

**Report to
Rapport au:**

**Planning Committee
Comité de l'urbanisme
9 February 2016 / 9 février 2016**

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**Submitted by
Soumis par:**

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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2016-PAI-PGM-0046

SUBJECT: Update on the *Smart Growth for Our Communities Act, 2015*

**OBJET: Le point sur la *Loi de 2015 pour une croissance intelligente de nos
collectivités***

REPORT RECOMMENDATION

That Planning Committee receive this report for information.

RECOMMANDATION DU RAPPORT

**Que le Comité de l'urbanisme prenne connaissance de ce rapport à titre
informatif.**

EXECUTIVE SUMMARY

Assumption and Analysis

The purpose of this report is to provide Planning Committee members with an update on changes to the *Planning Act* and *Development Charges Act* as a result of Bill 73, the *Smart Growth for Our Communities Act, 2015*, which received Royal Assent on December 3, 2015.

While the majority of the amendments will come into force on a day to be named by proclamation, all of changes to the *Development Charges Act* are already in effect. Many of the *Planning Act* amendments are not expected to impact the practices currently in place in Ottawa; however, it is anticipated that some will require updated policies and procedures. The Province has not yet released the revised *Planning Act* regulations, which are expected to clarify how municipalities will implement some of the new provisions in the future.

Public Consultation/Input

No consultation has been undertaken for the purposes of this information report; however, many of the changes will require consultation with stakeholders, including residents and the development industry.

RÉSUMÉ

Hypothèse et analyse

Le présent rapport a pour objet d'informer les membres du Comité de l'urbanisme des derniers changements apportés à la *Loi sur l'aménagement du territoire* et à la *Loi sur les redevances d'exploitation* par suite du projet de loi 73, la *Loi de 2015 pour une croissance intelligente de nos collectivités*, qui a reçu la sanction royale le 3 décembre 2015.

Bien qu'il soit prévu que la majorité des modifications entrent en vigueur à une date fixée par proclamation, toutes celles visant la *Loi sur les redevances d'exploitation* sont déjà appliquées. Bon nombre des modifications à la *Loi sur l'aménagement du territoire* ne devraient pas avoir d'incidence sur les pratiques actuelles de la Ville d'Ottawa, mais certaines d'entre elles pourraient nécessiter la mise à jour de politiques et de procédures. Le gouvernement provincial n'a pas encore publié les règlements révisés de la *Loi sur l'aménagement du territoire*, qui devraient clarifier la manière dont les municipalités appliqueront certaines des nouvelles dispositions.

Consultation publique / commentaires

Aucune consultation n'a été entreprise aux fins du présent rapport d'information; toutefois, de nombreuses modifications devront faire l'objet de consultations auprès des parties intéressées, notamment les résidents et le secteur de l'aménagement.

BACKGROUND

On December 3, 2015, the Ontario legislature passed Bill 73, the *Smart Growth for Our Communities Act, 2015*, which amends the *Planning Act* and *Development Charges Act*. The purpose of this report is to provide Planning Committee members with a summary of the changes and their implications for Ottawa.

DISCUSSION

The *Smart Growth for Our Communities Act, 2015* is the result of a Provincial consultation on land use planning and the appeals system that concluded in January 2014. It is intended to increase predictability in the planning process, enhance community engagement and help municipalities fund growth. While a few of the changes are in force, most will come into effect at some point in the future.

Although many of the changes will not impact Ottawa, some will require the creation of new policies and processes. The Ministry of Municipal Affairs and Housing will be advising Ontario municipalities on how to implement the *Act*, and new regulations to this effect are expected. Many of the changes will require consultation with stakeholders, including residents and the development industry.

Key amendments to the *Planning Act* and *Development Charges Act*, including changes that have occurred since the discussion held before Planning Committee in June 2015 ([ACS2015-CMR-PLC-0006](#)) are summarized in Document 1, which was circulated to all Councillors on January 25, 2016. Where possible, the table also includes the steps that will be undertaken in support of implementing the Province's new requirements.

The Planning and Growth Management Department will continue to liaise with the Ministry of Municipal Affairs and Housing on its implementation. A work program will be prepared and implemented in consultation with affected departments, as the changes come into effect.

RURAL IMPLICATIONS

There are no rural implications associated with the report recommendation.

CONSULTATION

This report is for information; therefore, no consultation was required.

COMMENTS BY THE WARD COUNCILLOR

City-wide report – not applicable.

LEGAL IMPLICATIONS

As noted in the report, Document 1 outlines the current relevant aspects of the legislation with respect to the City of Ottawa.

RISK MANAGEMENT IMPLICATIONS

No risk management implications have been identified for this report.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

This report is for information and has no associated accessibility impacts.

ENVIRONMENTAL IMPLICATIONS

This report is for information and has no associated environmental impacts.

TERM OF COUNCIL PRIORITIES

This report has no direct impacts on the City's identified strategic priorities or directions.

SUPPORTING DOCUMENTATION

Document 1 Table: *Smart Growth for Our Communities Act, 2015: Changes to the Planning Act and Development Charges Act, and Implications for Ottawa*

DISPOSITION

The Planning and Growth Management Department will continue to liaise with the Ministry of Municipal Affairs and Housing on the implementation of the *Smart Growth for Our Communities Act*. A work program will be prepared and implemented in consultation with affected departments as changes come into effect.

