

## **Bill 109 Implementation, Phase 2 - Recommended Official Plan and Municipal Code Amendments respecting Delegated Authority for Minor Zoning By-laws**

**Date:** June 19, 2023

**To:** Planning and Housing Committee

**From:** Chief Planner and Executive Director, City Planning

**Wards:** All

### **SUMMARY**

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The recommended Official Plan Amendment (OPA 660) and amendments to Municipal Code Chapters 415 and 169 recommended in this report establish new policy tools that enable the City to better address recent changes to Zoning By-law Amendment (ZBA) decision-making timelines in the *Planning Act* under Bill 109, the *More Homes for Everyone Act, 2022*.

OPA 660 identifies four types of minor zoning by-laws that Council may choose to delegate to a committee or City official, including: Removal of a Holding ("H") Symbol, Temporary Use by-laws, amendments to incorporate lands into Zoning By-law 569-2013, and enactment of housekeeping/technical by-law amendments to the city-wide Zoning By-law. While OPA 660 establishes policy direction for all four types, at this time, staff are recommending that Council delegate Removal of a Holding ("H") Symbol to the Chief Planner.

OPA 660 also addresses alternative measures for informing and obtaining the views of the public regarding minor zoning by-laws, including streamlined notice and public meeting requirements.

The anticipated benefits of OPA 660 include reduced processing times for minor zoning by-laws that are routine and/or technical in nature. As such, application fees for certain minor zoning by-law applications may decrease. The recommended amendments also support a focus on high-value, complex zoning by-law matters at Community Councils and City Council by delegating authority for follow-on processes (e.g., removing a Holding ("H") Symbol) and housekeeping/technical matters to staff.

## **RECOMMENDATIONS**

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

1. City Council adopt the Official Plan Amendment 660 substantially in accordance with Attachment 2 to this report.
2. City Council amend the City of Toronto Municipal Code, Chapter 415, Development of Land, and Chapter 169, City Officials, substantially in accordance with Attachment 3 to this report.
3. City Council delegate by-law making authority to the Chief Planner and Executive Director, City Planning and their designate for the purposes of Removal of a Holding ("H") Symbol in accordance with Recommendation 2.
4. 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.
5. City Council authorize the City Clerk, in consultation with the Chief Planner and Executive Director, City Planning and the City Solicitor, to review and update the City's practices for collecting and maintaining contact information for persons and organizations to facilitate the implementation of Official Plan Amendment 660 with respect to the giving of notice by email.

## **FINANCIAL IMPACT**

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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

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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. The OPA is expected to support better access to the planning process by establishing policy direction related to alternative methods of informing and obtaining the views of the public. Additionally, delegated authority of minor zoning by-laws may, in some cases, support more timely approval of affordable housing, the lack of which disproportionately impacts Indigenous, Black and Equity-seeking groups.

## DECISION HISTORY

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### Bill 109 Implementation

On March 29, 2023, City Council adopted the report "Bill 109 Implementation, Phase 1 - Recommended Official Plan and Municipal Code Amendments," to implement complete application provisions for Site Plan Control applications.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH2.1>

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>

### Improvement to Public Notice

On June 7, 2022, the General Government and Licensing Committee requested the Chief Planner in consultation with various divisions to consider opportunities to have enhanced development application public information signs and directed the City Manager to contact the Provincial government to explore options in modifying and enhancing the statutory notices. The General Government and Licensing Committee Decision Item GL31.17 may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.GL31.17>

On April 23, 2019, the General Government and Licensing Committee requested the City Manager and City Clerk to provide an update on measures that the City has taken to improve public notices for planning applications and on how residents and business are given for matters that affect them. The General Government and Licensing Committee Decision Item GL4.15 may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2019.GL4.15>

## COMMENTS

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### Bill 109 Implementation, Phase 2

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*. Among other matters, the legislation introduces punitive measures (i.e., application fee refunds) for exceeding legislated review timelines.

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 City is responding to the impacts of the legislation in phases. This report and the recommended OPA 660 represent Phase 2 of the City's response.

