BRAMPTON

Report
Staff Report
The Corporation of the City of Brampton
2022-05-25

Date: 2022-05-15

Subject: **Recommendation Report: Bill 109, More Homes for Everyone Act, 2022**

Secondary Title: **Key Elements and City's Implementation Options**

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Recommendations:

1. **THAT** the report titled **Recommendation Report: Bill 109, More Homes for Everyone Act, 2022**(**Key Elements and City's Implementation Options**) to the Committee of Council meeting of May 25, 2022, be received;

2. **THAT** Council direct staff to bring forward a final Corporate implementation strategy for Bill 109 matters, including any business process changes;

3. **THAT** a copy of the report be sent as information to the Region of Peel and all relevant external agencies that participate in the City's development applications review process;

4. **THAT** Council advocate to the Province to explore other avenues to help municipalities expedite approvals in an effort to deliver new housing, including ensuring expedited approval timelines by provincial and regional review agencies;

5. **THAT** Council, with respect to the Community Infrastructure and Housing Accelerator (CIHA) tool, advocate to the Province to specify expected norms for public notice periods and public consultation, as well as provide clarity and direction on processing fees and application requirements in the final CIHA guidelines;

6. **THAT** Council direct staff to consult with Infrastructure Ontario for a comprehensive review of possible Transit Oriented Community locations in Brampton and impacts on City's parkland due to Bill 109;

7. **THAT** Council request the Province to consult on any regulations 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; and

8. **THAT** Council direct staff to confirm the City of Brampton's participation in the proposed Province of Ontario Housing Supply Working Group.

Overview:

- **Bill 109 is the first major legislative response to the recommendations of the provincial Housing Affordability Task Force Report.**
- **Bill 109 was introduced on March 30, 2022 and received both third reading and Royal Assent on April 14, 2022, before the commenting period of April 29, 2022 expired.**
- **This report highlights the key elements of Bill 109; including changes to the *Planning Act* and the *Development Charges Act* and possible implications for the City of Brampton.**
- **This report also proposes preliminary options for implementation of key elements of the Bill that may impact City operations, noticeably:**
    - **the mandatory reimbursement of development application fees for non-decisions within prescribed timelines,**
    - **a new Community Infrastructure and Housing Accelerator (CIHA) tool,**
    - **parkland contributions, and**
    - **surety bonds.**
- **Staff are planning a thorough consultation with City Council, external stakeholders and municipalities to prepare a fulsome implementation strategy.**
- **Staff seek direction to bring forward a final Bill 109 implementation strategy for Council approval.**

Background:

On March 30, 2022, the Province introduced Bill 109: An Act to amend the various statutes with respect to housing, development and various other matters. The Bill is considered to be the first step in implementing the recommendations of the Province's Housing Affordability Task Force (HATF) Report. Bill 109 includes targeted statutory changes for the immediate term in an effort to, among other goals, incentivize the timely processing of certain development applications to bring housing to market and increase transparency.

Consultation on various aspects of the Bill was open until April 29, 2022. Municipalities, including Brampton, were preparing to respond to the consultations. However, the legislation was fast-tracked at Queen's Park prior to the closing of the consultation window; and Bill 109 received both third reading and Royal Assent on Thursday April 14, 2022, without any amendments. (See **Appendix 1** for a copy of the Royal Assent for Bill 109.)

Bill 109 makes a number of significant changes to the *Planning Act*, the *Development Charges Act, 1997,* the *City of Toronto Act, 2006*, the *New Home Construction Licensing Act, 2017*, and the *Ontario New Home Warranties Plan Act*.

Many of the HATF's 55 recommendations are not included in Bill 109, and the Province is undertaking further consultation on aspects such as expanding zoning permissions for missing middle housing. A provincial Housing Supply Working Group is being established to engage with municipal and federal governments, partner ministries, industry, and associations. Brampton's Government Relations staff is pursuing avenues to ensure City participation in this group.

Staff Comments on Bill 109

Staff have comprehensively reviewed Bill 109 and analysed possible implications for Brampton. **This staff report includes input from various City divisions, such as Development Services, City Planning and Design, Building, Government Relations, Parks Planning, Legal, Finance, Environment and Development Engineering, Risk Assessment and Banking and Investments**.

Bill 109 is based on the premise that a lack of housing supply has contributed immensely to the housing affordability crisis. The Bill focuses on expediting the approval and supply of market housing.

Development Activity in Brampton

Housing approvals are steady in Brampton but many developments are not proceeding to construction. Development interest is high in Brampton. From 2019 to 2021 subdivision applications increased by 80%, site plan applications 100%, and pre-consultation applications have increased by 130%. There is supply in the pipeline. The City has been diligent about development approval timelines and trying to expedite approvals. Brampton approves around 5000 residential units annually, including second units. However, many projects do not proceed to construction after receiving zoning and site approvals. January, 2022 data indicates that *almost 9,014 approved residential units have not proceeded to construction*. This amounts to considerable amount of land locked in with development approvals issued but where housing is not being built for residents in need.

Development Review Process Improvements

Housing growth and development approval timelines are dependent on many factors. While improvements to the municipal development approvals process are possible, municipalities are concerned about the perception that housing supply will increase

significantly if only municipalities 'move faster'. Housing affordability is a complex issue, and while approval timelines are a part of the solution, all levels of government and private industry have a role to play to improving housing supply.

Brampton appreciates the importance of modernization and improvements to the development approvals process. The City has initiated a number of process improvement initiatives, as listed below, by leveraging technology to track and monitor application processing times and report on volume and type of development applications.

- Implementation of Accela development tracking software, allowing for fully digital submission, circulation and review
- BRAMPlan Online: The City was able to keep our virtual doors open thanks to the self-service online portal 'BramPlan Online'. It allows developers to manage all their Planning and Development applications, obtain real-time status updates and see who is working on their file.
- MOBIINSPECT: Introduction of mobile and remote video inspections.
    i. Staff completed a record 197,113 building inspections from January 1 to November 19, 2021. (177,292 total for year in 2020 – which was also a record setting year).
- Digitization of Property Records (and on-line requests)
- On-Line applications and digital mark-up solution
- E-mail permit issuance
- On-line inspection requests & e-mail booking confirmation
- Skip the Line (On-Line appointment booking system)
- GeoHub – permit data (real time inspection results)

Staff are undertaking a comprehensive, end-to-end review of all development review processes for further improvement. Provincial funding is being utilized for the following process related initiatives.

<u>Provincial Funding to Support Development Application Streamlining and Modernization</u>

Provincial Audit and Accountability Fund

The City will utilise the fund for the following projects to enhance development application processing times:

- Development Application Review Modernization Project;
- Committee of Adjustment Modernization Project; and
- Urban Design Guidance Modernization Project.

The outcome of each of these projects will be more efficient and effective review processes which will contribute to a more streamlined review process.

Provincial Streamline Development Application Fund

Through this fund, the City received $1M to advance additional projects that will facilitate greater efficiencies in the development application review process. These funds will be used to support the completion of the Comprehensive Zoning By-law review, identify efficiencies in the detailed engineering review process associated with subdivision development, and other smaller scale efficiency projects.

Key Elements of Bill 109 and Implementation Options for Brampton:

City staff have reviewed the final Bill and analysed the possible impacts to the City's processes and finances. Staff have also come up with proposed implementation options for key elements of the legislation that are expected to have an impact on City operations.

Staff seek Council direction to proceed with detailed analysis of any or all options presented below for each key element of the Bill and finalise an Implementation Strategy.

1. A new zoning order tool called Community Infrastructure and Housing Accelerator

Bill 109 adds to the Planning Act a new type of Ministerial Zoning Order ("**MZO**") that can be issued upon request by municipal Council – referred to as the Community Infrastructure and Housing Accelerator ("**CIHA**"). The goal of this tool is to expedite approval processes on key projects. The request can be for the Minister to exercise any municipal Planning Act Section 34 (zoning) power. This tool does not replace the current MZO tool.

