



The Corporation of the Town of Tecumseh

Development Services

To: Mayor and Members of Council

From: Brian Hillman, Director Development Services

Date to Council: June 28, 2022

Report Number: DS-2022-24

Subject: Bill 109 - The More Homes for Everyone Act, 2022
Summary Report and Delegation of Site Plan Approval

Recommendations

It is recommended:

That Development Services report DS-2022-24 entitled “Bill 109 - The More Homes for Everyone Act, 2022 – Summary Report and Delegation of Site Plan Approval”, **be received;**

And that a by-law delegating site plan approval authority to the Director Development Services or, in the Director’s absence, the Manager Planning Services & Local Economic Development, in accordance with Section 41 of the *Planning Act*, **be adopted;**

And further that a by-law authorizing and directing the execution of site plan control agreements by the Clerk and Chief Administrative Officer, which agreements are satisfactory in form and content to the Town’s Solicitor and the Director Development Services or the Manager Planning Services & Local Economic Development, **be adopted.**

Background

On April 14, 2022, Bill 109, the *More Homes for Everyone Act* (“Bill 109”) received Royal Assent by the Province. Bill 109 amended provincial legislation with respect to

various legislation, and particularly to the *Planning Act* and *Development Charges Act*, with the stated goal being the introduction of a range of initiatives intended to increase housing supply, address market speculation, and protect homebuyers, owners and renters. Specifically, Bill 109 makes changes to the:

- *Planning Act*
- *Development Charges Act*
- *City of Toronto Act*
- *New Home Construction Licensing Act*
- *New Home Warranties Plan Act*

The purpose of this report is to summarize the changes specifically related to the *Planning Act* and the *Development Charges Act* and to provide a commentary on how the changes may impact the Town of Tecumseh.

Comments

Changes to the Planning Act

Bill 109 makes numerous changes related to site plan, zoning and plan of subdivision applications. The changes that have implications for planning and development approvals within the Town are summarized as follows:

i) **Mandatory Delegation of Site Plan Control Approval to Municipal Staff**

Site plan control is a tool that is used by the Town in accordance with the provisions of Section 41 of the *Planning Act*, to ensure that commercial, industrial, institutional, and multi-unit residential development is designed, built and maintained appropriately. In addition to a list of matters to be addressed as contained in Section 41 of the *Planning Act*, the Town's Official Plan ("Town OP"), under Section 10.4, establishes the following objectives in using site plan control:

- To ensure a high standard of site design for new development;
- To ensure safety and efficiency of vehicular and pedestrian access;
- To minimize incompatibilities between new and existing development;
- To control the location of driveways, parking, loading and garbage collection facilities;
- To secure easements or grading and alterations necessary to provide for public utilities and site drainage;
- To ensure the exterior design of new development, including the character, scale, appearance and design feature, and their sustainable design, is in accordance with Council-approved architectural guidelines, where applicable; and

- To ensure that the development proposed is built and maintained as approved by Council.

No public meetings are required for the Town to approve a site plan control application, and no external appeals are permitted. Under the *Planning Act*, only the Applicant can appeal a site plan control application decision.

At present, the Town's site plan control applications are approved by Town Council by way of reports being brought forward to Regular Council Meetings seeking either a resolution approving site plan drawings with specific conditions or a resolution seeking the passage of a by-law authorizing the Mayor and Clerk to execute a site plan control agreement.

Bill 109 removes Council's approval authority for site plans and requires that the responsibility be delegated to Town staff. This means that site plan applications will no longer be brought forward for Council's approval, synonymous with building permit applications, which are exclusively within the purview of staff.

The intent of the change is to streamline the municipal approval process for site plan control applications. For the Town, it has the effect of removing what had been the last step in the approval process, being the preparation of a report and its consideration by Council at a Regular Council Meeting. The balance of the approval process will remain intact (pre-consultation, followed by internal multi-departmental review of applications, discussions and negotiations with applicant, all of which is led by Development Services).

Bill 109 requires municipalities pass a by-law to appoint an authorized staff to approve site plan control applications. The delegation of authority is required to be in place for site plan applications received on or after July 1, 2022. The effect of this will be that site plan control applications will no longer be brought forward for Council approval (by way of Development Services Reports), but rather, will be reviewed and ultimately approved by the designated Town staff.

The other municipalities in Essex County have also commenced this transition of delegation of site plan approval authority to staff. The following chart provides a comparison of what our peer municipalities are proposing with respect to delegated authority, signing authority for site plan agreements and methods to keep Council updated on site plan approvals. In addition, Administration has contacted other municipalities in Ontario, which have indicated the move towards similar protocols as those being implemented in Essex County.

