
Subject: Bill 185 (Cutting Red Tape to Build Housing Faster Act, 2024)

Report To: Regional Council

Report date: Thursday, April 25, 2024

Recommendations

1. That Report PDS 17-2024 regarding Bill 185 (*Cutting Red Tape to Build Homes Faster Act, 2024*) **BE RECEIVED** for information.

Key Facts

- On April 10, 2024, the Province introduced Bill 185 (*Cutting Red Tape to Build More Homes Act, 2024*), which proposes a range of legislative and regulatory changes meant to improve access to government services, streamline municipal approvals, and prioritize municipal service delivery.
- The purpose of this report is to provide an overview of the proposed changes in Bill 185. **Appendix 1** to this report outlines staff comments and the implications of the proposed changes to the Niagara Region.
- Bill 185 proposes amendments to the *Development Charges Act, 1997*, many of which reverse previously introduced changes made through Bill 23 (*More Homes Built Faster Act, 2022*). These amendments include reinstating growth-related studies as a Development Charges (DC) eligible cost and repealing the DC rate phase in provision.
- Sections of the *Planning Act, 1990* that would identify Niagara Region, Waterloo Region, Durham Region and Simcoe County as “upper-tier municipalities without planning responsibilities” have not been proclaimed; however, the Province has identified an effective date of July 1, 2024, for upper-tier planning changes for York, Halton and Peel regions.
- Bill 185 also proposes amendments to the *Planning Act, 1990* and *Municipal Act, 2001*, which in part reverse previously introduced changes to the development approvals process and introduce new tools to enable municipalities to address stalled housing developments.

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- The Province has requested that feedback on the proposed changes be submitted by May 10, 2024. Staff comments outlined in **Appendix 1** will be submitted in response to postings on the Environmental Registry of Ontario (ERO).

Financial Considerations

There are no direct financial implications associated with this report. The proposed changes to the *Development Charges Act* are anticipated to improve the Region's ability to fund growth-related infrastructure with Development Charges; however, additional information and time is needed to quantify the financial impacts to the Niagara Region.

Analysis

Background

On April 10, 2024, the Province introduced the *Cutting Red Tape to Build More Homes Act, 2024* (Bill 185), which proposes to amend fifteen pieces of legislation and related regulations for the purpose of “streamlining planning approvals, enhancing municipalities’ ability to invest in housing-enabling infrastructure, and increasing housing supply”. The draft Bill has been posted on the Legislative Assembly of Ontario website [Bill 185, Cutting Red Tape to Build More Homes Act, 2024](https://www.ola.org/en/legislative-business/bills/parliament-43/session-1/bill-185) (<https://www.ola.org/en/legislative-business/bills/parliament-43/session-1/bill-185>).

In addition to Bill 185, the revised draft Provincial Planning Statement (PPS) was also released with updates to reflect the feedback received on the previous version. If approved, the PPS will replace the current Provincial Policy Statement (2020) and A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019). Details regarding the draft PPS will be provided in a future report to the Planning and Economic Development Committee in May.

The Province is seeking feedback on the changes proposed within Bill 185. All comments must be submitted by May 10, 2024. The purpose of this report is to provide a summary of the legislative and regulatory changes proposed by Bill 185. **Appendix 1** outlines Regional staff's comments on the draft Bill and its implications to the Niagara Region.

Proposed Development Charges Act Changes

Bill 185 proposes several amendments to the *Development Charges Act, 1997* (DC Act), as outlined on the [ERO Number 019-8371](https://ero.ontario.ca/notice/019-8371) (<https://ero.ontario.ca/notice/019-8371>), including several changes to legislation initially introduced as part of Bill 23.

Repeal of Mandatory Phase In

Bill 23 previously amended the DC Act by introducing a mandatory five year phase in of Development Charge (DC) rates imposed in the first four years that a new DC By-law is in effect. Specifically, any development charge imposed during the first, second, third and fourth years that the DC By-law is in effect could be no more than 80, 85, 90 and 95 per cent of the charge imposed, respectively. This mandatory phase in applied to all DC By-laws passed on or after January 1, 2022. This requirement has impacted the Region's DC By-law 2022-71.

Expiry of Frozen Rates

Bill 108 (More Homes, More Choices Act, 2019) included a requirement to freeze the DC rate imposed on developments when a site plan or zoning application was submitted. The DC rate for these developments is frozen as of the application date, subject to interest, for two years once the application is approved. Bill 185 proposes to reduce the two year time limit to 18 months.