Key aspects of MZOs and CIHAs:

	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 a 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 required to realize a use recognized by the Order (e.g. the subsequent subdivision and site plans), after adequate "mitigation" of any potential adverse impacts.

4.	No guidelines on the issuing process for MZOs	CIHA Orders can only be requested by municipal Councils with the Minister having to follow “guidelines” on the issuing process.

Types of Development Eligible for CIHA

CIHA Orders can be made for the following priority developments:

- community infrastructure that is subject to Planning Act approval including: lands, buildings, and structures that support the quality of life for people and communities by providing public services for matters such as health, long-term care;
- housing, affordable housing and market-based housing;
- buildings that would facilitate employment and economic development; and
- mixed-use developments.

Staff Comments

The CIHA would formalize requirements by which a municipality may request that the Province exercise the Minister's zoning order powers under the Planning Act. If utilized for municipal priority projects, the tool could speed up approvals for affordable housing and community infrastructure, while increasing transparency (given the required public notice and consultation) that is absent in the use of MZOs.

Under this order, the Minister can provide an exemption for other necessary planning-related approvals, including subsequent approvals, from provincial plans, the Provincial Policy Statement, and municipal official plans (if specifically requested by the municipality), and that the Minister may impose conditions on the municipality and/or the proponent.

It is unclear how the tool will address zoning matters, but “will not address environmental assessment matters related to infrastructure.” We would request that the Province provide additional details with respect to environmental approvals through the CIHA process.

The CIHA can only be used after final CIHA Guidelines have been published. The Province released draft **CIHA Guidelines (Appendix 2)** for consultation, and the commenting window closed on April 29, 2022. The Planning, Building and Economic Development Department submitted comments (**Appendix 3**) and proposed the following clarifications and additions:

- Expected norms for public notice periods and public consultation be included;
- Exemptions from provincial policy statements or municipal OPs be limited to developments that are of an emergency measure, and that development remain consistent with and/or in conformity with provincial policies and legislation;
- Qualification be provided for benefiting market housing that includes a provision of affordable units;

- For types of eligible developments, further clarity be provided for “any type of housing” as “any type of housing except housing on lands designated as Employment Lands, including land located within Provincially Significant Employment Zones”;
- Detailed guidance be provided on the applicability of each tool (MZO and CIHA) to avoid the simultaneous application of both tools; and
- Guidance or clarity be provided on municipalities’ ability to establish and require CIHA processing fees.

Next Steps

Staff recommend the following be explored in further detail in order to effectively utilise the CIHA tool in Brampton.

a) Public Notice and Consultation

The City will be required to establish a public consultation process for the newly proposed tool. The final CIHA Guidelines are expected to reflect comments received during the consultation period for the Province’s draft CIHA guidelines. Staff await the final guidelines, however, in case the guidelines do not provide further clarity on consultation, staff recommend that a similar and simplified process for public notice and consultation be considered for CIHAs in the future Bill 109 Implementation Strategy as the one that is currently in place for a regular rezoning application.

b) CIHA Review Fees

Staff anticipate uptake of this new tool by the development industry and recommend collection of development application review fees for CIHA applications. Recently, staff brought forward a report to Planning and Development Committee on fee standards. The CIHA is expected to result in expedited review timelines and there will be corresponding impact on staff and financial resources across the corporation, since multiple departments are involved in the review of development applications. Staff will complete an assessment of such additional resources that may be required and fees that may offset these additional resource requirements for CIHAs.

c) CIHA Application Submission Requirements

Staff recommend clarity around submission material for evaluating a CIHA proposal. The in-effect application requirements for development review could apply to all CIHA applications, and additional information could also be required in order to complete expedited reviews.

2. Gradual mandatory refunds for development application fees for Zoning By-law Amendment (“ZBA”) and Site Plan (“SP”) applications for non-decision within timelines

New additions to the Planning Act will require municipalities to refund up to 100% of development application fees paid for the following application types if it has not rendered a decision on (ZBA, ZBA+OPA) or approved (SP) within the following periods:

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

The time windows triggering the initial 50% refund are tied to the standard review period after which applicants gain a right to appeal to the Tribunal for non-decision. As part of these Bill 109 additions, the current standard review period for site plans is being extended to 60 days from 30 days.

It should be noted that the changes mandate that the City must approve a SP or be required to refund the application fee. This differs from the new refund provisions for ZBAs whereby a decision (approval or refusal) is needed or fees are required to be refunded.

Implementation of this 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.

Staff Comments

The City shares the goal of reducing approval times for development applications and is actively taking steps to do so. Brampton has made significant improvements to the development review process for applicants, staff, partners and the public as identified previously in this report and is committed to continuing to do so.

Collaborative approach

Staff take a collaborative approach in reviewing applications - working with applicants and stakeholders to find mutually agreeable solutions in a timely manner, so that developments can be approved once deemed acceptable,. Requiring refunds with the noted timelines will not accommodate the opportunity to have the necessary dialogue with applicants to bring their development proposals and supporting studies into conformity with City policies and standards to the point where they can be supported.

To meet the timelines, the City would likely need to make decisions on applications as they are submitted without being able to work with the applicant or stakeholders on changes. This may result in a large increase in instances where the City is refusing applications. The anticipated reaction from the applicant is that they would likely appeal these decisions with the result that the applications would be handled through Ontario Land Tribunal (“OLT”) processes, which are typically slower than City approval processes. In addition, the

increased number of refusals will create additional workload for the OLT creating a risk that the development approval process overall slows down substantially.

External factors affecting review timelines

Many of the factors affecting timelines lie outside the control of the City. The development review process is typically an iterative process where the Cprovides comments and the applicant responds with changes to their development. The time that an applicant takes to respond to staff comments plays a large role in the overall approval timelines. The review process also involves other agencies, such as regional governments, conservation authorities, utilities and school boards, and their timelines significantly affect approval timelines.

Applications and the associated studies and materials received by the City are often incorrect and incomplete, with the studies submitted not expressly following the City's posted Terms of Reference. This results in the need for application resubmissions, which then result in processing timelines that exceed the timelines noted before refunds are required.

To avoid issuing refunds to development application fees, municipalities may decide to render decisions solely on whether the initial submissions are acceptable for approvals, which would likely result in more refusal appeals to the OLT. It would also likely result in a much more rigorous "Completeness" review to ensure applications are fully accurate and appropriate prior to agreeing to "start the clock".

Fees and cost recovery

Staff have compiled details on the 2021 development applications that would apply to these mandatory refund rules to inform us about the potential financial impacts that would be experienced.

As noted in the chart below, the vast 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. For this reason, staff would have been required to refund all or part of the application fees to the applicants.

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.

The new mandatory refund rules could result in a significant loss of revenue, if we are not able to incorporate new strategies to be able to have Council render decisions within the required timelines. Any loss in revenue would need to be made up for from the general tax base. At present a significant portion of the true costs of the processing of development applications are covered by the City's tax base, as our studies have shown that the development application fees cover only approximately half of the total costs. Due to the introduction of mandated reimbursements - it is anticipated that the City would substantially increase development application fees to cover the true costs of development application processing. It is anticipated that many municipalities are currently not fully recovering their full costs through fees, and would pivot in this manner in response to the proposed legislation.

Next Steps

Staff propose the following preliminary options for process changes that could be reviewed in further detail:

a) *A more robust development pre-application process*

Currently the City's requirements for a development pre-application are not extensive. The City reviews the application and provides commentary on requirements for a future complete application and only reviews studies on a cursory basis to determine whether some elements of important information is provided. The pre-application process does not include a full review of studies to confirm accuracy or conformity with all requirements and standards, and is not circulated to external review agencies such as the Region of Peel, TRCA and provincial ministries such as Ministry of Transportation. The subsequent review of the complete/full application includes detailed reviews by these agencies, and usually requires multiple resubmissions, which extends overall review timelines.

