

June 26, 2025

Ministry of Municipal Affairs and Housing
777 Bay Street
Toronto, ON M7A 2J3

Re: Proposed Regulations Associated with Bill 17 for Complete Applications and As-of-right Variations from Setback Requirements

To Whom it May Concern,

On behalf of the City of Hamilton, I am pleased to provide this letter as Hamilton's submission regarding the proposed regulations associated with Bill 17 for complete applications and as-of-right variations from setback requirements (ERO Postings 025-0463 and 025-0462). Given the short timeline provided to municipalities to comment on the proposed regulations, City of Hamilton (City) staff have assembled comments that highlight initial concerns that have the potential to impact the City.

The City is supportive of streamlining processes and creating flexibility in alternative development opportunities to help achieve 1.5 million new homes. The City supports the goal of communities growing with a mix of ownership and rental housing types to meet the needs of all Ontarians. This City is also supportive of reducing unnecessary costs of development to increase housing affordability.

Attached to this letter is a summary table of the City's comments on the proposed regulations associated with Bill 17 for complete applications and as-of-right variations from setback requirements (ERO Posting 025-0463 and 025-0462). City staff will be taking a report to Planning Committee on July 8, 2025, and to Council on July 16, 2025, outlining our submission. Council's position will be forwarded to the province once it has been ratified.

We look forward to seeing the results of the consultation on the proposed regulations. City staff would be pleased to meet with you to discuss these comments in greater detail.

Sincerely,



Anita Fabac
Acting Director, Planning and Chief Planner
Planning and Economic Development Department
City of Hamilton

Attachments (1)

City Staff Comments on Proposed Ontario Regulations Associated with *Bill 17, Protect Ontario by Building Faster and Smarter Act, 2025*

City Comments for Proposed Regulatory Changes Associated with Ontario Bill 17	
Proposed Change and Affected Legislation and Sections	Comments
As-of-right Variations from Setback Requirements – Proposed Regulation Implements changes proposed to Section 34 of the Planning Act through Bill 17. (ERO 025-0463)	City's Current Minor Variance Process The City of Hamilton efficiently processes applications and applicants receive a decision from the Committee of Adjustment within 4 to 8 weeks from the date an application is submitted. City staff identify zoning deficiencies early in the review process so a minor variance or design solution can be achieved. In the event a minor variance is required, City staff seek to streamline the process and expedite a decision. Zoning regulations are interrelated, and applicants often require relief from more than one provision for a design. For example, relief for a side yard setback often results in corresponding relief to lot coverage or landscaped area requirements. Accordingly, the reduction in individual variations being reduced by making certain variations "as-of-right" may not have a corresponding reduction for other zone provisions and will result in the need for a minor variance application. Intent of Setback Provisions Zoning setback provisions ensure sufficient space for access and maintenance, protect sensitive areas such as natural heritage features, protect development from natural hazards, can be used to protect trees, and provide adequate space for grading, drainage, and stormwater management. City staff are concerned that the proposed changes will undermine the purpose and intent of zoning setback regulations. In constrained urban sites, a reduction in a side yard 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). This could also result in confusion on behalf of applicants where the setback under the Zoning By-law conflicts with fire separation requirements under the Ontario Building Code. Setbacks Are Context Specific 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.

City staff also note that certain setbacks are the result of context specific items, or the implementation of other land use guidelines, including compatibility guidelines published by the province. 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. This may result in confusion where an applicant obtains as-of-right variations under the zoning by-law but does not meet the underlying regulatory requirements. In instances where zoning setbacks implement a specific requirement prescribed by another agency, City staff may need to consider increasing the required setback (110% of prescribed requirement) so that the underlying requirement is still being met, even when the as-of-right reduction is applied.

Applicability and Exception

City staff are also seeking clarification on the applicability of the as-of-right setback reductions. Staff note that the *Planning Act* changes identify that the as-of-right reduction will apply to development on a parcel of urban residential land. Would these as-of-right reductions apply to all types of development on such parcels, even for mixed use development where setbacks would be to a commercial use, or only to residential uses?

Furthermore, the *Planning Act* changes identify that areas prescribed for the purposes of Section 41(1.2) would be exempt. Staff are unsure if this means that lands with 10 or fewer residential units would not be subject to the as-of-right reduction and staff are seeking clarification on the intent of this exemption.

