

Bill 109, More Homes for Everyone Act, 2022

Key Elements and City's Implementation Options

Key Elements of Bill 109

- An Act to amend the various statutes with respect to housing, development and other matters
- First major legislative response to the recommendations of the provincial Housing Affordability Task Force Report of February, 2022
- Received both third reading and Royal Assent on Thursday April 14, 2022, before the expiration of the commenting period on April 29, 2022
- Intended to incentivize the timely processing of certain applications to bring more housing units to market

Key Elements of Bill 109

- Brings significant changes to:
 - the Planning Act
 - the Development Charges Act, 1997
 - the City of Toronto Act, 2006
 - the New Home Construction Licensing Act, 2017
 - the Ontario New Home Warranties Plan Act
- Based on the premise that an inadequate supply of housing has contributed immensely to the affordability crisis
- Reviewed by staff from Development Services, City Planning and Design, Building, Government Relations, Parks Planning, Legal, Finance, Environment and Development Engineering, Risk Assessment and Banking and Investments

Key Elements of Bill 109 and Implementation Options for Brampton

1. COMMUNITY INFRASTRUCTURE AND HOUSING ACCELERATOR (“CIHA”)

- A new type of ministerial zoning order to expedite approval processes in key projects
- Current Ministers Zoning Order (“MZO”) stays as is

Staff Comments

- Intended to speed up approvals for affordable housing and community infrastructure, while increasing transparency that is absent in the MZO process
- Exemption by the Minister for other necessary planning-related approvals
- Can only be used after final CIHA Guidelines have been published
- Detailed guidance required on the applicability of each tool (MZO and CIHA)

Key Aspects of MZO and CIHA

	MZO	CIHA
1.	There is no requirement of public notice and consultation by the municipality prior to a request for an MZO from the Minister.	There is a requirement of public notice and consultation considered appropriate by the municipality prior to a CIHA Order from the Minister.
2.	The Minister can grant an MZO as requested or one with modifications and conditions.	The Minister can grant a CIHA Order as requested or one with modifications and conditions.
3.	MZOs do not need to be compliant with any provincial policy statements or municipal OPs and are not subject to Tribunal appeal.	CIHA Orders do not need to be compliant with any provincial policy statements or municipal OPs and are not subject to Tribunal appeal. Additionally, this exemption can extend to subsequent approvals (e.g. the subdivision and site plans), after adequate “mitigation” of any potential adverse impacts.
4.	No formal guidelines on the issuing process for MZOs, although municipal Councils’ support is preferred	CIHA Orders can only be requested by municipal Councils with the Minister having to follow “guidelines” on the issuing process.

Implementation Plan for CIHAs

Next Steps

- Province to publish final provincial Guidelines for CIHAs
- Public Notice and Consultation - establish a 'Brampton specific' public consultation process
- CIHA Review Fees - explore collection of development application review fees for CIHA applications
- CIHA Application Submission Requirements - establish clarity around submission material for evaluating a CIHA proposal

2. GRADUAL REFUNDS ON ZONING BY-LAW AMENDMENT (“ZBA”) AND SITE PLAN (“SP”) APPLICATION FEES FOR NON-DECISION WITHIN TIMELINES

- Gradual refund regime will apply to applications received on or after January 1, 2023
- The Province aims to use this regime to incentivize municipalities to make timely decisions

Fee Refund Amount	If No Decision on ZBA Within	If No Decision on ZBA+OPA Within	If SP Not Approved Within
50%	90 days	120 days	60 days
75%	150 days	180 days	90 days
100%	210 days	240 days	120 days

Staff Comments

Brampton is committed to continued improvement of the development review process for applicants, staff, partners and the public

- **Collaborative approach** - working with applicants to find mutually agreeable solutions so applications can be approved in a timely fashion
- **External factors affecting review timelines** - many factors affecting timelines lie outside the control of the City, such as processing timelines of external agencies
- **Process improvements** - successful modernization, ongoing end-to-end assessment of all development review processes, using 'Provincial Audit and Accountability Fund' and 'Provincial Streamline Development Application Fund'

