

## Regular Council Meeting

<b>To:</b>	Mayor and Council
<b>Date:</b>	April 19, 2022
<b>From:</b>	John F Connolly, Executive Director, Planning & Development
<b>Report Number:</b>	Planning 2022-23
<b>Subject:</b>	Bill 109 – the More Homes for Everyone Act, 2022 – Planning Act Changes

### Recommendations:

1. That Council receive Staff comments as outlined in Report Planning 2022-23 on the proposed Planning Act Changes (Bill 109 - the More Homes for Everyone Act, 2022); and
2. That Council direct Staff to prepare a response consistent with these comments and submit to the Province as the Township's written submission to the Environmental Bill of Rights posting as there is no time to bring this back to Council before the ERO posting commenting deadline.

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### Overview:

On March 30, 2022, the Provincial Government posted proposed Planning Act changes as part of Bill 109 - the More Homes for Everyone Act, 2022 on the Environmental Registry of Ontario (ERO). The proposed set of actions and changes are designed to make it easier and faster to build all types of homes for Ontarians as part of the More Homes for Everyone Plan. The deadline for comments on the proposed Planning Act changes are to be submitted by April 29, 2022.

Additionally, the bulletin posting for Bill 109 and the broader provincial announcements is also available on the EBR Registry for viewing (see link below) but that posting is to provide information on consultations regarding potential legislative changes, policy and other matters as part of the More Homes for Everyone Plan. Bill 109 has already gone through first and second reading and is currently being considered at the Standing Committee on the Legislative Committee (as of April 11, 2022). The Bill includes proposed changes to the Planning Act and other statutes to implement some of the 55 recommendations that came from the Ontario Housing Affordability Task Force (February 8, 2022).

For a complete look at the proposed changes you can reference the following links on the Environmental Registry: <https://ero.ontario.ca/notice/019-5283>.

The ultimate goal behind these proposed legislative changes is to create more housing options. Although Bill 109 proposes changes to a number of statutes but the ERO posting and our comments focus only on Schedule 5 of that Bill and more specifically proposed changes to the Planning Act.

Township Staff have reviewed the proposed amendments as summarized in Attachment No. 1 and have a summary with Staff comments outlined the pros and cons of these proposed amendments in Attachment No. 2. A more detailed breakdown of Amendments to the Planning Act are provided in Attachment No. 3.

As a general comment and from a Staff perspective, these type of foundational and systemic proposed changes to the planning system are complex in nature, require careful consideration and are vital to ensure the success of land use planning at the local level. However, while not new, the overarching and repeated concern Staff have with these type of ERO postings is the timing and the impairment this timing has for providing detailed comments to Council and therefore the Province through the ERO.

In this case, the proposed changes were announced on March 30, 2022 for a thirty (30) day period for comment, which effectively becomes only twelve (12) days for the Township as material has to be reviewed and a report written for Council (due April 11, 2022 for the April 19, 2022 Council meeting).

As a result, while the detailed proposals has been provided in the report attachments, the commentary of this report will provide a summary and highlights outlined in Bill 109 Amendments below.

### **Background:**

On March 30, 2022 the Provincial government introduced its More Homes for Everyone Plan which proposes legislative and regulatory changes to make it easier to buy a home by increasing the housing supply in Ontario. The provincial plan aims to build homes faster, make it easier and less expensive to build more affordable housing and protect home buyers and renters through the legislative and regulatory changes.

The proposed amendments will make changes to the zoning, plans of subdivision and site plan application processes to speed up approvals and incentivize decisions within set timelines. For example, the Planning Act will be amended to delegate approval of Site Plan applications to municipal staff and extend the timeline from 30 to 60 days to make a decision. However, other changes will mandate refunds from 25% to 50% of applications fees if decisions not made within the 60 days. In addition, proposed amendments will require partial refunding of zoning by-law amendment fees if they fail to have a decision on an application within 90 days (or 120 days if concurrent with an official plan amendment).

Through these amendments, the Province is also proposing what can be required as a condition of draft approval for plans of subdivision as well as give municipalities a one-time discretionary authority to reinstate draft approved plans of subdivision that have lapsed within the past five years without a new application. The province considers these changes as streamlining the decision making process.

In addition, provincial housing policies and priority projects will be expedited through a new tool called the Community Infrastructure & Housing Accelerator. Other changes will increase public reporting, public consultations and changes related to Development Charges and Community Benefits Charges while strengthening protections for purchasers of new homes.

### **Discussion:**

From a Staff perspective, there is strong support for many of the common and collective outcomes of providing more homes for as many Ontarians as possible along with a commitment to ongoing improvements to the approvals and decision making processes. Building a complete community relies on the development of a variety of styles, types and affordability of new homes but it is important that development must also consider other local community values such as the environment, cultural heritage, climate change, public consultation, community infrastructure and the financial well-being of a municipality.

While many of the proposed Planning Act changes represents a good start to bringing housing to the market sooner it does not deal with some of the significant barriers that current provincial policy presents for local municipalities. Some of these barriers come in the form of challenging policies under the Growth Plan for the Greater Golden Horseshoe and the Provincial Policy Statement.

A number of the measures and proposed changes are focused on “primarily benefit businesses by expediting development approvals processes, increasing certainty, removing barriers, and enabling more timely decisions”. While these are important, they are not the only considerations in bringing housing stock and growth to a progressive rural community.

