



MEMO / NOTE DE SERVICE

To / Destinataire Mayor and Members of Council File/N° de fichier: N/A

From /
Expéditeur Stephen Willis
General Manager, Planning, Real
Estate and Economic Development
Department

David White,
City Solicitor, Innovative Client
Services Department

Subject / Objet Summary of Bill 109, More Homes Date: 06 April 2022
for Everyone Act, 2022

Background

The Ontario Housing Affordability Task Force was appointed by the Province to help the government identify and implement solutions to quickly increase the supply of market housing in Ontario. On February 8, 2022, the Task Force published a report containing 55 recommendations. Council Report ACS2022-PIE-EDP-0008 outlined the City's response to those recommendations, and that response was sent to the Minister of Municipal Affairs and Housing.

Bill 109, *More Homes for Everyone Act, 2022* was introduced at the Provincial Legislature for first reading on March 30, 2022. The Bill proposes changes to the *Planning Act* and other statutes to implement some of the 55 recommendations in the Task Force Report.

Bill 109 Amendment Highlights

The Bill largely falls short of implementing the more ambitious Task Force recommendations, focusing instead on increased reporting requirements, applying pressure to meet development approval timelines, introducing a new zoning tool and creating working groups. The Province is, however, investing \$19 million to reduce the backlog of cases and increase the decision-making speed at the Ontario Land Tribunal and the Landlord and Tenant Board.

The most important changes to note are:

1. **Minister's Review of Official Plans – Suspension**
 - Amendments to Section 17 of the *Planning Act* would allow the Minister to suspend its approval timeline for new official plans and official plan amendments. Amendments would also have the effect of deeming existing plans awaiting approval with the Minister suspended.

- If this iteration of the Bill is passed and the Minister has not yet made a decision respecting Ottawa’s New Official Plan, the City will be deemed to have received notice of a suspension dated March 30, 2022. There is no timeline for when the Minister must issue a decision or rescind the suspension.

2. Minister’s Review of Official Plans – Referral to the Ontario Land Tribunal (OLT)

- In the Province’s effort to “de-politicize” approvals, Bill 109 would allow the Minister to refer an Official Plan approval, in whole or in part, to the OLT. Referral can be for a recommendation (subsection 17(55)) or for a decision (subsection 17(61)), as the case may be. In either case, the OLT may choose to hold a hearing on the Official Plan, and everyone who made submissions to Council on the Plan would be notified.
- If this iteration of the Bill is passed and the Minister has not yet made a decision respecting Ottawa’s New Official Plan, the Plan would be eligible to be referred to the OLT.

3. Mandatory “Delegation” of Site Plan Approvals

- Bill 109 requires that Council pass a by-law to “appoint” an “authorized person” for all site plan control approvals.
- The requirement that Council approve site plan control approvals has been removed.

4. Increased Financial Pressure to Meet Statutory Planning Timelines

- Zoning by-law amendment applications and site plan control applications are subject to statutory timelines, and the applicant has standing to appeal to the OLT if a decision or approval is not made on time. Bill 109 adds financial penalties in the form of application fee refunds where a decision or an approval is not issued within the statutory timeframe.
- The City often does not meet its statutory timelines, so the impact of these amendments would have a significant financial impact. Delays arising from comments from circulations and consultations, or related planning applications mean that approvals are not always linear.
- Approval of zoning and official plan amendments cannot be delegated to staff, so in the summer months with fewer sittings of Council there is less flexibility to meet the timelines.

5. New Planning Tool – “Community Infrastructure and Housing Accelerator”

- This new tool allows Council to, by way of resolution, request that the Minister make an order for zoning matters. The tool largely resembles “Ministerial Zoning Orders” but includes some consultation requirements and must be at the request of Council. Once implemented, the tool is extraordinary – it can disregard local policy, the Provincial Policy Statement, and likely other licensing or permitting requirements. For all intents and purposes, an Order under this tool is treated the same as a zoning by-law.

Next Steps

The proposed amendments to Section 17 of the *Planning Act* directly impact the status of Ottawa's New Official Plan, so Staff will pursue clarity on those amendments and confirm the City's legal options.

