

## **Planning Act**

### **[Extract of sections proposed to be amended]**

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#### **Approvals**

**17** (1) Except as otherwise provided in this section, the Minister is the approval authority in respect of the approval of a plan as an official plan for the purposes of this section. 1996, c. 4, s. 9.

#### **Approval by upper-tier municipality**

(2) An upper-tier municipality is the approval authority in respect of an official plan of a lower-tier municipality for the purposes of this section if the upper-tier municipality has an approved official plan. 2002, c. 17, Sched. B, s. 5 (1).

(3) REPEALED: 2002, c. 17, Sched. B, s. 5 (2).

#### **Upper-tier become approval authority**

(4) On the day that all or part of a plan that covers an upper-tier municipality comes into effect as the official plan of a municipality, the upper-tier municipality is the approval authority in respect of the approval of a plan as an official plan of a lower-tier municipality. 2002, c. 17, Sched. B, s. 5 (3).

(5) REPEALED: 2002, c. 17, Sched. B, s. 5 (4).

#### **Removal of power**

(6) The Minister may by order, accompanied by a written explanation for it, remove the power given under subsection (2) or (4) and the order may be in respect of the plan or proposed official plan amendment specified in the order or in respect of any or all plans or proposed official plan amendments submitted for approval after the order is made. 1996, c. 4, s. 9; 2002, c. 17, Sched. B, s. 5 (5).

#### **Transfer of approval authority**

(7) If an order is made under subsection (6), the Minister becomes the approval authority in respect of the plans and proposed official plan amendments to which the order relates and the council of the former approval authority shall forward to the Minister all papers, plans, documents and other material that relate to any matter in respect of which the power was removed and of which a final disposition was not made by the approval authority. 1996, c. 4, s. 9.

#### **Revocation**

(8) If the Minister revokes the order or part of the order made under subsection (6), the council reverts back to being the approval authority in respect of all plans or proposed official plan amendments to which the revoked order or revoked part of the order applied. 1996, c. 4, s. 9.

#### **Exemption**

(9) Subject to subsection 26 (6), the Minister may by order exempt a plan or proposed official plan amendment from his or her approval under this section and the order may be in respect of the plan or proposed official plan amendment specified in the order or in respect of any or all plans or proposed official plan amendments. 1996, c. 4, s. 9; 2006, c. 23, s. 9 (1).

#### **Authority to exempt**

(10) The Minister may by order authorize an approval authority to pass a by-law,

- (a) exempting any or all plans or proposed official plan amendments from its approval under this section; and
- (b) exempting a plan or proposed official plan amendment from its approval under this section. 1996, c. 4, s. 9.

#### **Conditions**

(11) An exemption under subsection (9) or (10) or an authorization under subsection (10) may be subject to such conditions as the Minister or the approval authority may provide in the order or by-law. 1996, c. 4, s. 9.

### **Removal of exemption or authorization**

(12) The Minister may by order or an approval authority may by by-law, accompanied by a written explanation for it, remove any exemption made under subsection (9) or (10) or any authorization made under subsection (10). 1996, c. 4, s. 9.

### **Mandatory adoption**

(13) A plan shall be prepared and adopted and, unless exempt from approval, submitted for approval by the council of a prescribed municipality. 2002, c. 17, Sched. B, s. 5 (6).

### **Discretionary adoption**

(14) The council of a municipality not prescribed under subsection (13) may prepare and adopt a plan and, unless the plan is exempt from approval, submit it for approval. 2002, c. 17, Sched. B, s. 5 (7).

### **Consultation and public meeting**

(15) In the course of the preparation of a plan, the council shall ensure that,

- (a) the appropriate approval authority is consulted on the preparation of the plan and given an opportunity to review all supporting information and material and any other prescribed information and material, even if the plan is exempt from approval;
- (b) the prescribed public bodies are consulted on the preparation of the plan and given an opportunity to review all supporting information and material and any other prescribed information and material;
- (c) adequate information and material, including a copy of the current proposed plan, is made available to the public, in the prescribed manner, if any; and
- (d) at least one public meeting is held for the purpose of giving the public an opportunity to make representations in respect of the current proposed plan. 2006, c. 23, s. 9 (2).

### **Open house**

(16) If the plan is being revised under section 26 or amended in relation to a development permit system, the council shall ensure that at least one open house is held for the purpose of giving the public an opportunity to review and ask questions about the information and material made available under clause (15) (c). 2006, c. 23, s. 9 (2).

### **Notice**

(17) Notice of the public meeting required under clause (15) (d) and of the open house, if any, required under subsection (16) shall,

- (a) be given to the prescribed persons and public bodies, in the prescribed manner; and
- (b) be accompanied by the prescribed information. 2006, c. 23, s. 9 (2).

### **Time for provision of copy to Minister**

(17.1) A copy of the current proposed plan or official plan amendment shall be submitted to the Minister at least 90 days before the municipality gives notice under subsection (17) if,

- (a) the Minister is the approval authority in respect of the plan or amendment; and
- (b) the plan or amendment is not exempt from approval. 2015, c. 26, s. 18 (1).

(17.2) REPEALED: 2015, c. 26, s. 18 (2).

### **Timing of open house**

(18) If an open house is required under subsection (16), it shall be held no later than seven days before the public meeting required under clause (15) (d) is held. 2006, c. 23, s. 9 (2).

### **Timing of public meeting**

(19) The public meeting required under clause (15) (d) shall be held no earlier than 20 days after the requirements for giving notice have been complied with. 2006, c. 23, s. 9 (2).

### **Information and material**

(19.1) The information and material referred to in clause (15) (c), including a copy of the current proposed plan, shall be made available to the public at least 20 days before the public meeting required under clause (15) (d) is held. 2006, c. 23, s. 9 (2).

### **Participation in public meeting**

(19.2) Every person who attends a public meeting required under clause (15) (d) shall be given an opportunity to make representations in respect of the current proposed plan. 2006, c. 23, s. 9 (2).

### **Alternative measures**

(19.3) If an official plan sets out alternative measures for informing and obtaining the views of the public in respect of amendments that may be proposed for the plan and if the measures are complied with, subsections (15) to (19.2) and clause 22 (6.4) (a) do not apply to the proposed amendments, but subsection (19.6) does apply. 2015, c. 26, s. 18 (3).

### **Same**

(19.4) In the course of preparing the official plan, before including alternative measures described in subsection (19.3), the council shall consider whether it would be desirable for the measures to allow for notice of the proposed amendments to the prescribed persons and public bodies mentioned in clause (17) (a). 2015, c. 26, s. 18 (3).

