
TO: PLANNING COMMITTEE

SUBJECT: DELEGATION OF APPROVAL AUTHORITY FOR THE REMOVAL OF A HOLDING SYMBOL UNDER SECTION 39.2 OF *THE PLANNING ACT*

WARD: ALL

PREPARED BY AND KEY CONTACT: T. THOMPSON, RPP, MANAGER OF GROWTH AND DEVELOPMENT EXT. 5485

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 by-law to delegate approval authority to remove a holding symbol to the Director of Development Services or their designate and that any member of Council, the applicant, or staff may request that an application with a holding symbol be “bumped up” to Council for approval for unresolved matters and/or conditions, be approved as per Appendix “A” attached to Staff Report DEV008-22.

PURPOSE & BACKGROUND

Report Overview

2. The purpose of this report is to recommend the delegation of approval authority for the removal of a holding symbol under Section 36 of the *Planning Act, R.S.O., 1990*, from Council to the Director of Development Services or their designate.
3. Bill 13, the *Supporting People and Businesses Act, 2021* came into force on December 2, 2021, upon royal assent. Through this bill, changes were made to help streamline the planning system and, in some cases, shorten approval timelines by providing municipal councils broader authority to allow more planning decisions to be made by committees of council or staff. Municipalities may delegate decisions for minor amendments to zoning by-laws, such as temporary use by-laws and the lifting of holding symbols, if they choose to do so.
4. Schedule 19 of Bill 13 amended the *Planning Act* by adding a new section 39.2 that provides the council of a local municipality may, by by-law, delegate the authority to pass by-laws under Section 34 that are of a minor nature to a committee of council or an individual who is an officer, employee or agent of the municipality. The schedule also made consequential amendments to the *Municipal Act, 2001, S.O. 2001, c. 25* and the *City of Toronto Act, 2006*.
5. The objective of the proposed delegation of authority for the removal of a holding symbol is to achieve efficiencies in the development approval process for technical matters, avoid potential delays and financial costs to the proponent as a result of Council or Committee meeting schedules while maintaining a review process that continues to protect the public interest.

6. The approval authority for zoning by-law amendments under Section 34 of the *Planning Act* would remain with Council. Council would continue to impose the conditions related to a holding symbol upon approval of a zoning by-law amendment.
7. Staff are not proposing to obtain delegated authority for minor or temporary use zoning bylaws. A minor zoning by-law was not defined in the legislation and temporary use by-laws are not common in the City of Barrie. Staff do not believe delegated authority would streamline these types of development approvals and that land use decisions should rest with Council.

POLICY ANALYSIS

Planning Process Framework

Ontario Planning Act, R.S.O. 1990

8. Section 2 of the *Planning Act* requires that the Minister, the council of a municipality, a local board, a planning board and the Tribunal, shall have regard to, among other matters, matters of provincial interest. The *Planning Act* can be found in its entirety at the following link: <https://www.ontario.ca/laws/statute/90p13>,
9. Under Section 34 of the *Planning Act*, Council is the approval authority for zoning by-law amendments. Through this process, Council may impose a holding symbol on lands subject to an application until such time that the matters listed in the approved by-law are satisfied. Items typically subject to holding symbols include servicing, phasing, additional environmental studies such as records of site conditions and other technical requirements.
10. Section 36, subsection (1) of the *Planning Act* authorizes the council of a local municipality may, in a by-law passed under section 34, by the use of the "H" symbol (or "h") in conjunction with any use designation, specify the use to which the lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law.
11. Section 39.2, subsection (1) of the *Planning Act* states, subject to subsection (2), the council of a local municipality may, by by-law, delegate the authority to pass by-laws under Section 34 that are of a minor nature to,
 - a) a committee of council; or
 - b) an individual who is an officer, employee or agent of the municipality.
12. Section 39.2, subsection (3) of the *Planning Act* states without limiting the generality of the meaning of a by-law passed under Section 34 that is of a minor nature, such by-laws may include:
 - a) a by-law to remove a holding symbol; and
 - b) a by-law to authorize the temporary use of land, buildings or structures in accordance with subsection 39 (1).
13. Section 39.2, subsection (4) of the *Planning Act* states, a delegation of authority made by a council under subsection (1) may be subject to such conditions as the council, by by-law, provides.
14. Section 39.2, subsection (5) of the *Planning Act* states that a council may, by by-law, withdraw a delegation of authority made by it under subsection (1), and the withdrawal may be in respect of one or more by-laws in respect of which a final disposition was not made before the withdrawal.

