

Bill 23 – More Homes Built Faster Act, 2022 passed... fast.

NOVEMBER 29, 2022 8 MIN READ

Related Expertise

- [Commercial Real Estate](#)
- [Corporate and Commercial Disputes](#)
- [Government and Public Sector](#)
- [Infrastructure](#)
- [Municipal, Land Use Planning and Development](#)
- [Real Estate](#)
- [Regulatory, Indigenous and Environmental](#)

Authors: [Chris Barnett](#), [Evan Barz](#), [Andrew Rintoul](#)

On November, 28, 2022, Royal Assent was given to Bill 23, the [More Homes Built Faster Act, 2022](#). The Act, which was introduced on October 25, was passed quickly but did undergo some important changes after public hearings and debate at the legislative committee stage.

In particular:

- The original proposal to eliminate all third party appeals was dropped, with the result that there are no changes to the ability to appeal official plan and zoning by-law amendments. Third party appeals are now no longer possible for the approval of minor variances or consent.
- The existing prohibition on applications to amend certain documents within two years of approval, including new official plans, secondary plans and minor variances within two years of a re-zoning application, has been eliminated.
- The five year phase-in period for development charge increases now applies to by-laws passed after January 1, 2022 (the original date had been June 1).
- Where in-kind contributions are made by a developer to satisfy community benefit charges requirements, an agreement regarding those contributions can now be made and registered on title.
- Site plan can apply to:
 - matters related to green roofs;
 - building construction requirements related to environmental conservation, where permitted, under the Building Code Act;
 - the appearance of building elements if it impacts health, safety accessibility or sustainable design.

Not all proposed changes come into force immediately. Our table sets out those changes that are now in force, as well as those that won't come into force until a later date to be confirmed by the government.

Notwithstanding media coverage to the contrary, Bill 23 does not make any changes to the Greenbelt. While the consultation on changes to the Greenbelt was announced the same day that Bill 23 was introduced, the Bill itself does not propose changes to the Greenbelt.

Issue	Proposed changes	In force date
-------	------------------	---------------

<p>Inclusionary Zoning/Affordable and Attainable Housing</p>	<p>Exempt affordable housing (generally defined as being priced at no greater than 80% of the average price/rent in the year a unit is rented or sold) and inclusionary zoning units from DC, CBCs and parkland dedication</p>	<p>TBD</p>
	<p>Introduce a category of “attainable housing” which will be defined in future regulations</p>	<p>TBD</p>
	<p>An upper limit of 5% of the total number of units in a development that can be required to be affordable as part of inclusionary zoning, and a maximum period of 25 years over which the units would be required to remain affordable (this is a proposed regulation change, not in the legislation itself)</p>	<p>TBD (regulation not yet in force)</p>
<p>Parkland</p>	<p>The maximum amount of land that can be conveyed or paid in lieu is capped at 10% of the land or its value for sites under 5 ha, and 15 % for sites greater than 5 ha</p>	<p>Nov. 28, 2022</p>
	<p>Maximum alternative dedication rate reduced to 1 ha/600 units for land and 1 ha/1000 units for cash in lieu</p>	<p>Nov. 28, 2022</p>
	<p>Parkland rates frozen as of the date that a zoning by-law or site plan application is filed. Freeze remains in effect for two years following approval. If no building permits are pulled in that time, the rate in place at the time the building permit is pulled would apply</p>	<p>Nov. 28, 2022</p>
	<p>Encumbered parkland/strata parks, as well as privately owned publicly accessible spaces (POPS) to be eligible for parkland credits</p>	<p>TBD</p>

	Landowners can identify land they intend to provide for parkland, with the municipality able to appeal to the Tribunal if there is a disagreement	TBD
	Parks plans to be required prior to the passing of any future parkland dedication by-law (would not apply to by-laws already passed)	Nov. 28, 2022
	Parkland dedication will apply to new units only (i.e., no dedication can be imposed for existing units)	Nov. 28, 2022
	Municipalities will be required to spend or allocate 60% of parkland reserve funds at the start of each year	Nov. 28, 2022
Development Charges	Five year phase-in of DC rate increases, beginning with a 20% reduction in the first year, with the reduction decreasing by 5% each year until year five when the full new rate applies. This is proposed to apply to all new DC by-laws passed since January 1, 2022	Nov. 28, 2022
	Historical service level for DC-eligible capital costs (except transit) extended from 10 to 15 years	Nov. 28, 2022
	DC by-laws will expire every 10 years, instead of every five years. By-laws can still be updated any time	Nov. 28, 2022
	Cap the interest paid on phased DCs for rental, institutional and non-profit housing to prime plus 1%	Nov. 28, 2022
	DC/CBC/parkland exemptions for attainable housing, which will be projects designated by future regulations	TBD (attainable housing regulations not yet released)