### **Transition**

(19.4.1) For greater certainty, subsection (19.4) does not apply with respect to alternative measures that are included in an official plan before the day subsection 18 (3) of the *Smart Growth for Our Communities Act, 2015* comes into force. 2015, c. 26, s. 18 (3).

### **Information**

(19.5) At a public meeting under clause (15) (d), the council shall ensure that information is made available to the public regarding who is entitled to appeal under subsections (24) and (36). 2006, c. 23, s. 9 (2).

### **Where alternative procedures followed**

(19.6) If subsection (19.3) applies, the information required under subsection (19.5) shall be made available to the public at a public meeting or in the manner set out in the official plan for informing and obtaining the views of the public in respect of the proposed amendments. 2006, c. 23, s. 9 (2).

### **Submissions**

(20) Any person or public body may make written submissions to the council before a plan is adopted. 1996, c. 4, s. 9.

### **Comments**

(21) The council shall provide to any person or public body that the council considers may have an interest in the plan adequate information and material, including a copy of the plan and, before adopting the plan, shall give them an opportunity to submit comments on it up to the time specified by the council. 1996, c. 4, s. 9; 2006, c. 23, s. 9 (3).

### **Adoption of plan**

(22) When the requirements of subsections (15) to (21), as appropriate, have been met and the council is satisfied that the plan as finally prepared is suitable for adoption, the council may by by-law adopt all or part of the plan and, unless the plan is exempt from approval, submit it for approval. 1996, c. 4, s. 9.

### **Notice**

(23) The council shall ensure that written notice of the adoption of the plan is given in the prescribed manner, no later than 15 days after the day it was adopted,

- (a) to the appropriate approval authority, whether or not the plan is exempt from approval, unless the approval authority has notified the municipality that it does not wish to receive copies of the notices of adoption;
- (b) to each person or public body that filed with the clerk of the municipality a written request to be notified if the plan is adopted; and
- (c) to any other person or public body that is prescribed. 2015, c. 26, s. 18 (4).

### **Contents**

(23.1) The notice under subsection (23) shall contain,

- (a) a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (23.2) had on the decision; and
- (b) any other information that is prescribed. 2015, c. 26, s. 18 (4).

### **Written and oral submissions**

(23.2) Clause (23.1) (a) applies to,

- (a) any written submissions relating to the plan that were made to the council before its decision; and
- (b) any oral submissions relating to the plan that were made at a public meeting. 2015, c. 26, s. 18 (4).

### **Right to appeal**

(24) If the plan is exempt from approval, any of the following may, not later than 20 days after the day that the giving of notice under subsection (23) is completed, appeal all or part of the decision of council to adopt all or part of the plan to the Tribunal by filing a notice of appeal with the clerk of the municipality:

- 1. A person or public body who, before the plan was adopted, made oral submissions at a public meeting or written submissions to the council.
- 2. The Minister.
- 3. The appropriate approval authority.
- 4. In the case of a request to amend the plan, the person or public body that made the request. 2006, c. 23, s. 9 (4); 2017, c. 23, Sched. 5, s. 80.

(24.0.1) REPEALED: 2019, c. 9, Sched. 12, s. 3 (1).

### **No appeal re additional residential unit policies**

(24.1) Despite subsection (24), there is no appeal in respect of the policies described in subsection 16 (3), including, for greater certainty, any requirements or standards that are part of such policies. 2011, c. 6, Sched. 2, s. 3 (1).

### **Exception re Minister**

(24.1.1) Subsection (24.1) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 2 (1).

### **No appeal re inclusionary zoning policies**

(24.1.2) Despite subsection (24), there is no appeal in respect of policies described in subsection 16 (4), including, for greater certainty, any requirements or standards that are part of such policies. 2016, c. 25, Sched. 4, s. 2 (2).

### **Exception re Minister**

(24.1.3) Subsection (24.1.2) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 2 (2).

### **No appeal re certain matters**

(24.1.4) Despite subsection (24), there is no appeal in respect of any parts of an official plan that must be contained in the plan,

- (a) before a development permit system may be adopted or established; or
- (b) in order for a municipality to be able to exercise particular powers in administering a development permit system, such as setting out the information and material to be provided in an application for a development permit or imposing certain types of conditions. 2019, c. 9, Sched. 12, s. 3 (2).

### **Limitation**

(24.1.5) Subsection (24.1.4) applies only if the parts of an official plan described in that subsection are included in the plan in response to an order under subsection 70.2.2 (1) and the municipality has not previously adopted a plan containing those parts in response to the order. 2019, c. 9, Sched. 12, s. 3 (2).

### **Exception re Minister**

(24.1.6) Subsection (24.1.4) does not apply to an appeal by the Minister. 2019, c. 9, Sched. 12, s. 3 (2).

### **No global appeal**

(24.2) Despite subsection (24), in the case of a new official plan there is no appeal in respect of all of the decision of council to adopt all of the plan. 2015, c. 26, s. 18 (5).

### **Same**

(24.3) For greater certainty, subsection (24.2) does not prevent an appeal relating to a part of the decision or a part of the plan, as authorized by subsection (24). 2015, c. 26, s. 18 (5).

### **No appeal re certain matters**

(24.4) Despite subsection (24), there is no appeal in respect of a part of an official plan that is described in subsection (24.5). 2015, c. 26, s. 18 (5).

### **Same**

(24.5) Subsections (24.4) and (36.4) apply to a part of an official plan that,

- (a) identifies an area as being within the boundary of,
  - (i) a vulnerable area as defined in subsection 2 (1) of the *Clean Water Act, 2006*,
  - (ii) the Lake Simcoe watershed as defined in section 2 of the *Lake Simcoe Protection Act, 2008*,
  - (iii) the Greenbelt Area or Protected Countryside as defined in subsection 1 (1) of the *Greenbelt Act, 2005*, or within the boundary of a specialty crop area designated by the Greenbelt Plan established under that Act, or
  - (iv) the Oak Ridges Moraine Conservation Plan Area as defined in subsection 3 (1) of the *Oak Ridges Moraine Conservation Act, 2001*;
- (b) identifies forecasted population and employment growth as set out in a growth plan that,
  - (i) is approved under the *Places to Grow Act, 2005*, and
  - (ii) applies to the Greater Golden Horseshoe growth plan area designated in Ontario Regulation 416/05 (Growth Plan Areas) made under that Act;
- (c) in the case of the official plan of a lower-tier municipality in the Greater Golden Horseshoe growth plan area mentioned in subclause (b) (ii), identifies forecasted population and employment growth as allocated to the lower-tier municipality in the upper-tier municipality's official plan, but only if the upper-tier municipality's plan has been approved by the Minister; or
- (d) in the case of the official plan of a lower-tier municipality, identifies the boundary of an area of settlement to reflect the boundary set out in the upper-tier municipality's official plan, but only if the upper-tier municipality's plan has been approved by the Minister. 2015, c. 26, s. 18 (5).