Since the legislation is moving swiftly through the Legislature, staff have flagged technical recommendations on the wording with Ministry staff. Staff will be preparing a response to the EBR posting and submitting it on the City's behalf, as there is no time to bring this matter before Committee and Council for discussion. Staff comments will be technical in nature but refer back to the City's response to the Housing Affordability Task Force for broader context and concerns. These comments will cover the following:

- Approval timelines for site plan control, specifically if Staff is unable to approve an application.
- Approval timelines for zoning by-law amendments and those concurrent with an official plan amendment. In some cases, for example, the applicant and/or Staff undertake lengthy but necessary public consultations that go beyond the statutory requirements. The proposed amendments would penalize the City in such instances, as statutory timelines would be impossible to meet.
- Request to change the implementation date of the refunds for zoning to be a date later than the changes to site plan to allow the City more time to adjust its processes.

Attachments

Please find attached:

1. Appendix A – Analysis of Key Amendments that Impact Ottawa
2. Appendix B – Summary of Other Changes Proposed in or Concurrent with Bill 109
3. Appendix C – Detailed Breakdown of Amendments to the *Planning Act*.
- 4.

Stephen Willis, MCIP, RPP

General Manager, Planning, Real Estate and Economic Development Department |
Directeur général, Direction générale de la planification, de l'immobilier et du
développement économique
110 Laurier Ave. W. | 110, avenue Laurier ouest Ottawa, ON K1P 1J1
(613) 580 2424 Ext. | Poste 16150

David White

City Solicitor, Innovative Client Services Department
Avocat de la ville, Service à la clientèle novateur
110 Laurier Ave. W. | 110, avenue Laurier ouest Ottawa, ON K1P 1J1
(613) 580 2424 Ext. | Poste 21933

APPENDIX A - ANALYSIS OF KEY AMENDMENTS THAT IMPACT OTTAWA

Summary of Change	Analysis
Official Plans	
<p>Official Plan Reviews - Suspension</p> <ul style="list-style-type: none"> • If this Bill is passed and the Minister has still not made a decision on the City’s New Official Plan, then the <i>Planning Act</i>, as revised, would deem the Minister’s approval period (120 days) to have commenced on March 29, 2022, and would also deem the Minister’s approval period suspended indefinitely commencing on March 30, 2022. • This means that the Minister would no longer be bound by a timeline for approval until the Minister provides notice that the suspension is being rescinded. When that occurs, the Minister will now be on day 2 of 120 of the approval period. 	<ul style="list-style-type: none"> • The Minister is not required to provide an expected date for the end of the suspension. As such, the City’s Official Plan review would be suspended indefinitely. • Staff intend to seek clarity from the Minister on the intent of the suspension and expected duration. • Staff note that the retroactive effect of these amendments prevents the City from appealing the Minister’s non-decision on the New OP before the Bill receives Royal Assent for the purpose of circumventing the deemed suspension.
<p>Official Plan Reviews – Referral to the OLT</p> <ul style="list-style-type: none"> • Bill 109 would allow the Minister to refer an Official Plan approval, in whole or in part, to the OLT. Referral can be for a recommendation (subsection 17(55)) or for a decision (subsection 17(61)). • In either case, the OLT may choose to hold a hearing on the Official Plan, and everyone who made submissions to Council on the Plan would be notified. • If this Bill is passed and the Minister has still not made a decision on the City’s New Official Plan, then the City’s New Official Plan would be eligible for a referral to the OLT. 	<ul style="list-style-type: none"> • This would be similar to the process in place prior to the <i>Planning Act</i> amendments made in 1995, although the Minister would have greater discretion in making or not making a referral than was true at that time. The parties to the proceedings, in addition to the municipality, would presumably be determined by the OLT. As the proposed amendments do not identify limitations on the Tribunal’s discretion, it would appear that its determination could go beyond matters of provincial policy or interest. • The record to be provided to the OLT by the Minister upon referral is neither prescribed nor defined by the Bill.
Streamlining the Approvals Process	
<p>Site Plan Control</p> <ul style="list-style-type: none"> • Amendments to Section 41 would require mandatory delegation of decisions related to site plan control from Council to planning staff for applications received on or after July 1, 2022. • The review period for site plan control applications would be extended from 30 days to 60 days. • New “complete application” requirements, with options for recourse within 30 days if an application has not been 	<ul style="list-style-type: none"> • Staff did not support mandatory delegation of site plan approval in the Task Force Report. Mandatory delegation would need to take place before July 1, 2022. • The term “delegate” or “delegation” is not actually used in the new subsections, although the Province’s own publications characterize it as such. • The <i>Municipal Act, 2001</i> contains rules respecting delegation, including that it may be made subject to conditions and limits. These rules are relevant to true delegations of authority and may not be