In many ways, the proposed changes will have the biggest impact on urban centres and development but are will still only have limited success because they are only focused on zoning by-law amendments and the site plan approval process. In Staff’s opinion, these proposed changes do not go far enough to address improvements that can be made in the plan of subdivision/condominium or official plan amendment applications. Often these application types are required to create the properties upon which these dwelling units are constructed and could also yield positive results.

For example, based on current Planning Act regulations, a municipality must circulate ministries and agencies for review and comment. This takes time and adds to the processing and decision-making timelines. As it stands, municipalities do not have control over the workload or timing for receiving these agency comments even understanding that input from ministries and agencies is required to ensure good planning and development occurs in a community.

The general theme of many of these changes relates to incentivizing and applying pressure to meet development approvals timelines. In some cases, this seems counter-intuitive to the proposals whereby site plan application decisions are extended from 30 to 60 days in an effort to make decisions faster. However, the proposed changes do not anticipate or compensate for circumstances where the applicant is responsible for

holding up the application and in effect, force municipalities to bear the full responsibility where decisions cannot meet the regulated periods.

To illustrate this point, consider the following:

- For a Zoning By-law Amendment (ZBA) , the current legislated timeline to make a decision is 90 days (this used to be 150 days under previous legislation)
- If the ZBA is related to an Official Plan Amendment (OPA), the legislated timeline to make a decision is 120 days (this used to be 210 days under previous legislation)

Staff are advising that in situations where the approval authority accepts concurrent applications (OPA, ZBA and Plan of Subdivision), it would be very challenging to make a decision on the ZBA within the 120 days. This means that the municipality would be refunding a portion of the application fee every time.

In order to address revenue loss and mitigate the possibility of an appeal, the municipality would likely increase the application fee and/or refuse the ZBA until such time as the OPA and Plan of Subdivision have been approved. This may save costs or penalties to the municipality but would not speed up the decision making process.

From a timing and decision making perspective, a municipality may choose to refuse the ZBA until approval is received on the OPA and Plan of Subdivision. This would then mean that a second public meeting would need to be held for the ZBA as opposed to the current practice of holding a joint public meeting for all three applications (i.e., as was the case for Towerhill North).

In the instance of a Site Plan Application, the current legislated timeline to make a decision is 30 days but is being proposed to be extended to 60 days. The increased timeframe could be seen as a benefit but as is the case with the ZBA example above, if a decision is not made in 60 days, then fees might have to be increased to account for potential lost revenue.

If there is sustained difficulty in meeting decision timelines, municipalities may have to hire additional staff (administrative, planners, building officials, inspectors) to meet new processing and decision making timelines. This would add an additional financial burden to the taxpayers of a municipality. Alternatively municipalities may need to raise fees for applications to cover the potential for the refund of fees. These additional costs will likely be “flow through costs” that would add to the cost of providing the new housing supply.

As noted earlier, there are also proposed changes for the Minister to receive new discretionary authorities to “stop the clock” as well as refer all or parts of an OP to the Ontario Land Tribunal (OLT) for a recommendation or a decision. The potential that the OLT may hold a hearing can add significant time and costs to the planning process. As a result, there could be significant costs to a municipality if they have to participate in an OLT hearing where the Minister is looking for a recommendation or a decision.

The proposed Guidelines for speeding up approvals for housing and community infrastructure through a new Community Infrastructure & Housing Accelerator (CIHA)

seems very similar to using Minister's Zoning Orders (MZO) which the Township has utilized a few times. This is a very powerful planning tool whereby upon the request of a local municipality, could provide that specific subsequent approvals that are not subject to provincial plans, the Provincial Policy Statement and municipal official plans. Subsequent approvals include plans of subdivision and site plan control. This has the potential to create a two-tier planning system at the local level.

Nevertheless, so much of an application is dependent on comments from prescribed bodies and agencies as well as the proponent. Most of the application process is out of the hands of the municipality and Staff (e.g. external review of technical studies and addressing provincial legislation) that the proposed changes have the potential of setting municipalities up for failure.

### **Summary:**

Overall, the changes to the Planning Act, as proposed, do not go as far as the Ontario Housing Affordability Task Force and the 55 recommendations included in its February 2022 report. Instead, the proposed changes focus on increased reporting requirements meeting development approval timelines, introducing a new zoning tool and creating working groups. Many of these changes will fall short of delivering the results required to effectively speed up decisions and process timelines.

The Province needs to go further to extend its review to include changes to official plan amendment and plan of subdivision/condominium processes as well as examine the barriers that exist in provincial policies and plans (e.g., PPS, Growth Plan).

One of the proposed changes that has already occurred at the Township is the requirement for Council to pass a by-law to "appoint" and "authorized person" for all site plan control approvals. Council already approved a number of delegation measures at its Regular October 4 2021 Council (Report Planning 2021-52) for straight forward applications. The issue of delegation certain decisions to Staff could be re-examined to enhance the opportunities but the Township has already put a number of these measures in place.

Some of the most significant changes allows the Minister to suspend its approval timeline for new official plans and official plan amendments. This could cause delays in the process and making decisions. The Minister will also have the power to refer an Official Plan approval to the Ontario Land tribunal which could choose to hold a hearing on the Official Plan. This would work towards taking the politics out of the approvals of the OP.

