

**Subject: Bill 109 Implications – Phase 1**

**File Number: ACS2022-PIE-GEN-0011**

**Report to Planning Committee on 23 June 2022;**

**and to Agriculture and Rural Affairs Committee on 30 June 2022**

**and Council 6 July 2022**

**Submitted on June 13, 2022 by Stephen Willis, General Manager, Planning, Real Estate and Economic Development**

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**Ward: Citywide**

**Objet : Répercussions du projet de loi 109 – Étape 1**

**Dossier : ACS2022-PIE-GEN-0011**

**Rapport au Comité de l'urbanisme le 23 juin 2022**

**et au Comité de l'agriculture et des affaires rurales le 30 juin 2022**

**et au Conseil le 6 juillet 2022**

**Soumis le 13 juin 2022 par Stephen Willis, Directeur général de la planification, des biens immobiliers et du développement économique**

**Personne ressource : Emily Davies, Gestionnaire de Projets Spéciaux (Projet de loi 109, Département Services de la planification, de l'immobilier et du développement économique**

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**Quartier : À l'échelle de la ville**

## REPORT RECOMMENDATIONS

That Planning Committee, and Agriculture and Rural Affairs Committee, recommend Council:

1. Receive the approach to implement the Provincially mandated changes resulting from Bill 109;
2. Approve the amendments to the *Delegated Authority By-law 2022-29*, as per Document 2 attached to this report;
3. Approve the repeal and replacement of the *Development Application Study Policy By-law 2001-451*, as per Document 3 attached to this report;
4. Receive the amendments to the *Public Notification and Consultation Policy*, as per Document 4 attached to this report;
5. Approve the amendments to the *Site Plan Control By-law*, as per Document 5 attached to this report

## RECOMMANDATIONS DU RAPPORT

Que le Comité de l'urbanisme et le Comité de l'agriculture et des affaires rurales recommandent au Conseil :

1. de prendre acte de l'approche de mise en œuvre des changements imposés par la province en raison du projet de loi 109;
2. d'approuver la modification du Règlement municipal sur la délégation de pouvoirs (no 2022-29), conformément au document 2 joint au présent rapport;
3. d'approuver l'abrogation et le remplacement du Règlement de la politique d'étude des demandes d'aménagement (no 2001-451), conformément au document 3 joint au présent rapport;
4. de prendre acte des modifications apportées à la Politique d'avis et de consultation publique, conformément au document 4 joint au présent rapport;
5. d'approuver la modification de la Réglementation du plan d'implantation, conformément au document 5 joint au présent rapport.

## EXECUTIVE SUMMARY

On April 14, 2022, the province's Bill 109 received royal assent providing legislative direction to implement the *More Homes for Everyone Act, 2022*. At a high level, there are three deadlines to implement the province's Bill 109:

- Due July 1, 2022, the province mandated the "Delegation" of Site Plan Control Approvals to staff, removed Council's authority to approve Site Plan Control and removed the ability of Cities to refuse Site Plan Control.
- Due January 1, 2023, the province mandated the refunding of fees for Site Plan Control and Zoning By-law Amendment that don't meet the new mandated timelines. New legislative timelines for the processing of Site Plan Control and Zoning By-law Amendment applications were approved as part of Bill 109 approval, effective April 14, 2022. Site Plan Control now has a requirement of issuing an approval within 60 days (the City takes an average of 196 days). Further, reduced timelines to 90 days to make a decision on Zoning By-law Amendment applications (the City takes an average of 178 days).
- Other aspects that went into effect after third reading on April 14, 2022 (appeal rights for clients; pre-application consultation requirements, etc.) and other aspects that do not have a deadline to implement (ministerial zoning orders and surety bonds).

The City must amend its procedures and By-laws to meet those provincial requirements.

Should the City not swiftly and decisively update its current approach to development application review to meet the new provincially mandated timelines and refunds, it would have colossal impacts on revenue as well as legal implications on possible Ontario Land Tribunal appeals. New approaches and methods must be administered so that the Department can meet the timelines now mandated by the provincial legislation.

This report provides Council with the approach Staff intend to take to implement the changes mandated by the provinces' Bill 109 and goes into thorough detail of Phase 1 of the proposed implementation. Phase 1 is proposed to match the provincial deadline of July 1, 2022, for certain aspects of the legislative changes.