<p>deemed “complete”, adds clarity and predictability to the site plan control process.</p> <ul style="list-style-type: none"> • Starting January 1, 2023, municipalities would be required to gradually refund site plan control application fees if approval has not been given within the required timelines, as follows: <ul style="list-style-type: none"> ○ 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. 	<p>applicable to “appointed” persons as in this case.</p> <ul style="list-style-type: none"> • Staff rarely approve site plan control applications within the current 30-day timeline. The average site plan control application takes 196 days to approve – as such, most site plan control applications would require a refund if this Bill is adopted as written. Staff will request that the transition for this amendment be extended to allow for internal procedures to be adjusted. • Municipalities now risk incurring financial penalties (through refunds) if they request additional information from an applicant that the Tribunal deems inappropriate. • Additional information requested by a municipality from the applicant may only be requested if the OP contains provisions relating to same.
<p>Plans of Subdivision</p> <ul style="list-style-type: none"> • Amendments to sections 51 and 70.1 would establish regulation-making authority to determine what can and cannot be required as a condition of a draft plan of subdivision approval. • A one-time discretionary authority would allow municipalities to revive draft plans of subdivision which have lapsed within five years without a new application. This only applies where units have not been pre-sold. 	<ul style="list-style-type: none"> • Staff are concerned that regulations setting forth conditions may limit the ability to address site specific concerns with respect to proposed plans of subdivision. Applicants have the ability to appeal such conditions if they are not reasonable, relevant, necessary or equitable. • The aim of this new regulation-making authority is to prevent scope creep, whereby municipalities ask for conditions of draft approval that are not otherwise appropriate. • The opportunity to revive lapsed plans of subdivisions has the potential to create efficiencies.
<p>Zoning By-law Amendments</p> <ul style="list-style-type: none"> • Starting January 1, 2023, municipalities would be required to gradually refund fees if a decision is not made within the statutory timelines, as follows: <ul style="list-style-type: none"> ○ No refund if decision made within 90 days (or 120 days if concurrent with an OPA); ○ 50% refund if decision made within 91 to 150 days (or 121 to 180 days if concurrent with an OPA); 	<ul style="list-style-type: none"> • The City takes an average of 178 days to issue a decision on a zoning by-law amendment application, which exceeds the statutory timeline. Staff will request that the transition for this amendment be extended to allow for internal procedures to be adjusted. • Approval of zoning and official plan amendments cannot be delegated under the <i>Municipal Act</i>, so in the summer months with fewer sittings of Council there is less flexibility to meet the timelines.

<ul style="list-style-type: none"> ○ 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). 	
<p>Development Related Charges and Reporting</p> <ul style="list-style-type: none"> • Several changes to the Planning Act will require the City to report to Council or the Minister more frequently. For the new Community Benefits Charge By-law, Council would be required to consult and pass a resolution at least every five years on the status of the by-law. New regulation-making powers broaden the Minister’s authority to ask for reports on other planning matters. • Amendments to the Development Charges Act require municipalities to provide annual financial reports on their websites. • Amendments to parkland dedication would impose new caps based on the area of the land. 	<ul style="list-style-type: none"> • Requirements to consult on and possibly update the new CBC by-law at least every 5 years is comparable to the City’s development charge obligations. Staff have no concerns with this requirement.
<p>Financing Options – Surety Bonds</p> <ul style="list-style-type: none"> • Amendments would create new regulation-making authority related to the use of surety bonds for financing new development. 	<ul style="list-style-type: none"> • Staff have no concerns at this time.
Community Infrastructure and Housing Accelerator	
<p>New Planning Tool in Section 34.1</p> <ul style="list-style-type: none"> • This new tool allows Council to, by way of resolution, request that the Minister make an order for zoning matters. The tool largely resembles “Ministerial Zoning Orders” but includes some consultation requirements and <u>must be at the request of Council</u>. Once implemented, the tool is extraordinary – it can disregard local policy, the Provincial Policy Statement, and other licensing or permitting requirements. For all intents and purposes, an Order under this tool is treated the same as a zoning by-law. • If a resolution is passed by Council for an Order under this section, the Minister 	<ul style="list-style-type: none"> • This is a very powerful tool. Once Bill 109 receives Royal Assent, the City should consider changes to its Procedures By-law dealing with the consultation and the passage of a resolution under this section. • The manner of notice and consultation to be given by the municipality has been left to the discretion of the municipality. • “Guidelines” from the Province will be established respecting Orders under this section. Unlike regulations, guidelines are not law and not subject to the same rules of filing and publication. These Guidelines have been drafted and are open for comment.¹

