Public Report



То:	Economic and Development Services Committee
From:	Warren Munro, HBA, MCIP, RRP, Commissioner, Economic and Development Services Department
Report Number:	ED-23-54
Date of Report:	March 1, 2023
Date of Meeting:	March 6, 2023
Subject:	City Comments on "Municipal Reporting on Planning Matters – Proposed Minister's Regulation under the Planning Act"
Ward:	All Wards
File:	12-03

1.0 Purpose

The purpose of this Report is to obtain Council endorsement of City comments regarding a proposed Provincial regulation entitled "Municipal Reporting on Planning Matters – Proposed Minister's Regulation under the Planning Act" (the "Regulation").

The proposed Regulation (under Notice 019-6619) was posted on the Ontario's Regulatory Registry website and the Environmental Registry of Ontario's ("E.R.O.") website on February 6, 2023, with comments requested by March 8, 2023.

Attachment 1 is a copy of background information related to the Regulation, which was released on February 6, 2023. The information ca be viewed at the following link: https://ero.ontario.ca/notice/019-6619.

Attachment 2 is a copy of Appendix 1 to the Regulation entitled "List of Municipalities."

Attachment 3 is a copy of Appendix 2 to the Regulation entitled "Datapoints and Information to be Reported."

2.0 Recommendation

That the Economic and Development Services Committee recommend to City Council:

 That, pursuant to Report ED-23-54 dated March 1, 2023, the comments contained in Section 5.3 of said Report be endorsed as the City's comments on the Province's "Municipal Reporting on Planning Matters – Proposed Minister's Regulation under the Planning Act."

- That staff be authorized to submit the comments contained in Report ED-23-54 dated March 1, 2023 related to the "Municipal Reporting on Planning Matters – Proposed Minister's Regulation under the Planning Act" to the Province to meet the March 8, 2023 deadline in response to Notice 019-6619 posted on the Environmental Registry of Ontario website, and to provide subsequent follow-up once Council has considered this matter on April 3, 2023.
- 3. That staff be authorized to forward a copy of Report ED-23-54 dated March 1, 2023 and the related Council resolution to the Region of Durham, Durham area municipalities, Durham area M.P.P.s, the Durham Chapter of the Building Industry and Land Development Association and the Durham Region Home Builders' Association.

3.0 Executive Summary

Not applicable.

4.0 Input From Other Sources

The following have been consulted in the preparation of this Report:

- Commissioner, Corporate and Finance Services
- City Solicitor

5.0 Analysis

5.1 Background

The Province of Ontario introduced Bill 109, More Homes for Everyone Act, 2022 ("Bill 109") on March 30, 2022. Bill 109 was intended to help Ontarians find a home that meets their needs and make it faster to build the homes that people need. Bill 109 received Royal Assent on April 14, 2022. As part of Bill 109, the Planning Act was amended to give the Minister of Municipal Affairs and Housing (the "Minister") authority to require municipalities and planning boards to report information on planning matters.

In October 2022, the Province released "More Homes, Built Faster: Ontario's Housing Supply Action Plan, 2022-2023" (the "Action Plan"). One of the actions identified in the Action Plan is to implement new municipal housing targets for 29 of Ontario's largest and fastest-growing municipalities to accelerate growth to meet Ontario's goal of building 1.5 million homes by 2032. The proposed target for the City of Oshawa assigned by the Province was to build 23,000 units by 2032.

Subsequently, and to support the Action Plan, the Province of Ontario introduced Bill 23, More Homes Built Faster Act, 2022 ("Bill 23") on October 25, 2022 to ensure municipalities grow and provide housing to meet the needs of all in the Province of Ontario. Bill 23 received Royal Assent on November 28, 2022.

More recently, on February 6, 2023, the Regulation was posted on the Ontario's Regulatory Registry website and the E.R.O. website, with comments requested by March 8, 2023.

5.2 Proposed Regulation

The purpose of the Regulation is to require certain municipalities to provide accurate and up-to-date data that the Province can use to measure progress towards achieving the Action Plan commitments, including the construction of 1.5 million new homes over the next ten years. The Regulation will complement the Province's initiative to develop Data Standards for Development and Planning Applications, which aims to provide consistent rules and guidelines for the exchange of data required for planning and development applications. This initiative will set minimum requirements for interaction, connectivity, and communication between digital platforms to make sharing data easier.