Staff propose process changes and By-law updates, to address Bill 109 implementation, in 4 Phases:

1. Site Plan Control Delegation – due July 1, 2022
2. Internal Changes: Refunds of Site Plan Control and Zoning By-law Amendment – due January 1, 2023
3. By-law Amendments: Refunds of Site Plan Control and Zoning By-law Amendment – due January 1, 2023
4. Implementing Outstanding Bill 109 Requirements – due in 2023

This report focuses on Phase 1, with the proposed amendments to three City By-laws and one City policy:

- *Delegated Authority By-law 2022-29* – to appoint authority to staff to approve all Site Plan Control applications and remove Councillors from the SPC approval process, including concurrence; conditions of approval; and approval ability.
- *Development Application Study Policy By-law 2001-451* – to update the list of studies that make an application “complete”. A “complete” application is the trigger for when the clock on the new timelines starts ticking in the development application process.
- *Public Notification and Consultation Policy* – to reflect the changes to the delegation of authority to staff to approve Site Plan Control applications.
- *Site Plan Control By-law* – to align the inner urban Site Plan Control exemption threshold with the outside the greenbelt threshold. The By-law would permit buildings with 6 units of less to be exempt from Site Plan Control. This is reprioritizing the departmental effort to create capacity internally; reducing workload to enable adaptation to shorter and more intense timelines as well as reflecting on the Affordable Housing and Homelessness Crisis and Emergency, declared by Council on January 29, 2020, with Motion NO 26/14, by allowing for streamlined approval process for low-rise infill units

Staff acknowledge that important changes will need to happen quickly because of the tight timeline from the province to implement Bill 109. With the objective to prevent significant negative financial implications to the City, staff are bound to recommend further decisive and swift actions to Council to prepare for the new provincially mandated timelines and refunds taking effect on January 1, 2023. These additional recommendations will come forward in a separate report, implementing Phase 2 and Phase 3 of Bill 109 implementation.

## RÉSUMÉ

Le 14 avril 2022, le projet de loi 109 de la province, qui donne des directives législatives sur la mise en œuvre de la *Loi de 2022 pour plus de logements pour tous*, a reçu la sanction royale. Grosso modo, trois échéances sont associées à la mise en œuvre de ce projet de loi :

- Avec effet le 1<sup>er</sup> juillet 2022, le gouvernement provincial oblige à « déléguer » au personnel le pouvoir d'approuver les demandes de réglementation du plan d'implantation, enlève au Conseil municipal le pouvoir d'approuver ces demandes et prive les villes de la possibilité de refuser ces demandes.
- Avec effet le 1<sup>er</sup> janvier 2023, la province oblige les municipalités à rembourser les frais pour les demandes de réglementation du plan d'implantation et de modification du *Règlement de zonage* qui ne respectent pas les nouveaux échéanciers prescrits. De nouveaux échéanciers législatifs pour le traitement de ces demandes ont été approuvés dans le cadre de l'adoption du projet de loi 109, avec prise d'effet le 14 avril 2022. Les demandes de réglementation du plan d'implantation doivent dorénavant être approuvées dans les 60 jours (la Ville prend en moyenne 196 jours). De plus, les délais ont été réduits à 90 jours pour une décision sur les demandes de modification du *Règlement de zonage* (la Ville prend en moyenne 178 jours).
- D'autres volets sont entrés en vigueur après la troisième lecture le 14 avril 2022 (droits d'appel pour les clients; exigences de consultation préalable au dépôt d'une demande, etc.), mais d'autres n'ont pas de date limite de mise en œuvre (arrêtés de zonage ministériels et cautionnements).

La Ville doit modifier ses procédures et règlements pour respecter ces exigences provinciales.

Si elle ne met pas à jour rapidement et de façon décisive son approche actuelle en matière d'examen des demandes d'aménagement pour respecter les nouveaux échéanciers et remboursements prescrits par la province, cela aura des répercussions colossales sur ses recettes, et il y aura sans doute des appels devant le Tribunal ontarien de l'aménagement du territoire. De nouvelles approches et méthodes doivent être utilisées afin que la Direction générale puisse respecter les délais dorénavant prévus par la loi provinciale.

Ce rapport présente au Conseil l'approche que le personnel a l'intention d'adopter pour

mettre en œuvre les changements exigés par le projet de loi 109 et décrit en détail l'étape 1 de mise en œuvre proposée. Cette étape devrait cadrer avec la date limite provinciale du 1<sup>er</sup> juillet 2022 pour certains volets des modifications législatives.

Le personnel propose de modifier les processus et de mettre à jour les règlements pour que la Ville se conforme au projet de loi 109 en quatre étapes :

1. Délégation de la réglementation du plan d'implantation – avec effet le 1<sup>er</sup> juillet 2022
2. Changements internes : remboursement des frais pour les demandes de réglementation du plan d'implantation et de modification du *Règlement de zonage* – avec effet le 1<sup>er</sup> janvier 2023
3. Modification des règlements : remboursement des frais pour les demandes de réglementation du plan d'implantation et de modification du *Règlement de zonage* – avec effet le 1<sup>er</sup> janvier 2023
4. Mise en œuvre des dernières exigences du projet de loi 109 – avec effet en 2023

Le présent rapport porte sur l'étape 1, avec les modifications proposées à trois règlements et à une politique municipale :