A pre-application review is not considered to be part of the formal legislated application review. To improve process efficiencies and manage the legislated review timelines after deeming an application complete, staff recommend strengthening the pre-application process. Staff has already used enhanced pre-consultation processes effectively for certain strategic development projects, such as the Shoppers World redevelopment, that included working with the applicant to co-design the project to ensure the project achieves the objectives of the City and other stakeholders as well as those of the applicant. Doing this work at the outset for more projects will make for an overall better and quicker approval process. Staff propose requiring the more detailed, additional material to review the application in more depth. Staff also recommend that the pre-application process include a review by all external agencies so that high level technical issues are addressed and concerns are mitigated and that the applicant can make necessary changes to the submission prior to making a subsequent submission that would be deemed Complete by the City.

b) *Upfront non-statutory public consultation prior to a complete application submission*

Currently, a Pre-application is not shared with the public. The public and adjacent residents come to know of a proposed development in their neighborhood when the City receives a Complete application and sends out the mandatory public notice regarding application being Complete, and also of the subsequent statutory public meeting. The notice regarding Completeness is available through the Brampton Guardian, and the notice regarding statutory public meeting is available to the residents in the Guardian, as well as through mail (240 meters radius from the subject property).. This often results in residents bringing first thoughts and concerns to the public meeting, leading to both staff and the applicant spending a considerable amount of time addressing the concerns through subsequent resubmissions.

To avoid this delay, staff recommend implementation of Housing Brampton's Recommendation 9.1.2 Non-statutory neighborhood meetings led by proponents of development applications. These meetings can be held prior to the statutory public meeting process and can provide the opportunity to:

- Inform the public of an upcoming project, educate them about the planning process and their role in these meetings and decision-making process;
- Engage public in an informal setting and flag key concerns and/or issues and share ideas.

Some municipalities in Ontario include mandatory non-statutory public meetings as part of their planning process. For example, in Burlington, Toronto, and Kitchener, meetings are held prior to the statutory public meeting for Official Plan / Zoning By-law and Plan of Subdivision applications. In some instances, the cities directly inform the residents at the pre-application stage. These non-statutory meetings are not part of the Planning Act; thus each municipality has their own protocol, standards for public notice, presentation, and public feedback. Meetings are usually held in an open house format and are initiated by the applicant. Planning staff and the Ward Councillor are typically in attendance to receive input and respond to any queries. The venues for these meetings are typically in close proximity to the subject sites. In the City of Brampton, Councilors have occasionally and successfully initiated early public engagement to dispel public concerns around affordable or high density development applications.

Staff can modify the development review process requirements and establish a protocol for non-statutory neighborhood meetings led by applicants to reduce review timelines of complete applications.

c) *Enhanced requirements for Complete applications*

A challenge experienced by staff in the approval process has been the quality of submitted documents. Currently the City has a complete application checklist which provides guidance to the type of studies and plans that must be submitted with a full application. The studies are required to follow corresponding terms of reference, where available. Staff across all departments may now need to review these terms of reference in order to determine if additional details should be required in order to reduce review

timelines and resubmissions. Moreover, greater certainty about the quality and completeness of the applications submitted can be had by requiring Planning Justification Reports be signed off by a Registered Professional Planner (RPP) prior to submission – whereas this is not a current requirement. The RPP would use professional judgement to attest to the Completeness of the submissions to avoid delays in the approvals processes. This considerably impacts approval decisions arriving within prescribed deadlines. Staff are of the opinion that all of these measures, in conjunction with a more robust pre-application process and upfront non-statutory public consultation, will lead to more robust applications and improve overall review timelines.

d) Improve processes for more efficiency

Staff have continuously looked to make the development review process as efficient as possible. However, there may be opportunities for further improvements and staff will search for any opportunities to do so. One example could be the elimination the requirement for applicants to prepare Homebuyers Information Map for new residential developments. These maps advise homebuyers of information related to their development at the time they are purchasing it. While they provide some benefit, they are not a statutory requirement and require significant staff time to prepare. Eliminating them could help improve review timelines.

e) Reduced use of concurrent submissions for the same development

Currently the City allows concurrent applications to be submitted and reviewed for the same development application. For example, a ZBA and OPA; a ZBA and Subdivision (SB) or a ZBA and SP are processed simultaneously to support overall review. In the case of timelines, staff have observed that OPAs or SBs take longer to review than ZBAs, due to the complexity of reviews and clearances of conditions. In order to meet Bill 109 and Planning Act requirements, staff recommend de-linking concurrent application reviews and evaluation of each application separately and in an established sequence.

f) Expanded use of "Holding (H)" provisions for ZBAs

"Holding (H)" provisions enable zoning by-law amendments to be endorsed with conditions attached. The conditions may be related to completion of technical studies, receiving clearances from external agencies, etc. The zoned land use permissions are not in effect until the conditions are cleared by staff, and the Holding (H) is removed through the passing of a By-law to "lift" the Holding symbol. This lengthens the overall duration of receiving full and final zoning approvals, however it can support the applicant in proceeding to the next stage of application process. In case of Bill 109, use of Holding provisions can support the City in meeting the legislated timelines and avoid mandatory reimbursements.

g) Increased application fees

Expedited reviews will impact the City's budget and resources. Staff complement may need to be increased to meet the aggressive timelines. Further, any reimbursement of fees due to delays, mostly beyond the City's control, eg. discrepancy between the City's and external agencies' review timelines, will need to be compensated from tax reserves. Any resulting litigation due to delays, reimbursements and refusals will further impact the City finances. To counteract this, staff recommend an exploration of corresponding increase in development application fees and changes to the structure for how fees are collected. A detailed analysis will be required in order to arrive at the extent of the increase, and staff can bring a report forward with this information.

h) Exploration of a "stop the clock" mechanism

Due to the complexity of applications, applicants often take a long time to respond to staff comments and resubmit revised documentation for review. In addition, there are periods of time when Council is not able to hear matters including during election years and other breaks in Council decision making. Staff recommend a review of legislated authority or private legal agreements between the City and applicants to "stop the clock" whereby review timelines could be paused during times when the submission is with the applicant for revisions, as well as when Council is unable to take decisions.

All municipalities will face similar challenges with the proposed refund requirements. Staff will consult with other municipalities to identify best practices for responding to the refund requirements. Further options may arise from that review and staff's continued work on this issue.

3. Amendments to subdivision control

The Province can now prohibit certain matters from being the subject of conditions of draft plan approval. The Province can also establish a one-time discretionary authority to reinstate draft plans of subdivision that have lapsed within the past five years, subject to consumer protection provisions. This is meant to streamline subdivision approval processes and provide more certainty and transparency.

The Planning Act limits municipal authority to impose subdivision approval conditions to those that are "reasonable, having regard to the nature of the development proposed for the subdivision". Bill 109 adds Ministerial authority to pass regulations on "prescribed matters" that cannot be imposed as subdivision conditions.

In addition, municipalities will be able to grant a one-time reinstatement of a draft plan of subdivision for which the approval has expired within the past five years. Such reinstatement would require the subject lands not to have already been pre-sold according to the expired plan. Presently, Planning Act extensions to the approval time for meeting subdivision conditions can only be given before that approval time lapses. The Province believes these changes will help expedite new subdivision approvals.