Ultimately, the Regulation is expected to increase transparency around land use planning approvals for homebuilders. It will also allow the Province to track and measure application timelines, allow for the identification of additional streamlining opportunities, and provide the Province with the information needed to make evidence-based planning and housing policy decisions.

The Regulation would initially apply to Ontario's largest and fastest-growing municipalities (see Attachment 2). However, the Minister may amend the Regulation to include additional municipalities as needed. Municipalities would be required to report planning-approval information quarterly and additional information annually (see Attachment 3).

On a quarterly basis, beginning June 30, 2023, municipalities would have to report application data for:

- Official plan amendments;
- Zoning by-law amendments;
- Plans of condominium;
- Plans of subdivision;
- Site plan applications;
- Land severances (consents);
- Minor variances; and,
- Number of housing units built "as-of-right."

On an annual basis, municipalities would have to report information on:

- Areas identified as strategic growth areas;
- Areas subject to intensification targets;
- Employment areas;
- Employment area conversions;
- Existing water and wastewater infrastructure; and,
- Major transit station area boundaries.

Municipalities would also be required to submit five-year historical data (from 2018-2022 inclusive) for all datapoints identified. This information would have to be submitted by December 31, 2023.

The proposed format of municipal submissions would include structured data (tables) and machine-readable geospatial data and municipalities would submit their information to a

dedicated Provincial email. As well, the Ministry of Municipal Affairs and Housing would provide a guidance document including more information on the reporting process, detailed instructions and sample templates to support municipalities.

The Province has estimated that the costs of adhering to the Regulation, which include administrative tasks, are estimated to result in an annual direct compliance cost of \$3,953 per municipality for the first year, and approximately \$3,193 per municipality annually thereafter.

5.3 Staff Comments

It is recommended that City Council endorse the following staff comments as City comments concerning "Municipal Reporting on Planning Matters – Proposed Minister's Regulation under the Planning Act:"

The Province is proposing that municipalities report planning-approval information quarterly. Staff do not support reporting on a quarterly basis as it is onerous, time-consuming and may overlap with the subsequent quarter's data collection. This may also prove onerous for the Province to disseminate the data on a quarterly basis. Staff note reporting to Committees and Council during the third quarter of every year is limited to meetings in September only, owing to Council's summer recess. As a result, there is typically a delay recurring on an annual basis when activity that would otherwise have occurred during the third quarter can only be dealt with in the fourth quarter.

In view of the foregoing, staff recommend that planning-approval information be reported on a maximum of twice a year but preferably, only once a year. Staff note that the City of Oshawa already has annual monitoring in place through policies in the Oshawa Official Plan (O.O.P.), which include the preparation of annual development activity reports and housing monitoring reports to Council. Specifically, Section 9.16, "Monitoring", of the O.O.P. outlines that the City will undertake regular monitoring of appropriate indicators to assess performance related to various matters including, but not limited to:

- Key growth management objectives (e.g. population, employment and housing);
- o Various criteria pertaining to residential development; and,
- Residential and mixed-use development within Part II Plans.
- Implementation of the Regulation will take already constrained staff resources away from actually processing planning applications. This will cause delays in planning approvals and may require the hiring of additional staff to help offset the need for staff to spend more time recording data, resulting in further costs to the City in an already cost-constrained environment.
- No information is provided in Attachment 1 that outlines what occurs in the event a municipality is unable to provide the data to the Province, or if a municipality does not meet the required timelines. It is requested that the Province provide information on the consequences of not having the data available to provide to the Province in the manner proposed.

