b></p>

<p><b>As-of-right Variations to Zoning By-law</b></p> <p>New subsections 34 (1.4) to (1.7) of the Act</p>	<p>Zoning by-law setbacks are a critical tool in achieving safe and healthy neighbourhoods. These changes were reviewed in conjunction with the associated proposed Ontario Regulation.</p> <p>City staff are concerned that the proposed changes will undermine the purpose of the zoning by-law regulations as all new development might potentially be designed at 90% of the required setbacks. In constrained urban sites, a reduction in sideyards may affect the ability to get construction, maintenance, or life-saving equipment to the rear of a building. This could also affect separation distances between buildings, which is of a concern for mid-rise and tall buildings as the effect of decreasing setbacks could lead to units at the lower levels not achieving sufficient access to daylight (public health issue). Appropriate setbacks also protect sensitive areas such as natural heritage features and natural hazards, and provide adequate space for grading, drainage, and stormwater management.</p> <p>Zoning regulations are context specific. Just as province-wide performance standards are unable to address context specific conditions, a province-wide regulation permitting a 10% as-of-right variance to a setback requirement is unable to address the context specific evaluation that occurs with each application for minor variance. Further, a 10% variance will have different impacts depending on the nature of and the size of the existing setback requirement. There may be certain setback requirements that have been established at the minimum standard required such that even a 10% deviation from this minimum requirement may have negative impacts, particularly if impacts are compounded by successive reductions in setbacks e.g. adequate drainage, maintenance access, etc. With climate change and impacts from storm events an increasing concern, the need for adequate pervious surfaces and drainage flows may be hindered by this change.</p> <p>Furthermore, setbacks related to pipelines, railways, Provincial highways, hazard lands, land use compatibility separation distances in accordance with Provincial guidelines, and others are typically prescribed by other agencies and incorporated into the Zoning By-law. A 10% reduction in such a setback would conflict with those requirements.</p> <p>City staff will be providing further comments on the associated proposed Ontario Regulation under separate cover.</p> <p><b>City Staff do not support this change.</b></p> <p><b>As an alternative, City staff recommend that minor variations to a setback provision within a certain threshold be delegated to Staff as opposed to being “as-of-right”. This would allow</b></p>
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	<p><b>staff to complete an expedited review of the potential impacts associated with the relief, while avoiding the time and cost of bringing the item to the Committee of Adjustment for approval.</b></p> <p><b>In addition, City staff recommends the development of a regulation for Conditional Zoning, which could provide flexibility in zoning regulations where certain municipally specific conditions are addressed. This would also avoid the time and cost of bringing applications to the Committee of Adjustment.</b></p>
<p><b>Removal of Site Plan Control for the Placement of Portable Classrooms</b></p> <p>Section 41 (1) of the Act was amended.</p>	<p>Currently, only portable classrooms that existed on January 1, 2007, are excluded and the proposed change is to extend the exemption to all portable classrooms. City staff are supportive of this change, however staff note that it is anticipated that impacts from the proposed site plan control exemption for portable classrooms would generally be minor, though cumulative impacts related to grading, increase of impervious surfaces, and stormwater management should be considered particularly on a property with multiple portables.</p> <p><b>City Staff are supportive of this change.</b></p>
<p><b>Conditional Minister's Zoning Orders</b></p> <p>Section 47 of the Planning Act is amended by adding Subsections (1.0.1), (1.0.2), (1.0.3), (1.0.4), and (1.0.5),</p>	<p>Staff are supportive of the province having the ability to condition Minister's Zoning Orders to ensure commitments related to matters like housing affordability and development timeframes are met. Staff also note that conditional Minister's Zoning Orders could be used to address comments received through Environmental Registry of Ontario postings related to a specific proposed Minister's Zoning Order. However, City staff caution that this could lead to the increased use of Minister's Zoning Orders in place of development being considered under existing provincial policies, Official Plans and Zoning By-laws which is not supported.</p> <p><b>City staff are supportive of this change.</b></p>

<b>Proposed Changes to the <i>Transit-Oriented Communities Act, 2020</i>. (Schedule 7 to Bill 17)</b>	
<p><b>All Provincial Transit Projects are Priority Transit Projects</b></p> <p>Section 1 of the Act is amended.</p>	<p>Staff are currently preparing a proposed Official Plan Amendment to implement the Major Transit Station Area policies of the Provincial Planning Statement and the Protected Major Transit Station Area requirements of the <i>Planning Act</i>. The proposed changes to the <i>Transit-Oriented Communities Act, 2020</i> does not impact this work.</p> <p>Hamilton's LRT was already identified as a "priority transit project" for the purposes of the <i>Building Transit Faster Act</i> under an Ontario Regulation. Accordingly, the proposed change will not impact the City's LRT project.</p> <p><b>City staff are supportive of this change.</b></p>
<p><b>Order in Council to Be Removed in Certain Provisions Minister May Enter Into Agreements</b></p> <p>Section 4 of the Act is amended. New section 4.1 of the Act.</p>	<p>These changes would allow the Minister to enter into agreements related to supporting or developing transit-oriented community projects without the need to obtain the Lieutenant Governor's approval by way of an Order in Council. This would include agreements with municipalities. This would allow the province to expedite the administration and approval of agreements, including those agreements with municipalities related to transit-oriented community projects.</p> <p><b>City staff are supportive of this change.</b></p>