### **Notice of appeal**

(25) The notice of appeal filed under subsection (24) must,

- (a) set out the specific part of the plan to which the notice applies;
- (b) set out the reasons for the appeal; and
- (c) be accompanied by the fee charged by the Tribunal. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (6); 2017, c. 23, Sched. 3, s. 6 (2); 2017, c. 23, Sched. 5, s. 81; 2019, c. 9, Sched. 12, s. 3 (3); 2021, c. 4, Sched. 6, s. 80 (1).

### **Same**

(25.1) If the appellant intends to argue that the appealed decision is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the notice of appeal must also explain how the decision is inconsistent with, fails to conform with or conflicts with the other document. 2019, c. 9, Sched. 12, s. 3 (4).

### **Timing**

(26) For the purposes of subsections (24) and (36), the giving of written notice shall be deemed to be completed,

- (a) where notice is given by personal service, on the day that the serving of all required notices is completed;
- (a.1) where notice is given by e-mail, on the day that the sending by e-mail of all required notices is completed;
- (b) where notice is given by mail, on the day that the mailing of all required notices is completed; and
- (c) where notice is given by telephone transmission of a facsimile of the notice, on the day that the transmission of all required notices is completed. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (8); 2019, c. 9, Sched. 12, s. 3 (5).

### **Use of dispute resolution techniques**

(26.1) When a notice of appeal is filed under subsection (24), the council may use mediation, conciliation or other dispute resolution techniques to attempt to resolve the dispute. 2015, c. 26, s. 18 (9).

### **Notice and invitation**

(26.2) If the council decides to act under subsection (26.1),

- (a) it shall give a notice of its intention to use dispute resolution techniques to all the appellants; and
- (b) it shall give an invitation to participate in the dispute resolution process to,
  - (i) as many of the appellants as the council considers appropriate,
  - (ii) in the case of a request to amend the plan, the person or public body that made the request,
  - (iii) the Minister,
  - (iv) the appropriate approval authority, and
  - (v) any other persons or public bodies that the council considers appropriate. 2015, c. 26, s. 18 (9).

### **Extension of time**

(26.3) When the council gives a notice under clause (26.2) (a), the 15-day period mentioned in clauses (29) (b) and (c) and subsections (29.1) and (29.2) is extended to 75 days. 2015, c. 26, s. 18 (9).

### **Participation voluntary**

(26.4) Participation in the dispute resolution process by the persons and public bodies who receive invitations under clause (26.2) (b) is voluntary. 2015, c. 26, s. 18 (9).

### **Decision final**

(27) If one or more persons or public bodies have a right of appeal under subsection (24) in respect of all or part of the decision of council, but no notice of appeal is filed under that subsection and the time for filing appeals has expired,

- (a) the decision of council or the part of the decision that is not the subject of an appeal is final; and
- (b) the plan or part of the plan that was adopted and that is not the subject of an appeal comes into effect as an official plan or part of an official plan on the day after the last day for filing a notice of appeal. 1996, c. 4, s. 9; 2017, c. 23, Sched. 3, s. 6 (4).

### **Same**

(27.1) If no person or public body has any right of appeal under subsection (24) in respect of any part of the decision of council,

- (a) the decision of council is final; and
- (b) the plan that was adopted comes into effect as an official plan on the day after the day it was adopted. 2017, c. 23, Sched. 3, s. 6 (5).

### **Declaration**

(28) A sworn declaration of an employee of the municipality or of the approval authority that notice was given as required by subsection (23) or (35) or that no notice of appeal was filed under subsection (24) or (36) within the time allowed for appeal is conclusive evidence of the facts stated in it. 1996, c. 4, s. 9.

### **Forwarding of record, etc.**

(29) If a notice of appeal under subsection (24) is filed, the clerk of the municipality shall ensure that,

- (a) a record is compiled which includes the prescribed information and material;
- (b) the record, the notice of appeal and the fee charged by the Tribunal are forwarded to the Tribunal within 15 days after the last day for filing a notice of appeal;
- (c) the notice of appeal and the record are forwarded to the appropriate approval authority within 15 days after the last day for filing a notice of appeal, whether or not the plan is exempt from the requirement for an approval, unless the approval authority has notified the municipality that it does not wish to receive copies of the notices of appeal and the records; and
- (d) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal. 1996, c. 4, s. 9; 1999, c. 12, Sched. M, s. 22 (2); 2017, c. 23, Sched. 5, s. 87 (1); 2021, c. 4, Sched. 6, s. 80 (1).

### **Exception**

(29.1) Despite clause (29) (b), if all appeals under subsection (24) in respect of all or part of the decision of council are withdrawn within 15 days after the last day for filing a notice of appeal, the municipality is not required to forward the materials described under clauses (29) (b) and (d) to the Tribunal and under clause (29) (c) to the appropriate approval authority. 1999, c. 12, Sched. M, s. 22 (3); 2017, c. 23, Sched. 5, s. 87 (2).

### **Where appeals withdrawn**

(29.2) If all appeals under subsection (24) in respect of all or part of the decision of council are withdrawn within 15 days after the last day for filing a notice of appeal, clauses (30) (a) and (b) apply. 1999, c. 12, Sched. M, s. 22 (3).

### **Withdrawal of appeals**

(30) If all appeals under subsection (24) in respect of all or part of the decision of council are withdrawn and the time for filing appeals has expired, the Tribunal shall notify the clerk of the municipality that made the decision and,

- (a) the decision or the part of the decision that was the subject of an appeal is final; and
- (b) the plan or part of the plan that was adopted and in respect of which all appeals have been withdrawn comes into effect as an official plan or part of an official plan on the day the last outstanding appeal has been withdrawn. 1996, c. 4, s. 9; 2017, c. 23, Sched. 5, s. 82.

### **Same**

(30.1) Subsection (30) also applies, with necessary modifications, when there is no longer any appeal with respect to a particular part of the decision of council as the result of a partial withdrawal of one or more appeals. 2006, c. 23, s. 9 (5).