¹ The draft Guidelines can be found online: [https://prod-environmental-registry.s3.amazonaws.com/2022-03/Draft%20CIHA%20Guidelines_March%2030%202022%20\(English\).pdf](https://prod-environmental-registry.s3.amazonaws.com/2022-03/Draft%20CIHA%20Guidelines_March%2030%202022%20(English).pdf)

retains the discretion on whether to pass the order, with or without modifications.

- The public does not have a right to request that an Order be amended or revoked; similarly, there is no right to a minor variance from an Order.

- The draft Guidelines outline the kinds of infrastructure projects and development that are eligible to be covered by an Order, and the situations where exemptions from other planning approvals could be permitted.

APPENDIX B – SUMMARY OF OTHER CHANGES PROPOSED IN OR CONCURRENT WITH BILL 109

Development Charges Act

Current	Bill 109	Comments + Summary of Change
<p>Statement of Treasurer 43(2.1) replaced</p> <p>Statement available to public (2.1) The council shall ensure that the statement is made available to the public.</p>	<p>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.</p>	<p>Staff have no concerns with posting statements online or as otherwise prescribed.</p>
<p>60(1) amended</p>	<p>Regulations respecting transition, 2019 amendments 60.1 The Lieutenant Governor in Council may make regulations, ... (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);</p>	<p>New regulation-making authority regarding making statements public.</p>

Other Changes

- Increasing the non-resident speculation tax rate from 15% to 20%, and the expansion of this tax across Ontario.
- A provincewide working group with municipalities who intend to establish a vacant home tax, where best practices can be shared.
- Amendments to the *New Home Construction Licensing Act, 2017* and to the *Ontario New Home Warranties Plan Act* that would increase the fines and administrative penalties.
- Employing the new home building industry regulator, the *Home Construction Regulatory Authority* with a mandate to address “unethical builder and vendor conduct.”
- Changes to benefit new homebuyers, including a mandatory condominium information sheet for pre-consultation units, and increasing the amount of interest that is payable on new construction units in situations such as when a project is cancelled.
- The Province is proposing a **Centre of Realty Excellence (CORE)** that would determine how Ontario could better utilize its portfolio of **surplus land** for projects such as long-term care and non-profit housing. This would include developing a process to streamline access to these lands for housing providers.
- Ontario Building Code changes to make multi-unit development less expensive.

APPENDIX C - DETAILED BREAKDOWN OF AMENDMENTS TO THE *PLANNING ACT*

Existing <i>Planning Act</i>	Proposed – Bill 109 (<i>Emphasis always added</i>)	Comments + Summary of Change
<p>1/ Section 17 Official Plan Approvals New subsections</p>	<p>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.</p> <p>Same (40.1.1) The effect of a suspension under subsection (40.1) is to suspend the time period referred to in subsection (40) <u>until the date the Minister rescinds the notice</u>, and the period of the suspension shall not be included for the purposes of counting the period of time described in subsection (40).</p> <p>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.</p> <p>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, <u>(a) the plan shall be deemed to have been received by the Minister on March 29, 2022; and</u> <u>(b) the Minister shall be deemed to have given notice under subsection (40.1) on March 30, 2022.</u></p>	<p>\ Subsection 17(40) is what gives the Minister 120 days to approve, or municipality can appeal.</p> <p>\ Once passed, Ottawa would be caught by (40.1.3) – Minister deemed to have received the plan on March 29 and deemed to give notice of a suspension on March 30.</p> <p>\ There is nothing speaking to the duration of a suspension. If this passes, Ottawa’s OP would be suspended indefinitely - once that suspension is rescinded, we would be back at day 2 of 120.</p> <p>\ No statutory recourse for a suspension under (40.1) or (40.1.3).</p>
<p>Section 17</p>	<p>Referral to Tribunal for <u>recommendation</u> (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.</p> <p>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.</p> <p>Recommendation (57) If the Minister refers all or part of a plan to the Tribunal under subsection (55), the Tribunal shall make <u>a written recommendation</u> to the Minister stating whether the Minister should approve the plan or part of</p>	<p>\ Minister can refer all or part of the OP to the OLT for a recommendation (55) or refer for a decision (61).</p> <p>\ OLT may choose to hold a hearing if all or part of an OP has been referred.</p> <p>\ Notice of such a hearing would go to City and those who made submissions to Council on the OP.</p> <p>\ OPs in the balance – like Ottawa’s – are eligible to be referred to the OLT because</p>

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).

no decision has yet been made. OP can be referred in whole or in part for either a recommendation (55) or a decision (61).

