
SUBJECT: New Site Plan Control By-law
TO: Committee of the Whole
FROM: Development and Growth Management
Community Planning

Report Number: DGM-12-26

Wards Affected: All

Date to Committee: March 3, 2026

Date to Council: March 10, 2026

Recommendation

Repeal By-law 35-2017, being a by-law to establish site plan control and designate all lands in the City of Burlington as a site plan control area; and

Enact the new Site Plan Control By-law, substantially in the form attached as Appendix A to development and growth management report DGM-12-26.

Executive Summary

Purpose of report:

- Burlington's Site Plan Control By-law 35-2017 (the existing Site Plan Control By-law) is nine years old and requires updates to conform to provincial legislation and implement new exemptions from Site Plan Control identified through the Streamlining the Development Applications Project (SDAP). This report provides an overview of the changes and the analysis behind them.

Key findings:

- Since 2022, the provincial government has passed five bills and an Ontario Regulation ("O.Reg") updating the Site Plan Control section of the *Planning Act*, with the goal of expediting housing and other development. Notably, the legislation exempted all undertakings of post-secondary institutions and residential developments of 10-units or less from Site Plan Control.

- Through SDAP, the site plan team identified 12 types of site alterations and building proposals that typically do not advance past the pre-consultation phase, and which could be exempt from Site Plan Control with minimal risk to the City.

Implications:

- The expanded list of minor Site Plan Control exemptions could reduce annual pre-consultation application volumes by 17-20% per year, freeing up staff resources to focus on larger and more substantive applications.

Recommendation Report

Background

The existing Site Plan Control By-law (By-law 35-2017) is out-of-date and significant changes in provincial legislation and City policies and processes have occurred since it was enacted, creating an opportunity to update and modernize the by-law. The two most significant drivers of change are provincial legislation and SDAP.

Significant Legislative Changes to Section 41- Site Plan Control of the *Planning Act* since 2022:

The provincial government has enacted five bills and one O.Reg that have altered Section 41 of the *Planning Act*. Not all the changes require an amendment to the Site Plan Control By-law.

1. [Bill 109- More Homes for Everyone Act, 2022](#)

- Approval of site plan applications delegated to municipal staff from Council;
- Extended the timeline to appeal a site plan application for non-decision from 30 days to 60 days;
- Required a municipality to refund either 50%, 75% or 100% of a site plan application fee if it failed to issue a site plan approval within 60 days. The refund percentage was based on lateness intervals of 30 days. For example, an approval issued between 61-89 days after receipt of a complete application was eligible for a 50% refund and an approval issued between 90-119 days was eligible for a 75% refund, etc.; and
- Limited plans and studies that a municipality could require for a complete site plan application to only those referenced in its official plan.

2. [Bill 23- More Homes Built Faster Act, 2023](#)

- Exempted residential developments of 10 units or less from Site Plan Control;
- Removed “exterior design” as a matter subject to Site Plan Control, unless it was related to exterior access to a building containing affordable housing units; and
- Added a provision stating that the “appearance of the elements, facilities and works on the land or any adjoining highway under a municipality’s jurisdiction is not subject to Site Plan Control, except to the extent that the appearance impacts matters of health, safety, accessibility, sustainable design or the protection of adjoining lands.”

3. [Bill 97- Helping Homebuyers, Protecting Tenants Act, 2023](#)

- Made residential developments of 10 units or less subject to Site Plan Control if they are in areas prescribed by an Ontario Regulation (areas within 300 metres of a

railway line, 120 metres of a wetland, and 120 metres of a shoreline of a lake, river or creek, etc...); and • Delayed commencement of refund provisions of Bill 109 to July 1, 2023 and provided authority to exempt certain municipalities from having to provide fee refunds in future.
4. <u>Bill 185 Cutting Red Tape to Build More Homes Act, 2024</u>
• Repealed the fee refund requirements for site plan applications set out in Bill 109; • Exempted any undertaking by a post-secondary institution from Site Plan Control; • Removed the City's ability to mandate a pre-consultation prior to a site plan application; • Enabled applicants to make a motion for a tribunal decision immediately on whether a site plan application is complete or whether the application requirements are reasonable, rather than waiting for a municipality to first make the determination; and • Authorized municipalities to impose a lapsing date on new site plan approvals stipulating that they will expire if a building permit is not issued within a specified time frame (minimum 3 years, if not otherwise prescribed).
5. <u>Bill 17, the Protect Ontario by Building Faster and Smarter Act, 2025</u>
• Any information or material (plans or studies) that a municipality requires for a complete application, prepared by a person authorized to practice a "prescribed profession" is deemed to meet the complete application requirements; • Altered section 41 (3.4) to state that the plans and studies listed as requirements for a complete site plan application in its Official Plan are "subject to regulations". This section indicates that the province may in future limit what plans and studies a municipality may ask for; and • A municipality must apply to the Ministry of Municipal Affairs and Housing to expand or alter its list of complete application (including site plan applications) requirements in the Official Plan.
6. <u>Ontario Regulation 10/26 (Introduced January 22, 2026)</u>
• Designated professional engineers as a "prescribed profession", and states that any information or material prepared by a professional engineer and required for determining application completeness is "deemed to meet the applicable requirement" for that information or study.