Staff are of the opinion that the proposed changes do not go far enough and will effectively set up the municipality to not meet timelines and be penalized through refunds which will result in increased fees, increased staffing levels and process changes that won't optimize process efficiency. The changes need to go further and deal with more aspects of the land use planning process. Some consideration could be given to establishing a Chief Planner for the Province that has oversight and responsibility to implement provincial plans, modernize zoning, create standards for planning applications, enhance delegation opportunities and examine the role of provincial policy in local planning instability.

Staff support providing a comprehensive suite of changes to the province that are equitable to all parties who play a role in land use planning decisions. However, once the changes are decided and in place, there has to be a prolonged period of stability for land use planning and policy so that local decision making can adjust accordingly.

This Report was produced with the participation and specific contributions from Staff in many Township Departments.

**Financial Impact:**

None at this time.

**Attachment:**

Attachment No. 1: Bill 109 - Summary of Proposed Changes

Attachment No. 2: Bill 109 – Staff Comments – Pros/Cons

Attachment No. 3: Proposed Changes – Planning Act

Respectfully Submitted by,

Reviewed by,

John F. Connolly  
Executive Director, Planning & Development

Yvette Hurley  
Chief Administrative Officer

## **Attachment No. 1 - Proposed Planning Act Amendments (Bill 109)**

Schedule 5 of the Bill proposes amendments to the Planning Act.

The proposed amendments, if passed, would, among other matters, support:

### **Building homes faster by expediting approvals including:**

- Making changes to zoning which would:
  - Require municipalities to partially refund application fees to applicants who do not receive a decision on their zoning by-law amendment applications within 90 days (or 120 days if submitted concurrently with an official plan amendment application) and on a graduated basis thereafter for applications made on or after January 1, 2023, and
  - Establish a new Community Infrastructure and Housing Accelerator (CIHA) tool for municipal requests to expedite zoning outside of the Greenbelt area.
    - The Minister shall also issue guidelines governing the scope of how this authority may be used, and the guidelines would need to be in place before an order could be made.
- Streamlining development approvals processes and facilitate faster decisions by:
  - Requiring decisions on site plan applications to be delegated to staff for applications made on or after July 1, 2022
  - Extending site plan application review from 30 to 60 days
  - Establishing regulation-making authority to prescribe complete application requirements for site plan applications
  - Requiring municipalities to partially refund site plan application fees to applicants who do not receive a decision within the 60-day timeframe and on a graduated basis thereafter for applications made on or after January 1, 2023
  - Establishing regulation-making authority to prescribe what cannot be required as a condition of subdivision approval
  - Establishing a one-time discretionary authority to reinstate draft plans of subdivision that have lapsed within the past five years, subject to consumer protection provisions.

### **Providing increased certainty of parkland requirements for Transit-Oriented Communities (TOCs) by:**

- Implementing a tiered alternative parkland dedication rate for municipal parkland dedicated by TOC developments.
- This would ensure that land continues to be made available for parks for TOC developments, while providing greater certainty of development costs on these particular sites.
- The structure of the tiered alternative parkland dedication rate would be based on a percentage of the development land or its value:
  - For sites less than or equal to five hectares, parkland would be dedicated up to 10% of the land or its value; and,
  - For sites greater than five hectares, parkland would be dedicated up to 15% of the land or its value.

- Transit-oriented community lands subject to the proposed tiered alternative parkland dedication rates would be identified pursuant to subsection 2 (1) of the Transit-Oriented Communities Act, 2020.
- Ministerial authority would also be provided to the Minister of Infrastructure to identify encumbered land (e.g., land with underground transit tunnels or other infrastructure) at TOC development sites that would be conveyed to a municipality as parkland. Encumbered parkland would count towards any municipal parkland dedication requirements. This would help ensure that TOC developments can provide new homes and parkland for use by the community.

**Provide increased certainty of development costs by:**

- Providing the Minister of Municipal Affairs and Housing with regulation-making authority to authorize landowners and applicants to stipulate the type of surety bonds and other prescribed instruments to be used to secure obligations in connection with land use planning approvals.

Other proposed changes would increase transparency in the planning process and support dispute resolution by:

- Establishing regulation-making authority to require public reporting on development applications / approvals.
- Requiring municipalities with a community benefits charge (CBC) by-law to undertake and complete a review, including consulting publicly, on their by-law at least once every five years after the by-law is passed, and every five years thereafter.
- Providing the Minister with new discretionary authorities when making decisions to:
  - “Stop the clock” if more time is needed to decide on all official plan matters that are subject to Minister’s approval (with transition for matters that are currently before the Minister),
  - Refer all or part(s) of an official plan matter to the Ontario Land Tribunal for a recommendation, and
  - Forward all of an official plan matter to the Ontario Land Tribunal to make a decision.