<u>Staff Comments</u>

The Province offers no clarity on the type of conditions that could be prohibited for subdivision approvals. In a complex built-up area such as Brampton, conditions need to address challenges with encroachments, easements, areas with combined sewers and infill development and ensuring drainage in specific circumstances. Each approval includes a number of technical, legal and financial conditions associated with the subdivision registration, which if prohibited, could hamper the health and safety of future residents, or the fiscal health of the municipality if it cannot collect development related charges. Growth staging and sequencing, as well as cost sharing between landowners, and the City or land owners front ending the infrastructure costs are complex financial correlations, which if impacted, could cause developers to back out of infrastructure dedications and cost sharing.

Staff are generally comfortable with the provision on reinstatement of expired approved draft plans of subdivision.

Next Steps

Without the ability to know which type of conditions the Province would like to prohibit, the City cannot prepare an implementation strategy. Staff recommend a dialogue with the Province to obtain more clarity. Moreover, staff recommend a detailed review of general and commonly anticipated subdivision conditions to understand possible impacts, both financial and non-financial.

4. Ability to define required site plan documentation and delegation of approvals

Through Bill 109 a number of amendments have been made to Section 41 of the Planning Act regarding Site Plan Control. The changes include rules respecting pre-application consultations, complete applications, delegated approval authority and refunding of fees.

Under Bill 109, the Province is given regulatory authority to prescribe required documents that must be submitted for site plan approval on applications received after Bill 109 receives Royal Assent. The Province believes this will streamline site plan requirements and approval processes and help municipalities make decisions within realistic timelines.

Moreover, municipalities can require “any other information” if the OP considers it necessary. There is a Tribunal appeal mechanism for when municipalities fail to determine whether an application is complete within 30 days and to settle disagreements over completeness. In practice, this updated regime will mirror what is currently in place for OPA and ZBA applications.

Additionally, the Planning Act would require Council to appoint an “officer, employee or agent” to approve site plans. This change expressly removes the power of Council to approve site plans and transfers it all to the delegate. This mandatory delegation will only apply to site plans submitted on or after July 1, 2022. The Province believes these measures will streamline the development approval process.

Staff Comments

Staff 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 Steps

The City will need to 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" that developers can use to secure obligations imposed by municipalities as a development application approval term. The Province wants to promote the use of sureties and other securities that can free up money for homebuilders to pursue additional construction projects.

Staff Comments

When the City enters into certain types of development agreements, such as subdivision and site plan agreements, the City requires the landowner to post securities to guarantee that the works to be undertaken will be done in accordance with the approved plans and per the conditions of the agreement. In the instance where the developer does not undertake the appropriate works, or installs insufficient works, the municipality will utilize the securities to undertake the works to City standards. The most common tool utilized for development securities are Letters of Credit issued by financial institutions.

A Letter of Credit acts as a line of credit to a developer. The debt is applied in full as an assurance should the bank need to provide the funds to a municipality. As such, the amount of the Letter of Credit can reduce the ability of developers to finance numerous projects. Municipalities prefer Letters of Credit because the issuing financial institution has committed to advancing the funds to the City, should the other party default on their responsibilities.

A surety bond is a guarantee by a third party (often an insurance company) to assume a defaulting party's obligations. Surety bonds do not have the same carrying costs or financial burden as a Letter of Credit and as such, are more attractive to developers. However, the burden to a municipality in attempting to access a surety bond is resource intensive, requiring substantial legal intervention and the result may not guarantee that the municipality will receive the full amount secured against the works. Extensive effort is required by the municipality to demonstrate absolute failure to deliver by the landowner or private-corporation. Failed attempts to resolve the matter must then be demonstrated followed by extensive time and financial resources incurred by the City to explore all options for mediation. External legal expertise is required to work through the legalities of claiming sureties.

The surety's liability to pay or perform only exists to the extent of the default and actual damages sustained. The surety has a more active role as compared to the issuer of a Letter of Credit, where the obligation to pay arises on demand, rather than on default. Furthermore, the surety has options on how to respond in the event of a default. Recent efforts to claim surety bonds on municipal projects as a result of failure to comply with contractual terms is reminiscent of the challenges the City would face with successfully pulling surety resources from bonds.

Bill 109 provides that the Minister may make regulations authorizing landowners and applicants to choose the type of security they provide.

Staff reiterate that a letter of credit provides the best mechanism to ensure that the municipality will receive its funds if a developer defaults in performing its obligations. The City of Brampton will be assuming a high level of financial risk and potential exposure with this provincial direction.

Next Steps

Staff recommend that Council request the Province to consult on any regulations 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.

Staff will also undertake a comprehensive risk assessment and formulate a response for Council consideration. Preliminary options include investigating the forms of acceptable bonds, such as demand bonds; and requesting the same from applicants.

6. Amendments relative to parkland dedication

The Bill establishes an alternative parkland dedication rate for Transit-Oriented Communities (TOCs) to provide increased certainty of parkland requirements:

- For sites less than or equal to five hectares, parkland would be dedicated up to 10% of the land or its value
- For sites greater than five hectares, parkland would be dedicated up to 15% of the land or its value

In addition, the legislation also provides the Province with the ability to declare land in a TOC that has easements or below-grade infrastructure as being "encumbered", with the effect that the land must be conveyed for parkland, with full credit for parkland dedication.

Staff Comments

Staff require clarity around the definition and applicability of TOCs in Brampton. According to the Transit-Oriented Communities Act, 2020:

- A “transit-oriented community project” means a development project of any nature or kind and for any usage in connection with the construction or operation of a station that is part of a priority transit project, and includes a development project located on transit corridor land within the meaning of the Building Transit Faster Act, 2020.
- Priority transit projects only refer to Toronto based projects, including the Ontario Line, Scarborough and Yonge Subway Extension and Eglinton Crosstown extension) and any other provincial transit project prescribed by the regulations.

Based on the above, clarification is needed to see which areas in Brampton are actually considered TOC's. Definitions are broad, and may include any higher density, mixed-use development that is connected, next to, or within a short walk of transit stations and stops. Depending on the ultimate number of lands designated as TOC sites, there are variable impacts on potential parkland dedication.

Accepting encumbered land will limit the City's ability to provide adequate amenities and services to residents. Currently, encumbered parkland is valued significantly less than unencumbered lands. Service level targets will be impacted if lands are impeded by other uses and associated easement requirements.

In absence of a clear definition of what a TOC is, Brampton currently has no confirmed TOCs and it intends to continue to use the alternative residential rate to calculate parkland dedication. In case a TOC is identified, dedication caps in the area would create a shortage in land area and/or payment-in-lieu to meet parkland demand in these high-density communities and City-wide overall. Staff are currently looking into encumbered land in the City’s upcoming new Parkland Dedication By-law. The Minister of Infrastructure's authority to identify encumbered land in TOCs as satisfying the parkland dedication requirement for a development or redevelopment is a concern for the City. The resulting effect of this new authority will force the City to accept parkland inconsistent with those recognized in the Official Plan, Parkland Dedication By-law and Parks and Recreation Master Plan throughout a TOC.

<u>Staff Recommendation</u>

In order to mitigate against this scenario staff recommend advocacy and outreach, and that the Minister of Infrastructure account for local parkland dedication requirements and consult with the municipality before exercising that authority. Effectively, a cap has been introduced to limit the City’s ability to secure an appropriate amount of land/CIL.

This should be followed by a detailed analysis of the possibly significant impacts for parkland if the City is to accept encumbered land and limits on the alternative rate.

7. Minister review of Official Plans and amendments

Bill 109 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 (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.

Staff Comments

The Region of Peel approves Brampton's OP, so Brampton is not directly affected by this legislation. But Brampton's OP must conform to the Region's OP. If the Region's OP is not approved by the Minister or is delayed, there is a cascading effect on Brampton's timelines for its OP approval, as well as related policy initiatives such as the Zoning By-law and Inclusionary Zoning.

8. Mandatory 5 year reviews of Community Benefits Charges by-laws

Bill 109 requires 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. If the review is not completed within the relevant time period, the by-law shall be deemed to have expired. The Province believes these changes would increase transparency and public engagement.

