



Comments on Proposed Changes to the Planning Act:

1. New Regulation under the Planning Act for open-for-business planning tool (ERO #013-4239)
2. Proposed open-for-business planning tool (ERO #013-4125)

January 18, 2019

Introduction

The City of Brampton (City) is committed to creating local jobs and growing the local and provincial economy. The City's new economic roadmap is about creating a community where people want to live and make a living – with an ambitious target of creating 140,000 new jobs by 2040. We are developing and supporting vibrant business, education and innovation ecosystems to generate and encourage new investments, businesses and entrepreneurs.

In short, we welcome targeted initiatives with the mind-set of reducing red tape and expediting the establishment of new employment uses within the City. We specifically support developments that can transform our city into a living mosaic of business, culture and diversity. We support new initiatives to ensure our economic development goals are met within the context of protecting public health and the environment.

The City has reviewed the regulations proposed by the Province of Ontario for *Bill 66, Restoring Ontario's Competitiveness Act, 2018* (Bill 66). Schedule 10 of the Bill proposes a new "Open-for-Business planning by-law" that municipalities may pass to implement efficiencies to the local planning process.

This memo provides the City's comments and key areas requiring clarification to proposed regulations #013-4239 and #013-4125. As Bill 66 proceeds through the Legislature, the City will continue to provide comments and feedback on the proposed legislation and the specific sections of Bill 66. The City looks forward to working with current and future businesses, developers, the Region of Peel and the Province of Ontario to ensure that the proposed tool best reflects the needs of our residents and businesses alike.

With Regards to Regulations #013-4239:

- 1. *The proposed regulations require confirmation that the proposal is for a new major employment use.***
 - A definition of “major employment use” for the purposes of applying the proposed tool should be provided. Definitions of employment uses are established in various plans and policies (such as official plans and the *Growth Plan for the Greater Golden Horseshoe*). Please provide a definition for “major employment use” or, alternatively, please provide direction if said definition is to be consistent with policies currently in place.
 - The current text of the regulation is unclear as to whether only entirely new developments would be eligible for a potential application for “open-for-business” zoning. Please provide further clarity as to whether an existing use that is expanding to a neighbouring site or relocating to a different site within the City would qualify for “open-for-business” zoning.
 - Please clarify as to whether the proposal must involve an application for development or whether it may also apply to speculative projects (for example, pre-zoning a vacant City-owned property).

- 2. *The proposed regulations require evidence that the proposal would meet a minimum job creation threshold (e.g. 50 jobs for municipalities with a population of less than 250,000 people, or 100 jobs for municipalities with a population of more than 250,000 people).***
 - a. The City of Brampton requests further clarification on the term “job creation”. Does it refer to net-new jobs created, and not the relocation of an existing use with the municipality, or does it include both?
 - b. Please clarify whether the phrase “job creation threshold” refers to direct and full-time jobs created, or does it also include indirect and/or part-time job growth generated?
 - c. The City recommends additional direction be provided regarding how municipalities can validate the proposed job creation threshold. For example, if circumstances were to change after passing an “open for business by-law” and the land owner decides to sell to a different employer for a different use, or for less jobs, or the land owner can no longer meet the 100-job requirement, what recourse the municipality would have.

3. The proposed regulations require identifying the uses of land, buildings or structures that may be authorized by the tool, such as manufacturing and research and development, but not residential, commercial or retail as the primary use.

- a. The method by which a “primary use” is defined and the specific uses that qualify is unclear. Is it based on a percentage threshold of the area of the site? Can mixed-use developments be eligible so long as the primary use is employment? Please provide a definition of “primary use” to ensure consistent interpretation by the applicant and the municipality.
- b. Clarification is required on whether “research and development” can be interpreted to include institutional uses (such as research and development activities in higher education or public health institutions). Please also clarify whether research and development activities located in major office buildings will be classified as commercial uses and, therefore, not eligible.

With Regards to Regulations #013-4125:

1. ***Allow municipalities to permit the use (i.e., zone the lands) without having to strictly adhere to existing local requirements (e.g., official plan and zoning).***
 - Clarification is required on whether the term “strictly” implies that municipalities will have the option to either exempt the proposal from all local requirements or from certain ones. For example, if a Municipality would like a proposal to adhere to natural heritage requirements but is willing to exempt built-form, density, or parking requirements.
 - Please provide direction with regards to two-tier municipalities. Do the “existing local requirements” refer to the policies of Lower-tier municipalities, the Upper-tier municipality or both?

2. ***Remove the application of a separate approval process for site plan control.***
 - Please confirm whether removing “a separate approval process” is meant to remove site plan control entirely or to merge the site plan control process with the open for business zoning process in a streamlined fashion.

3. ***The proposed regulations allow municipalities to impose limited planning-related conditions that may help to facilitate the proposal [e.g., approval of plans and drawings that show site plan matters (transportation access, lighting, parking, etc.)] and enter into agreements to ensure development conditions are secured.***
 - The City feels municipalities should have the ability to negotiate which exemptions are applied to the Open-for-Business bylaw, and that “limited planning-related conditions” not reference the exemptions listed in the proposed legislation in their entirety.
 - Please clarify whether these agreements can only relate to planning matters or whether these agreements will be able to include requirements and/or penalties should the applicant or landowner not meet the required job creation threshold upon build out of the project.

4. Allow public consultation at the discretion of the municipality, while requiring public notice after the by-law is passed (at a minimum).

- Please confirm whether “at the discretion of the municipality” implies that public consultation may still be required by the municipality.
- Please provide clarification as to whether “after” implies that adjacent property owners directly impacted by the proposal would also receive notification following the passing of the by-law.

5. The proposed regulations remove the requirement for decisions to strictly adhere to provincial policies and provincial plans (but allow the Minister of Municipal Affairs and Housing to impose conditions to protect matters like public health and safety when endorsing the use of the tool).

- Please confirm whether or not the term “strictly” implies that municipalities will have the option to exempt the proposal from all provincial policies or from certain ones. For example, if a municipality is interested in a proposal being exempt from all policies except the Clean Water Act.
- The City would like to request a process that establishes recourse to municipalities to better manage downstream effects from activities in neighbouring municipalities, should the location of an industry through the proposed tool lead to impacts in neighbouring municipalities. A process is recommended to ensure that any concerns from these municipalities can be made to the Minister in consideration of any open-for-business by-law.
- Clarification is required on whether the Minister’s ability to “impose conditions to protect matters like public health and safety” implies that the expectation and responsibility to protect public health and safety is intended to be borne by the Minister and not the municipality.