- *Règlement municipal sur la délégation de pouvoirs* (n° 2020-360) – Déléguer au personnel le pouvoir d'approuver toutes les demandes de réglementation du plan d'implantation et retirer les conseillers du processus d'approbation, y compris l'entérinement, les conditions d'approbation et la capacité d'approbation.
- *Règlement de la politique d'étude des demandes d'aménagement* (n° 2001-451) – Mettre à jour la liste des études qui font en sorte qu'une demande est « complète ». Ce n'est que lorsque la demande est « complète » que le compte à rebours des nouveaux délais prescrits commence dans le processus de demande d'aménagement.
- *Politique d'avis et de consultation publique* – Tenir compte des changements apportés à la délégation de pouvoirs au personnel concernant l'approbation des demandes de réglementation du plan d'implantation.
- *Réglementation du plan d'implantation* – Harmoniser le seuil d'exemption de la réglementation du plan d'implantation en milieu urbain avec celui de la Ceinture de verdure. Le règlement permettrait que les immeubles de six logements ou

moins soient exemptés de la réglementation du plan d'implantation. Il s'agit de redéfinir les priorités de la Direction générale pour créer une capacité à l'interne et réduire la charge de travail afin de s'adapter à des échéanciers plus courts et plus intenses, ainsi que de réfléchir à la crise et à la situation d'urgence en matière de logement abordable et d'itinérance déclarée par le Conseil le 29 janvier 2020 par l'entremise de la motion n° 26/14, en permettant un processus d'approbation simplifié pour les immeubles à logements intercalaires de faible hauteur.

Le personnel reconnaît que des changements importants devront être apportés rapidement en raison de l'échéancier serré de la province pour la mise en œuvre du projet de loi 109. Dans le but d'éviter des répercussions financières négatives importantes pour la Ville, le personnel est tenu de recommander d'autres mesures décisives et rapides au Conseil pour que ce dernier se prépare aux nouveaux délais et remboursements prescrits par la province qui entreront en vigueur le 1<sup>er</sup> janvier 2023. Ces recommandations supplémentaires feront l'objet d'un rapport distinct sur les étapes 2 et 3 de mise en œuvre du projet de loi 109.

## **BACKGROUND**

### **Legislative Context**

Municipalities in Ontario have been subjected to a number of changes as a result of the provincial government's roll out of the More Homes, More Choice: Ontario's Housing Supply Action Plan. This plan works to make housing more affordable by increasing the supply of the full range of housing options, from single-family homes to midrise housing to apartment buildings. The province is concerned that the cost of housing is rising faster than incomes, creating a housing crisis, part of which is due to a sluggish pace of constructing new housing in relation to the demand. The province has stated that lengthy approvals have contributed to the cost of new housing.

In December 2021, the province appointed a [Housing Affordability Task Force](#), which authored a [report with 55 recommendations](#) released on February 8, 2022. The City's position on the impact of the Task Force's recommendations was presented to Council on March 23, 2022 in report [ACS2022-PIE-EDP-0008](#).

Acting quickly to implement part of the recommendations of the Task Force, [Bill 109](#) was introduced by the provincial government and passed first reading, on March 30, 2022 with the second and third reading swiftly occurring on April 4, 2022 and April 14, 2022 respectively. On April 14, 2022 Bill 109 passed royal assent providing legislative

direction to the provinces slew of changes implementing the *More Homes for Everyone Act, 2022*.

Bill 109 amended four separate *Acts* in order to implement the *More Homes for Everyone Act, 2022*, including:

- *New Home Construction Licensing Act, 2017* – No impacts to the City;
- *Ontario New Home Warranties Plan Act* – No impacts to the City;
- *Development Charges Act* – Limited impacts to the City;
- *Planning Act* – High-impact to the City.

A comprehensive list of impacts of Bill 109 can be consulted in Document 1, but below is a list of high level legislative changes:

- Site Plan Control (SPC) approvals appointed to Staff
- Removing Council as approval authority for SPC
- Removes the ability of Cities to refuse SPC
- Modifying SPC timelines to 60 days
- Reducing Zoning By-law Amendment applications (ZBLA) timelines to 90 days
- Requiring refunds of fees for SPC and ZBLA that don't meet the timelines
- Introduces appeal rights to clients related to complete applications
- Allows the Minister to suspend timelines for approval, and send approval for a New Official Plan to the Ontario Land Tribunal (OLT)

### **Bill 109 impact on the City's Development Application Review Process**

There are three main due dates to implement the changes mandated by the provinces' Bill 109 with respect to the City's processes, the first being when the legislation was passed on April 14, 2022; the second due on July 1, 2022 and the third due on January 1, 2023.

First, many changes to provincial regulations took effect upon the legislation receiving royal assent, on April 14, 2022. These changes are cumulative and will subsequently impact the City upon the Planning Act changes affecting refunds going into effect (due to take effect for January 1, 2023). Some of these changes include modifying Site Plan



Control and Zoning By-law Amendment timelines; creating appeal rights for clients; solidifying pre-application requirements and regulations around complete planning applications.