City Staff are not supportive of the proposed Regulation.

	For the reasons noted above, City staff are not supportive of the proposed Regulation. As an alternative, City staff recommend that decision making authority on minor variations to a setback provision within a certain threshold be decided upon by staff delegated authority as opposed to being “as-of-right”. This would allow 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. 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. ERO posting 025-0463 also requested feedback on opportunities to incorporate as-of-right variations for other zoning regulations, such as building height. City staff are not supportive of such as-of-right variations for similar reasons as those identified above. Granting as-of-right variations without any review of the context or site-specific impacts could result in unintended consequences.
Complete Application Requirements - Proposed Regulations Implements changes to Sections 22, 34, 41, 51 and 53 of the <i>Planning Act</i> through Bill 17. (ERO 025-0462)	Complete Application Materials City staff have concerns with the proposed Ontario Regulation that would limit the City’s ability to require materials related to urban design, sun shadow, wind, or lighting as part of a complete application, among other possible study exemptions. The City does support streamlining processes including the standardization of application requirements and submission materials at the municipal level and has completed a comprehensive set of Terms of References to guide applicants and professionals. However, standardizing these requirements across the province and removing the City’s ability to require certain materials risks creating gaps in application materials. This gap can impact the City’s ability to review development applications against the policies of our Official Plans and associated guidelines, which can lead to delays in processing applications, and ultimately potential health and safety risks post construction. Urban Design Urban design represents a foundational aspect of successful community building and sustainable development. It includes essential elements for the creation of healthy, safe, resilient, and sustainable cities. Well-designed communities attract investment, support local businesses, reduce infrastructure maintenance costs, increase property values, and create distinctive places that drive economic vitality.

