
TO: GENERAL COMMITTEE

SUBJECT: BILL 109 IMPLEMENTATION UPDATE

WARD: ALL

PREPARED BY AND KEY CONTACT: T. THOMPSON, RPP, MANAGER OF GROWTH AND DEVELOPMENT

SUBMITTED BY: M. BANFIELD, RPP, DIRECTOR OF DEVELOPMENT SERVICES

GENERAL MANAGER APPROVAL: B. ARANIYASUNDARAN, P.ENG., PMP, GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the implementation of Bill 109 legislation be amended from January 1, 2023, to July 1, 2023, or on an alternative date as identified by the Province of Ontario through an amendment to the Bill 109 legislation or any associated regulations.

PURPOSE & BACKGROUND

Report Overview

2. The purpose of this report is to provide Council with an update of the implementation requirements of Bill 109, *More Homes for Everyone Act, 2022* which received Royal Assent on April 14, 2022.
3. City Council received a letter from the Ministry of Municipal Affairs and Housing dated December 22, 2022, which provided an update on recent legislative and regulatory changes to achieve the construction of 1.5 million homes in the next 10 years. These legislative changes include Bill 109, *More Homes for Everyone Act, 2022*, Bill 23, *More Homes Built Faster Act, 2022*, Bill 3, *Strong Mayors, Building Homes Act, 2022* and Bill 39, *Better Municipal Governance Act, 2022*. The letter is attached as Appendix "A" to this staff report.
4. The majority of the changes to the *Planning Act* as a result of Bill 109 are in effect except for the refunding of zoning and site plan control fees which were to come into effect on January 1, 2023. In the letter, the Minister indicates his commitment to bringing forward legislation to delay the effective date of fee refunds from January 1, 2023, to July 1, 2023. If any refunds become due to applicants before the legislative changes are made, the Minister notes that municipalities might consider not issuing refunds in the interim given his express commitment to introduce legislation in 2023 that, if passed, would retroactively eliminate the requirement.
5. The Minister's intentions would affect the timing of the implementation for refunding and development review process changes as indicated in Staff Report DEV035-22 dated December 7, 2022. Staff are seeking direction from Council in order to delay the City's implementation related the refunding of planning fees as directed by the Minister of Municipal Affairs and Housing.

ANALYSIS

6. With the Province's interest in amending the Bill 109 legislation, the recommendations as per 2(b) and 2(c) of staff report DEV035-22 require Council direction to delay the implementation of changes to the planning fee structure and development review processes from January 1, 2023, to July 1, 2023.
7. With the anticipated delay in the requirement to refund development application fees from January 1 to July 1, staff recommend that the proposed changes to planning fees and development review be pushed back to July 1, 2023, or an alternative date that is proposed by the Ministry of Municipal Affairs and Housing through amendments to the Bill 109 legislation or any associated regulations.
8. Staff will continue to work on the other recommendations related to Bill 109 and Bill 23 including updating the City's site plan control by-law, undertaking a comprehensive planning and development application fee review, and updating the new Official Plan, as necessary.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

9. There are no environmental and/or climate change impact matters related to the recommendation.

ALTERNATIVES

10. The following alternative is available for consideration by General Committee:

Alternative #1

General Committee could recommend that staff begin implementing the refunding of fees and process changes to prevent the refunds as identified in Staff Report DEV035-22 prior to July 1, 2023.

This alternative is not recommended as the Minister has committed to bringing forward legislation to delay fee refunds which would ensure that the application fees for at least the next six (6) months are protected from potential revenue loss. The delay will also provide staff to additional time to finalize internal process changes and effectively communicate these changes to the development community and public. Delaying implementation will also allow for staff to consider any other additional changes or new regulations that may result from amending the Bill 109 legislation.

FINANCIAL

11. The delay in refunding planning application fees from January 1 to July 1, 2023, will reduce the overall liability to the 2023 Development Services and City budget. As detailed in Staff Report DEV035-22, the forecasted planning application revenues for 2023 were \$906,368.04. The delay in refunding fees by six months will reduce the potential maximum revenue loss by half in 2023.
12. Additionally, delaying the implementation of new planning fees, as proposed, will result in a cost savings to applicants who apply before July 1, 2023.