## Attachment No. 2: Summary of Proposed Changes: Staff Comments (Pros/Cons)

### Building homes faster by expediting approvals

Proposed amendment	Pro	Con
Requirement for municipalities to refund ZBA fees	Speed up approval times.	<p>The municipality has no control over the workplans and/or schedules of outside agencies required to comment and yet are being asked to bear the punitive burden. In addition to penalties, municipality will incur increased staffing costs to process more applications.</p> <p>Faster development approvals do not necessarily lead to faster development.</p>
Establish a new Community Infrastructure and Housing Accelerator (CIHA) tool	<p>Enable local municipalities to request a CIHA order to regulate the use of land and the location, use, height, size and spacing of buildings and structures to permit certain types of development.</p> <p>Create a mechanism for the Township to support development that would meet the individual needs of the community.</p>	<p>Guidelines on the usage of the tool have not been finalized so restrictions may apply.</p> <p>Won't expedite development approvals. The tool has requirements for public consultation and public notice which apply to the existing planning process.</p>
Site plan approval delegated to Staff	We already do this.	Council not aware of all development in Township
Extend site plan application review period.	More time for proper review of supporting documentation.	Delays approvals by 30 days.
Establishing regulation-making authority to prescribe complete application requirements for site plan applications	Identify and reduce areas of duplication.	Could exclude requirements specific to rural needs i.e. hydrogeologic studies to demonstrate wells won't run dry.
Requiring municipalities to partially refund site plan application fees to	Expedite site-plan approval	In situations where an OPA and/or ZBA is required, a SPA can't be processed at

applicants who do not receive a decision within the 60-day timeframe.		the same time. Could prevent the Township from processing applications concurrently (which is helpful for the developer) in order to avoid late penalties.
Establishing regulation-making authority to prescribe what cannot be required as a condition of subdivision approval	Identify and reduce areas of duplication.	Limits the ability of the Township to customize agreements that might provide added benefit to the community i.e. dedication of land for Community Centre.
Establishing a one-time discretionary authority to reinstate draft plans of subdivision that have lapsed within the past five years, subject to consumer protection provisions.	Reduce paperwork.	

#### **Provide increased certainty of development costs.**

<b>Proposed Amendment</b>	<b>Pro</b>	<b>Con</b>
Providing the Minister of with regulation-making authority to authorize landowners and applicants to stipulate the type of surety bonds and other prescribed instruments to be used to secure obligations in connection with land use planning approvals.	No perceived impact; provided it corresponds to auditor requirements.	Surety type doesn't conform to municipal auditing principles.
Establishing regulation-making authority to require public reporting on development applications / approvals.	More transparency. We already exceed the requirements for notice.	Potential for more costs for circulation i.e. advertising, direct mail.
Requiring municipalities with a community benefits charge (CBC) by-law to undertake and complete a review, including consulting publicly, on their by-law at least once every five years after the by-law is passed, and every five years	Don't have CBC by-law so no impact.	Consultant costs to complete the background study and develop by-law.

thereafter.		
Providing the Minister with new discretionary authorities when making decisions to: “Stop the clock” if more time is needed to decide on all official plan matters that are subject to Minister’s approval (with transition for matters that are currently before the Minister),	Allow time for planning decisions that require more consideration for local needs.	Delay development approvals.
Refer all or part(s) of an official plan matter to the Ontario Land Tribunal for a recommendation, and		Decisions at the OLT require legal representation. Increased legal costs to the Township  Delays development approvals, adds a layer of approval.
Forward all of an official plan matter to the Ontario Land Tribunal to decide.		Decisions at the OLT require legal representation. Increased legal costs to the Township  Delays development approvals, adds a layer of approval.

## Attachment No. 3 – Detailed Planning Act Changes

### SCHEDULE 5

### PLANNING ACT

1 Section 17 of the *Planning Act* is amended by adding the following subsections:

#### Notice to suspend time period

(40.1) If the approval authority in respect of a plan is the Minister, the Minister may suspend the time period described in subsection (40) by giving notice of the suspension to the municipality that adopted the plan and, in the case of a plan amendment adopted in response to a request under section 22, to the person or public body that requested the amendment.

#### Same

(40.1.1) The effect of a suspension under subsection (40.1) is to suspend the time period referred to in subsection (40) until the date the Minister rescinds the notice, and the period of the suspension shall not be included for the purposes of counting the period of time described in subsection (40).

#### Same

(40.1.2) For greater certainty, the Minister may make a decision under subsection (34) in respect of a plan that is the subject of a notice provided under subsection (40.1) even if the notice has not been rescinded.

#### Same, retroactive deemed notice

(40.1.3) If a plan was received by the Minister on or before March 30, 2022, a decision respecting the plan has not been made under subsection (34) before that day and no notice of appeal in respect of the plan was filed under subsection (40) before that day,

(a) the plan shall be deemed to have been received by the Minister on March 29, 2022; and

(b) the Minister shall be deemed to have given notice under subsection (40.1) on March 30, 2022.

## Referral to Tribunal for recommendation

(55) If the approval authority in respect of a plan is the Minister, the Minister may, before making a decision under subsection (34), refer all or part of the plan to the Tribunal for a recommendation.

## Record to Tribunal

(56) If the Minister refers all or part of a plan to the Tribunal under subsection (55) or (61), the Minister shall ensure that a record is compiled and provided to the Tribunal.

## Recommendation

(57) If the Minister refers all or part of a plan to the Tribunal under subsection (55), the Tribunal shall make a written recommendation to the Minister stating whether the Minister should approve the plan or part of the plan, make modifications and approve the plan or part of the plan as modified or refuse the plan or part of the plan and shall give reasons for the recommendation.

## Hearing or other proceeding by Tribunal

(58) Before making a recommendation under subsection (57), the Tribunal may hold a hearing or other proceeding and if the Tribunal does so, it shall provide notice of such hearing or other proceeding to,

(a) the municipality that adopted the plan; and

(b) any person or public body who, before the plan was adopted, made oral submissions at a public meeting or made written submissions to the council.