Document 1 – Table: *Smart Growth for Our Communities Act, 2015: Changes to the Planning Act and Development Charges Act, and Implications for Ottawa*

Changes to the *Planning Act* since the first reading on March 5, 2015 are underlined.

	Amendments resulting from the <i>Smart Growth for Our Communities Act, 2015</i>	Implications for Ottawa
Amendments to the <i>Planning Act</i>		
1. Official Plan	A comprehensive review is only required 10 years after a new official plan comes into force and at five-year intervals thereafter. If an official plan is amended rather than replaced with a new plan, a five-year review is required.	No immediate effect. Only applies if the next comprehensive Official Plan review results in a whole new plan.
	Appeals of all of a new official plan, global appeals, are no longer permitted.	No immediate effect. Only applies if the next comprehensive Official Plan review results in a whole new plan.
	<u>No private amendments are allowed in the two years after a new official plan comes into effect, except by resolution of a council. A council may provide guidelines or criteria to indicate what types of change they would consider within this period.</u>	No immediate effect. Only applies if the next comprehensive Official Plan review results in a whole new plan.

	A copy of a proposed new official plan or an amendment must be submitted to the Minister 90 days before the municipality gives notice of the public meeting required by Section 17 of the <i>Planning Act</i> .	For updates to the Official Plan, this extends the City's current technical circulation period, which is 28 days.
	There is no appeal of an area identified as being within the boundary of a vulnerable area as defined by subsection 2 of the <i>Clean Water Act, 2006</i> .	Vulnerable source water areas in the City's Official Plan are not subject to appeal.
2. Built Environment Now a Provincial Interest	<u>The built environment is added as a matter of Provincial interest and the goals of an official plan are modified, to address effects on the social, economic, built and natural environment.</u>	No need to amend the Official Plan. Built form is already addressed through policies on urban design and compatibility.
3. Zoning	<u>No private amendments are allowed in the two years following the global replacement of a municipality's zoning by-law except by resolution of a council. A council may provide guidelines or criteria to indicate what types of change they would consider within this period.</u>	No immediate effect. Only applies if there is a global replacement of the Zoning By-law following a comprehensive review of the Official Plan.
4. Time for Decisions and Mediation	A council or the applicant can request up to an additional 90 days for a council decision on a privately-initiated amendment to an official plan. Without an extension, the time period for decisions on these applications remains 180 days.	Planning staff, in consultation with other departments, will prepare a policy on this matter for Council approval.

	<p>Council may recommend mediation when it receives a notice of appeal of a decision on various applications. The time for forwarding the appeal to the Ontario Municipal Board (OMB) is extended from 15 to 75 days. Council is required to give notice of the intent to use dispute resolution, and must invite appellants and any other persons considered impacted by the decision.</p>	<p>Planning staff, in consultation with other departments, will prepare a policy on this matter for Council approval. The policy will also establish who should be invited to participate in mediation.</p>
<p>5. Information to Approval Authorities and the OMB</p>	<p>When an approval authority or the OMB makes a decision under the <i>Planning Act</i> they must consider the municipal decision and any information or material that the municipality considered, including oral and written submissions. For the OMB, this also applies to matters appealed due to a non-decision by the municipality.</p>	<p>May require transcripts of current recordings of Planning Committee to be made available to the Approval Authority and or OMB. Staff will seek further clarification on implementation from the Province.</p>
<p>6. Information to the Public</p>	<p>It is now mandatory, rather than optional, for an official plan to describe measures for informing and receiving feedback from the public for various planning documents. Information on plans of subdivision and consents is now required, in addition to official plan and zoning by-law amendments.</p> <p>An official plan may set out alternative measures for informing the public about other documents.</p>	<p>The Official Plan already sets out alternative measures for informing the public about Official Plan and Zoning By-law amendments.</p> <p>The Official Plan needs to be amended to add provisions affecting subdivisions and consents.</p>

	A council must explain the effect of written or oral submissions when providing written notices of decisions on planning matters. This includes subdivision approvals and written notices provided by a committee of adjustment.	Staff will seek further clarification on implementation from the Province. PGM will prepare a policy on this matter for council approval, in consultation with other departments.
7. New Requirements	A Planning Advisory Committee is now mandatory and must include at least one resident who is not a councillor or municipal employee.	Staff will seek further clarification on implementation from the Province. Staff will prepare a proposal for Planning Committee, in consultation with other staff and the public.
	The Province may require a municipality to establish or adopt a development permit system. The Lieutenant Governor in Council may make regulations preventing applications to amend the new development permit by-laws and the related Official Plan provisions. <u>The Lieutenant Governor may also make regulations allowing such applications if the municipal council passes a resolution to that effect.</u>	No immediate effect. Further clarification expected from the Province through the regulations.
	Municipalities must account annually for all cash received for parkland dedication and all cash received in exchange for increases in height or density allowed through Section 37 of the <i>Planning Act</i> .	Council now receives reports on cash for parkland dedication and cash received through Section 37 of the <i>Planning Act</i> . These reports will be reviewed to ensure they meet the new requirements.