	New regulation authority to set services for which land costs would not be an eligible capital cost recoverable through DCs	TBD
	Exclude the cost of studies (including background studies) from recovery through DCs	Nov. 28, 2022
	Municipalities will be required to spend at least 60% of DC reserves for priority services (i.e., water, wastewater and roads).	Nov. 28, 2022
	Discount for purpose-built rental units, with a higher discount for larger units, on top of the existing DC freeze and deferral of payments over five years	Nov. 28, 2022
Community Benefit Charges	Maximum CBC payable to be based only on the value of land proposed for new development, not the entire parcel that may have existing development	Nov. 28, 2022
	Maximum CBC to be discounted by 4% of land value divided by the existing building size, as a proportion to total building square footage	Nov. 28, 2022
Removal of Upper Tier approval powers	Upper tier municipalities will be removed from the Planning Act approval process for both lower tier official plans and amendments and plans of subdivision	TBD
	Minister would (unless otherwise provided) therefore become the approval authority for all lower tier OP and OPAs, and Minister's decisions are not subject to appeal	TBD

Zoning in MTSAs	Municipalities will be required to update zoning to include minimum heights and densities within approved Major Transit Station Areas (MTSA) and Protected MTSAs within one year of MTSA/PMTSA being approved	Nov. 28, 2022
Third-party appeals eliminated – minor variances and consents	No one other than the applicant, the municipality, certain public bodies, and the Minister will be allowed to appeal minor variance or consent decisions.	Nov. 28, 2022
	Existing third-party appeals where no hearing date has been set. as of October 25, will be dismissed. The scheduling of a case management conference or mediation will not be sufficient to prevent an appeal from being dismissed	
Gentle Density/Intensification	As of right zoning to permit up to three residential units per lot (two in the main building and one in an accessory building), with no minimum unit sizes	Nov. 28, 2022
	New units built under this permission would be exempt from DC/CBC and parkland requirements, and no more than one additional parking space can be required	
Subdivision approvals	Public meetings no longer will be required for applications for approval of a draft plan of subdivision	Nov. 28, 2022
Site plan control	Developments of up to 10 residential units will be exempted from site plan control	Nov. 28, 2022
	Architectural details and landscape design aesthetics will be removed from the scope of site plan control	Nov 28 2022

Rental Replacement	Minister to be given the authority to enact regulations related to the replacement of rental housing when it is proposed to be demolished or converted as part of a proposed development	Nov. 28, 2022
Heritage	Municipalities will not be permitted to issue a notice of intention to designate a property under Part IV of the Ontario Heritage Act unless the property is already on the heritage register when the current 90-day requirement for Planning Act applications is triggered	TBD
	Heritage registers to be reviewed and a decision made whether listed properties are to be designated, and if not, removed from the register	TBD
	A process is proposed which will allow Heritage Conservation District Plans to be amended or repealed	TBD
	Criteria for Heritage Conservation District Plans can be established for regulation	TBD
Ontario Land Tribunal procedures	The Tribunal will have increased powers to order costs against a party which loses a hearing at the Tribunal	All OLT Act changes not yet in force – date TBD
	The Tribunal is being given increased power to dismiss appeals for undue delay	
	The Attorney General will have the power to make regulations setting service standards with respect to timing of scheduling hearings and making decisions	
	Regulations can also be made to establish priorities for the scheduling of certain matters	

Conservation Authorities	Permits will not be required within regulated areas (including wetlands) for activity that is part of a development authorized under the Planning Act	TBD
	A single regulation is proposed for all 36 Authorities in the province	TBD
	Clear limits are proposed on what Authorities are permitted to comment on as part of the planning approvals process, which will keep their focus on natural hazards and flooding	January 1, 2023
Consumer protection	Proposed increases to penalties under the New Homes Construction Licensing Act, 2017 of up to \$50,000	Nov. 28, 2022

Taken together, these changes will fundamentally change how land use planning approvals are processed, approved and implemented in Ontario.

It will cause municipalities to go back to the drawing board with respect to the calculation of development charges, as well as parkland by-laws. The prohibition of third-party appeals will reduce backlogs both at the Toronto Local Appeal Body as well as the Tribunal, as neighbours no longer will be able to appeal minor variance approvals to either body.

Osler will continue to monitor the coming into force of these legislative changes and will update this page accordingly.

Links to blackline versions of the Acts that are proposed to be amended are below:

[Development Charges Act as amended Bill 23 Royal Assent \[PDF\]](#)

[Ontario Heritage Act as amended Bill 23 Royal Assent \[PDF\]](#)

[Ontario Land Tribunal Act as amended by Bill 23 Royal Assent \[PDF\]](#)

[Planning Act as amended bill 23 royal assent \[PDF\]](#)

[CA Act as amended Bill 23 Royal Assent \[PDF\]](#)