## Copy of recommendation

(59) A copy of the recommendation of the Tribunal shall be sent to each person who appeared before the Tribunal and to any person who in writing requests a copy of the recommendation.

## Decision on plan

(60) After considering the recommendation of the Tribunal, the Minister may proceed to make a decision under subsection (34).

## Referral to Tribunal for decision

(61) If the approval authority in respect of a plan is the Minister, the Minister may, before making a decision under subsection (34), refer the plan to the Tribunal for a decision.

## Hearing by Tribunal

(62) If the Minister refers a plan to the Tribunal under subsection (61), the Tribunal may hold a hearing or other proceeding and if the Tribunal does so, it shall provide notice of such hearing or other proceeding to,

(a) the municipality that adopted the plan; and

(b) any person or public body who, before the plan was adopted, made oral submissions at a public meeting or made written submissions to the council.

## Decision by Tribunal

(63) Subsections (50) and (50.1) apply, with necessary modifications, to a referral for a decision made under subsection (61).

## Referral of matters in process

(64) For greater certainty, a plan that was submitted to the Minister for approval prior to the day section 1 of Schedule 5 to the *More Homes for Everyone Act, 2022* comes into force may be the subject of a referral under subsection (55) or (61) if a decision respecting the plan has not yet been made under subsection (34).

2 Section 19.1 of the Act is amended by striking out “34 to 39” and substituting “34, 35 to 39”.

3 Subsection 21 (3) of the Act is repealed and the following substituted:

## Exception

(3) Subsection 17 (36.5) applies to an amendment only if it is,

(a) an amendment that has been the subject of a referral to the Tribunal for a recommendation pursuant to subsection 17 (55); or

(b) a revision that is adopted in accordance with section 26.

4 (1) Clause 34 (10.3) (b) of the Act is amended by adding “or (11.0.0.0.1), as the case may be,” after “subsection (11)”.

(2) Section 34 of the Act is amended by adding the following subsection:

## Refund of fee

(10.12) With respect to an application received on or after the day subsection 4 (2) of Schedule 5 to the *More Homes for Everyone Act, 2022* comes into force, the municipality shall refund any fee paid pursuant to section 69 in respect of the application in accordance with the following rules:

1. If the municipality makes a decision on the application within the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall not refund the fee.

2. If the municipality fails to make a decision on the application within the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund 50 per cent of the fee.

3. If the municipality fails to make a decision on the application within the time period that is 60 days longer than the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund 75 per cent of the fee.

4. If the municipality fails to make a decision on the application within the time period that is 120 days longer than the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund all of the fee.

## Minister's order at request of municipality

### Request for order

**34.1** (1) The council of a municipality may pass a resolution requesting that the Minister,

(a) make an order that involves the exercise of the municipality's powers under section 34, or that may be exercised in a development permit by-law; or

(b) amend an order made under subsection (9) of this section.

### No delegation

(2) A council may not delegate its powers under subsection (1).

### Content of resolution

(3) A resolution referred to in clause (1) (a) shall identify,

(a) the lands to which the requested order would apply; and

(b) the manner in which the exercise of the municipality's powers under section 34, or that may be exercised in a development permit by-law, would be exercised in respect to the lands.

### Same

(4) A resolution referred to in clause (1) (b) shall identify the requested amendments to the order.

### Same

(5) For greater certainty, the inclusion of a draft by-law with the resolution shall be deemed to satisfy the requirements of clause (3) (b) or subsection (4), as the case may be.

### Consultation



- (6) Before passing a resolution referred to in subsection (1), the municipality shall,
- (a) give notice to the public in such manner as the municipality considers appropriate; and
  - (b) consult with such persons, public bodies and communities as the municipality considers appropriate.

## Forwarding to Minister

- (7) Within 15 days after passing a resolution referred to in subsection (1), the municipality shall forward to the Minister,
- (a) a copy of the resolution;
  - (b) a description of the consultation undertaken pursuant to clause (6) (b);
  - (c) a description of any licences, permits, approvals, permissions or other matters that would be required before a use that would be permitted by the requested order could be established; and
  - (d) any prescribed information and material.

## Other information

- (8) The Minister may require the council to provide such other information or material that the Minister considers necessary.

## Orders

- (9) The Minister may make an order,
- (a) upon receiving a request from a municipality under subsection (1), exercising the municipality's powers under section 34, or that may be exercised in a development permit by-law, in the manner requested by the municipality with such modifications as the Minister considers appropriate; and
  - (b) upon receiving a request from the municipality or at such other time as the Minister considers advisable, amending the order made under clause (a).

## Lands covered by orders

(10) An order under subsection (9) shall apply to the lands requested by the municipality with such modifications as the Minister considers appropriate.

## Non-application to Greenbelt Area

(11) An order under subsection (9) may not be made in respect of any land in the Greenbelt Area.

## Non-application to order

(12) Despite any Act or regulation, the following do not apply to the making of an order under subsection (9):

1. A policy statement issued under subsection 3 (1).
2. A provincial plan.
3. An official plan.

## Conditions

(13) The Minister may, in an order under subsection (9), impose such conditions on the use of land or the erection, location or use of buildings or structures as in the opinion of the Minister are reasonable.