- If the Regulation is passed, the guidance document provided to all municipalities must include a section for providing additional context that cannot be captured within the data itself. The pace of planning applications is often in the hands of developers and their consultants. If a developer decides to not advance their application or decides to alter it substantially it will cause delay. These are factors that would not be apparent in the statistics for the file. Rather, it would lead to the impression that the decision of the municipality to approve or decide on an application was protracted by the municipality which would not be accurate. For this reason, it is essential that an opportunity to give context to the data when submitting it to the Province be provided.
- The Province should develop a reciprocal regulation for the development industry, to track the timelines associated with approvals of projects for Ontario's larger developers. This data could be analyzed to see what some developers are doing better than others, in order to help improve the overall development approvals and planning processes.
- The Province is requesting annual data on employment areas. However, it is not clear how data on employment areas is relevant to housing data. It is requested that the Province provide the underlying rationale for collecting this type of information from municipalities.
- More clarity is requested regarding the data related to "number of housing units built as-of-right", and what specifically is meant by "as-of-right." Firstly, this information is not explicitly referenced in Appendix 2, "Proposed Data to be Reported" (see Attachment 3). Secondly, clarity is requested to determine whether or not this includes total housing units built with or without planning approvals. If units built without any planning approvals are to be included, clarity is requested as to what the timeframe is to dismiss previous planning approvals. For example, if a subdivision was rezoned in 2008 and registered in 2010 but a house in that subdivision is built in 2023, is that considered "as-of-right?"
- The Regulation would require municipalities to provide five-year historical data for all data points by December 31, 2023. This would require staff to sift through hundreds of files to simply identify submission dates, completion dates, decision dates, etc. This is an extremely onerous task that would require a full-time temporary position, with no benefit to any municipality, the Province or the development community. Alternatively, the Province should accept data that is already available, such as:
 - o The City's annual development activity reports;
 - The City's annual housing monitoring reports;
 - The City's building permit data available for each month;
 - The City's bi-annual residential subdivision activity map;
 - o The Region of Durham's annual subdivision/condominium activity reports; and,
 - Altus Group's Municipal Benchmarking Studies from 2020 and 2022.

The data noted above does not track application submission dates, approval dates or decisions, but provides valuable data regarding development projects.

 The E.R.O. posting related to the Regulation states that "the information proposed for inclusion in the regulation is information municipalities currently collect as part of their

planning processes." This is true only as raw data and not in the aggregate. City staff do not keep spreadsheets outlining in aggregate the dates that applications are deemed complete, the dates data is received, etc. The City has this information in each individual file, but this would necessitate inspecting every file. This may be possible to administer going forward, but this information is not readily available to share for files submitted from 2018 to present day, which would need to be aggregatized.

- The Regulation does not appear to require information concerning approvals of housing units related to Community Planning Permit Systems. Without such information, it is not clear how the Province can reliably compare planning approval processes across all municipalities.
- The Regulation would require data from the list of municipalities identified in Attachment 2. However, some of the data identified is the responsibility of upper-tier municipalities that are not listed in Attachment 2. For example, the City of Oshawa may not have all of the relevant data for consent applications because they are currently administered by the Region of Durham Land Division Committee. This is problematic considering the requirement for municipalities to provide data on applications from 2018-2022, which the City of Oshawa does not have. Overall, data that currently is the responsibility of the Region of Durham and not the City of Oshawa includes:
 - o Consents;
 - o Employment Areas; and,
 - Existing water and wastewater infrastructure.
- The Province is requesting data of "proposed number of net new residential lots" related to plans of subdivision. The number of lots being created is not necessarily indicative of the number of housing units being approved. A lot or block created in a subdivision may accommodate a semi-detached dwelling, which would appear as one lot, but it is for two housing units. Similarly, a street townhouse block in a subdivision is intended for three or more units and is later divided into lots. This would appear as one lot but is actually for three or more housing units. It is requested that the required data be focused on the number of units that are potentially authorized by a registered plan and the applicable zoning. As well, municipalities may interpret the data requirement for "number of net new residential lots" inconsistently, which may lead to inconsistent information that cannot be effectively or reliably compared across the Province.
- The data required for employment areas includes "applicable density targets." Staff note that housing is not permitted in Oshawa's employment areas. Municipalities that do not permit housing in their employment areas should not be required to provide data related to employment areas other than data related to employment area conversions.
- The Regulation would require data on plans of condominium. Condominium approvals do not facilitate the creation of housing. Rather, they simply allow a development to be registered as a condominium. Statistics on condominium applications will not provide insight into the timelines associated with the approval of housing.