Exemptions for Affordable and Attainable Residential Housing

In addition to the changes in Bill 185, the Province announced that the exemption for affordable and attainable residential units of the DC Act will be proclaimed in its entirety on June 1, 2024. The financial impacts of these mandatory DC exemptions for affordable and attainable housing are unknown at this time as it is still unclear what methodology will be used to determine affordability and attainability thresholds. It is expected that further details related to implementation of these regulations will be released by the Minister prior to proclamation.

Eligible Capital Costs

The DC Act establishes rules that must be followed when calculating a proposed development charge. Bill 23 amended the DC Act to exclude certain study costs, including the cost of undertaking the DC background study itself, from the list of eligible capital costs. Bill 185 proposes to reverse this, therefore allowing the Region to include study costs once again in our calculation of DC rates for future By-law updates.

Proposed Planning Act and Municipal Act Changes

Bill 185 proposes several amendments to the *Planning Act, 1990* and *Municipal Act, 2001*, as described on the Environmental Registry of Ontario (ERO)

(<https://ero.ontario.ca/notice/019-8369>). The following subsections summarize the key changes.

Upper-Tier Planning Responsibilities

In Fall 2022, the Province approved Bill 23 (*More Homes Built Faster Act, 2022*). Among other things, Bill 23 proposed seven southern Ontario upper tier municipalities (Regions of Durham, York, Peel, Halton, Niagara and Waterloo, and the County of Simcoe) become regions without planning responsibilities. Bill 185 proposes to bring these changes into force and effect on July 1, 2024, for York, Peel and Halton Regions.

The effective date for planning responsibility changes for the remaining upper-tier municipalities, including the Niagara Region, has not been confirmed in the legislation, but the Province has stated they anticipate this proclamation to occur “prior to the end of 2024”. The effect of these changes would be to remove Regional Council’s approval authority role under the *Planning Act*, making lower-tier municipalities the approval authority for most *Planning Act* applications, and the Province the approval authority for local municipal Official Plans and amendments.

Following proclamation, the Region will retain other planning-related roles associated with infrastructure planning and growth management. The Region will also continue its role as commenting agency for development approvals to ensure appropriate service capacity and growth-related infrastructure needs are met.

“Use it or Lose it” Tools: New and Enhanced Lapsing Conditions

Bill 185 introduces a series of new and enhanced “use it or lose it” tools within the *Planning Act* and *Municipal Act*, which can be used by the Ministry and/or municipalities to address reported issues with stalled housing developments.

If approved, Bill 185 would legislate a mandatory lapsing period of three years, or as otherwise prescribed, for the approval of draft plans of subdivision or condominium. A retroactive three-year lapsing period would also be applied to any draft plan of subdivision or condominium approved prior to March 27, 1995. Lastly, municipalities would also be able to apply a similar lapsing period as a condition of site plan approval.

Applicants can apply to the local area municipality to extend the lapsing period. The Region will continue to comment on any requests to extend draft approval to address matters of Regional interest, including infrastructure and servicing capacity.

“Use it or Lose it” Tools: Municipal Servicing Allocations

In addition to new and enhanced authority to implement lapsing conditions, the “use it or lose it” provisions introduced under Bill 185 also include a new municipal servicing management tool that would authorize a municipality, through the *Municipal Act*, to pass a by-law that would establish a tracking system for servicing capacity and set criteria to allocate, remove and/or re-allocate servicing capacity for individual developments.

Appeals Rights for Planning Act Applications

Proposed revisions to the *Planning Act* would permit applicants to appeal a refusal or failure to make a decision on a private request to amend a municipality’s settlement area boundaries provided the lands are outside the Greenbelt. This revision in the *Planning Act* is paired with new criteria for the assessment of proposals for settlement area boundary expansions in the updated PPS, which will be further discussed and evaluated through a future report to the Planning and Economic Development Committee.

Further, an applicant currently has 30 days from the date the approval authority deems an application complete or incomplete to appeal that decision to the Ontario Land Tribunal (OLT). The proposed legislation would allow an applicant to appeal the complete application requirements to the OLT any time after the application fee has been paid or the pre-consultation process has begun.

Limits to Third Party Appeals

Bill 185 proposes to limit appeals from “third parties”, which can include neighbouring residents and special interest groups, for official plans, official plan amendments, zoning by-laws and zoning by-law amendments to expedite housing project approvals and reduce project delays. This revision builds on the changes approved in Bill 23 (*More Homes, Built Faster Act, 2022*), which limited third-party appeals for minor variance, draft plan of subdivision, and consent applications.