## Same

(14) When a condition is imposed under subsection (13),

(a) the Minister or the municipality in which the land in the order is situate may require an owner of the land to which the order applies to enter into an agreement with the Minister or the municipality, as the case may be;

(b) the agreement may be registered against the land to which it applies; and

(c) the Minister or the municipality, as the case may be, may enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

## Application of subs. (12) to licences, etc.

(15) If a licence, permit, approval, permission or other matter is required before a use permitted by an order under subsection (9) may be established and the resolution referred to in subsection (1) includes a request that the Minister act under this subsection, the Minister may, in an order under subsection (9), provide that subsection (12) applies, with necessary modifications, to such licence, permit, approval, permission or other matter.

## Coming into force

(16) An order made under subsection (9) comes into force in accordance with the following rules:

1. If no condition has been imposed under subsection (13), the order comes into force on the day the order is made or on such later day as is specified in the order.
2. If a condition has been imposed under subsection (13), the order comes into force on the later of,
  - i. the day the Minister gives notice to the clerk of the municipality that the Minister is satisfied that all conditions have been or will be fulfilled, and
  - ii. the day specified in the order.

## Copy of order to clerk

(17) After making an order under subsection (9), the Minister shall provide a copy of the order to the clerk of the municipality in which the land in the order is situate.

## Same, conditions fulfilled

(18) When the Minister gives notice to the clerk for the purposes of subparagraph 2 i of subsection (16), the Minister shall provide a copy of the order that does not include the conditions imposed under subsection (13).

## Same, not revocation

(19) For greater certainty, the provision of a copy of the order that does not include the conditions imposed under subsection (13) is not a revocation of the order originally provided to the clerk.

## Publication and availability

(20) The following publication rules apply with respect to an order under subsection (9):

1. Within 15 days after receiving a copy of the order pursuant to subsection (17) or (18), as the case may be, the clerk shall,
  - i. provide a copy of the order to the owner of any land subject to the order and to any other prescribed persons or public bodies, and
  - ii. make the order available to the public in accordance with the regulations, if any.
2. The clerk shall ensure that the order remains available to the public until such time as the order is revoked.
3. If the municipality in which the lands subject to the order are situate has a website, the clerk shall ensure that the order is published on such website.

## Revocation order

(21) The Minister may, by order, revoke an order under subsection (9).

## Copy of revocation order to clerk

(22) The Minister shall provide a copy of an order under subsection (21) to the clerk of the municipality in which the land is situate.

## Publication of revocation order

(23) The following publication rules apply with respect to an order under subsection (21):

1. Within 15 days after receiving a copy of the order pursuant to subsection (22), the clerk shall,

i. provide a copy of the order to the owner of any land subject to the order and to any other prescribed persons or public bodies, and

ii. make the order available to the public in accordance with the regulations, if any.

2. If the municipality in which the lands subject to the order are situate has a website, the clerk shall ensure that the order is published on such website.

## Conflict

(24) In the event of a conflict between an order under subsection (9) and a by-law under section 34 or 38 or a predecessor of those sections, the order prevails to the extent of the conflict, but in all other respects the by-law remains in full force and effect.

## Guidelines

(25) Before an order may be issued under subsection (9), the Minister must establish guidelines respecting orders under subsection (9) and publish the guidelines in accordance with subsection (26).

## Same, publishing

(26) The Minister shall publish and maintain the guidelines established under subsection (25) on a website of the Government of Ontario.

## Same, content

(27) Guidelines under subsection (25) may be general or particular in application and may, among other matters, restrict orders to certain geographic areas or types of development.

## Non-application of *Legislation Act, 2006*, Part III

(28) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order under subsection (9) or (21) or to a guideline under subsection (25).

## Deemed zoning by-law

(29) An order under subsection (9) that has come into force is deemed to be a by-law passed under section 34 for the purposes of the following:

1. Subsections 34 (9), 41 (3) and 47 (3) of this Act.
2. Sections 46, 49, 67 and 67.1 of this Act.
3. Subsection 114 (3) of the *City of Toronto Act, 2006*.
4. The *Building Code Act, 1992*.
5. Any other prescribed Act, regulation or provision of an Act or regulation.

6 Section 37 of the Act is amended by adding the following subsections:

## Regular review of by-law

(54) If a community benefits charge by-law is in effect in a local municipality, the municipality shall ensure that a review of the by-law is undertaken to determine the need for a revision of the by-law.

## Same, consultation

(55) In undertaking the review required under subsection (54), the municipality shall consult with such persons and public bodies as the municipality considers appropriate.

## Resolution re need for revision

(56) After conducting a review under subsection (54), the council shall pass a resolution declaring whether a revision to the by-law is needed.

## Timing of review

(57) A resolution under subsection (56) shall be passed at the following times:

1. Within five years after the by-law was first passed.
2. If more than five years have passed since the by-law was first passed, within five years after the previous resolution was passed pursuant to subsection (56).

## Notice

(58) Within 20 days of passing a resolution pursuant to subsection (56), the council shall give notice, on the website of the municipality, of the council's determination regarding whether a revision to the by-law is needed.

## Failure to pass resolution

(59) If the council does not pass a resolution pursuant to subsection (56) within the relevant time period set out in subsection (57), the by-law shall be deemed to have expired on the day that is five years after the by-law was passed or five years after the previous resolution was passed pursuant to subsection (56), as the case may be.

7 (1) Subsection 41 (3.1) of the Act is repealed and the following substituted:

## Consultation

(3.1) The council may, by by-law, require applicants to consult with the municipality before submitting plans and drawings for approval under subsection (4).