### **Record**

(31) If the plan is not exempt from approval, the council shall cause to be compiled and forwarded to the approval authority, not later than 15 days after the day the plan was adopted, a record which shall include the prescribed information and material and any fee under section 69 or 69.1. 1996, c. 4, s. 9.

### **Other information**

(32) An approval authority may require that a council provide such other information or material that the approval authority considers it may need. 1996, c. 4, s. 9.

### **Refusal to consider**

(33) Until the approval authority has received the information, material and fee referred to in subsection (31),

- (a) the approval authority may refuse to accept or further consider the plan; and
- (b) the time period referred to in subsection (40) does not begin. 1996, c. 4, s. 9.

### **Action by approval authority**

(34) The approval authority may confer with any person or public body that it considers may have an interest in the plan and may,

- (a) approve, modify and approve as modified or refuse to approve a plan; or
- (b) approve, modify and approve as modified or refuse to approve part or parts of the plan. 1996, c. 4, s. 9.

### **Exception, non-conforming lower-tier plan**

(34.1) Despite subsection (34), an approval authority shall not approve any part of a lower-tier municipality's plan if the plan or any part of it does not, in the approval authority's opinion, conform with,

- (a) the upper-tier municipality's official plan;
- (b) a new official plan of the upper-tier municipality that was adopted before the 120th day after the lower-tier municipality adopted its plan, but is not yet in effect; or
- (c) a revision of the upper-tier municipality's official plan that was adopted in accordance with section 26, before the 120th day after the lower-tier municipality adopted its plan, but is not yet in effect. 2015, c. 26, s. 18 (10); 2017, c. 23, Sched. 3, s. 6 (6); 2019, c. 9, Sched. 12, s. 3 (6).



### **No restriction**

(34.2) Nothing in subsection (34.1) derogates from an approval authority's ability to modify a lower-tier municipality's plan and approve it as modified if the modifications remove any non-conformity described in that subsection. 2015, c. 26, s. 18 (10).

### **Notice**

(35) If the approval authority makes a decision under subsection (34), it shall ensure that written notice of its decision is given in the prescribed manner to,

- (a) the council or planning board that adopted the plan;
- (b) each person or public body that made a written request to be notified of the decision;
- (c) each municipality or planning board to which the plan would apply if approved; and
- (d) any other person or public body that is prescribed. 2015, c. 26, s. 18 (11).

### **Contents**

(35.1) The notice under subsection (35) shall contain,

- (a) a brief explanation of the effect, if any, that the written submissions mentioned in subsection (35.2) had on the decision; and
- (b) any other information that is prescribed. 2015, c. 26, s. 18 (11).

### **Written submissions**

(35.2) Clause (35.1) (a) applies to any written submissions relating to the plan that were made to the approval authority before its decision. 2015, c. 26, s. 18 (11).

### **Exception**

(35.3) If the notice under subsection (35) is given by the Minister and he or she is also giving notice of the matter in accordance with section 36 of the *Environmental Bill of Rights, 1993*, the brief explanation referred to in clause (35.1) (a) is not required. 2015, c. 26, s. 18 (11).

### **Appeal to Tribunal**

(36) Any of the following may, not later than 20 days after the day that the giving of notice under subsection (35) is completed, appeal all or part of the decision of the approval authority to the Tribunal by filing a notice of appeal with the approval authority:

1. A person or public body who, before the plan was adopted, made oral submissions at a public meeting or written submissions to the council.
2. The Minister.
3. In the case of a request to amend the plan, the person or public body that made the request. 2006, c. 23, s. 9 (6); 2017, c. 23, Sched. 5, s. 80.

(36.0.1) REPEALED: 2019, c. 9, Sched. 12, s. 3 (7).

### **No appeal re additional residential unit policies**

(36.1) Despite subsection (36), there is no appeal in respect of the policies described in subsection 16 (3), including, for greater certainty, any requirements or standards that are part of such policies. 2011, c. 6, Sched. 2, s. 3 (2).

### **Exception re Minister**

(36.1.1) Subsection (36.1) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 2 (3).

### **No appeal re inclusionary zoning policies**

(36.1.2) Despite subsection (36), there is no appeal in respect of policies described in subsection 16 (4), including, for greater certainty, any requirements or standards that are part of such policies. 2016, c. 25, Sched. 4, s. 2 (4).

### **Exception re Minister**

(36.1.3) Subsection (36.1.2) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 2 (4).



### **No appeal re protected major transit station policies**

(36.1.4) Despite subsection (36), there is no appeal in respect of the following:

1. Policies that identify a protected major transit station area in accordance with subsection 16 (15) or (16), including any changes to those policies.
2. Policies described in clauses 16 (15) (a), (b) or (c) or 16 (16) (a) or (b) with respect to a protected major transit station area that is identified in accordance with subsection 16 (15) or (16).
3. Policies in a lower-tier municipality's official plan that are described in subclause 16 (16) (b) (i) or (ii).
4. Policies that identify the maximum densities that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15).
5. Policies that identify the maximum densities that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (16).
6. Policies that identify the minimum or maximum heights that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15).
7. Policies that identify the minimum or maximum heights that are authorized with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (16). 2017, c. 23, Sched. 3, s. 6 (8).

### **Limitation**

(36.1.5) Paragraphs 3, 5 and 7 of subsection (36.1.4) apply only if,

- (a) the plan that includes the policies referred to in those paragraphs also includes all of the policies described in subclauses 16 (16) (b) (i) and (ii) for the relevant protected major transit station area; or
- (b) the lower-tier municipality's official plan in effect at the relevant time contains all of the policies described in subclauses 16 (16) (b) (i) and (ii) for the relevant protected major transit station area. 2017, c. 23, Sched. 3, s. 6 (8).

### **Exception**

(36.1.6) Despite paragraphs 6 and 7 of subsection (36.1.4), there is an appeal in circumstances where the maximum height that is authorized with respect to a building or structure on a particular parcel of land would result in the building or structure not satisfying the minimum density that is authorized in respect of that parcel. 2017, c. 23, Sched. 3, s. 6 (8).

### **Exception re Minister**

(36.1.7) Subsection (36.1.4) does not apply to an appeal by the Minister. 2017, c. 23, Sched. 3, s. 6 (8).

### **No appeal re certain matters**

(36.1.8) Despite subsection (36), there is no appeal in respect of any parts of an official plan that must be contained in the plan,

- (a) before a development permit system may be adopted or established; or
- (b) in order for a municipality to be able to exercise particular powers in administering a development permit system, such as setting out the information and material to be provided in an application for a development permit or imposing certain types of conditions. 2019, c. 9, Sched. 12, s. 3 (8).