### Background

The *Planning Act* provides tools to help municipalities implement their Official Plans. Bill 13, the *Supporting People and Businesses Act, 2021*, introduced a new section 39.2 to the *Planning Act*, enabling municipal councils to delegate, by by-law, the authority to pass zoning by-laws 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 *Planning Act* requires a municipality's Official Plan to include policies that specify the types of minor by-laws that may be delegated. A jurisdictional review, summarized in Attachment 4 to this report, shows that a number of other Ontario municipalities have recently introduced Official Plan policy to this effect.

Direction on what types of by-laws can be considered "minor" is limited. The *Act* cites by-laws to remove a Holding ("H") Symbol and to authorize the temporary use of land, buildings, or structures as being of a minor nature. Otherwise, the *Act* indicates that municipalities should exercise their discretion around what is a "minor" by-law, on the understanding that enabling Official Plan policy will be subject to a public review and commenting process.

OPA 660 includes four types of minor zoning-by laws that may be delegated:

- Removal of a Holding ("H") Symbol: A "H" is used when the intended use and zoning is known, but certain conditions must be met before the lands can be developed. Removal of the "H" currently requires a decision of Council, but is not subject to

additional public process. Only the applicant has the right to appeal Council's decision.

- Temporary Use by-laws: This type of by-law enables the temporary use of land, even though the use may not comply with the Official Plan or zoning by-law. Temporary Use by-laws requires a public process and are subject to appeal rights.
- Amendments to bring lands into Zoning By-law 569-2103: Properties not subject to City-wide Zoning By-law 569-2013 may be brought into 569-2013 based on the in-force and effect zoning for the same Zone category in the City-wide By-law. These types of amendments require a public process and are subject to broad appeal rights.
- Housekeeping/technical by-laws: These amendments are for the purpose of correcting errors and making technical revisions. They require a public process and are subject to broad appeal rights.

Other minor zoning by-law types permissible under the *Act* may be identified in the future and would be subject to a separate Official Plan Amendment process.

### **Conformity with Provincial Policy and Legislation**

The recommended OPA 660 is consistent with, conforms to and aids in the implementation of the Provincial Policy Statement (2020) and A Place to Growth: Growth Plan for the Greater Golden Horseshoe (August 28, 2020 Consolidation) and implements Section 39.2 of the *Planning Act*.

The recommended OPA 660 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." OPA 660 implements this direction by establishing policy direction related to delegated authority for minor zoning by-law amendments in the City of Toronto Official Plan.

### **Summary of Public Consultation**

On May 31, 2023, staff hosted a virtual public open house to provide information and receive feedback and input on OPA 660. Notice of the open house was posted to the City Planning Consultations webpage. Notice was also shared via email with a city-wide list of Residents' Associations and members of the Toronto Chapter of the Building Industry and Land Development Association (BILD).

Approximately 20 participants joined the virtual meeting. City staff provided a presentation including an overview of legislative change under Bill 109 and a description of the recommended OPA 660 and related Municipal Code 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 and requested further community consultation on the process improvements the City is contemplating.

A few participants questioned what types of uses may be permitted under temporary use by-laws. Staff noted that a variety of uses may be permitted and that a zoning by-law amendment to permit a temporary use remains subject to a full review by City staff.

## **Approach to Implementation**

Staff recommend a two-step approach to implementing delegated authority for minor zoning by-laws:

- Step 1: Establish Official Plan policy (OPA 660) to identify the types of minor zoning by-laws that may be delegated; and
- Step 2: Adopt a delegation by-law to delegate authority for a specified minor zoning by-law type(s), when the process to implement the alternative measures to inform and obtain the views of the public are in place.

## **Recommended Official Plan Amendment 660**

Attachment 1 to this report provides plain text of the amendments to Chapter 5 of the Official Plan for reference purposes. Attachment 2 includes the implementing by-law.

### *Delegated Authority for Minor Zoning By-laws*

Chapter 5 of the Official Plan outlines a variety of tools that the City can use to implement the Plan's objectives. Section 5.1 includes policy tools available to municipalities under the *Planning Act* for managing growth and change. Recommended OPA 660 introduces two new policies to section 5.1 to address delegated authority for minor zoning by-laws and alternative measures for informing and obtaining the views of the public.