\ Unclear what the OLT is permitted to review *for*. I.e., is it limited to what the Minister would have considered (i.e., matters of provincial interest? PPS? Section 16 of the Act?) or can they go beyond?

\ Referral to the OLT under this section is separate and distinct from any appeal rights.

<p>3/ Section 21 Amendment or Repeal of Plan</p> <p>Exception (3) Subsection 17 (36.5) applies to an amendment only if it is a revision that is adopted in accordance with section 26.</p>	<p>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.</p>	<p>\ 17(36.5) is the “no appeal of decision if Minister is the approval authority.”</p> <p>\ If Minister has referred an OPA to the OLT for a recommendation, there is still no appeal right.</p>
<p>4(1)/</p> <p>Section 34 Refusal and timing (10.3) Until the council has received the information and material required under subsections (10.1) and (10.2), if any, and any fee under section 69... (b) the time period referred to in subsection (11) does not begin.</p>	<p>Section 34 Refusal and timing (10.3) Until the council has received the information and material required under subsections (10.1) and (10.2), if any, and any fee under section 69... (b) the time period referred to in subsection (11) <u>or</u> (11.0.0.0.1), as the case may be, does not begin.</p>	<p>\ Subsection 11.0.0.0.1 applies where ZBLA applications also contain an OPA.</p>
<p>4(2)/ Section 34 New subsections</p>	<p>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 <u>makes a decision</u> 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 <u>make a decision</u> 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</p>	<p>\ 4(2) commencement – applies to applications received on or after January 1, 2023</p> <p>\ 34(11) gives city 90 days after application received by clerk to make decision. (11.0.0.0.1) gives city 120 days if ZBLA application also contains an OPA.</p> <p>\ Refunds would be commonplace based on the City’s existing record.</p>

	(11) or (11.0.0.0.1), as the case may be, the municipality shall refund all of the fee.	
5/ New 34.1	<p>Request for order 34.1 (1) The council of a municipality may pass a resolution requesting that the Minister,</p> <p>(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</p> <p>(b) amend an order made under subsection (9) of this section.</p> <p>No delegation (2) A council may not delegate its powers under subsection (1).</p> <p>Content of resolution (3) A resolution referred to in clause (1) (a) shall identify,</p> <p>(a) the lands to which the requested order would apply; and</p> <p>(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.</p> <p>Same (4) A resolution referred to in clause (1) (b) shall identify the requested amendments to the order.</p> <p>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.</p> <p>Consultation (6) Before passing a resolution referred to in subsection (1), the municipality shall,</p> <p>(a) give notice to the public in such manner as the municipality considers appropriate; and</p> <p>(b) consult with such persons, public bodies and communities as the municipality considers appropriate.</p>	<p>“Community Infrastructure and Housing Accelerator”</p> <p>\ New tool – similar to MZO (section 47) but at Council's behest and with modest consultation requirements.</p> <p>\ Consideration should be given to Procedures By-law reflecting this new authority.</p>
34.1 con't	<p>Forwarding to Minister (7) Within 15 days after passing a resolution referred to in subsection (1), the municipality shall forward to the Minister,</p> <p>(a) a copy of the resolution;</p> <p>(b) a description of the consultation undertaken pursuant to clause (6) (b);</p> <p>(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</p> <p>(d) any prescribed information and material.</p>	<p>\ Ministerial order upon resolution of Council is discretionary. If Minister refuses to pass an order, no statutory recourse.</p> <p>\ Orders may ignore PPS, provincial plans and local Official Plan.</p>