Streamlining Development Applications Project (SDAP)

Beginning in the Q3, 2025, a multi-departmental team of City staff has worked with the consulting firm Lean Agility and the City's Transformation Office to "streamline the site plan process, making it smoother and faster, to improve the quality of the applications, requiring fewer review cycles and resulting in fewer deficiencies...". Introducing Site Plan Control

exemptions for low-risk, small-scale projects emerged as an important “quick win” measure to reduce waste, free up staff resources and improve the customer experience.

Analysis

Staff are proposing multiple types of updates to the Site Plan Control By-law including dividing the document into sections for easier navigation. The proposed sections and updates are summarized below:

- Definitions: New definitions for “Agricultural Use” and “Agriculture- Related Use” have been added to clarify that the exemption for agricultural buildings in the existing Site Plan Control By-law (35-2017) is intended for buildings associated with the growing of crops, raising of livestock etc... Unrelated uses such as event venues and non-agricultural buildings are subject to Site Plan Control. Farm dwellings and housing for farm workers continue to be exempt.
- Area Subject to Site Plan Control: Modified to clarify that Community Planning Permit System areas are not subject to Site Plan Control.
- Authority for Director to Define and Exempt Classes of Development from Site Plan Control: A section has been added giving the Director of Community Planning (the “Director”) authority to exempt a list of minor development types under sections 6 and 7 of the By-law from Site Plan Control.
- Exemptions from Site Plan Control: 12 new exemptions from Site Plan Control have been added for small scopes of work such as adding electric vehicle charging stations to an existing parking lot, outdoor patios where no building permit is required and public park infrastructure.
- Classes of Development Eligible for Exemption if Criteria Met: Five types of development are identified as candidates for an exemption provided the Director confirms one or more key criteria are met such as the absence of health, safety or nuisance impacts to neighbouring properties.
- All Undertakings of Post-Secondary Institutions are Exempt from Site Plan Control: This exemption is found in the *Planning Act* and is included in the By-law for clarity.
- Site Plan Agreements and Financial Securities: Consistent with the *Planning Act*, new provisions have been added, which communicate that the City has authority to require applicants to enter into site plan agreements and require that financial securities be posted to guarantee its construction. However, alternative requirements are proposed for public interest agencies and entities. Staff propose that organizations like the Region of Halton or a local school board be permitted to provide alternatives to financial securities to expedite final approval of a site plan application by several weeks. There is a lower risk of work on public land not being completed as approved. The City can also mitigate this risk through measures like a lease or license agreement.

- Site Plan Complete Application Requirements: A section has been added to clarify that the City may require plans and drawings showing sustainable design elements on any adjoining highway under the City or Region’s jurisdiction. This language is already found in the Official Plan, but the *Planning Act* requires that it also be present in the Site Plan Control By-law to be enforceable.
- Minor Changes: A new section has been added clarifying that certain minor revisions or changes to a Site Plan Control approval are permitted without revising the site plan agreement, where written permission is provided by the Director. This is intended to more easily facilitate minor technical changes to an approved project such as when changes arise during the building permit review stage.

Exemptions:

Section 41 of the *Planning Act* gives municipalities the ability to regulate “*Development*” within its boundaries. Development is broadly defined as “the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof”, which allows for significant discretion. Over time, patterns have emerged in the type of exemptions the City grants based in part on applicant feedback. There is an opportunity to formalize these exemptions in the new By-law so that applicants and staff have greater certainty and our process is consistent.

There are significant time savings associated with site plan exemptions. As part of SDAP, staff quantified the time spent across all departments at each step of the pre-consultation and site plan process. Each pre-consultation requires 88-93 hours of staff review time under the current process. The team then looked at pre-consultation applications that were exempted from Site Plan Control based on their small scale and low-risk nature. Staff exempted eight applications from Site Plan Control in 2024 (20% of the total) and six in 2025 (19%), although these exempt applications continued to be subject to Zoning By-law requirements for location, setbacks, screening requirements and all other applicable zoning provisions.

Below is a summary of the proposed exemptions and the source:

Source of Exemption	Exemption Type
<i>Planning Act</i>	Portable classrooms (public school board) Residential buildings under 10 units Projects by post-secondary institutions
SDAP	Outdoor Patios Electric Vehicle Charging Stations Portable classrooms (private school board) Building additions with GFA under 30m ² *

	Exterior building alterations Site alterations for outdoor recreation uses* Mixed use buildings under 10 units*
Customer-Service Scenario or Existing Best Practice	Projects listed in <u>Ontario Regulation 828</u> Public park infrastructure HVAC equipment and generators Play areas for daycares* Seasonal garden centres*