The second deadline relates to the City implementing a Mandatory “Delegation” of Site plan control approvals to Staff. This requires that Council pass a by-law to “appoint” an “authorized person” for all site plan control approvals and an amendment to the site plan control processes and procedures to enact the intent of the legislation. The implementation of that change are due to take effect on July 1, 2022. The requirement that Council approve site plan control application has also been removed in the *Planning Act*.

The third deadline relates to, the City preparing to cope with increased pressure to meet statutory planning timelines. Starting January 1, 2023, Zoning By-law Amendment applications (ZBLA) and Site Plan Control (SPC) applications are subject to statutory timelines. If those timelines are not met, the City would have to refund the application fees in part or in full. The new timelines start from the moment an application is deemed “complete”, meaning that all the information required for review has been submitted to the City. Applicants would also be able to appeal to the Ontario Land Tribunal if a decision or approval is not made on time. Refund would be issued as follows for site plan control if approval has not been given within the required timelines (note that municipalities effectively lost the ability to refuse site plan without offering a refund):

- No refund if approved within 60 days;
- 50% refund if approved within 60 to 90 days;
- 75% refund if approved within 91 to 120 days;
- 100% refund if approved after more than 120 days.

Refunds would be issued as follows for ZBLA if a decision is not made within the statutory timelines:

- No refund if decision made within 90 days, or 120 days if concurrent with an Official Plan Amendment (OPA);
- 50% refund if decision made within 91 to 150 days, or 121 to 180 days if concurrent with an OPA;

- 75% refund if decision made within 151 to 210 days, or 181 to 240 days if concurrent with an OPA;
- 100% refund if decision is made after 210+ days (or 240+ days if concurrent with an OPA).

On April 14, 2022, the department provided its 2021 Year End Report [ACS2022-PIE-GEN-0002](#). Committee discussed concerns with existing timelines performance and the implications of Bill 109 in future years. Chiefly impacted by Bill 109 are Site Plan Control and Zoning By-law Amendments.

The new mandated timeline for Zoning By-law amendments (ZBLA) is 90 days, while the City takes an average of 178 days to issue a decision on a ZBLA, which exceeds the statutory timeline.

For Site Plan Control (SPC), the new mandated timeline is 60 days, while the average SPC application takes 196 days to approve, which exceeds the statutory timeline.

As such, in the current state of affairs, most SPC and ZBLA applications would require a refund. The City needs to rethink the processes around Site Plan Control and Zoning By-law amendment applications so that legislative timelines can be met and that the department is not negatively impacted by the requirement to refund fees.

## **DISCUSSION**

### **Issue statement and risk**

To frame the proposed approach to implement the province's Bill 109 and the recommendations of this Phase 1 report, this section provides a summary of the multiple issues the City faces.

Should the City not swiftly and decisively update its current approach to development application review to meet the new provincially mandated timelines and refunds, it would have colossal impacts on revenue and subsequently, service delivery.

Development application review is a self-financed service offered by the City, where planning application fees pay for the staff that do that work. This is part of a City commitment that "growth pays for growth", meaning that the development industry pays for the services it needs to operate. Potential future refunds from unmet timelines would directly lead to the City having to either draw from tax base revenue to afford current service delivery or lead to service and staff reductions further risking planning application fees.

With a provincially imposed objective to effectively cut review timelines by half for ZBLA and 66 per cent for SCP in the next six months, it is imperative that the City secure resource capacity to process applications faster, reprioritize how applications are accepted and, where possible, streamline or reduce the application review process.

This report provides Council with the approach Staff intend to take to implement the changes mandated by the provinces' Bill 109, and details Phase 1 of this implementation.

### **Recommendation 1 – approach to implement the Provincially mandated changes resulting from Bill 109**

Staff propose a phased approach to implement Bill 109, which has three major deadlines for adoption: July 1, 2022 and January 1, 2023 and beyond 2023. The table below provides an ambitious high level workplan for the City to implement Bill 109:

Phase	Description	Deadline for implementation
1	<b>SPC Delegation</b>  Implement the SPC delegation of authority to staff and create internal capacity.	July 1, 2022
2	<b>Internal Changes: Refunds of SPC / ZBLA</b>  Addresses any internal processes and procedure updates to create additional capacity and ensure Staff can deliver approvals within the updated timelines prescribed by Bill 109, and implement Refunds of SPC and ZBLA, should the new timelines not be met.	January 1, 2023
3	<b>By-law Amendments: Refunds of SPC/ ZBLA</b>  Addresses any By-law Amendments requiring Council approval, to ensure that Staff can deliver approvals within the updated timelines prescribed by Bill 109	January 1, 2023

	and update the development application Fee By-law with respect to refunds.	
4	<p><b>Implementing Outstanding Bill 109 Requirements</b></p> <p>Entails monitoring progress, complete outstanding items from previous phases, developing a Ministerial Zoning Order procedure, address Surety Bonds, and implement any other items which did not have a specific implementation deadline.</p>	2023

Phase 1 will be complete with the approval by Council of this report.