LINKAGE TO 2022-2026 STRATEGIC PLAN

13. The recommendations included in this Staff Report support the following goals identified in the 2022-2026 Strategic Plan.
- Responsible Governance
14. In accordance with Council's goals, the proposed delay in implementing the refunding of fees and development review process changes is demonstrating responsible governance by ensuring accountability and transparency to the development community and public while respecting the direction provided by the Ministry of Municipal Affairs and Housing

Attachments:

APPENDIX "A" - Letter from Ministry of Municipal Affairs and Housing dated December 22, 2022

APPENDIX "A"

Letter from Ministry of Municipal Affairs and Housing dated December 22, 2022

**Ministry of
Municipal Affairs
and Housing**

Office of the Minister

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Toronto ON M7A 2J3
Tel.: 416 585-7000

**Ministère des
Affaires municipales
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234-2022-6136

December 22, 2022

Dear Head of Council:

Ontario's housing supply crisis is a problem which has been decades in the making. It will take both short-term strategies and long-term commitment from all levels of government, the private sector, and not-for-profits to drive change. Each entity will have to do their part to be part of the solution.

To help support this important priority, I am pleased to provide you with an update on recent legislative and regulatory changes our government has made to help get 1.5 million homes built over the next 10 years.

Bill 109, the *More Homes for Everyone Act, 2022*

Bill 109, the More Homes for Everyone Act, 2022, was introduced on March 30, 2022 and received Royal Assent on April 14, 2022.

As part of the government's More Homes for Everyone Plan, Schedule 5 of Bill 109 made changes to the Planning Act. Consequential changes were also made to the City of Toronto Act, 2006.

Most of the Planning Act changes are now in effect except for the zoning and site plan control fee refund provisions, which are due to come into force on January 1, 2023. However, I am committed to bringing forward legislation to delay the effective date of the fee refund changes from January 1, 2023 to July 1, 2023. These legislative changes would be introduced in the new year.

In the event that any fee refunds become due to applicants before these legislative changes are made, municipalities might consider not issuing refunds in the interim given my express commitment to introduce legislation that, if passed, would retroactively cancel the requirement.

You can find more information about Bill 109 on the Environmental Registry of Ontario ([019-5284](#)), and the Ontario Legislative Assembly [website](#).

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Bill 23, More Homes Built Faster, 2022

Bill 23, the More Homes Built Faster Act, 2022, was introduced on October 25, 2022, and received Royal Assent on November 28, 2022.

To support More Homes Built Faster: Ontario's Housing Supply Action Plan: 2022–2023, Schedule 9 of Bill 23 made changes to the Planning Act. Schedule 1 of Bill 23 also made similar changes to the City of Toronto Act, 2006 related to site plan provisions. Schedule 3 of Bill 23 made changes to the Development Charges Act.

The planning-related and municipal development-related charges changes came into force on November 28, 2022, except for provisions related to removal of planning responsibilities from certain upper-tier municipalities, certain provisions related to parkland dedication, and exemptions from municipal development-related charges for affordable and attainable housing, which will come into force on a day in the future to be named by proclamation. Provisions related to Conservation Authorities will take effect January 1, 2023.

Bill 23 also made changes to legislation led by other ministries. Please see Appendix A for an overview of the effective dates of the Bill 23 changes by schedule.

You can find more information about Bill 23 on the Environmental Registry of Ontario ([019-6163](https://www.ero.on.ca/019-6163)), and the Ontario Legislative Assembly [website](#).

Bill 3, the Strong Mayors, Building Homes Act, 2022 and Bill 39, the Better Municipal Governance Act, 2022

Bill 3, the Strong Mayors, Building Homes Act, 2022, was introduced on August 10, 2022, and received Royal Assent on September 8, 2022. Bill 3 and associated regulations ([O. Reg. 529/22](#) and [O. Reg. 530/22](#)) came into force on November 23, 2022.

Bill 39, the Better Municipal Governance Act, 2022, was introduced on November 16, 2022, and received Royal Assent on December 8, 2022. Bill 39, amendments to associated regulations ([O. Reg. 581/22](#) and [O. Reg. 583/22](#)), and additional regulations to prescribe provincial priorities ([O. Reg. 580/22](#) and [O. Reg. 582/22](#)) came into force on December 20, 2022. Additional details can be found in Appendix B and on the Ontario Legislative Assembly's website ([Bill 3](#) and [Bill 39](#)).