## Same

(3.2) Where a by-law referred to in subsection (3.1) does not apply, the municipality shall permit applicants to consult with the municipality as described in that subsection.

## Prescribed information

(3.3) If information or materials are prescribed for the purposes of this section, an applicant shall provide the prescribed information and material to the municipality.

## Other information

(3.4) A municipality may require that an applicant provide any other information or material that the municipality considers it may need, but only if the official plan contains provisions relating to requirements under this subsection.

## Refusal and timing

(3.5) Until the municipality has received the plans and drawings referred to in subsection (4), the information and material required under subsections (3.3) and (3.4), if any, and any fee under section 69,

- (a) the municipality may refuse to accept or further consider the application; and
- (b) the time period referred to in subsection (12) of this section does not begin.

## Response re completeness of application

(3.6) Within 30 days after the applicant pays any fee under section 69, the municipality shall notify the person or public body that the plans and drawings referred to in subsection (4) and the information and material required under subsections (3.3) and (3.4), if any, have been provided, or that they have not been provided, as the case may be.

## Motion re dispute

(3.7) Within 30 days after a negative notice is given under subsection (3.6), the applicant or municipality may make a motion for directions to have the Tribunal determine,

- (a) whether the plans and drawings and the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (3.4) is reasonable.

## Same



(3.8) If the municipality does not give any notice under subsection (3.6), the applicant may make a motion under subsection (3.7) at any time after the 30-day period described in subsection (3.6) has elapsed.

## Final determination

(3.9) The Tribunal's determination under subsection (3.7) is not subject to appeal or review.

(2) Subsection 41 (4) of the Act is amended by striking out the portion before paragraph 1 and substituting the following:

## Approval of plans or drawings

(4) No person shall undertake any development in an area designated under subsection (2) unless the authorized person referred to in subsection (4.0.1) or, where an appeal has been made under subsection (12), the Tribunal has approved one or both, as the authorized person may determine, of the following:

. . . . .

(3) Section 41 of the Act is amended by adding the following subsection:

## Authorized person

(4.0.1) A council that passes a by-law under subsection (2) shall appoint an officer, employee or agent of the municipality as an authorized person for the purposes of subsection (4).

(4) Subsection 41 (6) of the Act is amended by striking out "the council of".

(5) Section 41 of the Act is amended by adding the following subsection:

## Refund

(11.1) With respect to plans and drawings referred to in subsection (4) that are submitted on or after the day subsection 7 (5) of Schedule 5 to the *More Homes for Everyone Act, 2022* comes

into force, the municipality shall refund any fee paid pursuant to section 69 in respect of the plans and drawings in accordance with the following rules:

1. If the municipality approves the plans or drawings under subsection (4) within the time period referred to in subsection (12), the municipality shall not refund the fee.
2. If the municipality has not approved the plans or drawings under subsection (4) within the time period referred to in subsection (12), the municipality shall refund 50 per cent of the fee.
3. If the municipality has not approved the plans or drawings under subsection (4) within a time period that is 30 days longer than the time period referred to in subsection (12), the municipality shall refund 75 per cent of the fee.
4. If the municipality has not approved the plans or drawings under subsection (4) within a time period that is 60 days longer than the time period referred to in subsection (12), the municipality shall refund all of the fee.

(6) Subsection 41 (12) of the Act is amended by striking out “30” and substituting “60”.

(7) Subsection 41 (13) of the Act is repealed and the following substituted:

## Classes of development, delegation

(13) Where the council of a municipality has designated a site plan control area under this section, the council may, by by-law, define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (4) or (5).

(8) Section 41 of the Act is amended by adding the following subsection:

## Transition

(15.1) This section as it read immediately before the day subsection 7 (8) of Schedule 5 to the *More Homes for Everyone Act, 2022* comes into force continues to apply with respect to plans and drawings that were submitted for approval under subsection (4) of this section before that day.

(9) Section 41 of the Act is amended by adding the following subsection:

## Same

(15.2) This section as it read immediately before July 1, 2022 continues to apply with respect to plans and drawings that were submitted for approval under subsection (4) on or after the day subsection 7 (8) of Schedule 5 to the *More Homes for Everyone Act, 2022* comes into force but before July 1, 2022.

8 Section 42 of the Act is amended by adding the following subsections:

## Exception, transit-oriented community land

(3.2) Subsections (3.3) and (3.4) apply to land that is designated as transit-oriented community land under subsection 2 (1) of the *Transit-Oriented Communities Act, 2020*.

## Same, alternative requirement

(3.3) A by-law that provides for the alternative requirement authorized by subsection (3) shall not require a conveyance or payment in lieu that is greater than,

(a) in the case of land proposed for development or redevelopment that is five hectares or less in area, 10 per cent of the land or the value of the land, as the case may be; and

(b) in the case of land proposed for development or redevelopment that is greater than five hectares in area, 15 per cent of the land or the value of the land, as the case may be.

## Deemed amendment of by-law

(3.4) If a by-law passed under this section requires a conveyance or payment in lieu that exceeds the amount permitted by subsection (3.3), the by-law is deemed to be amended to be consistent with subsection (3.3).

. . . . .