Phases 2 and 3 are expected to take the most amount of effort. Staff need to comprehensively review the procedures and processes for ZBL and SPC applications to effectively cut the timelines by half for ZBL amendment applications and by 66 percent for SPC applications, without compromising the elements of public interest stipulated in City policies, guidelines and By-laws. This is a large challenge that will require a re-think of how applications are deemed “complete”, given that is the trigger when the clock for the new mandated timelines starts. Staff will explore prioritization of review, streamlining of all parts of the process and a potential shift towards pre-consult as the main tool to deeming applications “complete”. Short of these, removing parts of internal process and procedure will also be considered as well as re-thinking the thresholds of development primarily for zoning by-law amendment applications with an intent to streamline less complex application types.

The results of this comprehensive review will be shared in a report to the new Council in Q4 of 2022 or Q1 of 2023, anticipating the provincial implementation deadline of January 1, 2023.

Phase 4 will capture any additional work that was identified as supporting a more streamlined review process, but not completed in time for January 1, 2023. It would also include developing the elements of Bill 109 that did not have a specific timeline for implementation, such as Surety Bonds and developing a procedure for when the Municipality would ask for a Ministerial Zoning Order.

### **Recommendation 2 – amendments to the *Delegated Authority By-law 2022-29***

Bill 109 changed the way SPC applications are approved. *Bill 109* Subsection 7(3) 7(4) and *Planning Act* 41(4.0.1) were amended to reflect the SPC and delegation of authority changes to staff for approval, and removal of political involvement in the approval process

The updated *Planning Act* provisions required amendments to the City's *Delegated Authority By-law 2022-29* with respect to Site Plan Control approval and are included in Document 2 attached to this report. The changes include:

- Appointment of the Director of Planning Services or his/her delegate for all SPC applications approvals;
- Amends several locations of the By-law to effectively remove Councillor involvement, as prescribed by Bill 109, from:
  - Requiring Councillor concurrence;
  - Councillor ability to withdraw SPC delegation ability;
  - Councillor imposing of terms and conditions on SPC applications;
  - Threshold of when delegation of SPC applications can be applied for (it is now all types of SPC applications).

During the interim period of July 1 to July 6 (only two working days, July 4 and 5, 2022) no Site Plan Control applications will be brought forward for approval. This means Staff will ensure that either approval is obtained by June 30, 2022 or wait until July 6, 2022 (via the proposed Planning Services Director approval).

### **Recommendation 3 – repeal and replacement of the *Development Application Study Policy By-law 2001-451***

Bill 109 Subsection 7(1) and 7(2) and *Planning Act* Subsection 41(3.1) and 41(2) were amended to require applicants to consult with a municipality before submitting plans and drawings and require the information prescribed to be submitted to the municipality. To implement this, the City must first update the list of studies that are required for a planning application to be deemed “complete”. A “complete” application is the trigger for when the clock on the new timelines starts ticking in the development application process.

Through the new Official Plan (new OP) process, the City had already contemplated updating the list of studies as part of Section 11 (Draft OP, Nov 2020), but ultimately decided not to include the list in the new OP as to prevent an Official Plan Amendment (OPA) from being required to amend the study list.

Instead, Staff are proposing to repeal and replace the *Development Application Study Policy By-law 2001-451*, which has not been updated since 2001 and will serve to both meet the updated study requirements of Bill 109 and implement the policy intent from the new OP.

Note that the original 2001 Bylaw is very out of date and does not reflect the current list of studies that staff require of applicants, which is on the City website. Staff propose to replace the By-law in its entirety with a new By-law which will reflect the practices of current application submission standards.

The list can be consulted in Document 3 of this report. The list is set up to be discretionary and the Director of Planning Services has the ability to waive requirements.

The updated study list represents the information that can be requested by Staff in support of an application and will provide clarity to both applicants and staff.

In support of this list, it is an important City initiative to update, or in some instances create a Terms of Reference / Guideline for each of the individual studies. A package of Terms of References / Guidelines that complement *the Development Application Study Policy By-law* will be a large part of the work of Bill 109 Implementation Phase 2 and is targeted to be implemented by January 1, 2023.

#### **Recommendation 4 – amendments to the Public Notification and Consultation Policy**

The *Public Notification and Consultation Policy* must be updated to align with the changes to the *Delegation of Authority By-law* (as per Recommendation 2) with regards to delegating SPC to staff, as prescribed by Bill 109. The updated by-law is attached as Document 4.

Below is a table of the current Site Plan Control engagement opportunities, what staff propose as part of this report, and the extent of changes that Bill 109 could have justified.

<b>Implementation – Phase 1 item</b>	<b>Current</b>	<b>Staff proposed amendment</b>	<b>Change available under Bill 109</b>
Councillor concurrence on SPC	Yes	No	No
Council as final authority for SPC	Yes	No	No
Community/ Councillor heads up of SPC	Yes	Yes	No
Community/Councillor comments SPC	Yes	Yes	No
Notice of decision to Community/Councillor	Yes	Yes	No

Bill 109 provides staff with the opportunity to make the Site Plan Control process akin to Building Permit applications: a technical exercise without public input.