Bill 185 also introduces transition rules for limits to third party appeals for existing appeals that have not already scheduled a hearing of the merits up and until April 10, 2024.

Support Streamlined Housing Development

Several changes to the *Planning Act* are contemplated to expedite and/or reduce barriers to development approvals, including:

- Remove minimum vehicular parking requirements for new development that is located within specified areas of a municipality, including protected major transit station areas and areas in proximity to higher-order transit.
- Remove barriers for the development of additional residential units (ARUs) within a detached house, semi-detached house, or rowhouse or in a structure ancillary to such a house, by enhancing the Minister's ability, through subsequent regulation, to exempt ARUs from certain zoning by-law requirements that may be limiting the development of ARUs. Additional feedback to inform the anticipated regulation has been requested by the Province on the [ERO Number 019-8366](https://ero.ontario.ca/notice/019-8366) (<https://ero.ontario.ca/notice/019-8366>).
- Exempt post-secondary student housing projects from the requirements of the *Planning Act* and allow the Minister to create regulations that would streamline approvals for certain types of community service facilities, such as public schools, hospitals, and long-term care facilities.

Granting Assistance for Manufacturing and Related Industries

Bill 185 proposes additions to the *Municipal Act* that would allow the Province to make regulations authorizing a municipality to grant assistance, either directly or indirectly, to a specified manufacturing business or other industrial or commercial enterprise. This regulation-making power would allow the Province to set out the types of assistance that may be granted as well as impose restrictions, limits, or conditions on the granting of the assistance by a municipality.

Changes to the Development Approvals Process

Several changes are proposed to the *Planning Act* that have direct impacts on the current development approvals process. These changes include the removal of fee refund provisions for zoning by-law amendments and site plan control applications originally introduced through Bill 109 (*More Homes for Everyone Act, 2022*), and the removal of municipal authority to require pre-consultation meetings prior to the submission of development applications.

Minister's Zoning Orders

The Province has released a new framework for requesting a [Minister's Zoning Order \(MZO\)](https://www.ontario.ca/page/zoning-order-framework) (<https://www.ontario.ca/page/zoning-order-framework>), which includes criteria that will consider whether the project delivers on provincial priorities, whether it is supported by municipal approval authorities, and requirements to demonstrate why the

normal municipal process cannot be used. The revised framework also re-integrates opportunity for public comment within the MZO process.

As a result, Bill 185 proposes to remove the Community Infrastructure and Housing Accelerator (CIHA) tool introduced through Bill 23 to avoid duplication with the revised process for requesting and issuing an MZO.

Proposed Regulation Changes: Municipal Planning Data Reporting and Notice Requirements

Alongside Bill 185, the Province is also seeking feedback on changes to several regulations to revise data reporting and notice circulation requirements, along with other housekeeping matters. Ontario Regulation 73/23 requires 29 of Ontario's largest and fastest growing municipalities, including the City of St. Catharines and City of Niagara Falls, to report information on planning application matters to the Ministry on a quarterly and annual basis.

As outlined on the [ERO Number 019-8368](https://ero.ontario.ca/notice/019-8368) (<https://ero.ontario.ca/notice/019-8368>), proposed changes to the regulation would add an additional 21 municipalities to the list of those required to report, including the City of Welland, and revise the list of data requirements. Regional staff note that the Niagara Region is not required to report data through the existing or proposed regulation; however, the Region will be working with the three reporting local area municipalities to align methodologies and data reporting to better inform the overall status of development applications, housing supply across Niagara, and alignment with infrastructure planning.

To address the challenges in providing public notices, several regulations established under the *Planning Act* and *DC Act* are proposed to be updated to allow municipalities to provide public notice on their website if a newspaper option is not available. The Ministry is also working on improving and identifying best practices to create a more inclusive public engagement environment by becoming more culturally diverse through communications.

Alternatives Reviewed

No alternatives have been reviewed as this report summarizes and provides insight regarding the proposed changes introduced through Bill 185 (*Cutting Red Tape to Build More Homes Act, 2024*) for information.

Relationship to Council Strategic Priorities

This report provides information on changes to land use planning, municipal financing and economic development that support efficient and effective government services. This relates to Council's Strategic Priority of Effective Region, Equitable Region, and Prosperous Region through ensuring high quality, efficient, and coordinated core services.

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Attachments

Appendix 1 – Niagara Region Comments on Bill 185