Staff Comments

Brampton is currently undertaking the CBC strategy and by-law work. Staff consider periodic reviews of the CBC by-law to be of no concern. A new requirement to review charges every five years (with public consultation) is consistent with existing development charge by-law reviews. It represents an added administrative cost and process for the municipality to undertake, which staff will factor in as the new CBC strategy and by-law are being prepared.

9. Development Charges Act changes

a) The Bill mandates treasurers' statements to be made available to the public on a municipality's website, or in the municipality's office if no such website is available, and in any manner as may be prescribed in the future. This is meant to enhance transparency of development charges (DCs) by improving municipal reporting requirements.

Staff Comments

City of Brampton Finance staff are in agreement with the proposal as they concur with increased transparency and reporting of development charges to the public. The Treasurer's Statement is already made public on an annual basis, however staff will endeavor to create a dedicated webpage on the City's website to make the Treasurer's Statement easier to search and find for the public.

b) Regulatory changes require a municipal treasurer, in their annual treasurer's statement, 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. The proposed regulatory amendments would amend existing reporting requirements to require publication of additional information that municipalities would likely already have available.

Staff Comments

Staff are generally in agreement with the proposal and concur with increased transparency and reporting of development charges to the public. With respect to the requirement to account for any variance based on whether the City is spending on the capital costs project over the DC By-law period, it should be noted that there is inconsistency with this statement given the DC by-law period is five years, and the planning horizon for soft services is ten years and to Official Plan build-out for hard services. Municipalities collect for "big ticket items" (e.g. recreation centres, wastewater treatment plants) for longer than the DC by-law period, so it would be very challenging and unreasonable for Brampton to spend the DCs collected over a five-year period on such big ticket items.

Corporate Implications:

Financial Implications:

There are potential financial implications as a result of Bill 109, which include additional resource requirements and lost revenue, however, these impacts cannot be quantified at this time. Staff will continue to review, monitor and advise Council on the financial implications of Bill 109, as part of a future report to Council.

Other Implications:

Bill 109 includes changes that have implications for the Region, in terms of the Regional Official Plan approval timelines. City Staff will work closely with the Region to monitor implications.

Term of Council Priorities:

This report directly aligns with the Council Priority to Create Complete Communities and 'Brampton is a Well Run City'.

Conclusion:

Bill 109 makes a number of substantial changes to the Planning Act, the Development Charges Act, 1997, the City of Toronto Act, 2006, the New Home Construction Licensing Act, 2017, and the Ontario New Home Warranties Plan Act. This report analyses the key elements of the Bill under the Planning Act and the Development Charges Act, 1997. The Bill necessitates significant changes to the City of Brampton's business processes

pertaining to development review, parkland contribution and Development Charges, among others. Staff will continue to analyze financial and other impacts, consult with Council and other municipalities and bring forward a detailed implementation strategy for Council endorsement.

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Attachments:

Appendix 1 Bill 109 Royal Assent

Appendix 2 Community Infrastructure and Housing Accelerator – Initial Proposed Guideline dated March 30, 2022

Appendix 3 City of Brampton comments on the Community Infrastructure and Housing Accelerator – Proposed Guideline

Legislative Assembly of Ontario

Assemblée législative de l'Ontario

2ND SESSION, 42ND LEGISLATURE, ONTARIO
71 ELIZABETH II, 2022

Bill 109

(Chapter 12 of the Statutes of Ontario, 2022)

An Act to amend the various statutes with respect to housing, development and various other matters

The Hon. S. Clark
Minister of Municipal Affairs and Housing

1st Reading	March 30, 2022
2nd Reading	April 4, 2022
3rd Reading	April 14, 2022
Royal Assent	April 14, 2022

EXPLANATORY NOTE

This Explanatory Note was written as a reader's aid to Bill 109 and does not form part of the law. Bill 109 has been enacted as Chapter 12 of the Statutes of Ontario, 2022.

SCHEDULE 1
CITY OF TORONTO ACT, 2006

The Schedule makes various amendments to section 114 of the *City of Toronto Act, 2006*. Here are some highlights:

1. Subsection (4) is replaced with a number of subsections that set out the rules respecting consultations with the City before plans and drawings are submitted for approval and respecting completeness of applications made under this section.
2. New subsection (5.1) provides for the appointment of an authorized person for the purposes of subsection (5). Various related amendments are made to section 114.
3. New subsection (14.1) provides for rules respecting when the City is required to refund fees paid to it pursuant to the *Planning Act*.

An associated provision respecting regulations is also added to the Act as section 122.2.

SCHEDULE 2
DEVELOPMENT CHARGES ACT, 1997

The Schedule amends the *Development Charges Act, 1997* with respect to the publication of the statement of the treasurer under section 43 of the Act.

SCHEDULE 3
NEW HOME CONSTRUCTION LICENSING ACT, 2017

The Schedule amends the *New Home Construction Licensing Act, 2017* as follows:

1. Section 38 is amended to provide that the registrar may consider whether the activities of an applicant are, or will be if issued a licence, in contravention of the Act, the regulations or prescribed legislation.
2. Section 56 is amended to preserve the registrar's powers to receive complaints, request information from licensees about complaints and mediate or resolve complaints. Section 56.1 is added to give certain powers to the registrar if the registrar believes a licensee has contravened the Act, the regulations or prescribed legislation.
3. Section 57 is amended to increase the maximum fine to $50,000 if a licensee is an individual and $100,000 if a licensee is not an individual. Also, the discipline committee may impose a fine above the maximum amount if the licensee received a monetary benefit from failing to comply with the code of ethics. Last, the committee must consider any prior determination of the committee that a licensee failed to comply with the code of ethics and, subject to the maximum fine amount, may impose a more severe fine on the licensee.
4. Section 71 is amended to provide that in addition to any other penalty imposed by the court and despite the maximum fine, the court that convicts a person or entity of an offence may increase a fine imposed on the person or entity if the person or entity received a monetary benefit as a result of the commission of the offence.
5. Section 76 is amended to provide that an assessor may impose an administrative penalty if a person has contravened or is contravening a prescribed provision of the *Ontario New Home Warranties Plan Act* or the regulations or the by-laws of the warranty authority made under it. This section is also amended to increase the maximum administrative penalty to $25,000 and to provide that an assessor may impose a penalty against a person above the maximum amount if the person received a monetary benefit as a result of a contravention.
6. Section 84 is amended to grant the Minister the power to make regulations governing fines that the discipline committee or the appeals committee may impose.

SCHEDULE 4
ONTARIO NEW HOME WARRANTIES PLAN ACT

The Schedule amends the *Ontario New Home Warranties Plan Act*.

Clause 22.1 (1) (j) is amended to provide that the Lieutenant Governor in Council may make regulations extending the time of expiration of a warranty provided for under subsection 13 (1), including establishing any conditions for such an extension, in respect of an item that is missing or remains unfinished or work performed or materials supplied after the date specified in the certificate under subsection 13 (3).

Section 23 is amended in two ways with respect to the by-law making power of the Corporation designated under the Act. First, clause 23 (1) (j) is amended to provide that the Corporation may specify warranties under clause 13 (1) (c) and the time of

expiration of those warranties. Second, clause 23 (1) (j.1) is added to provide for a similar amendment as in clause 22.1 (1) (j), but the Corporation's power is subject to a regulation made under clause 22.1 (1) (j) and the approval of the Minister.

Technical amendments to update cross-references in the Act are also made.