However, PRED Staff committed to Council that a role for the public and Councillors would remain part the process. In their commitment to a transparent planning process, Staff have opted to keep the public notification (heads-up and notice of decision) at this time. Staff also opted to keep an opportunity to provide targeted comments, specific to the parameters of Site Plan Control under the *Planning Act*. However, these provisions will be monitored over the coming months to better evaluate the value of Staff time invested into these consultation components that are in-and-above that of the *Planning Act* requirements. A report back to Council on the findings of this aspect is targeted for Q4 2022 or Q1 2023. These findings will inform potential further adjustments to the City's consultation and notification procedures in an effort to ensure the City can meet legislative approval timelines for both Site Plan Control and Zoning By-law Amendment applications. Consultation, although an important step in the process, is a time commitment and the City must consider the length of time required for these efforts as well as opportunities to streamline approval.

In the interim period, staff will continue take the written comments into consideration as part of the review of planning applications.

### **Recommendation 5 – amendments to the *Site Plan Control By-law***

Bill 109 Implementation Phase 1 is focused on the delegation of authority to staff to approve Site Plan Control. However, staff are also keenly aware that capacity must be created in order for staff to adapt over the next 6 months to effectively reduce timelines by half for ZBLA and 66 per cent for SPC. The 2021 Year End Report [ACS2022-PIE-GEN-0002](#) provided a snapshot of the volume of applications staff are currently reviewing. Staff need to reprioritize the departmental effort to create capacity internally to adapt to shorter and more intense timelines come January 1, 2023.

In that light, the report recommends altering the Site Plan Control *By-law* to align the inner urban Site Plan Control exemption threshold with the exemption threshold for applications located outside the greenbelt. The By-law would permit buildings with 4-5-6 units to be exempt from Site Plan Control. This change reprioritizes the departmental effort to create capacity internally, reducing workload to enable adaptation to shorter and more intense timelines. Further, this change directly supports the efforts of solving for the Affordable Housing and Homelessness Crisis and Emergency, declared by Council on January 29, 2020 with Motion NO 26/14, and the New Official Plan intensification targets.

For example, this exemption would have reduced the SPC applications that staff need to review in 2020 by 7, representing \$139,271.02 in fee revenue, assuming a standard fee of \$19,895.86.

### **FINANCIAL IMPLICATIONS**

There are direct and indirect financial implications with the recommendations of this report, which implement the Province's Bill 109.

The direct financial implication of this report is the decrease of Site Plan Control (SPC) fee revenue for applications with 6 or less units. In 2020, this would have represented 7 less applications valued at an estimated \$139,000 in fee revenue. . The SPC exemption change is expected to have a limited impact on overall Planning Services fee revenue trend. As stated in the Resources for Development Applications Review and Approval (ACS2022-PIE-GEN-0010), should the actual 2022 revenue be inconsistent with past trends and fall short of the projected revenue, fees will be adjusted through the 2023 and/or future budget process(es).

The indirect implications relate to the provincially imposed requirement to refund Zoning By-Law Amendment (ZBLA) and SPC fees if timelines are not met, starting January 1,



2023. Based on current timelines, there needs to be a 50 per cent (ZBLA) and 66 per cent (SPC) decrease in review timelines between now and January 1, 2023, or the City will be required to refund a significant amount to applicants.

Should the City not swiftly and decisively update its current approach to development application review to meet the new provincially mandated timelines and refunds, it would have colossal impacts on revenue and subsequently, service delivery.

Development application review is a self-financed service offered by the City, where planning application fees pay for the staff that do that work. This is in accordance with the City's User Fees and Charges Policy whereby Section 391 of the Municipal Act, 2001 provides municipalities with authority to establish and collect user fees and charges to recover costs associated with the delivery of services where users can be identified. In addition, this is part of a City commitment that "growth pays for growth", meaning that the development industry pays for the services it needs to operate.

The financial impact of the work completed by City staff in the coming months will form an important part of the Council report in Phase 3, aimed to be presented to Council for consideration in Q4 2022, in advance of the January 1, 2023 refund implementation deadline.

## **LEGAL IMPLICATIONS**

As outlined in the report, Bill 109 has effected changes to the *Planning Act* that require the City to modify the process by which applications for site plan approval are considered and approved.

With respect to Recommendation 3, the repeal and replacement of the *Development Application Study Policy By-law*, it is open to the City to identify the possible array of studies that might be required in a planning application. However, an applicant has the ability, through a motion for directions to the Ontario Land Tribunal to dispute whether one or more studies are in fact properly required for an application to be deemed complete.

## **COMMENTS BY THE WARD COUNCILLORS**

This is a city-wide report – not applicable.

## **CONSULTATION**

Staff consulted internally and hosted briefings Councillors to make them aware of the contents of this report.