- The Province needs to ensure that a mechanism is put in place to not double- or triplecount units that appear in multiple planning-related applications. For example, if a project requires an official plan amendment, zoning by-law amendment and a plan of subdivision, the Province's data tracking system needs to incorporate safeguards to not over count the units being created.
- The Province should provide funding to each of the municipalities who are expected to report on planning-approval and additional information, in order to cover the cost to implement these new reporting requirements and account for the additional staff time and resources required. This is in consideration of the fact that municipal budgets are increasingly under constraint. For example, staff note that as a result of Bill 23, municipalities are now restricted in the amount of development charges and parkland dedication that can be acquired. The shortfall must now be made up elsewhere, mainly from increasing the general tax levy. Implementing such increases to address shortfalls affects the City's ability to allocate money to hiring more staff, which would be necessary to undertake the additional work now proposed to be required by the Province.
- The Province has estimated that adhering to the Regulation would cost \$3,953 per municipality for the first year, and approximately \$3,193 per municipality annually thereafter. However, staff do not support this estimate and note that it is not supported by documentation. Staff have estimated that adhering to the Regulation would cost the City of Oshawa an estimated minimum of \$20,000 per year or more, in staff time and resources.

6.0 Financial Implications

There are no financial implications associated with the recommendations in this Report.

However, it is clear that the proposed Regulation will require additional staff time and resources, which will have a financial impact to the City. This may require the hiring of additional staff but more likely paying staff overtime (in the form of money or lieu time) in order to meet the reporting deadlines of the Province.

7.0 Relationship to the Oshawa Strategic Plan

The Recommendations advance the Accountable Leadership goal of the Oshawa Strategic Plan.

Tom Goodeve, M.Sc.Pl., MCIP, RPP, Director, Planning Services

Warren Munro, HBA, MCIP, RRP, Commissioner, Economic and Development Services Department

Appendix 1: Proposed List of Municipalities

City of Barrie	City of Pickering
City of Brampton	City of Richmond Hill
City of Brantford	City of St. Catharines
City of Burlington	City of Toronto
City of Cambridge	City of Vaughan
City of Guelph	City of Waterloo
City of Hamilton	City of Windsor
City of Kingston	Municipality of Clarington
City of Kitchener	Town of Ajax
City of London	Town of Caledon
City of Markham	Town of Milton
City of Mississauga	Town of Newmarket
City of Niagara Falls	Town of Oakville
City of Oshawa	Town of Whitby
City of Ottawa	

Appendix 2: Proposed Data to be Reported

Data Element	Information for Collection	Frequency of Reporting
Community Infrastructure and Housing Accelerator Tool and Ministers Zoning Orders	 Number of building permits issued to date Downstream planning approval status 	Annual Reporting Due by March 31 of the next calendar year (e.g., information for 2022 due March 31, 2023).
Land Severance (Consent)	 Application Number Application Address Date Application Submitted Date Application Deemed Complete Application Status Under Review Application Approved Application Refused If appealed to Ontario Land Tribunal or Local Appeal Body, whether it is an appeal of: Condition Decision Non-decision Third Party Appeal Date of Decision (if applicable) 	 Quarterly Reporting: Q1: January 1 – March 31, due by June 30 Q2: April 1 – June 30, due by September 30 Q3: July 1 – September 30, due by December 31 Q4: October 1 – December 31, due by March 31 (of the next calendar year)
Minor Variance Application	 Application Number Application Address Date Application Submitted Date Application Deemed Complete Application Status Under Review 	 Quarterly Reporting: 1. Q1: January 1 – March 31, due by June 30 2. Q2: April 1 – June 30, due by September 30 3. Q3: July 1 – September 30, due by December 31

