

STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



Report to:	Mayor and Council Members	Priority:	<input type="checkbox"/> High <input checked="" type="checkbox"/> Low
Submitted by:	Anne Taylor Scott, MCIP, RPP Director of Planning and Development ataylorsscott@cobourg.ca	Meeting Type:	Open Session <input checked="" type="checkbox"/> Closed Session <input type="checkbox"/>
Meeting Date:	April 19, 2022		
Report No.:	[Report Number]		
Submit comments to Council			

Subject/Title: An overview of Bill 109, More Homes for Everyone Act, 2022

RECOMMENDATION:

THAT Council receive this Staff report for information purposes;

FURTHER THAT a draft resolution included as Appendix B be endorsed by Mayor and Members of Council with a copy sent to David Piccini, MPP and the Ministry of Municipal Affairs and Housing prior to April 29, 2022.

1. STRATEGIC PLAN

There are components of Bill 109 that fulfill the objectives of the Town of Cobourg Strategic Plan. The intent of Bill 109 is to remove barriers that impact the supply of housing which generally aligns with outcomes of the Town's goal to support the well-being of its citizens by ensuring a supply of attainable housing and providing a broad variety of housing types and tenures. However, despite this alignment, Staff have also identified key amendments that are likely to negatively impact the Town's ability to recover costs and implement approvals.

2. PUBLIC ENGAGEMENT

The Province released Bill 109 on March 30, 2022. Comments will be received prior to April 29, 2022.

Those who wish to make comments on the proposed changes to Provincial legislation may email the Province directly via:

This Staff report was published 10 days prior to the April 19, 2022 Committee of the Whole Meeting.

3. PURPOSE

The purpose of this report is to:

- provide an overview of pending changes to provincial legislation by the introduction of Bill 109, More Homes for Everyone Act, 2022;
- summarize relevant and key impacts to the Town of Cobourg; and
- provide Council with recommended resolution for consideration, a copy of which could be to the Province during the comment window ending April 29, 2022.

4. ORIGIN AND LEGISLATION

See below.

5. BACKGROUND

In 2021 the Province of Ontario struck a Housing Affordability Task Force which culminated in a report released in February 2022. [Report of the Ontario Housing Affordability Task Force](#). The Task Force sought feedback from a variety of sources, including through municipal and public consultations, to identify and implement measures to address the housing supply crisis and get homes built faster. The report contained a significant number of recommendations.

This report laid the groundwork for a new piece of legislation. On March 30, 2022 the Province released for the first time Bill 109 being the More Homes for Everyone Act, 2022. According to the Province, the objective of More Homes for Everyone is to propose “targeted policies for the immediate term that make housing fairer for hard-working Ontarians and make it faster to build the homes that families need and deserve.”

Bill 109 proposes amendments to a number of pieces of legislation including:

- City of Toronto Act, 2006
- Development Charges Act
- New Home Construction Licensing Act, 2017
- Ontario New Home Warranties Plan Act
- Planning Act
- Rebuilding Consumer Confidence Act, 2020

Bill 109 has received its Second Reading and is open for public comment until April 29, 2022. Some of the proposed changes would take effect July 1, 2022 while others would be implemented as of January 1, 2023.

6. ANALYSIS

While there are several amendments to various pieces of legislation, this analysis selects the key provisions that would impact the Town of Cobourg. Staff have further refined the provisions into categories to assist in illustrating where there may be general alignment and then highlighting those that can be considered more of a concern and where Council may wish to provide comments.

Staff's analysis will focus on three amendments that have the potential to pose the most impact to the financial status and operational function of the Town of Cobourg. These are identified as the items having high and medium levels of concern in **Appendix A**.

Amendment to enact legislation to refund applicant fees should certain planning approvals not be issued within prescribed timeframes

Staff comments:

Bill 109 proposes a tiered refund of planning application fees for rezoning and site plan applications where approvals are not granted within a prescribed timeframe. These changes, if approved, would come into effect January 1, 2023.

Looking at the Site Plan application as a case example, the chart below illustrates the effect of the proposed Planning Act changes:

Site Plan Applications	
<i>Approval Timeframe</i>	<i>Refund of Application Fees</i>
<60 days	\$0
60-90 days	50%
90-120 day	75%
>120 days	100%

Rezoning Applications	
<i>Approval Timeframe</i>	<i>Refund of Application Fees</i>
<90 days (120 with OPA)	\$0
90-150 days (120-180 with OPA)	50%
150-210 days (180-240 with OPA)	75%
>210 days (240 with OPA)	100%

As a case example, Staff have assessed the impact to the 2021 Site Plans and 2021 Zoning By-law Amendments assuming the changes are in place. Since 7 Site plans remain active and two Zoning By-law amendments remain in process, in excess of the timeframes laid out above, refunds would be owing in the amount of \$41,180 and \$11,075 respectively. This would equate to a reduction to 2021 Planning revenues in the amount of approximately 25%.