## Encumbered land, identification by Minister of Infrastructure

(4.27) The Minister of Infrastructure may, by order, identify land as encumbered land for the purposes of subsection (4.28) if,

(a) the land is designated as transit-oriented community land under subsection 2 (1) of the *Transit-Oriented Communities Act, 2020*;

(b) the land is,

(i) part of a parcel of land that abuts one or more other parcels of land on a horizontal plane only,

(ii) subject to an easement or other restriction, or

(iii) encumbered by below grade infrastructure; and

(c) in the opinion of the Minister of Infrastructure, the land is capable of being used for park or other public recreational purposes.

## Same, conveyance of described land

(4.28) If land proposed for development or redevelopment includes land identified as encumbered land in an order under subsection (4.27), the encumbered land,

(a) shall be conveyed to the local municipality for park or other public recreational purposes; and

(b) despite any provision in a by-law passed under this section, shall be deemed to count towards any requirement, set out in the by-law, applicable to the development or redevelopment.

## Same, non-application of *Legislation Act, 2006*, Part III

(4.29) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made under subsection (4.27).

9 (1) Section 51 of the Act is amended by adding the following subsection:
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## Same, exception

(25.1) With respect to an application made on or after the day a regulation made pursuant to this subsection comes into force, despite subsection (25), the approval authority may not impose conditions respecting any prescribed matters.

(2) Subsection 51 (33) of the Act is repealed and the following substituted:

## Extension

(33) The approval authority may extend the approval for a time period specified by the approval authority, but no extension under this subsection is permissible if the approval lapses before the extension is given, even if the approval has been deemed not to have lapsed under subsection (33.1).

## Deemed not to have lapsed

(33.1) If an approval of a plan of subdivision lapses before an extension is given, the approval authority may deem the approval not to have lapsed unless,

- (a) five or more years have passed since the approval lapsed;
- (b) the approval has previously been deemed not to have lapsed under this subsection; or
- (c) an agreement had been entered into for the sale of the land by a description in accordance with the draft approved plan of subdivision.

## Same

(33.2) Before an approval is deemed not to have lapsed under subsection (33.1), the owner of the land proposed to be subdivided shall provide the approval authority with an affidavit or sworn declaration certifying that no agreement had been entered into for the sale of any land by a description in accordance with the draft approved plan of subdivision.

## Same, new time period

(33.3) If an approval authority deems an approval not to have lapsed under subsection (33.1), the approval authority shall provide that the approval lapses at the expiration of the time period specified by the approval authority.

10 Section 51.1 of the Act is amended by adding the following subsections:

## Conveyance of described land

(2.4) If land proposed for a plan of subdivision includes land identified as encumbered land in an order under subsection 42 (4.27), the encumbered land,

(a) shall be conveyed to the local municipality for park or other public recreational purposes; and

(b) despite any provision in a by-law passed under section 42, shall be deemed to count towards any requirement applicable to the plan of subdivision under this section.

. . . . .

## Exception, transit-oriented community land

(3.3) Subsection (3.4) applies to land that is designated as transit-oriented community land under subsection 2 (1) of the *Transit-Oriented Communities Act, 2020*.

## Limits on subs. (2) re conveyance percentage

(3.4) The amount of land a municipality may require to be conveyed under subsection (2) or the amount of a payment in lieu a municipality may require under subsection (3.1) shall not exceed,

(a) if the land included in the plan of subdivision is five hectares or less in area, 10 per cent of the land or the value of the land, as the case may be; or

(b) if the land included in the plan of subdivision is greater than five hectares in area, 15 per cent of the land or the value of the land, as the case may be.

11 The Act is amended by adding the following section:

## Reporting on planning matters

**64** A council of a municipality or planning board, as the case may be, shall,

- (a) if requested by the Minister, provide such information to the Minister on such planning matters as the Minister may request; and
- (b) report on the prescribed planning matters in accordance with the regulations.

12 Subsection 70.1 (1) of the Act is amended by adding the following paragraphs:

26. prescribing conditions for the purposes of subsection 51 (25.1);

. . . . .

30.0.1 for the purposes of section 64,

- i. prescribing the planning matters in respect of which municipalities and planning boards must report and the information about the planning matters that must be included in a report,
- ii. identifying the persons to whom a report must be provided,
- iii. specifying the frequency with which reports must be produced and provided, and
- iv. specifying the format in which a report must be provided;

13 The Act is amended by adding the following section:

## Regulations re surety bonds and other instruments

**70.3.1** (1) The Minister may make regulations,

(a) prescribing and defining surety bonds and prescribing and further defining other instruments for the purposes of this section;

(b) authorizing owners of land, and applicants for approvals in respect of land use planning matters, to stipulate the specified types of surety bond or other instrument to be used to secure an obligation imposed by the municipality, if the municipality requires the obligation to be secured as a condition to an approval in connection with land use planning, and specifying any particular circumstances in which the authority can be exercised.

## Definition

(2) In this section,

“other instrument” means an instrument that secures the performance of an obligation.

## Commencement

14 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *More Homes for Everyone Act, 2022* receives Royal Assent.

(2) Subsections 4 (2) and 7 (5) come into force on the later of January 1, 2023 and the day the *More Homes for Everyone Act, 2022* receives Royal Assent.

(3) Subsections 7 (2), (3), (7) and (9) come into force on the later of July 1, 2022 and the day the *More Homes for Everyone Act, 2022* receives Royal Assent.

(4) Section 13 comes into force on a day to be named by proclamation of the Lieutenant Governor.