	 Application Approved Application Refused If appealed to Ontario Land Tribunal or Local Appeal Body, whether it is an appeal of: Condition Decision Non-decision Third Party Appeal Date of Decision (if applicable) Proposed Use 	Q4: October 1 – December 31, due by March 31 (of the next calendar year)
Official Plan Amendment Applications	 Application Number Application Address Date Application Submitted Date Application Deemed Complete Application Status Under Review Application Approved Application Refused If appealed to Ontario Land Tribunal, whether it is an appeal of: Decision Non-decision Third Party Appeal Date of Decision (if applicable) Proposed Designation Heritage Status 	 Quarterly Reporting: 1. Q1: January 1 – March 31, due by June 30 2. Q2: April 1 – June 30, due by September 30 3. Q3: July 1 – September 30, due by December 31 4. Q4: October 1 – December 31, due by March 31 (of the next calendar year)
Plan of Condominium	 Application Number Application Address Date Application Submitted Date Application Deemed Complete Application Status Under Review Application Approved Application Refused 	 Quarterly Reporting: Q1: January 1 – March 31, due by June 30 Q2: April 1 – June 30, due by September 30 Q3: July 1 – September 30, due by December 31 Q4: October 1 – December 31, due by March 31 (of the next calendar year)

	 If appealed to Ontario Land Tribunal, whether it is an appeal of: Condition Decision Non-decision Third Party Appeal Date of Decision (if applicable) Date Registered (if applicable) If registered, number of registered new residential condominium units Proposed Use Proposed Number of Net New Residential Condo Units 	
Plan of Subdivision	 Application Number Application Address Date Application Submitted Date Application Deemed Complete Application Status Under Review Application Approved Application Refused If appealed to Ontario Land Tribunal, whether it is an appeal of: Condition Decision Non-decision Third Party Appeal Date of Decision (if applicable) If registered, number of registered new residential lots Proposed Use Proposed Number of Net New Residential Lots Heritage Status 	 Quarterly Reporting: Q1: January 1 – March 31, due by June 30 Q2: April 1 – June 30, due by September 30 Q3: July 1 – September 30, due by December 31 Q4: October 1 – December 31, due by March 31 (of the next calendar year)

Site Plan Application	 Application Number Application Address Date Application Submitted Date Application Deemed Complete Application Status Under Review Application Approved Application Refused If appealed to Ontario Land Tribunal or Local Appeal Body, whether it is an appeal of: Condition Decision Non-decision Third Party Appeal Date of Decision (if applicable) Proposed Use 	 Quarterly Reporting: Q1: January 1 – March 31, due by June 30 Q2: April 1 – June 30, due by September 30 Q3: July 1 – September 30, due by December 31 Q4: October 1 – December 31, due by March 31 (of the next calendar year)
Zoning Bylaw Amendment Application	 Application Number Application Address Date Application Submitted Date Application Deemed Complete Application Status Submitted Under Review Application Approved Application Refused If appealed to the Ontario Land Tribunal, whether it is an appeal of: Condition Decision Non-decision Third Party Appeal Date of Decision (if applicable) Proposed Use Heritage Status 	 Quarterly Reporting: Q1: January 1 – March 31, due by June 30 Q2: April 1 – June 30, due by September 30 Q3: July 1 – September 30, due by December 31 Q4: October 1 – December 31, due by March 31 (of the next calendar year)

Areas identified as a Strategic Growth Area with a minimum target	 A copy of the geospatial data identifying areas identified as a strategic growth area with a minimum target for your municipality. Indicate as part of the data attributes the applicable density targets, development phasing policies and other relevant policy or zoning requirements, where applicable and appropriate. Brief description of the data Date created Date updated (if newer) Update frequency (if applicable) Spatial referencing information (map projection, coordinate systems, geodetic model, geographic extent) List of data attributes and a data dictionary Data collection and process (if available) Data accuracy (e.g., the scale the data can be used at) (if available) Copyright information Indicate if boundaries are developed using Ontario Parcel Data, Ontario Road Network, or other data sources which may have separate copyright considerations. Contact information 	Annual Reporting Due by March 31 of the next calendar year (e.g., information for 2022 due March 31, 2023).
Areas Subject to an Intensification Target	 A copy of the geospatial data identifying areas subject to an intensification target for your municipality. Indicate as part of the data attributes any applicable targets. Brief description of the data Date created Date updated (if newer) Update frequency (if applicable) Spatial referencing information (map projection, coordinate systems, geodetic model, geographic extent) List of data attributes and a data dictionary 	Annual Reporting Due by March 31 of the next calendar year (e.g., information for 2022 due March 31, 2023).