***Approval for exemption required from the Director**

Future Changes

In *Bill 17, the Protect Ontario by Building Faster and Smarter Act, 2025*, the Province froze a municipality's list of complete site plan requirements to only what is currently required in its official plan. The Bill removed a municipality's ability to expand or alter this list without MMAH approval. The Province also signaled its intent to standardize complete site plan application requirements across Ontario. In ERO number 025-0462, posted in the summer of 2025, the Province proposed that municipalities may no longer evaluate the following matters through the site plan process:

- Sun/Shadow: information and material related to the impact of shadows cast by a proposed development on the subject land and on surrounding lands including streets.
- Wind: information and material related to the potential impacts of a proposed development on wind conditions in surrounding areas.
- Urban Design: information and material concerning the urban design of a proposed development, including how a proposed development aligns with municipal urban design guidelines or policies.
- Lighting: information and material related to lighting and lighting levels on the site, including the location and type of lighting fixtures proposed on the exterior of the building and on the site

Staff contributed to a consolidated analysis of Bill 17 through "CAF-03-25- Preliminary analysis of Bill 17, Protect Ontario by Building Faster and Smarter Act, 2025". ERO number 025-0462 is on hold and has not advanced past the proposal stage.

The Site Plan Control By-law will also require future updates to ensure it remains aligned with evolving provincial and Official Plan policy related to agricultural uses. Specifically, future amendments will need to reflect updated policy direction by recognizing agriculture, agriculture-related uses, and on-farm diversified uses as distinct land uses.

This work will require direct engagement with the agricultural community to better understand operational needs, emerging trends, and potential impacts, and to ensure the updated provisions are practical, responsive, and informed by on-the-ground experience.

Staff's intention is that the Site Plan Control By-law be a living document that receives more regular updates in response to ongoing SDAP and continuous improvement work, provincial legislation and council direction.

Option 1- Approve the By-law as-is

Benefits: Approval as-is would bring the By-law into conformity with the *Planning Act* and the OP, increase certainty around the City's list of Site Plan Control exemptions; expedite the approvals of public park projects, school board projects and small-scale housing proposals under 10 units.

Considerations: Some proposed site plan exemptions including site alterations for outdoor recreation uses such as tennis, basketball and pickleball courts carry a risk of impacting the public if inappropriate lighting is installed or stormwater is not managed well, but staff have attempted to mitigate this risk by requiring Director approval for this type of exemption. In addition, the City has by-laws that can manage drainage or lighting problems after installation. City of Burlington By-law 17-2018- "A by-law to regulate the drainage of property in the City of Burlington" prevents owners from causing or contributing "to the obstruction of a drain or change the grading and/or the drainage pattern of the Property so as to affect the drainage of another". Similarly, By-law no. 19-2003 "The Nuisance and Noise Control By-law" states "No strong light or moving or twinkling lights shall be used so that an unusual quantity or type of light shines upon the land of others".

Community Engagement and Communications:

- Many proposed exemptions are responses to customer feedback and real-life scenarios in which applicants felt that a site plan application process was not proportionate to the small scale of their project.
- Notice of the new draft Site Plan Control By-law and a copy of the draft site plan By-law was posted to the City website for public comment in February 2026.
- The proposed updates to the Site Plan By-law are considered low-risk, with many updates being necessary to conform to in-force provincial legislation.
- Key internal departments were consulted during the creation of the new By-law.

Option 2- Approve the By-law with Modifications

Council could opt to approve the By-law with modifications.

Benefits: Reduces risk by retaining existing levels of regulation and oversight.

Considerations: The exemptions and other development expediting measures in the By-law are based largely on applicant feedback and existing patterns of decision making on low-risk applications.

Recommendation Details

The proposed changes to the Site Plan Control By-law would modernize the document and align it with the *Planning Act* and customer expectations for the scale of project subject to the Site Plan Control.

Implications

The site plan review team received over 35 pre-consultation applications in 2024 and 2025. The proposed list of Site Plan Control exemptions could reduce pre-consultation application volumes by 17-20% (6-8 applications per year). At the current fee of \$2,295, this would reduce application revenues by \$13,770-\$18,360 per year. However, pre-consultation applications do not operate on a cost recovery basis and are deducted from the applicant's site plan application fee if they apply within one year. Eliminating 6-8 pre-consultations per year would free up an estimated total of approximately 530-745 hours of staff time per year across all departments, which could be re-allocated to higher priority housing and employment generating site plan projects. Other updates to the by-law, such as exempting public authorities from the requirement to submit letters of credit or securities could expedite final approvals of these projects by several weeks.

Strategic Alignment

- ☒ Designing and delivering complete communities
 - ☒ Providing the best services and experiences
 - ☐ Protecting and improving the natural environment and taking action on climate change
 - ☒ Driving organizational performance
-

Author:

John O'Reilly, MCIP, RPP, CAHP
Supervisor, Site Plan Review
905-335-7600 ext.7693

Appendices:

A. New Site Plan Control Bylaw- March 2026

Draft By-laws for Approval at Council:

- By-law xx-2026, March 10, 2026 Council meeting

Report Approval:

All reports are reviewed and approved by the Commissioner, Head of Corporate Affairs, Chief Financial Officer, and Commissioner of Legal and Legislative Services/City Solicitor.