	<p>Other information (8) The Minister <u>may</u> require the council to provide such other information or material that the Minister considers necessary.</p> <p>Orders (9) The Minister <u>may</u> 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 <u>with such modifications as the Minister considers appropriate</u>; 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).</p> <p>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.</p> <p>Non-application to Greenbelt Area (11) An order under subsection (9) may not be made in respect of any land in the Greenbelt Area.</p> <p><u>Non-application to order</u> (12) <u>Despite any Act or regulation, the following do not apply to the making of an order under subsection (9):</u> 1. <u>A policy statement issued under subsection 3 (1).</u> 2. <u>A provincial plan.</u> 3. <u>An official plan.</u></p>	
34.1 con't	<p>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.</p> <p>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) <u>the agreement may be registered against the land to which it applies</u>; 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.</p> <p><u>Application of subs. (12) to licences, etc.</u> (15) <u>If a licence, permit, approval, permission or other matter is required before a use permitted by an order</u></p>	<p>\ Orders may also ignore certain permits, approvals, permissions, licenses, etc. that otherwise would have been required (e.g., <i>Aggregate Resources Act, Ontario Heritage Act, Conservation Authority Act</i>, etc.)</p>

	<p><u>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.</u></p> <p>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.</p> <p>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.</p> <p>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).</p> <p>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.</p>	
34.1 con't	<p>Publication and availability (20) The following publication rules apply with respect to an order under subsection (9): 1. <u>Within 15 days after receiving a copy of the order pursuant to subsection (17) or (18), as the case may be, the clerk shall,</u> i. <u>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</u> ii. <u>make the order available to the public in accordance with the regulations, if any.</u> 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.</p>	<p>\ Orders must, within 15 days, be served on affected land owners, prescribed persons and be available to the public.</p> <p>\ There will be provincial "guidelines" published about how these orders are to work before they will be an available tool. (Note: specifically <u>not</u> a regulation). Guidelines are currently open for comment.</p> <p>\ Rules around filing, publication in the Ontario</p>

	<p>Revocation order (21) The Minister may, by order, revoke an order under subsection (9).</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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).</p> <p>Same, publishing (26) The Minister shall publish and maintain the guidelines established under subsection (25) on a website of the Government of Ontario.</p> <p>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.</p> <p>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).</p> <p>Deemed zoning by-law</p>	<p>Gazette, etc. do not apply to Orders or the guidelines.</p> <p>\ Orders are deemed to have the same status as a zoning by-law (i.e., for the purpose of obtaining a building permit, LNCR), but they cannot be varied.</p> <p>Reference:</p>
--	--	---

	<p>(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:</p> <ol style="list-style-type: none"> 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 <i>Building Code Act, 1992</i>. 5. Any other prescribed Act, regulation or provision of an Act or regulation. 	<p>\ 34(9) = Legal non-conforming rights \ 41(3) = Site plan areas; \ 47(3) = s. 47 MZO overrides zoning bylaws. This means that a traditional MZO would still override an order under this section. \ 46 = mobile homes; \ 49 = power of entry; \ 67 = penalty; \ 67.1 = proceeds of fines.</p>
<p>6/ Section 37 – Community Benefits Charges New subsections</p>	<p>Regular review of by-law (54) If a community benefits charge by-law is in effect in a local municipality, the <u>municipality shall ensure that a review of the by-law is undertaken</u> to determine the need for a revision of the by-law.</p> <p>Same, consultation (55) In undertaking the review required under subsection (54), the municipality <u>shall consult</u> with such persons and public bodies as the municipality considers appropriate.</p> <p>Resolution re need for revision (56) After conducting a review under subsection (54), the council <u>shall pass a resolution</u> declaring whether a revision to the by-law is needed.</p> <p>Timing of review (57) A resolution under subsection (56) shall be passed at the following times: 1. <u>Within five years</u> 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).</p> <p>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.</p> <p>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), <u>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.</u></p>	<p>\ Mandatory consultation and review of CBC by-law, where one exists, at least every 5 years.</p> <p>\ Council must pass a resolution <i>each time</i> on whether the by-law needs amending.</p> <p>\ If Council does not pass a resolution on time, the CBC by-law is deemed to have expired on the deadline.</p>
<p>7(1)/ 41(3.1) replaced</p>	<p>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).</p>	<p>\ For the purpose of (3.3), it is not clear what “prescribed information” is as there is neither an active regulation</p>