SCHEDULE 5
PLANNING ACT

The Schedule makes various amendments to the *Planning Act*. Here are some highlights:

1. New subsections 17 (40.1) to (40.1.3) provide rules respecting when the Minister as an approval authority can provide notice to suspend the period of time after which there may be appeals of the failure to make a decision in respect of a plan.
2. New subsections 17 (55) to (64) provide a process for the Minister as an approval authority to refer plans to the Ontario Land Tribunal for a recommendation or a decision.
3. New subsection 34 (10.12) provides rules respecting when municipalities are required to refund fees in respect of applications under that section.
4. An additional type of Minister's order is added to the Act in section 34.1. These orders are made by the Minister at the request of a municipality. This section sets out the process and rules respecting such orders.
5. New subsections 37 (54) to (59) require regular reviews of community benefits charge by-laws and provide rules respecting such reviews.
6. A number of amendments are made to section 41. A number of subsections are added that set out the rules respecting consultations with municipalities before plans and drawings are submitted for approval and respecting completeness of applications made under this section. New subsection (4.0.1) provides for the appointment of an authorized person for the purposes of subsection (4). New subsection (11.1) provides for rules respecting when municipalities are required to refund fees.
7. Amendments are made to sections 42 and 51.1 with respect to parkland requirements on land designated as transit-oriented community land under the *Transit-Oriented Communities Act, 2020*.
8. New rules are added to section 51 with respect to extensions of approvals by approval authorities.
9. New section 70.3.1 provides the Minister with authority to make certain regulations respecting surety bonds and other instruments in connection with approvals with respect to land use planning.

Bill 109 **2022**

An Act to amend the various statutes with respect to housing, development and various other matters

CONTENTS

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *More Homes for Everyone Act, 2022*.

SCHEDULE 1
CITY OF TORONTO ACT, 2006

1 (1) Subsection 114 (4) of the *City of Toronto Act, 2006* is repealed and the following substituted:

Consultation

(4) The City may, by by-law, require applicants to consult with the City before submitting plans and drawings for approval under subsection (5).

Same

(4.1) Where a by-law referred to in subsection (4) does not apply, the City shall permit applicants to consult with the City as described in that subsection.

Prescribed information

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

Other information

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

Refusal and timing

(4.4) Until the City has received the plans and drawings referred to in subsection (5), the information and material required under subsections (4.2) and (4.3), if any, and any fee under section 69 of the *Planning Act*,

(a) the City may refuse to accept or further consider the application; and

(b) the time period referred to in subsection 114 (15) of this Act does not begin.

Response re completeness of application

(4.5) Within 30 days after the applicant pays any fee under section 69 of the *Planning Act*, the City shall notify the person or public body that the plans and drawings referred to in subsection 114 (5) of this Act and the information and material required under subsections (4.2) and (4.3) , if any, have been provided, or that they have not been provided, as the case may be.

Motion re dispute

(4.6) Within 30 days after a negative notice is given under subsection (4.5), the applicant or the City may make a motion for directions to have the Ontario Land 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 (4.3) is reasonable.

Same

(4.7) If the City does not give any notice under subsection (4.5), the applicant may make a motion under subsection (4.6) at any time after the 30-day period described in subsection (4.5) has elapsed.

Final determination

(4.8) The Ontario Land Tribunal's determination under subsection (4.6) is not subject to appeal or review.

(2) Subsection 114 (5) of the Act is amended by striking out the portion before paragraph 1 and substituting the following:

Approval of plans or drawings

(5) No person shall undertake any development in an area designated under subsection (2) unless the authorized person referred to in subsection (5.1) or, where an appeal has been made under subsection (15), the Ontario Land Tribunal has approved one or both, as the authorized person may determine, of the following:

. . . . .

(3) Section 114 of the Act is amended by adding the following subsection:

Authorized person

(5.1) If the City passes a by-law under subsection (2), the City shall appoint an officer, employee or agent of the City as an authorized person for the purposes of subsection (5).

(4) Section 114 of the Act is amended by adding the following subsection:

Refund

(14.1) With respect to plans and drawings referred to in subsection (5) that are submitted on or after the day subsection 1 (4) of Schedule 1 to the *More Homes for Everyone Act, 2022* comes into force, the City shall refund any fee paid pursuant to section 69 of the *Planning Act* in respect of the plans and drawings in accordance with the following rules:

1. If the City approves the plans or drawings under subsection 114 (5) of this Act within the time period referred to in subsection 114 (15) of this Act, the City shall not refund the fee.
2. If the City has not approved the plans or drawings under subsection 114 (5) of this Act within the time period referred to in subsection 114 (15) of this Act, the City shall refund 50 per cent of the fee.
3. If the City has not approved the plans or drawings under subsection 114 (5) of this Act within a time period that is 30 days longer than the time period referred to in subsection 114 (15) of this Act, the City shall refund 75 per cent of the fee.
4. If the City has not approved the plans or drawings under subsection 114 (5) of this Act within a time period that is 60 days longer than the time period referred to in subsection 114 (15) of this Act, the City shall refund all of the fee.

(5) Subsection 114 (15) of the Act is amended by striking out "30" and substituting "60".

(6) Subsection 114 (17) of the Act is repealed and the following substituted:

Classes of development, delegation

(17) Where the City has designated a site plan control area under this section, the City 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 (5).

(7) Subsection 114 of the Act is amended by adding the following subsection:

Transition

(18) This section as it read immediately before the day subsection 1 (7) of Schedule 1 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 (5) of this Act before that day.

(8) Subsection 114 of the Act is amended by adding the following subsection:

Same

(19) 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 (5) on or after the day subsection 1 (7) of Schedule 1 to the *More Homes for Everyone Act, 2022* comes into force but before July 1, 2022.

2 The Act is amended by adding the following section:

Regulations re s. 114 (4.2)

122.2 The Minister of Municipal Affairs and Housing may make regulations prescribing information and materials for the purposes of subsection 114 (4.2).

Commencement

3 (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 1 (2), (3), (6) and (8) come into force on the later of July 1, 2022 and the day the *More Homes for Everyone Act, 2022* receives Royal Assent.

(3) Subsection 1 (4) comes into force on the later of January 1, 2023 and the day the *More Homes for Everyone Act, 2022* receives Royal Assent.

SCHEDULE 2
DEVELOPMENT CHARGES ACT, 1997

1 Subsection 43 (2.1) of the *Development Charges Act, 1997* is repealed and the following substituted:

Statement available to public

(2.1) The council shall ensure that the statement is made available to the public,

(a) by posting the statement on the website of the municipality or, if there is no such website, in the municipal office; and

(b) in such other manner and in accordance with such other requirements as may be prescribed.

2 Subsection 60 (1) of the Act is amended by adding the following clause:

(t.0.1) prescribing the manner in which a statement is to be made available and other requirements for the purposes of clause 43 (2.1) (b);

Commencement

3 This Schedule comes into force on the day the *More Homes for Everyone Act, 2022* receives Royal Assent.

SCHEDULE 3
NEW HOME CONSTRUCTION LICENSING ACT, 2017

1 Clause 38 (1) (c) of the *New Home Construction Licensing Act, 2017* is repealed and the following substituted:

(c) neither the applicant, nor any interested person in respect of the applicant, has carried on or is carrying on activities,

(i) that are in contravention of this Act or the regulations, or that will be in contravention of this Act or the regulations if the applicant is issued a licence, or

(ii) that are in contravention of prescribed legislation, or that will be in contravention of prescribed legislation if the applicant is issued a licence;

2 Section 56 of the Act is repealed and the following substituted:

Complaints

56 (1) The registrar may,

(a) receive complaints concerning conduct that may be in contravention of this Act, the regulations or prescribed legislation;

(b) make written requests to licensees for information regarding complaints; and

(c) attempt to mediate or resolve complaints, as appropriate, concerning any conduct that comes to the registrar's attention that may be in contravention of this Act, the regulations or prescribed legislation.

Request for information

(2) A request made under clause (1) (b) shall indicate the nature of the complaint.

Duty to comply

(3) A licensee who receives a request made under clause (1) (b) shall provide the requested information to the registrar.