While Application fees are intended to be based on full cost recovery of Staff time spent on the file, this is not the case in the Town of Cobourg and many other

municipalities. An update to the fee schedule is likely to increase application fees significantly however these tiered refunds will result in a skewing of revenues and cost recovery will be lost due to staff time spent which is an unfair financial impact to the municipality.

Further, it is unreasonable for municipalities to bear the brunt of delays by losing money on development applications. There are more and more elements to review in development files now more than ever. Infill sites are increasing and these are often complex development files given site characteristics. Many complexities can be attributed to provincial interests and direction that local municipalities are required to implement ie studies to determine soil contamination, noise impacts, archaeological impacts and environmental protection policy to name a few.

Delays can often be attributed to the quality of submissions – sometimes failing to address comments raised several times by staff. It is also very common for long delays between staff issuing comments and the time it takes for the applicant and their consulting team to make their next submission.

External commenting agencies can also cause unforeseen delays and outside the control of staff.

Should the Province wish to impose timeframes, more realistic time frame should be considered. It is unreasonable to expect a complex site plan for a high density mixed use site plan application, as an example, to be reviewed and approved within 60 days.

There will be added and unnecessary pressure on Staff to approve applications more quickly with increased potential for poor outcomes as a result of approving an development project that hasn't addressed all issues in a satisfactory manner.

Staff would also note that the appeal rights remain. As an example, the developer/applicant could receive a full refund on their Site Plan Applications after 120 days and still have the right to appeal the application to the Ontario Land Tribunal for a non-decision.

In summary Planning Staff have significant concerns at the prospect of refunding fees in a tiered manner should applications not be approved within prescribed timeframes.

Amendment to regulate the supporting materials necessary for a complete site plan application

Staff comments:

This amendment allows the Province to pass a regulation that would mandate the required items for a complete site plan application. The content of this regulation has not been released. While staff understand that it may be desirable

to have a standardized list so that developers/applicants have clear expectations each and every time they apply, staff are of the opinion that each development proposal and location has unique aspects to be addressed to satisfy staff and agency comments. This is flexibility is essential to ensure the safe, orderly and efficient development of lands in accordance with planning policy and regulations.

Planning staff work very well with developers/applicants to scope this list and do not request studies or supporting material if there is no value or need for the study or drawing. This is the value offered by a preconsultation meeting whereby a customized list of requirements are identified so there are no surprises after submission of a complete application.

Staff are of the opinion that this type of regulation will be benefit the development industry but fail to see the benefit from a professional land use planning perspective.

Developers/applicants will continue to have appeal rights should there be any dispute over requirements for complete applications or delay in approvals.

Amendment to provide limitations on the types of subdivision conditions that can be imposed on development applications

Staff comments:

This amendment enables the Province to pass a regulation that would limit the types of conditions that can be imposed on plans of subdivision. The content of this regulation has not been released. However it appears that the limitation will have the effect of removing perceived hurdles through the development process. While staff understand that it may be desirable to have a standardized list of items that are off the table so that developers/applicants have clear conditions each and every time they apply, staff are of the opinion that the flexibility for each Municipality to derive their own conditions to suite the unique nature of the development and the needs of the Municipality should remain.

Developers/applicants will continue to have appeal rights should there be any dispute over conditions or delay in approvals.

7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS

Not applicable at this time however should Bill 109 and the proposed changes to the Planning Act come into effect, there could be significant impacts to revenues associated with Planning application fees and impacts from refunds.

8. CONCLUSION

To conclude, there is much to consider with these proposed changes. Some of the changes will enable the Province to pass additional regulations. Without the understanding the content it is difficult to assess all impacts however the key objective of Bill 109 is reduce red tape and make it easier to build more housing.

While Planning staff agree with this objective in theory, changes to the Planning Act should not come at the expense of the ability to recover costs for staff time, nor at the expense of professional planning advice to determine requirements for complete applications or conditions of approval.

From a staff perspective we recognize there are some provisions that align with the objectives of the Town of Cobourg and municipal staff – these are identified as having a low level of concern or are not applicable as per **Appendix A**. However others could very well be problematic from an operational and financial perspective. These are the high- and medium-level concern items included in Appendix A and form the basis of a draft resolution included as **Appendix B** for Council's consideration.

Appendix A: Overview of Proposed Changes by Bill 109

Appendix B: Draft Resolution