A new policy 5.1.9 will:

- Establish Council's authority to delegate minor zoning by-laws to the a Committee of Council or a City Official, such as Chief Planner and Executive Director, City Planning, or their designate; and
- Specifically identify the types of minor zoning by-laws that may be delegated, including removal of a Holding ("H") Symbol, temporary use by-laws, amendments to incorporate lands into Zoning By-law 569-2013, and enactment of housekeeping/technical amendments. Other minor zoning by-law types may be identified in the future through a separate Official Plan Amendment.

### *Alternative Measures for Informing and Obtaining the Views of the Public*

A new policy 5.1.10 will:

- Implement subsection 34(14.3) of the Planning Act in the Toronto Official Plan

- Set out alternative measures for informing and obtaining the views of the public regarding minor zoning by-laws. Compliance with these measures replaces the legislative requirements to provide notice, hold a public meeting, and provide notice of the public meeting under the Act. Information regarding appeal rights must continue to be provided.
- Establish authority to streamline the notice and public meeting requirements for amendments to bring lands into 569-2013 and other housekeeping amendments, in light of their administrative and/or corrective nature.
- Enable appropriate scoping and streamlining of the process for public engagement for minor zoning by-laws and other planning application types (where applicable).

Further consultation is required regarding the implementation of alternative measures for temporary use by-laws, housekeeping/technical by-laws and any other "minor" by-law types prior to recommending Council delegate authority for those by-laws to a committee or City Official.

Staff recommend delegating authority to the Chief Planner to remove a "H," as described in more detail below.

### **Related Amendments to Municipal Code, Chapter 415, Development of Land and Chapter 169, City Officials**

A related amendment to the Municipal Code is included in Attachment 3 to this report. As noted above, OPA 660 establishes policy direction for the types of minor zoning by-laws that may be delegated. A decision of City Council and related Municipal Code amendment is required to delegate by-law making authority to the Chief Planner and Executive Director, City Planning, or their designate.

At this time, staff recommend delegating authority to the Chief Planner for removal of a Holding ("H") Symbol only for the following reasons:

- Removal of a "H" is a follow-on process. A "H" is used when the intended use and zoning for lands is known, but certain conditions, such as those related to providing infrastructure and environmental remediation, must be met before the lands can be developed, or in cases where phasing of development is desired (e.g., Regent Park redevelopment).
- Holding provisions are part of a suite of policy tools staff may begin to use more frequently to manage legislated decision-making timelines for Zoning By-law Amendments under Bill 109.
- As a full review and public process is required to adopt a zoning by-law with a "H" in place, the removal of a "H" (once all conditions have been met) does not require a further public process (i.e., a statutory public meeting).
- Appeal rights on a decision of Council to remove a "H" are limited to the applicant only. Information regarding appeal rights does not need to be broadly distributed.

- No new operational procedures are required to support delegation of removal of a "H." Applicants will continue to submit an application and pay a fee. Staff will continue to review applications to ensure the conditions of the "H" have been satisfied. In place of a report and recommendation to Council, staff will make a recommendation to the Chief Planner for decision.

Attachment 5 to this report includes high-level process diagrams illustrating the existing process for removal of a "H" and the recommended process should OPA 660 and related Municipal Code amendment be adopted.

## **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

## **Conclusion**

The recommended OPA 660 and municipal by-law included in this report addresses increased pressure on decision-making timelines under Bill 109, the *More Homes for Everyone Act, 2022*.

The recommended OPA 660 is consistent with, conforms to and aids in the implementation of the PPS and Growth Plan (2020) and appropriately implements section 39.2 of the *Planning Act*.

## **CONTACT**

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## **SIGNATURE**

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Gregg Lintern, MCIP RPP  
Chief Planner and Executive Director  
City Planning



## **ATTACHMENTS**

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**Attachment 1:** Plain Text of Recommended Official Plan Amendment 660

**Attachment 2:** By-law to Adopt Official Plan Amendment 660

**Attachment 3:** By-law to Amend City of Toronto Municipal Code Chapter 415, Development of Land and Chapter 169, City Officials

**Attachment 4:** Summary Chart of Jurisdictional Review

**Attachment 5:** High-level Process Diagram for Removal of a Holding ("H") Symbol