### **Limitation**

(36.1.9) Subsection (36.1.8) applies only if the parts of an official plan described in that subsection are included in the plan in response to an order under subsection 70.2.2 (1) and the municipality has not previously adopted a plan containing those parts in response to the order. 2019, c. 9, Sched. 12, s. 3 (8).

### **Exception re Minister**

(36.1.10) Subsection (36.1.8) does not apply to an appeal by the Minister. 2019, c. 9, Sched. 12, s. 3 (8).

### **No global appeal**

(36.2) Despite subsection (36), in the case of a new official plan that is approved by an approval authority other than the Minister, there is no appeal in respect of all of the decision of the approval authority to approve all of the plan, with or without modifications. 2015, c. 26, s. 18 (12); 2017, c. 23, Sched. 3, s. 6 (9).

### **Same**

(36.3) For greater certainty, subsection (36.2) does not prevent an appeal relating to a part of the decision or a part of the plan, as authorized by subsection (36). 2015, c. 26, s. 18 (12).

### **No appeal re certain matters**

(36.4) Despite subsection (36), there is no appeal in respect of a part of an official plan that is described in subsection (24.5). 2015, c. 26, s. 18 (12).

### **No appeal re decision by Minister**

(36.5) Despite subsection (36), there is no appeal in respect of a decision of the approval authority under subsection (34), if the approval authority is the Minister. 2017, c. 23, Sched. 3, s. 6 (10).

### **Contents of notice**

(37) The notice of appeal under subsection (36) must,

- (a) set out the specific part or parts of the plan to which the notice of appeal applies;
- (b) set out the reasons for the appeal; and
- (c) be accompanied by the fee charged by the Tribunal. 1996, c. 4, s. 9; 2015, c. 26, s. 18 (13); 2017, c. 23, Sched. 3, s. 6 (11); 2017, c. 23, Sched. 5, s. 81; 2019, c. 9, Sched. 12, s. 3 (9); 2021, c. 4, Sched. 6, s. 80 (1).

### **Same**

(37.1) If the appellant intends to argue that the appealed decision is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or, in the case of the official plan of a lower-tier municipality, fails to conform with the upper-tier municipality's official plan, the notice of appeal must also explain how the decision is inconsistent with, fails to conform with or conflicts with the other document. 2019, c. 9, Sched. 12, s. 3 (10).

### **Use of dispute resolution techniques**

(37.2) When a notice of appeal is filed under subsection (36), the approval authority may use mediation, conciliation or other dispute resolution techniques to attempt to resolve the dispute. 2015, c. 26, s. 18 (14).

### **Notice and invitation**

(37.3) If the approval authority decides to act under subsection (37.2),

- (a) it shall give a notice of its intention to use dispute resolution techniques to all the appellants;
- (b) it shall give an invitation to participate in the dispute resolution process to,
  - (i) as many of the appellants as the approval authority considers appropriate,
  - (ii) in the case of a request to amend the plan, the person or public body that made the request,
  - (iii) the Minister,
  - (iv) the municipality that adopted the plan, and
  - (v) any other persons or public bodies that the approval authority considers appropriate. 2015, c. 26, s. 18 (14).

### **Extension of time**

(37.4) When the approval authority gives a notice under clause (37.3) (a), the 15-day period mentioned in clause (42) (b) and subsections (42.1) and (42.2) is extended to 75 days. 2015, c. 26, s. 18 (14).

### **Participation voluntary**

(37.5) Participation in the dispute resolution process by the persons and public bodies who receive invitations under clause (37.3) (b) is voluntary. 2015, c. 26, s. 18 (14).

### **Decision final**

(38) If one or more persons or public bodies have a right of appeal under subsection (36) in respect of all or part of the decision of the approval authority, but no notice of appeal is filed under that subsection and the time for filing appeals has expired,

- (a) the decision of the approval authority or the part of the decision that is not the subject of an appeal is final; and

- (b) the plan or part of the plan that was approved and that is not the subject of an appeal comes into effect as an official plan or part of an official plan on the day after the last day for filing a notice of appeal. 1996, c. 4, s. 9; 2017, c. 23, Sched. 3, s. 6 (13).

#### **Same**

(38.1) If no person or public body has any right of appeal under subsection (36) in respect of any part of the decision of the approval authority,

- (a) the decision of the approval authority is final; and
- (b) the plan or part of the plan that was approved comes into effect as an official plan or part of an official plan on the day after the day it was approved. 2017, c. 23, Sched. 3, s. 6 (14).

#### **Withdrawal of appeals**

(39) If all appeals made under subsection (36) in respect of all or part of the decision of the approval authority are withdrawn and if the time for filing notice of appeal has expired, the Tribunal shall notify the approval authority that made the decision and,

- (a) the decision or that part of the decision that was the subject of the appeal is final; and
- (b) the plan or part of the plan that was approved and in respect of which all the appeals have been withdrawn comes into effect as an official plan or part of an official plan on the day the last outstanding appeal has been withdrawn. 1996, c. 4, s. 9; 2017, c. 23, Sched. 5, s. 82.

#### **Appeal to Tribunal**

(40) If the approval authority fails to give notice of a decision in respect of all or part of a plan within 120 days after the day the plan is received by the approval authority, any of the following may appeal to the Tribunal with respect to all or any part of the plan in respect of which no notice of a decision was given by filing a notice of appeal with the approval authority:

1. The municipality that adopted the plan.
2. The Minister, if the Minister is not the approval authority.
3. In the case of a plan amendment adopted in response to a request under section 22, the person or public body that requested the amendment. 2019, c. 9, Sched. 12, s. 3 (11).

#### **Notice to suspend time period**

(40.1) If the approval authority in respect of a plan is the Minister, the Minister may suspend the time period described in subsection (40) by giving notice of the suspension to the municipality that adopted the plan and, in the case of a plan amendment adopted in response to a request under section 22, to the person or public body that requested the amendment.

#### **Same**

(40.1.1) The effect of a suspension under subsection (40.1) is to suspend the time period referred to in subsection (40) until the date the Minister rescinds the notice, and the period of the suspension shall not be included for the purposes of counting the period of time described in subsection (40).

#### **Same**

(40.1.2) For greater certainty, the Minister may make a decision under subsection (34) in respect of a plan that is the subject of a notice provided under subsection (40.1) even if the notice has not been rescinded.