<p>Consultation (3.1) The council, (a) shall permit applicants to consult with the municipality before submitting plans and drawings for approval under subsection (4); and (b) <u>may, by by-law, require applicants to consult</u> with the municipality as described in clause (a).</p>	<p>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.</p> <p>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.</p> <p>Other information (3.4) A municipality may require that an applicant provide any other information or material that the municipality considers it may need, <u>but only if the official plan contains provisions relating to requirements under this subsection.</u></p> <p>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) <u>the municipality may refuse to accept or further consider the application;</u> and (b) <u>the time period referred to in subsection (12) of this section does not begin.</u></p> <p>Response re <u>completeness of application</u> (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.</p> <p>Motion re dispute (3.7) Within 30 days after a negative notice is given under subsection (3.6), the applicant or municipality <u>may make a motion for directions to have the Tribunal determine,</u> (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.</p> <p>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.</p> <p>Final determination</p>	<p>pertaining to site plan control nor express regulation-making authority.</p> <p>\ The City can only ask for information for a site plan application that is laid out in the official plan (3.4). Staff will need to undertake a review of its existing and new Official Plans to determine whether they satisfy this requirement, considering what information/reports is typically requested.</p> <p>\ Staff has already expressed concern over when SPC application is received for the purpose of starting the clock for the timelines/refunds – (3.5) starts to address this, but it is still unclear. If a dispute over required materials goes to the OLT under (3.7), there is nothing stating that the “completeness” date is not retroactive. (i.e., this was the finding in 2018 ONSC 589).</p> <p>\ Dispute over required materials can be heard by motion to the Tribunal. Decision final (no review, reconsideration or right of appeal).</p>
--	---	---

	(3.9) The Tribunal’s determination under subsection (3.7) is <u>not subject to appeal or review.</u>	
7(2)/ 41(4) amended Approval of plans or drawings (4) No person shall undertake any development in an area designated under subsection (2) unless the council of the municipality or, where a referral has been made under subsection (12), the Tribunal has approved one or both, as the council may determine, of the following....	Approval of plans or drawings (4) No person shall undertake any development in an area designated under subsection (2) unless <u>the authorized person referred to in subsection (4.0.1)</u> or, where an <u>appeal</u> has been made under subsection (12), the Tribunal has approved one or both, as <u>the authorized person</u> may determine, of the following...	7(2) commencement – July 1, 2022 \ Changes incorporate new mandatory decision-making appointment. \ Council has been removed as approval authority.
7(3)/ 41 new subsection	Authorized person (4.0.1) A council that passes a by-law under subsection (2) <u>shall appoint an officer, employee or agent of the municipality as an authorized person</u> for the purposes of subsection (4).	7(3) commencement – July 1, 2022 \ “Delegation” of site plan control approval to an authorized person is mandatory.
7(4)/ 41(6) amended Proviso (6) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.	Proviso (6) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.	
7(5)/ 41 new 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:	\ 7(5) commencement – January 1, 2023 \ Based on the City’s current approval timelines, it would be exposed to refunds in most applications.

	<p>1. If the municipality <u>approves</u> the plans or drawings under subsection (4) within the time period referred to in subsection (12), the municipality shall not refund the fee.</p> <p>2. If the municipality has <u>not approved</u> 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.</p> <p>3. If the municipality has <u>not approved</u> 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.</p> <p>4. If the municipality has <u>not approved</u> 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.</p>	
<p>7(6)/ 41(12) amended</p> <p>Appeal to Tribunal re approval of plans or drawings (12) If the municipality fails to approve the plans or drawings referred to in subsection (4) within 30 days after they are submitted to the municipality, the owner may appeal the failure to approve the plans or drawings to the Tribunal by filing with the clerk of the local municipality a notice of appeal accompanied by the fee charged by the Tribunal.</p>	<p>Appeal to Tribunal re approval of plans or drawings (12) If the municipality fails to approve the plans or drawings referred to in subsection (4) within 30 60 days after they are submitted to the municipality, the owner may appeal the failure to approve the plans or drawings to the Tribunal by filing with the clerk of the local municipality a notice of appeal accompanied by the fee charged by the Tribunal.</p>	<p>\ Approval timeline extended from 30 to 60 days.</p> <p>\ There is no reference to the new “completeness” subsection (3.6), creating additional uncertainty around when this timeline starts.</p>
<p>7(7)/ 41(13) replaced</p> <p>Classes of development, delegation (13) Where the council of a municipality has</p>	<p>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).</p>	<p>7(7) commencement – July 1, 2022</p> <p>\ Delegation clause has been moved up to (4.0.1).</p>