Sincerely,



Steve Clark
Minister

c: Chief Administrative Officer

Appendix A

Effective Dates for Bill 23, the More Homes Built Faster Act, 2022

Schedule	Effective Date
Schedule 1: City of Toronto Act, 2006	<p>All of the changes in Schedule 1 (City of Toronto Act) came into force on the day the bill received Royal Assent.</p> <p>Note: The legislative changes to the City of Toronto Act include amendments that give the Minister of Municipal Affairs and Housing authority to make regulations imposing limits and conditions on how municipalities can regulate the demolition and conversion of residential rental properties of six units or more. No regulations have been made at this time.</p>
Schedule 2: Conservation Authorities Act	<p>Changes in Schedule 2 (Conservation Authorities Act) came into force the day the bill received Royal Assent, except for:</p> <ul style="list-style-type: none"> On January 1, sections related to streamlining disposition of lands for CAs comes into force which would allow CAs to sell or lease land without Minister's approval provided they follow rules around public consultation and notifications. Also on January 1, sections that enable the Minister's ability to issue direction to freeze fees and ability to scope CA commenting on development applications and land use planning policies through regulation, would come into force but only have effect when the Minister issues direction on fees or if a regulation prescribing Act under which CA commenting roles is restricted is made. Changes related to CA permitting (including removal of "conservation of land" and "pollution", adding "unstable soil and bedrock", regulation making powers to exempt development from a CA permit where it has been authorized under the Planning Act, etc.) take effect on a later date (upon proclamation) once a new regulation under Section 28 of the CA Act is in effect. MNRF continues to consult on that regulation through the Environmental Registry (#019-2927).
Schedule 3: Development Charges Act, 1997	<p>All of the changes in Schedule 3 (Development Charges Act) came into force on the day the bill received Royal Assent, with the exception of provisions relating to development charge exemptions for affordable and attainable housing units, which would take effect upon proclamation.</p>
Schedule 4: Municipal Act, 2001	<p>All of the changes in Schedule 4 (Municipal Act) came into force on the day the bill received Royal Assent.</p> <p>Note: The legislative changes to the Municipal Act give the Minister of Municipal Affairs and Housing authority to make regulations imposing limits and conditions on how municipalities can regulate the demolition and conversion of residential rental properties of six units or more. No regulations have been made at this time.</p>
Schedule 5: New Home Construction Licensing Act, 2017	<p>Many of the amendments in Schedule 5 (New Home Construction Licensing Act) came into force on the day the bill received Royal Assent.</p> <p>The amendments regarding the maximum fine that a court may impose for a subsequent conviction, as well as most of the amendments related</p>

Schedule	Effective Date
<p>Schedule 6: Ontario Heritage Act</p>	<p>to administrative penalties, will come into force on February 1, 2023.</p> <p>Most of the amendments to the Ontario Heritage Act (OHA) made through the bill will be proclaimed into force on January 1, 2023. These include:</p> <ul style="list-style-type: none"> • The new authorities under Part III.1 of the Act that relate to the Standards and Guidelines for Conservation of Provincial Heritage Properties. • Most of the changes to procedures related to municipal registers, including the process and requirements around inclusion of non-designated properties on the municipal registers. However, the requirement for municipalities to make their municipal registers available on a publicly accessible website will not come into force until July 1, 2023 to provide municipalities with time to ensure compliance. • Limiting the ability to issue a Notice of Intention to Designate a property subject to a prescribed event to only those properties included on a municipal register. • The authority to prescribe criteria for determining cultural heritage value or interest for the purposes of including non-designated properties on the municipal register and designating a Heritage Conservation District (HCD). • The authority to set out processes to amend and repeal HCD bylaw in regulation. Note, the Ministry of Citizenship and Multiculturalism will consult on the development of these processes to be set out in regulation in 2023. <p>Regulatory amendments to O.Reg. 9/06: Criteria for Determining Cultural Heritage Value or Interest will also come into force on January 1, 2023. These changes establish that non-designated properties included on a register must meet one or more of the criteria outlined in the regulation, and that individual properties and HCDs must meet two or more of the criteria included in the regulation in order to be designated. The regulation also includes transitional provisions to address matters underway at the time of the changes coming into force.</p> <p>The outstanding amendments to the OHA made through Bill 108, the More Homes, More Choice Act, 2019, will also be proclaimed into force on January 1, 2023. The amendments speak specifically to the demolition or removal of an attribute that is not a building or structure within an HCD.</p> <p>Regulatory amendments to O.Reg. 358/21: General will come into force on January 1, 2023. These amendments include consequential housekeeping amendments and transition provisions related to the above legislative amendments coming into force.</p> <p>Bill 23 included some minor housekeeping amendments to the OHA that came into force upon Royal Assent. These included repealing the alternative definition of "alter".</p>
<p>Schedule 7: Ontario Land Tribunal Act, 2001</p>	<p>The changes in Schedule 7 (More Homes Built Faster Act, 2022) will come into force on proclamation.</p>