Modernization and Process Improvement Projects at the City

- Accela development tracking software: allowing for fully digital submissions, circulation and review
- BRAMPlan Online: Portal that allows applicants to manage their applications, obtain real-time status updates and establish accountability throughout the Development Application Approval Process (DAAP)
- MOBIINSPECT: Introduction of mobile and remote video inspections
- Digitization of Property Records (and on-line requests)
- Online applications and digital mark-up solution
- E-mail permit issuance
- Online inspection requests & e-mail booking confirmation
- Skip the Line (Online appointment booking system)
- GeoHub – permit data (real-time inspection results)

Staff Comments - Fees and Cost Recovery Implications

- Majority of the 2021 development applications that would be subject to these rules had been processed with time periods exceeding the new mandatory refund timelines

Application Type							
	No Refund	50% Refund	75% Refund	100% Refund	Total Amount Refunded	Amount Retained by City*	Total Fees Collected By City
Approved OPA/ZBA	\$0.00	\$6,269.50	\$38,298.00	\$48,344.00	\$92,911.50	\$19,035.50	\$111,947.00
Currently In Review ZBA	\$0.00	\$0.00	\$206,757.12	\$364,223.60	\$570,980.72	\$68,919.04	\$639,899.76
Currently In Review OPA/ZBA	\$0.00	\$135,719.22	\$181,897.06	\$1,020,497.07	\$1,338,113.34	\$212,199.07	\$1,550,312.41
Approved Site Plans	\$0.00	\$1,722.00	\$1,237.50	\$169,047.00	\$172,006.50	\$2,152.50	\$174,159.00
Currently In Review Site Plans	\$0.00	\$0.00	\$0.00	\$2,945,131.89	\$2,945,131.89	\$0.00	\$2,945,131.89
TOTAL (\$)	\$0.00	\$143,710.72	\$428,189.68	\$4,547,243.56	\$5,119,143.95	\$302,306.11	\$5,421,450.06

* Amount based on days surpassed as of May 12th, 2022. Amount retained subject to decrease.

Implementation Options for Fee Reimbursement Regime

Next Steps

Detailed review of the following preliminary options:

- A more robust development pre-application process
- Early neighborhood consultation
- Enhanced requirements for complete applications
- Revisiting the DAAP processes
- Potential expansion of “Holding” provisions use
- Comprehensive review of DAAP fees in consultation with industry
- Exploring implementation options for “stop the clock” mechanisms

3. AMENDMENTS TO SUBDIVISION CONTROL

- Intention: streamlining of subdivision approval processes and increased certainty and transparency
- Ministerial authority to pass regulations on “prescribed matters” that cannot be imposed as subdivision conditions
- A one-time discretionary authority to reinstate draft plans of subdivision that lapsed within the past five years

Implementation Options for Subdivision Control

Staff Comments

- Lack of clarity around the conditions of approval that could be impacted, and if these could potentially have negative impacts, including on the fiscal health of the municipality
- Staff are comfortable with the provision on reinstatement of expired approved draft plans of subdivision

Next Steps

- A dialogue with the provincial government to obtain more clarity
- A detailed review of general and commonly anticipated subdivision conditions to understand possible financial and non-financial impacts

4. ABILITY TO DEFINE REQUIRED SITE PLAN DOCUMENTATION AND DELEGATION OF APPROVALS

- A number of amendments to Section 41 of the Planning Act regarding Site Plan Control
- The Province of Ontario is given regulatory authority to prescribe required documents that must be submitted for site plan approval on applications
- The Planning Act would require Councils to appoint an “officer, employee or agent” to approve site plans – this removes the power of Council to approve site plans and transfers it all to the delegate

Implementation Options for Site Plan Control

Staff Comments

- Support this new authority to assign a delegate that Council deems appropriate for SP approvals. In Brampton, SP approval is already delegated to staff.