8. Parks	<p>An alternate requirement for parkland dedication where cash-in-lieu of land is required has been established. The change permits one hectare of parkland land for every 500 units, instead of the current one hectare of land for every 300 units.</p>	<p>The new rate will generate less cash-in-lieu for local parks, with the greatest impact in the suburban areas.</p> <p>The impact will be less in older areas where modest intensification is anticipated as parkland dedication is capped at 10% of the area.</p> <p>On the day that Bill 73 is proclaimed, the City's current parkland dedication by-law was deemed to be modified.</p>
	<p>Municipalities must prepare a parks plan showing the need for municipal parks in order to collect cash-in-lieu payments.</p>	<p>PGM has asked the Province to clarify the requirement for a new municipal parks plan in view of existing plans and policies.</p>
9. Committee of Adjustment	<p>In the two years following an owner-initiated, site-specific rezoning, applications for a minor variance are only permitted with the consent of a council. <u>A council may permit a specific request, a class of requests or requests generally.</u></p>	<p>Following the release of the Province's regulations, PGM will prepare a policy on this matter for Council approval.</p>
	<p>A committee must provide reasons for the decision to approve or refuse an application for variance or consent and an explanation of the effect of written or oral submissions on that decision. This information is to be provided in written notice of the decision.</p>	<p>Further clarification is expected from the Province through the regulations. Planning staff will review with the Committee of Adjustment to ensure this requirement will be satisfied.</p>

	<p><u>Council may set minor variance criteria, in addition to those 4 test criteria in the Act and those to be prescribed by regulation, to guide Committee of Adjustment decisions. The criteria must be established by by-law in accordance with a process prescribed by the Act or Regulations. This by-law is subject to appeal, and is not retroactive.</u></p>	<p>Planning staff will seek direction on this matter from Council following the release of the regulations.</p>
10. Appeals	<p><u>Where an appellant claims that there is inconsistency with the Provincial Policy Statement, or a zoning by-law does not conform to an official plan, details of such claim must be provided in the appeal.</u></p>	<p>Failure to abide by this provision will provide grounds for a motion to dismiss the appeal.</p>
11. Giving Notice	<p>The provision for giving notice has been modified to include the ability to give notice by e-mail.</p>	<p>Implementation does not require any major process changes.</p>
12. Section 37	<p>Payments made pursuant to Section 37 must be deposited into a special account that can only be used for the facilities and services identified in the municipality's Section 37 by-law. A council is to receive an annual publicly available statement of funds.</p>	<p>The statement on Section 37 transactions will be provided as part of the annual Development Charge Treasurer's Report.</p>
Amendments to the <i>Development Charges Act</i>		
13. Public Transit	<p>The mandatory 10% deduction requirement was removed when calculating a development charge.</p>	<p>In the 2014 Development Charges By-law, the City applied a \$35.1M deduction in the amount of development charges that could be collected. This deduction is no longer required.</p>

	<p>Public transit was added to the list of prescribed services that are not subject to the 10-year historical level of service cap.</p>	<p>In the 2014 Development Charges By-law, the City applied a \$395.3M reduction in the amount of development charges that could be collected based on the level of service cap. While the Province now allows for the recovery of these growth-related costs in the calculation process, the new methodology required is more complex and prescriptive.</p>
	<p>A new methodology for determining the planned level of service for public transit has been added to the Regulations under the <i>Development Charges Act</i>.</p>	<p>The new methodology requires ridership forecasts and capacity for all modes, as well as continued identification of excess capacity in the system, which previously totaled \$148.1M. The City must also determine whether new ridership is from existing or planned development. The City will have to provide the required detailed analysis through the master planning process.</p>
<p>14. Eligible Services</p>	<p>Formerly a development charge could not be imposed for solid waste services. Certain waste management services are now eligible for development charge funding, however costs associated with landfill and incineration remain ineligible.</p>	<p>The City is able to fund from development charges costs associated with waste diversion (organics, recycling and composting). New service standard measurements will have to be established.</p>

15. Asset Management Plan	The legislation has been strengthened by requiring that a municipality implement an asset management plan (AMP) related to the provision of new infrastructure. Municipalities must also demonstrate that the new infrastructure in the AMP is financially sustainable over the full life cycle.	Only transit services have a prescribed AMP within the Regulations under the <i>Development Charges Act</i> at this time, however, it is expected that the requirement for all other services must align with the Guide for Municipal Asset Management Plans, established by the Province in 2012.
16. Background Study Circulation	A background study must be made available to the public at least 60 days prior to the passing of the development charges by-law and must be posted on the municipality's website.	Staff will ensure that the background study is available to the public 60 days prior to the passage of the Development Charges By-law.
17. Payment Timing for Multiple Building Permits	Development charges are required to be calculated and payable when the first building permit is issued, however, if the development has multiple phases that are not constructed concurrently, each phase is deemed a separate development.	These provisions may have implications for some municipalities that have development charge by-laws with different payment provisions. Building Code Services staff will review the implications of this change within the context of current collection practices.