#### **Same, retroactive deemed notice**

(40.1.3) If a plan was received by the Minister on or before March 30, 2022, a decision respecting the plan has not been made under subsection (34) before that day and no notice of appeal in respect of the plan was filed under subsection (40) before that day,

- (a) the plan shall be deemed to have been received by the Minister on March 29, 2022; and
- (b) the Minister shall be deemed to have given notice under subsection (40.1) on March 30, 2022.

#### **Exception, non-conforming lower-tier plan**

(40.2) Despite subsection (40), there is no appeal with respect to any part of the plan of a lower-tier municipality if, within 120 days after receiving the plan, the approval authority states that the plan or any part of it does not, in the approval authority's opinion, conform with,

- (a) the upper-tier municipality's official plan;

- (b) a new official plan of the upper-tier municipality that was adopted before the 120th day after the lower-tier municipality adopted its plan, but is not yet in effect; or
- (c) a revision of the upper-tier municipality's official plan that was adopted in accordance with section 26, before the 120th day after the lower-tier municipality adopted its plan, but is not yet in effect. 2015, c. 26, s. 18 (16); 2017, c. 23, Sched. 3, s. 6 (17); 2019, c. 9, Sched. 12, s. 3 (13).

#### **No review**

(40.3) The approval authority's opinion mentioned in subsection (40.2) is not subject to review by the Tribunal. 2015, c. 26, s. 18 (16); 2017, c. 23, Sched. 5, s. 80.

#### **Time for appeal**

(40.4) If the approval authority states an opinion as described in subsection (40.2), the 120-day period mentioned in subsection (40) does not begin to run until the approval authority confirms that the non-conformity is resolved. 2015, c. 26, s. 18 (16); 2017, c. 23, Sched. 3, s. 6 (18); 2019, c. 9, Sched. 12, s. 3 (14).

#### **Notice of appeal**

(41) A notice of appeal filed under subsection (40) must,

- (a) set out the specific part of the plan to which the appeal applies, if the notice does not apply to all of the plan; and
- (b) be accompanied by the fee charged by the Tribunal. 1996, c. 4, s. 9; 2017, c. 23, Sched. 5, s. 81; 2021, c. 4, Sched. 6, s. 80 (1).

(41.1) REPEALED: 2019, c. 9, Sched. 12, s. 3 (15).

#### **Documents to Tribunal**

(42) If an approval authority receives a notice of appeal under subsection (36) or (40), it shall ensure that,

- (a) a record is compiled which includes the prescribed information and material;
- (b) the record, notice of appeal and the fee charged by the Tribunal are forwarded to the Tribunal within 15 days after the last day for filing a notice of appeal under subsection (36) or within 15 days after the notice of appeal under subsection (40) was filed, as the case may be; and
- (c) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal. 2017, c. 23, Sched. 5, s. 87 (3); 2021, c. 4, Sched. 6, s. 80 (1).

#### **Exception**

(42.1) Despite clause (42) (b), if all appeals in respect of all or part of the plan are withdrawn within 15 days after the last day for filing a notice of appeal under subsection (36) or within 15 days after the notice of appeal under subsection (40) was filed, the approval authority is not required to forward the materials described under clauses (42) (b) and (c) to the Tribunal. 1999, c. 12, Sched. M, s. 22 (3); 2017, c. 23, Sched. 5, s. 87 (4).

#### **Appeals withdrawn, decision**

(42.2) If all appeals made under subsection (36) in respect of all or part of the decision of the approval authority are withdrawn within 15 days after the last day for filing a notice of appeal, clauses (39) (a) and (b) apply. 1999, c. 12, Sched. M, s. 22 (3).

#### **Appeals withdrawn, plan**

(42.3) If all appeals under subsection (40) with respect to all or part of a plan are withdrawn within 15 days after the first notice of appeal under subsection (40) was filed, the approval authority may proceed to make a decision under subsection (34) in respect of all or part of the plan, as the case may be. 1999, c. 12, Sched. M, s. 22 (3); 2015, c. 26, s. 18 (18).

#### **Appeals withdrawn**

(43) If all appeals under subsection (40) with respect to all or part of a plan are withdrawn, the Tribunal shall notify the approval authority and the approval authority may proceed to make a decision under subsection (34) in respect of all or part of the plan, as the case may be. 1996, c. 4, s. 9; 2017, c. 23, Sched. 5, s. 80.

#### **Hearing**

(44) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or such public bodies and in such manner as the Tribunal may determine. 2017, c. 23, Sched. 5, s. 87 (5).

### **Restriction re adding parties**

(44.1) Despite subsection (44), in the case of an appeal under subsection (24) or (36), only the following may be added as parties:

1. A person or public body who satisfies one of the conditions set out in subsection (44.2).
2. The Minister.
3. The appropriate approval authority. 2006, c. 23, s. 9 (7).

### **Same**

(44.2) The conditions mentioned in paragraph 1 of subsection (44.1) are:

1. Before the plan was adopted, the person or public body made oral submissions at a public meeting or written submissions to the council.
2. The Tribunal is of the opinion that there are reasonable grounds to add the person or public body as a party. 2006, c. 23, s. 9 (7); 2017, c. 23, Sched. 5, s. 80.

### **New evidence at hearing**

(44.3) This subsection applies if information and material that is presented at the hearing of an appeal under subsection (24) or (36) was not provided to the municipality before the council made the decision that is the subject of the appeal. 2019, c. 9, Sched. 12, s. 3 (16).

### **Same**

(44.4) When subsection (44.3) applies, the Tribunal may, on its own initiative or on a motion by the municipality or any party, consider whether the information and material could have materially affected the council's decision and, if the Tribunal determines that it could have done so, it shall not be admitted into evidence until subsection (44.5) has been complied with and the prescribed time period has elapsed. 2019, c. 9, Sched. 12, s. 3 (16).

### **Notice to council**

(44.5) The Tribunal shall notify the council that it is being given an opportunity to,

- (a) reconsider its decision in light of the information and material; and
- (b) make a written recommendation to the Tribunal. 2019, c. 9, Sched. 12, s. 3 (16).

### **Council's recommendation**

(44.6) The Tribunal shall have regard to the council's recommendation if it is received within the time period referred to in subsection (44.4), and may, but is not required to, do so if it is received afterwards. 2019, c. 9, Sched. 12, s. 3 (16).

