

Bill 109 Implementation, Phase 1 - Recommended Official Plan and Municipal Code Amendments

Date: February 9, 2023

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

The recommended Official Plan Amendment (OPA 641) and municipal by-law included in this report address recent changes to the *Planning Act* and *City of Toronto Act, 2006* under Bill 109, the *More Homes for Everyone Act, 2022*.

Under the legislation, changes to pre-application consultation, complete application, delegated authority, and timeline to appeal for Site Plan Control applications came into effect on July 1, 2022.

The recommendations included in this report bring the City of Toronto's Official Plan and Municipal Code into conformity with in-force Provincial legislation.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning, recommends that:

1. City Council adopt the Official Plan Amendment 641 substantially in accordance with Attachment 2 to this report.
2. City Council amend the City of Toronto Municipal Code, Chapter 415, Development of Land, substantially in accordance with Attachment 3 to this report.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the Official Plan Amendment and the amendment to the City of Toronto Municipal Code as may be required.

FINANCIAL IMPACT

There are no direct financial impacts associated with this report. However, as addressed in a previous related report ([EX1.4](#)), Bill 109 presents significant risk to the City's cost recovery model of development review services, including:

- the City's ability to retain revenue generated through the processing of development applications; and
- the cost of right-sizing the development review service's staff complement to better meet new legislated requirements.

The recommended Official Plan and Municipal Code amendments included in this report assist in mitigating the City's risk related to timeline management and cost recovery.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial implications.

EQUITY IMPACT STATEMENT

The broader impacts of Bill 109 on Indigenous, Black and Equity-seeking groups is described in the report "Implementing Bill 109 - The *More Homes for Everyone Act, 2022*" ([EX1.4](#)).

The recommended Official Plan Amendment has been analysed at the definition and planning stage for potential impacts on Indigenous, Black and Equity-seeking groups of Toronto. Complete application provisions for Site Plan Control applications enable the City to "require" rather than "encourage" that an application meet minimum application requirements and be deemed complete prior to review. Some requirements, such as those related to affordable housing or climate change, disproportionately impact Indigenous, Black and Equity-seeking groups.

DECISION HISTORY

On December 15, 2022, City Council adopted, as amended, the report "Implementing Bill 109 - The *More Homes for Everyone Act, 2022*," from the Interim Deputy City Manager, Infrastructure and Development Services regarding the City's approach to addressing the impacts of the legislation. City Council directed the Chief Planner and Executive Director, City Planning to report back to Planning and Housing Committee with recommended Official Plan and Municipal Code amendments.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.EX1.4>

On May 11, 2022, City Council adopted staff recommendations from the report "Review of Bill 109, the *More Homes for Everyone Act, 2022*," from the Chief Planner and Executive Director. This report summarized the implications of Bill 109 for the City's development review process and highlighted concerns with the legislation.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.PH33.11>

On March 30, 2022, Executive Committee referred Item EX31.11 to the City Manager and requested the City Manager, in consultation with the Chief Planner, the Executive Director Housing Secretariat, and the City Solicitor, as appropriate, to report to the Planning and Housing Committee on the new "More Homes for Everyone Plan" legislation. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.EX31.11>

COMMENTS

Background

Bill 109, the *More Homes for Everyone Act, 2022*, received Royal Assent on April 14, 2022. The legislation amends six statutes, including the *Planning Act*, *Development Charges Act*, the *Ontario Heritage Act* and the *City of Toronto Act, 2006*. Under the *Planning Act*, amendments impact:

- Ministerial approval authority for Official Plan Amendments;
- Site Plan Control;
- Planning application fees;
- Municipal review of Community Benefits Charges by-laws;
- Parkland requirements on land designated as transit-oriented community land;
- Extensions for Plan of Subdivision approvals; and
- Ministerial authority to make certain regulations respecting surety bonds.

The anticipated impacts of Bill 109 and the City's approach to implementing legislative change were documented in detail in a series of reports to Council in May 2022 ([PH33.11](#)) and December 2022 ([EX1.4](#)). The legislation comes into effect in phases. Changes related to Site Plan Control came into effect on July 1, 2022 and will be implemented through the recommended Official Plan and Municipal Code amendments included in this report. Subsequent reports will address Bill 109 implementation as it impacts other components of the Planning process.

Conformity with Provincial Policy and Legislation

The recommended OPA 641 is consistent with, conforms to and aids in the implementation of the PPS and Growth Plan (2020) by ensuring the Official Plan conforms to, and does not conflict with, the *Planning Act* and *City of Toronto Act, 2006*.