<p>designated a site plan control area under this section, the council may, by by-law, (a) 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); and (b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause (a).</p>		
<p>7(8)/ 41 new subsection</p>	<p>Transition (15.1) This section as it read immediately before the day subsection 7 (8) of Schedule 5 to the <i>More Homes for Everyone Act, 2022</i> 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.</p>	
<p>7(9)/ 41 new subsection</p>	<p>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 <i>More Homes for Everyone Act, 2022</i> comes into force but before July 1, 2022.</p>	<p>7(9) commencement – July 1, 2022 \ Site plan control changes take effect July 1, 2022. Refund changes take effect January 1, 2023.</p>
<p>8/ 42 conveyance of land for parks New subsections</p>	<p>Exception, transit-oriented community land (3.2) Subsections (3.3) and (3.4) apply to land that is designated as <u>transit-oriented community land under subsection 2 (1)</u> of the <i>Transit-Oriented Communities Act, 2020</i>. Same, alternative requirement</p>	<p>\ Toronto-specific. No application to Ottawa. (TOC lands are not the same as Protected Major Transit Station Areas).</p>

	<p>(3.3) A by-law that provides for the alternative requirement authorized by subsection (3) <u>shall not require a conveyance or payment in lieu that is greater than,</u></p> <p>(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</p> <p>(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.</p> <p>Deemed amendment of by-law</p> <p>(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).</p>	
42 new subsections	<p>Encumbered land, identification by Minister of Infrastructure</p> <p>(4.27) The Minister of Infrastructure may, by order, identify land as encumbered land for the purposes of subsection (4.28) if,</p> <p>(a) the land is designated as transit-oriented community land under subsection 2 (1) of the Transit-Oriented Communities Act, 2020;</p> <p>(b) the land is,</p> <ul style="list-style-type: none"> (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; <p>and</p> <p>(c) <u>in the opinion of the Minister of Infrastructure, the land is capable of being used for park or other public recreational purposes.</u></p> <p>Same, conveyance of described land</p> <p>(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,</p> <p>(a) shall be conveyed to the local municipality for park or other public recreational purposes; and</p> <p>(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.</p> <p>Same, non-application of Legislation Act, 2006, Part III</p> <p>(4.29) Part III (Regulations) of the Legislation Act, 2006 does not apply to an order made under subsection (4.27).</p>	\ Toronto-specific. No application to Ottawa.

<p>9(1)/ 51 plan of subdivision new subsection</p>	<p>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), <u>the approval authority may not impose conditions respecting any prescribed matters.</u></p>	<p>\ There will be new regulations outlining what a municipality cannot ask for as a condition of draft plan of subdivision approvals.</p>
<p>9(2)/ 51(33) replaced Extension (33) The approval authority may extend the approval for a time period specified by the approval authority and may further extend it but no extension is permissible if the approval lapses before the extension is given.</p>	<p>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, <u>the approval authority may deem the approval not to have lapsed unless,</u> (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), <u>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.</u> 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.</p>	<p>\ 51(32) where there is no appeal a plan of subdivision application typically lapses after 3 years. \ City can revive lapsed applications if it has been less than 5 years since the lapse and none of the lots have been pre-sold.</p>
<p>10/ 51.1 Parkland new subsections</p>	<p>Conveyance of described land (2.4) If land proposed for a plan of subdivision includes land identified <u>as encumbered land in an order under subsection 42 (4.27), the encumbered land,</u> (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 <u>deemed to count towards any requirement applicable</u> 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.</p>	<p>\ Toronto-specific. No application to Ottawa.</p>

	<p>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.</p>	
11/ 64 new section	<p>Reporting on planning matters 64. A council of a municipality or planning board, as the case may be, <u>shall</u>, (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.</p>	<p>\ Municipalities must report to the Minister as called for in the Act/regulations and upon request. Regulations not yet available.</p>
12/ 70.1(1) general regulations, minister New paragraphs	<p>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;</p>	<p>\ Minister has new regulation-making authority regarding: a. what cannot be asked for as a condition in subdivision approvals; and b. reporting requirements for planning matters.</p>
13/ 70.3.1 new section	<p>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.</p> <p>Definition (2) In this section, “other instrument” means an instrument that secures the performance of an obligation.</p>	<p>Commences on date to be proclaimed by Lieutenant Governor.</p> <p>\ New relation-making authority regarding the financing of development – using alternatives to the classic LOC.</p>