Delegation

15. Schedule 19 of Bill 13, the *Supporting People and Businesses Act, 2021* made changes to the *Planning Act* and *Municipal Act* to help streamline the planning system by providing municipal councils broader authority to allow more planning decisions to be made by committees of council or staff. As noted above, municipalities may choose to delegate decisions for minor amendments to zoning by-laws, such as temporary use by-laws and the lifting of holding symbols. Bill 13, the *Supporting People and Businesses Act, 2021* can be found in its entirety at <https://www.ola.org/en/legislative-business/bills/parliament-42/session-2/bill-13>.

16. Council has delegated a variety of planning approvals to staff as detailed below:

- a) 1999 - Council delegated the authority to approve site plans under Section 41 of the *Planning Act* (By-law 99-312);
- b) 2009 - Council delegated the authority the approve requests for an exemption under subsection 9(2) of the *Condominium Act* (By-law 2009-165);
- c) 2010 - Council delegated the approval authority for subdivisions and condominium, including extensions and revisions, under Section 51 of the *Planning Act* (By-law 2010-166).

Through the delegation process, Council has maintained the authority to “bump up” approvals to General Committee/Council if requested by a member of Council, the applicant, or staff.

17. The delegation of planning approvals has proven to be successful for subdivisions, condominiums and site plans. Delegating additional authority in the form of removing holding symbols will continue to build on the efficiencies that have already been achieved in the City’s development approval process while ensuring that all technical requirements continue to be met.
18. Authority for the removal of holding provisions is recommended to be delegated to the Director of Development Services or their designate such as the Manager of Growth and Development or the Manager of Strategic Initiatives, Policy and Analysis. This approach is consistent with the delegation authority for subdivisions, condominiums, and site plans.
19. The Director would approve the removal of a holding symbol based on confirmation from staff and other external agencies or ministries that the conditions of the holding symbol had been resolved. The current process for a staff report to Council to recommend the lifting of the hold would not be required if delegation to the Director is granted.
20. The delegation of authority would not alter any notice or circulation requirements under the *Planning Act* or limit any rights of appeal to the Ontario Land Tribunal.
21. As noted above under Section 39.2 (4) of the *Planning Act*, Council may impose any conditions when delegating approval authority. Similar to previous delegations of authority, it is recommended that a member of Council, the applicant or staff have the ability to “bump up” an application to remove a holding symbol to Council. This would likely be in the event that there are unresolved matters and/or conditions of approval that are of strategic importance to Council or the City. It is anticipated that the need to “bump up” approval would be limited as the majority of holding provisions are related to technical matters.
22. Section 39.2 (5) of the *Planning Act* also notes that Council can withdraw the delegation of approval authority.

Summary

23. Staff recommend the delegation of approval authority for the removal of a holding symbol to the Director of Development Services or their designate as permitted through recent changes to the *Planning Act* and *Municipal Act* as part of Bill 13, the *Supporting People and Businesses Act, 2021*.

ENVIRONMENTAL AND CLIMATE CHANGE IMPACT MATTERS

24. There are no environmental matters related to this recommendation.

ALTERNATIVES

25. The following alternatives are available for consideration by Planning Committee:

<u>Alternative #1</u>	Planning Committee could recommend maintaining the existing process with respect to the removal of a holding symbol. This alternative is not recommended as it does not achieve the process improvements intended by the recent to the <i>Planning Act</i> and <i>Municipal Act</i> . Efficiencies can be achieved by delegating the removal of a holding symbol to staff as matters subject to holds are generally technical in nature.
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FINANCIAL

26. There are no financial impacts to the City as a result of the delegation of approval authority as the proposed fees for the removal of a holding symbol would remain in effect (\$2,304.01 2022 Rate). If approved, it is anticipated that there would be a reduction in costs related timing of development projects for applicants.