## **ACCESSIBILITY IMPACTS**

There are no accessibility impacts to this report.

## **ASSET MANAGEMENT IMPLICATIONS**

This report includes amendments to City procedures and By-laws to meet the provincial requirements of Bill 109. These changes must be made; however, staff foresee the following asset management related risks,

- Shorter review timelines could result in infrastructure issues being inadvertently missed, which could result in operational challenges and/or shorter infrastructure lifecycle.
- Missed review deadlines result in lost revenue to the City. The lost revenue would have to be recovered from other City revenue streams, which could result in less funds available to be spent on the provision of other city services.

## **RISK MANAGEMENT IMPLICATIONS**

The Risks to the City are described at the beginning of the Discussion section of the report.

## **RURAL IMPLICATIONS**

The recommendations of this report implementing the province's Bill 109 affects all Development Application files, including Rural files.

## **TERM OF COUNCIL PRIORITIES**

Efficient processes that support the City's consideration of planning applications support several Term of Council priorities including Economic Growth and Diversification, Thriving Communities, Environmental Stewardship and Service Excellence through Innovation.

## **SUPPORTING DOCUMENTATION**

Document 1 Bill 109 Impacts

Document 2 Delegated Authority By-law 2022-29

Document 3 Development Application Study Policy By-law 2001-451

Document 4 Public Notification and Consultation Policy

Document 5 Site Plan Control By-law

**DISPOSITION**

Planning, Real Estate and Economic Development will implement the next phases of Bill 109 Implementation.

*\* Note: Corrections were made to Document 2 of this report in accordance with Motion No. ARAC 2022-33/1 and pursuant to the City Clerk and Solicitor's Delegated Authority to correct clerical, spelling, or minor errors of an administrative nature as set out in Schedule C, Section 7 of Delegation of Authority By-Law 2022-29. A revised report was posted with the July 6, 2022, City Council Agenda*

## Document 1 – Bill 109 Impacts

<i>Planning Act</i>		
<b>Subsection</b>	<b>Change</b>	<b>Impact</b>
1  OFFICIAL PLAN APPROVAL	These changes to Section 17 of the <i>Planning Act</i> affect the 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. Further, new processes are put in place for the Minister as an approval authority to refer plans to the Ontario Land Tribunal for a recommendation or a decision	These changes impact the approval of the New Official Plan by the MMAH and impacts on legal and staff costs to deal with possible Ontario Land Tribunal hearings for pending approval of the New Official Plan. These changes took effect when Royal Assent was passed (April 14, 2022).
2  PROCEDURAL	These changes address administrative numbering of the <i>Planning Act</i> .	Procedural, no impact. These changes took effect when Royal Assent was passed (April 14, 2022).
3  OFFICIAL PLAN APPROVAL	This is an extension of the changes to item 1 above respecting ministerial approval of plans.	Impact assessed as part of item 1 above. These changes took effect when Royal Assent was passed (April 14, 2022).
4	These changes are to Section 34 of the <i>Planning Act</i> which provide new rules	This <i>Planning Act</i> change will require significant internal process adjustments to ensure that we

REFUNDS	respecting when municipalities are required to refund fees in respect of applications under that section.	can deliver decisions/approvals by the decision deadline for Zoning Bylaw Amendments as well as Site Plan Control applications. An amendment to the fee schedule bylaw and sweeping internal process changes will be recommended to conform to new limes of 60 days for SPC and 90 days for ZBLA which focus largely on the sharing responsibility of meeting timelines to: staff; external consultants, developers, Councillors, and the community. These refund of fee changes come into force on the later of January 1, 2023.
5 ZONING ORDERS	Changes to the <i>Planning Act</i> which provide a new Section 34.1, deal with an additional type of Minister’s order. These orders are made by the Minister at the request of a municipality. This section sets out the process and rules respecting such orders.	This change will require a process to be established on when and how a municipality may request a ministerial zoning order. These changes took effect when Royal Assent was passed (April 14, 2022).
6 DEVELOPMENT CHARGES / CBC	These changes to the <i>Planning Act</i> provide a updates to Section 37 to require regular reviews of community benefits charge by-laws and provide rules respecting such reviews.	This change will the City to review the CBC Bylaw every 5 years and undertake consultation, etc.). These changes took effect when Royal Assent was passed (April 14, 2022).