Registrar's powers

56.1 If the registrar is of the opinion, whether as a result of a complaint or otherwise, that a licensee has contravened any provision of this Act, the regulations or prescribed legislation, the registrar may do any of the following, as the registrar considers appropriate:

1. Give the licensee a written warning, stating that if the licensee continues with the activity that led to the alleged contravention, action may be taken against the licensee.
2. Require the licensee to take further educational courses.
3. Require the licensee, in accordance with the terms, if any, that the registrar specifies, to fund educational courses for persons that the licensee employs or to arrange and fund the courses.
4. Refer the matter, in whole or in part, to the discipline committee.
5. Take an action under section 40, subject to section 43.
6. Take further action as is appropriate in accordance with this Act.

3 (1) Paragraph 3 of subsection 57 (4) of the Act is repealed and the following substituted:

3. Impose such fine as the committee considers appropriate, subject to subsections (4.1), (4.2) and (4.3), to be paid by the licensee to the regulatory authority or, if there is no regulatory authority, to the Minister of Finance.

(2) Section 57 of the Act is amended by adding the following subsections:

Maximum fines

(4.1) Subject to subsection (4.2), the maximum amount of the fine mentioned in paragraph 3 of subsection (4) is,

(a) $50,000, or such lesser amount as may be prescribed, if the licensee is an individual; or

(b) $100,000, or such lesser amount as may be prescribed, if the licensee is not an individual.

Same, monetary benefit

(4.2) The total amount of the fine referred to in subsection (4.1) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the licensee as a result of a failure to comply with the code of ethics.

Same, prior determination

(4.3) In making its order to impose a fine under paragraph 3 of subsection (4), the discipline committee shall consider any prior determination of the committee that the licensee failed to comply with the code of ethics and, subject to the maximum amount of the fine referred to in subsection (4.1), may impose a more severe fine having regard to the prior determination.

4 Section 71 of the Act is amended by adding the following subsection:

Same, monetary benefit

(4.1) In addition to any other penalty imposed by the court and despite the maximum fine referred to in subsection (4), the court that convicts a person or entity of an offence under this section may increase a fine imposed on the person or entity by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person or entity as a result of the commission of the offence.

5 (1) Subsection 76 (1) of the Act is repealed and the following substituted:

Order

76 (1) An assessor may, by order, impose an administrative penalty against a person in accordance with this section and the regulations made by the Minister if the assessor is satisfied that the person has contravened or is contravening,

(a) a prescribed provision of this Act or the regulations;

(b) a condition of a licence, if the person is the licensee;

(c) a prescribed provision of the *Ontario New Home Warranties Plan Act* or the regulations or the by-laws of the warranty authority made under it; or

(d) a prescribed provision of the *Protection for Owners and Purchasers of New Homes Act, 2017* or the regulations made under it.

(2) Subsection 76 (4) of the Act is repealed and the following substituted:

Amount

(4) Subject to subsection (4.1), the amount of an administrative penalty shall reflect the purpose of the penalty and shall be determined in accordance with the regulations made by the Minister, but the amount of the penalty shall not exceed $25,000.

Same, monetary benefit

(4.1) The total amount of the administrative penalty referred to in subsection (4) may be increased by an amount equal to the amount of the monetary benefit acquired by or that accrued to the person as a result of the contravention.

6 Subsection 84 (1) of the Act is amended by adding the following clause:

(g.1) governing fines that the discipline committee or the appeals committee may impose, including the criteria to be considered in determining the amount, the procedure for making an order for a fine and the rights of the parties affected by the procedure;

Rebuilding Consumer Confidence Act, 2020

7 Section 17 of Schedule 4 to the *Rebuilding Consumer Confidence Act, 2020* is repealed.

Commencement

8 (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) Section 5 comes into force on the later of the day section 76 of Schedule 1 to the *Strengthening Protection for Ontario Consumers Act, 2017* comes into force and the day the *More Homes for Everyone Act, 2022* receives Royal Assent.

SCHEDULE 4
ONTARIO NEW HOME WARRANTIES PLAN ACT

1 Clause 22.1 (1) (j) of the *Ontario New Home Warranties Plan Act* is repealed and the following substituted:

(j) extending the time of expiration of a warranty provided for under subsection 13 (1), including establishing any conditions for such an extension, in respect of an item that is missing or remains unfinished or work performed or materials supplied after the date specified in the certificate under subsection 13 (3);

2 (1) Clause 23 (1) (g) of the Act is amended by striking out "22.1 (l) or (v)" and substituting "22.1 (1) (l) or (v)".

(2) Clause 23 (1) (j) of the Act is repealed and the following substituted:

(j) subject to the approval of the Minister, specifying warranties under clause 13 (1) (c) and the time of expiration of those warranties;

(3) Subsection 23 (1) of the Act is amended by adding the following clause:

(j.1) subject to a regulation described in clause 22.1 (1) (j) and to the approval of the Minister, extending the time of expiration of a warranty provided for under subsection 13 (1), including establishing any conditions for such an extension, in respect of an item that is missing or remains unfinished or work performed or materials supplied after the date specified in the certificate under subsection 13 (3);

(4) Clause 23 (1) (m.1) of the Act is amended by striking out "22.1 (t)" and substituting "22.1 (1) (t)".

Commencement

3 This Schedule comes into force on the day the *More Homes for Everyone Act, 2022* receives Royal Assent.

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.

5 The Act is amended by adding the following section:

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:

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.

Community Infrastructure and Housing Accelerator – Proposed Guideline

Proposal Overview:

Bill 109, the More Homes for Everyone Act, 2022 was introduced in the Legislature on March 30, 2022. If passed, section 5 of Schedule 5 to the Bill would amend the Planning Act to establish a new "community infrastructure and housing accelerator" tool. The Minister of Municipal Affairs and Housing would have the power to make orders to respond to municipal council resolutions requesting expedited zoning outside of the Greenbelt Area.

Subsection 34.1 (25) of the Planning Act would require the Minister to establish guidelines governing how community infrastructure and housing accelerator orders may be made. The guidelines may, among other matters, restrict orders to certain geographic areas or types of development. The guidelines would have to be in place before a community infrastructure and housing accelerator order could be issued and would need to be published on a website of the Government of Ontario.

The draft guidelines outlined below have been prepared for consultation purposes. This consultation draft of proposed guidelines is intended to facilitate dialogue and stimulate feedback. The comments received during consultation will be considered during the final preparation of the guidelines.

Caution: The content, structure, form and wording of the consultation draft are subject to change.

Draft Guidelines: Minister's Orders at Request of Municipalities (Community Infrastructure and Housing Accelerator Tool)

Where the tool may be used

Subsection 34.1 (11) of the Planning Act provides that a community infrastructure and housing accelerator order cannot be made in the Greenbelt Area (as defined in Ontario Regulation 59/05 "Designation of Greenbelt Area") which includes specified lands within:

- the Oak Ridges Moraine Area
- the Niagara Escarpment Plan Area
- the Protected Countryside plan areas

- the Glenorchy Addition plan area
- the 2017 Urban River Valley Area Additions plan area
- Any additional Urban River Valley Areas that may be added through the current Growing the Greenbelt phase II consultation

Local municipalities (lower and single tier only) may request a community infrastructure and housing accelerator order relating to lands within their geographic boundaries.

Community infrastructure and housing accelerator orders

The Minister will consider making a community infrastructure and housing accelerator order on the request of the council of a local municipality (lower or single tier) where the Minister believes it is in the public interest to do so.

A community infrastructure and housing accelerator order can be used to regulate the use of land and the location, use, height, size and spacing of buildings and structures to permit certain types of development.

The requesting municipality is responsible for providing public notice, undertaking consultation and ensuring the order, once made, is made available to the public.