LINKAGE TO 2018-2022 COUNCIL STRATEGIC PLAN

27. The recommendations included in this Staff Report support the following goals identified in the 2018-2022 Strategic Plan:
- ☒ Growing Our Economy
 - ☒ Building Strong Neighbourhoods
28. In accordance with Council's goals, the delegation of authority will provide greater efficiencies in the development approvals process while continuing to maintain appropriate measures to address any outstanding technical requirements.

Attachments: Appendix "A" – Proposed By-law – Delegation of Approval Authority

APPENDIX "A"

Proposed By-law – Delegation of Approval Authority



Bill No. XXX

BY-LAW NUMBER 2022-XXX

A By-law of The Corporation of the City of Barrie to provide for the delegation of authority to remove a holding symbol in the City of Barrie.

WHEREAS Section 8 of the *Municipal Act*, 2001, S.O. 2001, c. 25, provides that the powers of a municipality shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act*, 2001, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

AND WHEREAS Section 10 of the *Municipal Act*, 2001, provides that a single tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public and may pass by-laws respecting matters within the spheres of jurisdiction set out therein;

AND WHEREAS Section 23 of the *Municipal Act*, 2001, provides that a municipality may delegate its powers and duties under this or any other Act to a person or body subject to the restrictions set out in the Act;

AND WHEREAS Section 23.4 of the *Municipal Act*, 2001, provides that no delegation of a legislative power shall be made to an individual described in clause (1) (c) unless, in the opinion of the council of the municipality, the power being delegated is of a minor nature and, in determining whether or not a power is of a minor nature, the council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of geographic area and the time period affected by an exercise of the power;

AND WHEREAS pursuant to Section 227 of the *Municipal Act*, 2001, it is the role of officers and employees of the municipality (a) to implement council's decisions and establish administrative practices and procedures to carry out council's decisions; (b) to undertake research and provide advice to council on the policies and programs of the municipality; (c) to carry out the other duties required under the Act or any other Act and other duties as assigned by the municipality;

AND WHEREAS pursuant to Paragraph 5, Subsection 23.3 (1) of the *Municipal Act*, 2001, Sections 9, 10, and 11 do not authorize a municipality to delegate the power to pass a zoning by-law under the *Planning Act* except as provided under Section 39.2 of that Act;



AND WHEREAS pursuant to Section 36, Subsection (1) of the *Planning Act*, 1990, R.S.O. c.P. 13, the council of a local municipality may, in a by-law passed under section 34, by the use of the “H” symbol (or “h”) in conjunction with any use designation, specify the use to which the lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law.

AND WHEREAS pursuant to Section 39.2 of the *Planning Act*, 1990, the council of a local municipality may, by by-law, delegate the authority to pass by-laws under Section 34 that are of a minor nature to a committee of council or an individual who is an officer, employee or agent of the municipality.

AND WHEREAS the Council of The Corporation of the City of Barrie adopted Motion 22-G-XXX.

NOW THEREFORE the Council of The Corporation of the City of Barrie enacts the following:

1. **THAT** the Director of Development Services or their designate be delegated the authority to remove a holding symbol that forms part of any zone within the City of Barrie Zoning By-law 2009-141 and any successor thereto;
2. **THAT** any member of Council, the applicant, or staff may request that an application with a holding symbol be “bumped up” to Council for approval in the event there are unresolved matters and/or conditions of approval;
3. **THAT** this By-law shall come into force and effect immediately upon the final passing thereof.

READ a first and second time this ____ day of ____, 2022.

READ a third time and finally passed this ____ day of ____, 2022.

THE CORPORATION OF THE CITY OF BARRIE

DEPUTY MAYOR – BARRY WARD

CITY CLERK – WENDY COOKE