	Good planning practice recognizes the important role of urban design in providing value and identity to a community. The design and placement of buildings, infrastructure, open spaces, landscaping, and other community amenities, as well as how these features are connected and work together, affects how people live and interact with each other. Attention to physical design creates attractive, lively, and safe communities where people want to live and visit and where businesses want to establish and grow. A city that values good urban design is a city that is successful socially, economically, and environmentally. The City's Urban Hamilton Official Plan contains extensive policy guidance on how to achieve these objectives and identifies the importance of urban design in establishing compatible development that enhances neighbourhoods. The City of Hamilton has an important role in ensuring these objectives are met and balanced with other City objectives throughout the development approvals process. The City requires urban design submission materials so an applicant can demonstrate how their development achieves the vision set out the City's Official Plans. Revoking the City's ability to require materials related to urban design as part of a complete application will mean that a proposed development could not effectively be evaluated against the City's Official Plans. This could result in development being approved that does not incorporate sound principles of urban design that contributes to the creation of a healthy, safe, resilient, and sustainable City, and that does not comply with the City's Official Plans. This also creates a fundamental tension between the City's requirement to undertake technical evaluation of development proposals against the City's Official Plans, while being unable to require the appropriate technical materials to complete that evaluation. Sun/Shadow Studies Sun Shadow Studies ensure that an adequate amount of natural light is maintained to the municipal right-of-way, to public parks and spaces, and to adjacent private properties. Natural light is essential for both physical and mental health, and to allow plants to grow in the natural environment and in public and private spaces. The City's Urban Hamilton Official Plan contains policy guidance on the mitigation of shadow impacts and access to light to establish land use compatibility. Removing these studies does not allow for these matters to be comprehensively evaluated through the development application process, which could lead to development being approved that imposes significant undue impact on adjacent properties related to physical and mental health, the viability of vegetation, reduction of solar energy potential, and the enjoyment of property. Alternatively, development may be denied based on insufficient information being provided to establish Official Plan compliance.
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	Wind Studies Wind Studies ensure that proposed mid-rise and high-rise buildings do not impose undue adverse impacts on the municipal right-of-way, on public parks and spaces, on adjacent private properties, and on themselves. The adverse impact associated with wind includes matters of public health and safety, where anticipated wind speeds can create dangerous and unsafe conditions. The City's Urban Hamilton Official Plan contains policy guidance on the mitigation of adverse wind impacts to establish land use compatibility. These matters need to be considered and evaluated as a part of the development of a site and the granting of land use approvals. Removing this study requirement does not allow for these matters to be comprehensively evaluated through the development application process, which could lead to development being approved that imposes significant public health and safety risks and creates dangerous and unsafe conditions. Alternatively, development may be denied based on insufficient information being provided to establish Official Plan compliance. Lighting Plans Lighting Plans are required to ensure that the proposed lighting design of a development does not impact or trespass on nearby/adjacent properties, public spaces, natural heritage features, and the municipal right-of way. Lighting Plans are typical requirements to ensure compatible development and that the principles of Crime Prevention Through Environmental Design (CPTED) are being considered. The City's Urban Hamilton Official Plan contains policy guidance on the importance of lighting design to establish land use compatibility. The City's Site Plan Guidelines provide more detailed guidance on how site lighting can be designed to mitigate impacts on adjacent properties. Removing these plans as a requirement does not allow for these matters to be comprehensively evaluated through the development application process, which could lead to development being approved that generates light trespass on adjacent lands and that does not implement the principles of Crime Prevention Through Environmental Design. Alternatively, development may be denied based on insufficient information being provided to establish Official Plan compliance. Staff also note that Lighting Plans are also required by other agencies, such as the Ministry of Transportation, when adjacent to provincial corridors. Concerns of Implementation By streamlining the requirements for complete applications (with the intent of creating a consistent approach), the unique attributes and matters of importance to a specific community or site are not
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	being recognized. In addition, it is unclear how this would address matters of Provincial Interest that have been identified within the <i>Planning Act</i>. An applicant is required, through their Planning Act application, to demonstrate compliance with the City's Official Plan policies, and the City must review proposals including from a shadow, wind, urban design, and lighting perspective, in accordance with Official Plan policies and municipal guidelines and Council approved terms of references. The City's inability to require these studies as part of a complete application would impact staff's ability to determine the compliance of development planning applications with the City's Official Plans through the review and processing of an application. If the City cannot require the appropriate technical studies to review the applications, there may be instances where these materials will instead be required/reviewed through conditions of approval or through Holding Provisions. This would have the potential impact of "back ending" the municipal review process and slowing down the approvals process for new housing and economically significant projects. Alternatively, development may be denied based on insufficient information being provided to establish Official Plan compliance. More concerning, is the potential public health and safety risks that may be generated as a result of not having the ability to request and review technical studies. The Ontario Professional Planners Institute's Professional Code of Practice outlines a Registered Professional Planner's (RPP) ethical obligations to the profession, the public, and their employer. Under Section 1.2 of the Code, an RPP has an obligation to "provide full, clear and accurate information on planning matters to decision makers and members of the public". If an RPP is aware of a potential impact imposed by a development application, in particular if it relates to public health and safety, there is an obligation to appropriately investigate and, if necessary, mitigate that potential impact. City Staff are not supportive of the proposed Regulation. As an alternative, City staff recommend that the province work with municipalities and other stakeholders to develop provincial guidelines, criteria, or terms of references for technical studies to ensure consistency on the preparation and evaluation of such studies across all municipalities, while also allowing some regional flexibility.
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	Should the proposed changes be approved, the City would request that all technical studies currently listed in “Schedule I – Other Information and Materials” of the Urban Hamilton Official Plan and “Schedule H – Other Information and Materials” of the Rural Hamilton Official Plan be identified as topics/studies being permitted to be required by a municipality as part of a complete application. Prescribed Professionals The Planning Act 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. The only review City staff complete is against the applicable terms of reference to ensure the submitted material has sufficient information. 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. The City has prepared terms of references for materials/studies required for a complete application that identify which professionals can prepare each type of 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 in making a recommendation for Council to consider, however this is not part of the Bill 17 changes. City staff note that, as the City is compelled to accept a submission by a future prescribed professional for the purposes of deeming an application complete, there may a prolonged review process if the submitted materials require updates to information and materials or if studies/plans contain conflicting advice or recommendations. City staff could have previously addressed these concerns prior to deeming the application complete. City Staff are generally supportive of an Ontario Regulation that prescribes professionals. The ERO posting also seeks feedback on which certified professionals should be included in the proposed Ontario Regulation. City Staff recommend that the professionals identified in our terms of reference for the various technical studies/plans be included. This would ensure no conflicts between our municipal terms of reference and the proposed Ontario Regulation.
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