Next Step

- Staff will establish complete application requirements for site plan applications, similar to the existing rules for OPAs and ZBA applications

5. REGULATORY POWER ON ACCEPTABLE COLLATERAL TO SECURE DEVELOPMENT OBLIGATIONS

- The Minister can pass regulations on allowing surety bonds and other security instruments to secure obligations imposed by municipalities as a development application approval term
- Intended to free up money for homebuilders to pursue additional construction projects

Staff Comments

- Currently, the City uses letters of credit to ensure the municipality will receive its funds if a developer defaults in performing on its obligations
- Although staff are concerned with the proposed use of surety bonds, staff will continue to co-ordinate with neighboring municipalities and industry

Implementation Options for Surety Bonds

Next Steps

- Advocacy to the Province to consult on any regulations to stipulate the specified types of surety bond or other instruments
- A comprehensive risk assessment with Legal and Finance and a response for Council consideration
- Investigation into the forms of acceptable bonds, such as demand bonds
- Ensuring that Brampton is aligned with best practices

6. AMENDMENTS RELATIVE TO PARKLAND DEDICATION

- An alternative parkland dedication rate for Transit-Oriented Communities (TOCs) to provide increased certainty of parkland requirements:
 - Sites less than or equal to five hectares, 10% of the land or its value
 - Sites greater than five hectares, 15% of the land or its value
- Declare land in a TOC that has easements or below-grade infrastructure as being “encumbered” - land conveyed for parkland, with full credit for parkland dedication

Implementation Options for Parkland in TOCs

Staff Comments

- Require clarity around the definition and applicability of TOCs
- Limit the City's ability to provide adequate amenities and services to residents by accepting encumbered land
- Forceful acceptance of parkland inconsistent with those recognized in the Official Plan, Parkland Dedication By-law and Parks and Recreation Master Plan throughout a TOC

Next Steps

- Advocacy and outreach to Ministry staff - Unclear on TOCs in Brampton
- A detailed analysis of the potential impacts on parkland if the City is to accept encumbered land and limits on the alternative rate

7. MINISTER REVIEW OF OFFICIAL PLANS & AMENDMENTS

Provides the Minister of Municipal Affairs and Housing with new discretionary authorities when making decisions to:

- “Stop the clock” if more time is needed to decide on all Official Plan matters subject to Minister's approval
- 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

Staff Comments

- Possible cascading effect on Brampton's timelines for its OP approval, if the Region's OP is not approved or is delayed

8. MANDATORY 5 YEAR REVIEWS OF COMMUNITY BENEFITS CHARGES BY- LAWS

- Undertake and complete a review, including consulting publicly, on a CBC by-law at least once every five years
- Intended to increase transparency and public engagement

Staff Comments

- Brampton is currently undertaking the CBC strategy work
- Periodic reviews of the CBC Strategy does not pose any concerns
- Staff will factor in an added administrative cost and process for the municipality

9. DEVELOPMENT CHARGES (DC) ACT CHANGES

- Mandates treasurers' statements to be made available to the public on a municipality's website
- Municipal treasurer required to set out whether the municipality still anticipates incurring the capital costs projected in the municipality's DC background study for a given service. If not, an estimate of the anticipated variance from that projection would be provided along with an explanation for it

Staff Comments

- The Treasurer's Statement is already made public on an annual basis – a new dedicated webpage will be created
- Municipalities collect for "big ticket items" for longer than the DC by-law period of 5 years - very challenging and unreasonable for Brampton to spend the DCs collected over a five-year period on such items

Next Steps

- Continue to analyze financial and other impacts of Bill 109
- Consult with Council – Council Workshops in Q3, 2022
- Consult with other municipalities
- Consult with industry, including the local BILD chapter
- Prepare a detailed Implementation Strategy for Council endorsement

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