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	 Data collection and process (if available) Data accuracy (e.g., the scale the data can be used at) (if available) Copyright information Indicate if boundaries are developed using Ontario Parcel Data, Ontario Road Network, or other data sources which may have separate copyright considerations. Contact information Description of the file format (e.g., ESRI shapefile) 	
Employment Areas	 A copy of the geospatial data identifying employment areas in your municipality. Indicate as part of the data attributes the applicable density targets, development phasing policies and other relevant policy or zoning requirements, where applicable and appropriate. Brief description of the data Date created Date updated (if newer) Update frequency (if applicable) Spatial referencing information (map projection, coordinate systems, geodetic model, geographic extent) List of data attributes and a data dictionary Data collection and process (if available) Data accuracy (e.g., the scale the data can be used at) (if available) Copyright information Indicate if boundaries are developed using Ontario Parcel Data, Ontario Road Network, or other data sources which may have separate copyright considerations. Contact information 	Annual Reporting Due by March 31 of the next calendar year (e.g., information for 2022 due March 31, 2023).

Employment Area Conversions	 A copy of the geospatial data identifying employment area conversions in your municipality. Brief description of the data Date created Date updated (if newer) Update frequency (if applicable) Spatial referencing information (map projection, coordinate systems, geodetic model, geographic extent) List of data attributes and a data dictionary Data collection and process (if available) Data accuracy (e.g., the scale the data can be used at) (if available) Copyright information Indicate if boundaries are developed using Ontario Parcel Data, Ontario Road Network, or other data sources which may have separate copyright considerations. Contact information 	Annual Reporting Due by March 31 of the next calendar year (e.g., information for 2022 due March 31, 2023).
Existing water and wastewater infrastructure	 A copy of the geospatial data for the existing and under construction water and wastewater trunk lines and locations of municipal water and wastewater treatment plants in your municipality. Brief description of the data Date created Date updated (if newer) Update frequency (if applicable) Spatial referencing information (map projection, coordinate systems, geodetic model, geographic extent) List of data attributes and a data dictionary Data accuracy (e.g., the scale the data can be used at) (if available) 	 Annual Reporting Due by March 31 of the next calendar year (e.g., information for 2022 due March 31, 2023).

	 Copyright information Indicate if boundaries are developed using Ontario Parcel Data, Ontario Road Network, or other data sources which may have separate copyright considerations. Contact information for Technical Questions Description of the file format (e.g., ESRI shapefile) 	
Major Transit Station Area Boundaries	 A copy of the geospatial data identifying major transit station area boundaries in your municipality. Indicate as part of the data attributes any applicable inclusionary zoning, density targets, development phasing requirements and other relevant policy or zoning requirements, where applicable and appropriate; and A copy of the geospatial data of any changes to major transit station area boundaries. For both items: Brief description of the data Date updated (if newer) Update frequency (if applicable) Spatial referencing information (map projection, coordinate systems, geodetic model, geographic extent) List of data attributes and a data dictionary Data accuracy (e.g., the scale the data can be used at) (if available) Copyright information Indicate if boundaries are developed using Ontario Parcel Data, Ontario Road Network, or other data sources which may have separate copyright considerations. Contact information 	Annual Reporting Due by March 31 of the next calendar year (e.g., information for 2022 due March 31, 2023).

	 Description of the file format (e.g., ESRI shapefile) 	
Settlement Area Boundaries	 A copy of the geospatial data for all existing settlement area boundaries for your municipality; and (Optional) A copy of the geospatial data for any settlement area boundary expansion(s). For both items: Brief description of the data Date created Date updated (if newer) Update frequency (if applicable) Spatial referencing information (map projection, coordinate systems, geodetic model, geographic extent) List of data attributes and a data dictionary Data accuracy (e.g., the scale the data can be used at) (if available) Copyright information Indicate if boundaries are developed using Ontario Parcel Data, Ontario Road Network, or other data sources which may have separate copyright considerations. Contact information Description of the file format (e.g., ESRI shapefile) 	 Annual Reporting Due by March 31 of the next calendar year (e.g., information for 2022 due March 31, 2023).