<p>7</p> <p><a href="#">MULTIPLE: REFUNDS / PRE-APPLICATION MEETINGS / COMPLETE APPLICATIONS / CONSULTATION / DELEGATED AUTHORITY FOR SPC /</a></p>	<p>A number of amendments are made to Section 41 of the <i>Planning Act</i> having extensive impacts to PRED.</p> <p>Subsection 1: Affects changes to the prescribed information for a complete application; the municipalities ability to refuse an application and the appeal rights to the OLT.</p> <p>Subsection 2: Requires approval to be given prior to development commencing.</p> <p>Subsection 3: Requires municipalities to appoint authority for SPC to staff.</p> <p>Subsection 4: Removed Council as an approval authority of SPC.</p> <p>Subsection 5: Deal with refunds of SPC applications if timelines are not met.</p>	<p>The changes to the <i>Planning Act</i> from this section require a layered implementation strategy and fluctuating deadlines.</p> <p><u>Subsection 1, 4, 6 and 8, come into force the day the More Homes for Everyone Act, 2022 received Royal Assent (April 14, 2022).</u> These subsections dealing with multiple items and are proposed to be partially dealt with through this report. The remaining adjustments to fully address Subsections 1, 4, 6, 8 and 10 require additional time and staff assessment. The additional adjustments are proposed to be brought forward through a separate report to Council in Q4 of 2022.</p> <p><u>Subsection 5, come into force on January 1, 2023.</u> These changes deal with refunds of SPC applications which do not meet prescribed timelines. These changes require possible updates to the City's Fee Bylaw and internal procedure manual updates. It is recommended that this item be dealt with in Q4 of 2022.</p> <p><u>Subsections 2, 3, 7 and 9 come into force on July 1, 2022.</u> These changes deal with Site Plan Control. It is recommended that these changes be partially dealt with in a July 2022 report,</p>
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	<p>Subsection 6: Increases the review period of a SPC application from 30 days to 60 days.</p> <p>Subsection 7: Allows municipalities to deem certain classes of SPC applications as not needing submission of plans and drawings. This is to be implemented via By-law and is at the discretion of the municipality.</p> <p>Subsection 8: Provides transition for the application of these provisions.</p> <p>Subsection 9: Provides transition for the application of these provisions.</p>	<p>including amendments to the Delegation of Authority By-law and the replacement of the Development Application Study Policy By-law. Subsequent changes to internal process improvements and adjustments to streamline applications require additional staff time and are proposed to be brought forward to Council in Q4 of 2022 and bulked with other items noted above.</p> <ul style="list-style-type: none"> <li>- <u>Subsection 2</u>: No changes to PRED documents, this item is already accounted for in the procedures manual.</li> <li>- <u>Subsection 3</u>: Requires an immediate amendment to the Delegated Authority Bylaw.</li> <li>- <u>Subsection 7</u>: Requires an evaluation of the SPC Bylaw and internal processes to determine if implementation of this provision is something the City wants to pursue. This is recommended to be brought forward as part of the Q4 2022 report.</li> <li>- <u>Subsection 9</u>: No changes to PRED documents</li> </ul>
<p>8 PARKLAND</p>	<p>Amendments are made to Sections 42 of the <i>Planning Act</i> with respect to parkland requirements on land designated as transit-</p>	<p>No impact the City of Ottawa with respect to parkland dedication as the Transit-Oriented Communities Act does not apply to any lands within Ottawa. Legal Services has further verified that Ottawa's LRT lands would not fall</p>

	oriented community land under the <i>Transit-Oriented Communities Act, 2020</i> .	under the Transit-Oriented Communities Act or Building Transit Faster. These changes took effect when Royal Assent was passed (April 14, 2022).
9 PLANS OF SUBDIVISION	New rules are added to Section 51 of the <i>Planning Act</i> with respect to extensions of approvals by approval authorities.	The changes to the <i>Planning Act</i> require updates to internal procedures manual and templates for the processing of Plans of Subdivisions to accommodate extensions to approvals. These changes took effect when Royal Assent was passed (April 14, 2022).
10 PARKLAND	Amendments are made to Sections 51.1 of the <i>Planning Act</i> with respect to parkland requirements on land designated within Plans of Subdivision and for transit-oriented communities.	No impact the City of Ottawa with respect to parkland dedication as the Transit-Oriented Communities Act does not apply to any lands within Ottawa. Legal Services has further verified that Ottawa's LRT lands would not fall under the Transit-Oriented Communities Act or Building Transit Faster. These changes took effect when Royal Assent was passed (April 14, 2022).
11 REPORTING	New Section 64 of the <i>Planning Act</i> provides the Minister the authority to request information and reports from Municipalities regarding planning matters as it deems appropriate.	This change requires an assessment with business and technical support services on how to implement and internal staff procedural changes. These changes took effect when Royal Assent was passed (April 14, 2022).



12 REPORTING	New Section 70.1.1 of the <i>Planning Act</i> is an extension of the changes within Item 11 above to section 64, providing the Minister the authority to request information and reports from Municipalities regarding planning matters as it deems appropriate.	This change requires an assessment with business and technical support services on how to implement and internal staff procedural changes. These changes took effect when Royal Assent was passed (April 14, 2022).
13 SURETY BONDS	New Section 70.3.1 of the <i>Planning Act</i> 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.	This change requires an assessment with legal on when and if to implement. Should the minister direct municipalities to require surety bonds these changes would require internal staff procedural adjustments. These changes took effect when Royal Assent was passed (April 14, 2022).