Schedule	Effective Date
Schedule 8: Ontario Underground Infrastructure Notification System Act, 2012	The changes in Schedule 8 (Ontario Underground Infrastructure Notification System Act, 2012) came into force on the day the bill received Royal Assent.
Schedule 9: Planning Act	<p>The changes in Schedule 9 (Planning Act) all came into force on the day the bill received Royal Assent, with the following exceptions:</p> <ul style="list-style-type: none"> • provisions related to removal of planning responsibilities from certain upper-tier municipalities, which would come into force on a day to be named by proclamation. • provisions related to the exemption of community benefits charge and parkland dedication requirements for affordable and attainable housing units • provisions related encumbered land to be conveyed to municipalities by developers for park or other recreational purposes • provisions related to Conservation Authorities (linked to the changes in Schedule 2) will take effect January 1, 2023
Schedule 10: Supporting Growth and Housing in York and Durham Regions Act, 2022	<p>Except as otherwise provided, the Act set out in Schedule 10 came into force on the day bill received Royal Assent.</p> <ul style="list-style-type: none"> • Sections 7 to 10, subsection 11 (5) and section 14 come into force on a day to be named by proclamation of the Lieutenant Governor. Once in force, these sections will require a prescribed municipality to develop, construct, and operate the Lake Simcoe phosphorus reduction project and allow the Ontario Clean Water Agency to undertake some or all of that project if ordered to do so by the Lieutenant Governor in Council. The project will also be exempt from the Environmental Assessment Act. • Subsection 85 (1) comes into force on the later of the day subsection 44 (1) of this Act comes into force and the day section 2 of Schedule 5 to the Accelerating Access to Justice Act, 2021 comes into force. Subsection 85 (1) makes consequential changes to the Act arising out of changes to the Expropriations Act in respect of alternative hearings processes. • Subsection 85 (2) comes into force on the later of the day section 61 of this Act comes into force and the day section 42 of Schedule 4 to the Comprehensive Ontario Police Services Act, 2019 comes into force. Subsection 85 (2) makes consequential changes to the Act arising out of the Comprehensive Ontario Police Services Act, 2019 consistent with other Ministry of the Environment, Conservation and Parks legislation. The change would allow a person undertaking an inspection to obtain the assistance of the local police force rather than the Ontario Provincial Police Force.

Appendix B

Bill 3, the Strong Mayors, Building Homes Act, 2022 and Bill 39, the Better Municipal Governance Act, 2022

As a result of Bills 3 and 39, changes were made to the Municipal Act, 2001, City of Toronto Act, 2006 and the Municipal Conflict of Interest Act, and regulations were established to give the mayors in Toronto and Ottawa strong mayor powers to help advance shared provincial-municipal priorities, including building new homes. These powers include:

- Choosing to appoint the municipality's chief administrative officer,
- Hiring certain municipal department heads, and establish and re-organize departments,
- Creating committees of council, assigning their functions and appointing the Chairs and Vice-Chairs of committees of council, and
- Proposing the municipal budget, subject to council amendments and a head of council veto and council override process.

The mayors of Toronto and Ottawa can also use strong mayor powers related to provincial priorities. These include:

- Vetoing certain by-laws if the mayor is of the opinion that all or part of the by-law could potentially interfere with a provincial priority,
- Bringing forward matters for council consideration if the mayor is of the opinion that considering the matter could potentially advance a provincial priority, and
- Proposing certain municipal by-laws if the mayor is of the opinion that the proposed by-law could potentially advance a provincial priority. Council can pass these by-laws if more than one-third of council members vote in favour.

The provincial priorities for the purposes of strong mayor powers are prescribed in O. Reg. 580/22 and O. Reg. 582/22 and they are:

1. Building 1.5 million new residential units by December 31, 2031.
2. Constructing and maintaining infrastructure to support housing, including, transit, roads, utilities, and servicing.