The recommended OPA 641 reflects the complete application provisions for Site Plan Control that came into effect on July 1, 2022 and addresses Policy 4.6 of the PPS. Policy 4.6 states that "the official plan is the most important vehicle for implementation of [the] Provincial Policy Statement."

Complete application provisions for Site Plan Control enable the City to ensure the minimum application requirements of the *Planning Act* and *City of Toronto Act, 2006*, and City of Toronto Official Plan, are met and can be holistically considered against the

guiding principles of the Growth Plan (2020). Specifically, Policy 1.2.1 of the Growth Plan speaks to supporting the achievement of complete communities, prioritizing intensification, supporting a range and mix of housing options, and integration of land use planning, investment in infrastructure and public service facilities, and integrating climate change considerations.

Summary of Public Consultation

On February 7, 2023, staff hosted a virtual public open house to provide information and received feedback and input on OPA 641. Notice of the open house was posted to the City Planning Consultations webpage.

Approximately 20 participants joined the virtual meeting. City staff provided a presentation including an overview of legislative change under Bill 109; a review of the City's existing policy related to Site Plan Control and how the direction has changed under the legislation; and a detailed description of the recommended Official Plan Amendment.

Participants were given the opportunity to ask questions and share comments. Some participants raised questions related to the broad impacts of Bill 109 on the development review process, including reduced timelines, application fee refunds, process improvements and the need for additional staff.

A few questions arose relating to an applicant's and/or staff's ability to suspend or waive legislated timelines in the interest of working through a proposal, or, when it becomes clear that additional work is needed to establish or update the planning framework to address a proposal.

Participants also provided commentary on potential items to consider for potential future amendments to the City's Site Plan Control Exemptions by-law.

Recommended Official Plan Amendment 641

Attachment 1 to this report shows the amendments incorporated into Chapter 5 and Schedule 3, of the Official Plan for reference purposes. Attachment 2 includes the implementing by-law.

Chapter 5 of the Official Plan provides guidance regarding the planning process. It includes direction for mandatory pre-application consultation, community consultation (where applicable), application requirements, and complete applications. Detailed application requirements are addressed in Schedule 3.

Under Bill 109, complete application provisions for Site Plan Control applications are now in effect. The recommended amendment requires applicants to provide minimum application requirements as prescribed under the *Planning Act* and *City of Toronto Act, 2006*, and those included in Schedule 3 of the Official Plan, as part of a complete Site Plan Control application. The Official Plan Amendment does not establish or add any new application requirements to any part of the Official Plan or amend or remove any

existing requirements from any part of the Official Plan, rather it makes existing "encouraged" application requirements "mandatory" for Site Plan Control.

Technical amendments are also made to ensure consistent use of terminology (e.g., "submission," "minimum application requirements," and "complete application") between the Official Plan and the City's Development Guide.

Implementing Approved Amendments to Municipal Code, Chapter 415, Development of Land

Municipal Code amendments to address legislative conformity and other technical/housekeeping matters were approved by Council at its meeting of December 15, 2022 ([EX1.4](#)). Attachment 3 to this report includes the implementing by-law.

In summary, amendments to Chapter 415:

- Clarify delegated authority to the Chief Planner or their designate by removing City Council authority for Site Plan Control approval.
- Clarify delegated authority to the Chief Planner or their designate by removing City Council authority for Draft Plan of Condominium approval for applications, with the exception of applications that involve the conversion of six or more rental housing units.
- Provide other minor wording revisions.

Next Steps

The City is taking a phased approach to implementing Bill 109. Further reporting through Planning and Housing Committee in 2023 will recommend additional Official Plan and/or Municipal Code amendments that may include, but are not limited to:

- Further updates to Chapter 5 of the Official Plan and/or Municipal Code Chapter 415 related to pre-application consultation and community consultation
- Further updates to Schedule 3 of the Official Plan related to application requirements
- Updates to the City's Site Plan Control Exemption By-law
- Introduction of a planning application fee refund policy
- Additional delegated authority for certain planning matters to the Chief Planner and Executive Director, City Planning

Conclusion

The recommended OPA 641 and municipal by-law included in this report address changes to the *Planning Act* and *City of Toronto Act, 2006*, in effect since July 1, 2022 under Bill 109.

The recommended OPA 641 is consistent with, conforms to and aids in the implementation of the PPS and Growth Plan (2020) by ensuring the Official Plan conforms to, and does not conflict with, the *Planning Act* and *City of Toronto Act, 2006*.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Recommended Official Plan Amendment, Incorporated into Section 5.5 and Schedule 3

Attachment 2: By-law to Adopt Official Plan Amendment 641

Attachment 3: By-law to Amend City of Toronto Municipal Code Chapter 415, Development of Land