### **Conflict with SPPA**

(44.7) Subsections (44.1) to (44.6) apply despite the *Statutory Powers Procedure Act*. 2019, c. 9, Sched. 12, s. 3 (17).

### **Dismissal without hearing**

(45) Despite the *Statutory Powers Procedure Act* and subsection (44), the Tribunal may, on its own initiative or on the motion of any party, dismiss all or part of an appeal without holding a hearing if any of the following apply:

1. The Tribunal is of the opinion that,
  - i. the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the plan or part of the plan that is the subject of the appeal could be approved or refused by the Tribunal,
  - ii. the appeal is not made in good faith or is frivolous or vexatious,
  - iii. the appeal is made only for the purpose of delay, or
  - iv. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.
2. The appellant has not provided written reasons with respect to an appeal under subsection (24) or (36).
3. The appellant intends to argue a matter mentioned in subsection (25.1) or (37.1) but has not provided the explanations required by that subsection.
4. The appellant has not paid the fee charged by the Tribunal.

5. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2019, c. 9, Sched. 12, s. 3 (18); 2021, c. 4, Sched. 6, s. 80 (1).

#### **Same**

(45.1) Despite the *Statutory Powers Procedure Act* and subsection (44), the Tribunal may, on its own initiative or on the motion of the municipality, the appropriate approval authority or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision. 2017, c. 23, Sched. 5, s. 87 (5).

#### **Representation**

(46) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 5 of subsection (45). 2000, c. 26, Sched. K, s. 5 (1); 2017, c. 23, Sched. 3, s. 6 (22); 2019, c. 9, Sched. 12, s. 3 (19).

#### **Dismissal**

(46.1) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (45) or (45.1), as it considers appropriate. 2017, c. 23, Sched. 5, s. 87 (5).

#### **Dismissal**

(47) If the Tribunal dismisses all appeals made under subsection (24) or (36) in respect of all or part of a decision without holding a hearing and if the time for filing notices of appeal has expired, the Tribunal shall notify the clerk of the municipality or the approval authority and,

- (a) the decision or that part of the decision that was the subject of the appeal is final; and
- (b) any plan or part of the plan that was adopted or approved and in respect of which all the appeals have been dismissed comes into effect as an official plan or part of an official plan on the day after the day the last outstanding appeal has been dismissed. 2017, c. 23, Sched. 5, s. 87 (5).

#### **Same**

(48) If the Tribunal dismisses an appeal under subsection (40) without holding a hearing and if there is no other appeal in respect of the same matter, the Tribunal shall notify the approval authority and the approval authority may then proceed to make a decision under subsection (34) in respect of all or part of the plan, as the case may be. 2017, c. 23, Sched. 5, s. 87 (5).

#### **Transfer**

(49) If a notice of appeal under subsection (24), (36) or (40) is received by the Tribunal, the Tribunal may require that a municipality or approval authority transfer to the Tribunal any other part of the plan that is not in effect and to which the notice of appeal does not apply. 2017, c. 23, Sched. 3, s. 6 (23); 2019, c. 9, Sched. 12, s. 3 (20).

(49.1)-(49.12) REPEALED: 2019, c. 9, Sched. 12, s. 3 (21).

#### **Powers of Tribunal**

(50) On an appeal or a transfer under this section, the Tribunal may approve all or part of the plan as all or part of an official plan, make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan. 1996, c. 4, s. 9; 2017, c. 23, Sched. 3, s. 6 (25); 2019, c. 9, Sched. 12, s. 3 (22).

#### **Same**

(50.1) For greater certainty, subsection (50) does not give the Tribunal power to approve or modify any part of the plan that,

- (a) is in effect; and
- (b) was not added, amended or revoked by the plan to which the notice of appeal relates. 2017, c. 23, Sched. 3, s. 6 (26); 2019, c. 9, Sched. 12, s. 3 (23).

#### **Matters of provincial interest**

(51) Where an appeal is made to the Tribunal under this section, the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the plan or the parts of the plan in respect of which the appeal is made, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify,

- (a) the provisions of the plan by which the provincial interest is, or is likely to be, adversely affected; and



- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 3, s. 6 (26); 2019, c. 9, Sched. 12, s. 3 (24).

#### **No hearing or notice required**

(52) The Minister is not required to give notice or to hold a hearing before taking any action under subsection (51). 2004, c. 18, s. 3 (2).

#### **Confirmation by L.G. in C.**

(53) If the Tribunal has received a notice from the Minister under subsection (51), the decision of the Tribunal is not final and binding in respect of the provisions identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of those provisions. 2019, c. 9, Sched. 12, s. 3 (25).

#### **Action of L.G. in C.**

(54) The Lieutenant Governor in council may confirm, vary or rescind the decision of the Tribunal in respect of the provisions of the plan identified in the notice and in doing so may direct the Minister to modify the provisions of the plan. 2004, c. 18, s. 3 (2); 2017, c. 23, Sched. 5, s. 87 (6).

#### **Referral to Tribunal for recommendation**

(55) If the approval authority in respect of a plan is the Minister, the Minister may, before making a decision under subsection (34), refer all or part of the plan to the Tribunal for a recommendation.

#### **Record to Tribunal**

(56) If the Minister refers all or part of a plan to the Tribunal under subsection (55) or (61), the Minister shall ensure that a record is compiled and provided to the Tribunal.

#### **Recommendation**

(57) If the Minister refers all or part of a plan to the Tribunal under subsection (55), the Tribunal shall make a written recommendation to the Minister stating whether the Minister should approve the plan or part of the plan, make modifications and approve the plan or part of the plan as modified or refuse the plan or part of the plan and shall give reasons for the recommendation.

#### **Hearing or other proceeding by Tribunal**

(58) Before making a recommendation under subsection (57), the Tribunal may hold a hearing or other proceeding and if the Tribunal does so, it shall provide notice of such hearing or other proceeding to,

(a) the municipality that adopted the plan; and

(b) any person or public body who, before the plan was adopted, made oral submissions at a public meeting or made written submissions to the council.

#### **Copy of recommendation**

(59) A copy of the recommendation of the Tribunal shall be sent to each person who appeared before the Tribunal and to any person who in writing requests a copy of the recommendation.

#### **Decision on plan**

(60) After considering the recommendation of the Tribunal, the Minister may proceed to make a decision under subsection (34).

#### **Referral to Tribunal for decision**

(61) If the approval authority in respect of a plan is the Minister, the Minister may, before making a decision under subsection (34), refer the plan to the Tribunal for a decision.