In issuing an order, the Minister is able to:

- provide an exemption for other necessary planning-related approvals from provincial plans, the Provincial Policy Statement and municipal official plans, but only if this is specifically requested by the municipality, and
- impose conditions on the municipality and/or the proponent.

Types of development

The Minister may make a community infrastructure and housing accelerator order to expedite the following types of priority developments:

- community infrastructure that is subject to Planning Act approval including: lands, buildings, and structures that support the quality of life for people and communities by providing public services for matters such as health, long-term care, education, recreation, socio-cultural activities, and security and safety
- any type of housing, including community housing, affordable housing and market-based housing
- buildings that would facilitate employment and economic development, and
- mixed-use developments.

For greater clarity, a community infrastructure and housing accelerator order will address zoning matters and will not address environmental assessment matters related to infrastructure.

Subsequent approvals

When making a community infrastructure and housing accelerator order, subsection 34.1 (15) of the Planning Act would allow the Minister, upon request of a local municipality, to provide that specific subsequent approvals are not subject to provincial plans, the Provincial Policy Statement and municipal official plans. Subsequent approvals are licences, permits, approvals, permissions or other matters that are required before a use permitted by a community infrastructure and housing accelerator order could be established, such as plans of subdivision and site plan control.

The Minister will only consider an exemption from provincial policy requirements if the subsequent approval is needed to facilitate the proposed project, and the municipality provides a plan that would, in the opinion of the Minister, adequately mitigate any potential impacts that could arise from the exemption. This includes, but is not limited to, matters dealing with:

- Community engagement
- Indigenous engagement
- Environmental protection/mitigation

Conditions

The Minister may impose conditions on the approval of a community infrastructure and housing accelerator order. Conditions could be imposed to ensure that certain studies, assessments, consultations and other necessary due diligence associated with any proposed development that would be subject to the community infrastructure and housing accelerator order would be adequately addressed before construction or site alteration can begin. The lifting of a Minister’s condition is at the sole discretion of the Minister.

Existing Aboriginal or treaty rights

This guideline shall be implemented in a manner that is consistent with the recognition and affirmation of existing Aboriginal and treaty rights in section 35 of the Constitution Act, 1982.

Kate Manson-Smith
Deputy Minister,
Ministry of Municipal Affairs and Housing,
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April 28, 2022

Re: City of Brampton comments on the Community Infrastructure and Housing Accelerator – Proposed Guideline (Bill 109) ERO number 019-5285

The City of Brampton appreciates the opportunity to provide feedback on the proposed Community Infrastructure and Housing Accelerator Guideline. Addressing the housing supply crisis requires a long-term strategy, long-term commitments and productive collaboration to achieve results.

The City of Brampton has taken a comprehensive approach to improving housing affordability. Brampton's new housing strategy Housing Brampton was endorsed by Brampton Council in May 2021. It is an ambitious approach to address the complex housing challenges Brampton faces and several key housing initiatives are already under way.

We understand that once the Community Infrastructure and Housing Accelerator guidelines have been published, the Community Infrastructure and Housing Accelerator tool will allow local municipalities to request a Community Infrastructure and Housing Accelerator 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. Through this letter, we submit our comments for Ministerial consideration in the finalization of the guidelines and hope they will be helpful.

Sincerely,

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Attachment:

Appendix 1: Detailed City of Brampton Comments on the **Community Infrastructure and Housing Accelerator – Proposed Guideline**

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1. **Public Engagement**

The newly proposed Community Infrastructure and Housing Accelerator (CIHA) requires the requesting municipality to provide public notice, undertake consultation and ensure that the order, once made, is made available to the public. Brampton is appreciative of the inclusion of these measures which are not mandated under the current Minister's Zoning Order tool. Collaboration and consultation can encourage better quality development proposals, related to the proposed use of a CIHA, by helping to identify technical concerns/issues, to provide an opportunity for discussion on any other matters that may be pertinent to the CIHA, and allowing for early feedback and information sharing on the proposed regulation.

The proposed CIHA guidelines do not appear to indicate the type of consultation or public notice period. We would appreciate further guidance on minimum consultation requirements and notice periods. Given that the CIHA requires Councils to pass resolutions and submit a formal request to the Minister explaining the rationale for the project, the consultations completed, and the approvals being sought, Brampton suggests clear consultation and notice requirement guidelines may assist the Minister in reviewing applications.

Suggested Addition: CIHA Guidelines specify expected norms for public notice periods and public consultation.

2. **Subsequent Approvals- Exemptions from Provincial Plans, the Provincial Policy Statement and Municipal Official Plans**

With Bill 109 having received Royal Assent, Brampton will limit comments to the guidelines related to the exemption clause in the Planning Act. The proposed guidelines specify that the Minister will only consider an exemption from provincial policy requirements if the subsequent approval is needed to facilitate the proposed project, and the municipality provides a plan that would, in the opinion of the Minister, adequately mitigate any potential impacts arising from the exemption. This includes, but is not limited to, matters dealing with:

- Community engagement
- Indigenous engagement
- Environmental protection/mitigation

The requirement of a plan to "adequately mitigate" may be open to interpretation and could prove to be challenging to implement. Further clarity would be helpful as well as whether this tool provides exemptions from requirements under the Ontario Heritage Act. Cultural heritage is a matter of provincial importance and conservation of built heritage resources, cultural heritage landscapes, and archaeological resources could be detailed and included in plans submitted to the Minister.

Suggested Changes: Final guidelines to specify the use of the exemptions clause to be limited to developments that are of an emergency measure, and that development remain consistent with and/or in conformity with provincial policies and legislation.

3. Types of development

1) The proposed guidelines include any type of housing, including community housing, affordable housing, and market-based housing as eligible for a CIHA. Brampton welcomes the emphasis on community and affordable housing projects. However, expediting all market-based housing without considering housing options (i.e., by affordability, tenure, form, size, typology, etc.) may not guarantee the right kind of housing to address local needs and affordability. In Brampton, more than 70% of households cannot afford 95% of the new housing being delivered to the market. Brampton hopes the CIHA will be a catalyst to realize the housing needs of many segments of the population who have few choices at their disposable.

   Suggested Change: CIHA Guidelines to include a further qualification for market housing by specifying: "market housing that includes a provision of affordable units (as per the Provincial Policy Statement definition of affordable housing) and ones that align with local housing affordability thresholds and any set-aside rates of affordable units that are deemed to be appropriate by local municipalities."

2) There may be potential for the CIHA to be used to further employment conversions and more clarity could be provided under eligible types of development.

   Suggested Change: CIHA Guidelines could include a further clarity for "any type of housing" as "any type of housing except housing on lands designated as Employment Lands, including land located within Provincially Significant Employment Zones; in which case municipal and provincial policies related to employment conversion shall be applicable".

4. Other Comments

1) Minister's Zoning Orders

Under the new model, the Minister would still retain the broad powers of the current MZO — the CIHA is an additional tool. It is our opinion that these parallel tools could create a sense of uncertainty and complexity for local municipalities and it may create an environment where the municipality wishes to pursue the CIHA while the developer may favour an MZO process.

Suggested Addition: To enhance the effectiveness of the CIHA, the province may wish to elaborate on the applicability of each tool to provide guidance to local municipal Councils to avoid the simultaneous application of both tools.

2) Processing Fees

In contrast to the mandatory refunds for municipal decision-making that takes more than 90/120 days, no timelines are provided within the CIHA. Given the time required to support application of the CIHA, we suggest consideration be given to a provision for application fees to recover municipal costs.

Suggested Addition: The final guidelines specify a requirement of CIHA processing fees, to be established by the applicable municipality.

3) Supporting Materials

Clarification around supporting materials to accompany a submission might help expedite and provide more clarity to the process.

Suggested Addition: The final guidelines provide clarification on supporting materials needed to determine if using the tool is appropriate for any submission to the Minister.