Municipality	Delegated Approval Authority	Signing Authority for Agreements	Information Provided to Council
Amherstburg	Senior Planning Staff (Director or Manager) or CAO	Clerk/CAO	None
Essex	Senior Planning Staff (Director or Manager)	Clerk	Information Emails or Monthly Report (if required)
Kingsville	Senior Planning Staff (Director or Manager) or CAO	Clerk/CAO	Information Emails or Quarterly Report (if required)
Lakeshore	Senior Planning Staff (Director or Manager) or CAO	Clerk/Mayor	Quarterly Report
LaSalle	Senior Planning Staff (Director or Manager) or CAO	Clerk/Mayor	Semi-Annual Report (if required)
Leamington	Senior Planning Staff (Director or Manager) or CAO	Senior Planning Staff (Director or Manager) and/or CAO	None, unless a contentious development proposal.
Recommended for Tecumseh	Director Development Services or, in Director's absence, Manager Planning Services & Local Economic Development	Clerk/CAO	Information Emails (at least quarterly)

As noted in the table, Administration recommends the following site plan approval delegation protocols for Tecumseh:

- the delegation of approval authority, by way of a by-law, to the Director Development Services or in the Director's absence, the Manager Planning and Local Economic Development.
- the delegation of signing authority for site plan control agreements to the Clerk and Chief Administrative Officer. To avoid the need for individual by-laws authorizing the execution of each agreement, the delegation by-law will include blanket authority.
- that an information email be provided to Council at least quarterly summarizing recent site plan approvals.

ii) **Site Plan Control – Complete Application Requirements**

Complete application requirements are prescribed within the new legislation, mandating that the municipality inform the applicant of a "complete" *Planning Act* application within 30 days of it being formally received (similar to what is currently required for Official Plan and Zoning By-law Amendments). This requirement will come into effect for all applications received on or after January 1, 2023.

iii) **Site Plan Control – Refund of Application Fees**

Municipalities will be required to gradually refund site plan control application fees if an approval is not made within the following legislated timelines (contingent on a request for a refund being made by the applicant):

- 50% of the application fee if the decision is not made within 60 days from the date the municipality received the complete application and fee;
- 75% of the application fee if the decision is not made within 90 days from the date the municipality received the complete application and fee, and
- 100% of the application fee if the decision is not made within 120 days from the date the municipality received the complete application and fee.

This requirement will apply to all applications received on or after January 1, 2023. In order to avoid placing the municipality in the circumstance of having to issue refunds and based on past experience, emphasis will be placed on clarifying not only the nature of the submissions (e.g. traffic impact study, stormwater study) but also the quality of the submissions. It is important to avoid the scenario where timelines go beyond the thresholds due to inadequate supporting reports necessitating further analysis. The planners in our region are continuing to meet on this issue to arrive at a common approach for ease of use by the development industry.

iv) Zoning By-law Amendment – Refund of Application Fees

Municipalities will be required to gradually refund zoning by-law amendment application fees if they fail to make a decision on an application within the following legislated timelines (contingent on a request for a refund being made by the applicant):

- 50% of the application fee if the decision is not made within 90 days (or 120 days if concurrent with an official plan amendment application) from the date the municipality received the complete application and fee;
- 75% of the application fee if the decision is not made within 150 days (or 180 days if concurrent with an official plan amendment application) from the date the municipality received the complete application and fee; and
- 100% of the application fee if the decision is not made within 210 days (or 240 days if concurrent with an official plan amendment application) from the date the municipality received the complete application and fee.

This requirement will apply to all applications received on or after January 1, 2023. A similar approach is intended as that noted in the commentary under paragraph iii) above regarding site plans.

v) Plan of Subdivision

The ability to establish a one-time discretionary authority to allow municipalities to reinstate draft plans of subdivision that have lapsed within the past five years without the need for a new application. This authority only applies where no agreements of purchase and sale had been entered into prior to the lapsing of the draft plan of subdivision. The changes also establish regulation-making authority for the province to prescribe what can and/or cannot be required as a condition of draft plan of subdivision approval.

Changes to the Development Charges Act

Historically, the municipal treasurer has been required to provide Council with an annual financial statement related to development charges and reserve funds. The changes being introduced require that this statement to also be made available to the public on the Town's website.

Consultations

Chief Administrative Officer
Financial Services
Legislative Services & Clerk

Public Works & Engineering Services

Financial Implications

Any financial impacts arising from Bill 109 are difficult to determine until the regulations are in place and final details are established regarding “complete applications”. While there are no immediate financial implications resulting from the amendments required by way of Bill 109, the changes ultimately may have an impact on the Town’s ability to comprehensively review applications in a timely manner without a financial penalty, given the potential for refund requirements legislated as part of the Bill. Moreover, there are additional requirements for financial tracking and reporting associated with development fees and development charges. These changes may raise capacity issues for Development Services, Public Works & Engineering Services and Financial Services, which will be monitored and reported to Council.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input checked="" type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input checked="" type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable

Website

Social Media

News Release

Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

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Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
None	None