#### **Hearing by Tribunal**

(62) If the Minister refers a plan to the Tribunal under subsection (61), the Tribunal may hold a hearing or other proceeding and if the Tribunal does so, it shall provide notice of such hearing or other proceeding to,

(a) the municipality that adopted the plan; and

(b) any person or public body who, before the plan was adopted, made oral submissions at a public meeting or made written submissions to the council.



### **Decision by Tribunal**

(63) Subsections (50) and (50.1) apply, with necessary modifications, to a referral for a decision made under subsection (61).

### **Referral of matters in process**

(64) For greater certainty, a plan that was submitted to the Minister for approval prior to the day section 1 of Schedule 5 to the More Homes for Everyone Act, 2022 comes into force may be the subject of a referral under subsection (55) or (61) if a decision respecting the plan has not yet been made under subsection (34).

### **Section Amendments with date in force (d/m/y)**

1996, c. 4, s. 9 - 22/05/1996; 1999, c. 12, Sched. M, s. 22 (2, 3) - 22/12/1999

2000, c. 26, Sched. K, s. 5 (1) - 06/12/2000

2002, c. 17, Sched. B, s. 5 (1-7) - 01/01/2003

2004, c. 18, s. 3 (1, 2) - 30/11/2004

2006, c. 23, s. 9 (1-13) - 01/01/2007

2011, c. 6, Sched. 2, s. 3 (1, 2) - 01/01/2012

2015, c. 26, s. 18 (1, 3-19) - 01/07/2016; 2015, c. 26, s. 18 (2) - 30/10/2016

2016, c. 25, Sched. 4, s. 2 (1, 3) - 08/12/2016; 2016, c. 25, Sched. 4, s. 2 (2, 4) - 12/04/2018

2017, c. 23, Sched. 3, s. 6 (1-27) - 03/04/2018; 2017, c. 23, Sched. 5, s. 80-82, 87 (1-6) - 03/04/2018

2019, c. 9, Sched. 12, s. 3 (1-25) - 03/09/2019

2021, c. 4, Sched. 6, s. 80 (1) - 01/06/2021

### **Delegation of approval authority**

**17.1** (1) If an upper-tier municipality is the approval authority under section 17 in respect of the approval of official plans of lower-tier municipalities, the council may by by-law delegate all or any of the authority to approve amendments to official plans to a committee of council or to an appointed officer identified in the by-law by name or position occupied. 2002, c. 17, Sched. B, s. 6.

### **Conditions**

(2) A delegation of authority made by a council under subsection (1) may be subject to such conditions as the council by by-law provides. 1994, c. 23, s. 10.

### **Withdrawal of delegation**

(3) A council may by by-law withdraw a delegation of authority made by it under subsection (1) and the withdrawal may be in respect of one or more requests for approval specified in the by-law or any or all requests for approval in respect of which a final disposition was not made by the committee or officer before the withdrawal. 1994, c. 23, s. 10.

### **Section Amendments with date in force (d/m/y)**

1994, c. 23, s. 10 - 28/03/1995

2002, c. 17, Sched. B, s. 6 - 01/01/2003

### **Recommendation of plan**

**18** (1) Where a plan is prepared by a planning board, the plan shall not be recommended to any council for adoption as an official plan unless it is approved by a vote of the majority of all the members of the planning board. R.S.O. 1990, c. P.13, s. 18 (1).

### **Submission of plan to council**

(2) When the plan is approved by the planning board, the board shall submit a copy thereof, certified by the secretary-treasurer of the board to be a true copy,

(a) in the case of a plan prepared for a planning area, to the council of each municipality that is within the planning area; and

(b) in the case of a plan prepared at the request of a single municipality, to the council of that municipality, together with a recommendation that it be adopted by the council. R.S.O. 1990, c. P.13, s. 18 (2).

### **Adoption of plan**

(3) Each council to which the plan is submitted may, subject to subsections 17 (15) to (22), by by-law adopt the plan and the clerk of each municipality, the council of which adopted the plan, shall provide the secretary-treasurer of the planning board with a certified copy of the adopting by-law and shall comply with subsections 17 (23), (32) and (33). R.S.O. 1990, c. P.13, s. 18 (3); 1994, c. 23, s. 11 (1); 1996, c. 4, s. 11 (1); 2015, c. 26, s. 19.

### **Submission of plan**

(4) When the secretary-treasurer of the planning board has received a certified copy of an adopting by-law from a majority of the councils to which the plan was submitted, he or she shall, unless it is exempt from an approval, submit the plan for approval together with each certified copy of the adopting by-law and subsections 17 (31) to (50.1) apply with necessary modifications in respect of the plan as if the planning board were the council of a municipality and the secretary-treasurer of the planning board were the clerk of the municipality. 1996, c. 4, s. 11 (2); 2006, c. 23, s. 10 (1).

### **Application of subss. 17 (15-50)**

(5) Where a planning area consists of the whole of one or more municipalities and territory without municipal organization subsections 17 (15) to (50.1) apply, with necessary modifications, in respect of the part of the planning area that consists of territory without municipal organization as though the planning board were the council of a municipality and the secretary-treasurer of the planning board were the clerk of the municipality. R.S.O. 1990, c. P.13, s. 18 (5); 1994, c. 23, s. 11 (3); 1996, c. 4, s. 11 (3); 2006, c. 23, s. 10 (2).

### **Section Amendments with date in force (d/m/y)**

1994, c. 23, s. 11 (1, 3) - 28/03/1995; 1996, c. 4, s. 11 (1-3) - 22/05/1996

2006, c. 23, s. 10 (1, 2) - 01/01/2007

2015, c. 26, s. 19 - 01/07/2016

### **Unorganized territory**

**19** In a planning area consisting solely of territory without municipal organization, section 17 applies with necessary modifications to a plan being prepared and adopted by a planning board and that is to come into effect as the official plan of the planning board as if the planning board were a council of a municipality and the secretary-treasurer were the clerk. 1996, c. 4, s. 12.

### **Section Amendments with date in force (d/m/y)**

1996, c. 4, s. 12 - 22/05/1996

### **Deemed council**

**19.1** Sections 34, 35 to 39 and 45 apply in respect of land within the planning area consisting of territory without municipal organization and the planning board shall be deemed to be a council of a local municipality and the secretary-treasurer of the planning board shall be deemed to be the clerk of the municipality for those purposes. 1994, c. 23, s. 12.

### **Section Amendments with date in force (d/m/y)**

1994, c. 23, s. 12 - 28/03/1995

### **Lodging of plan**

**20** (1) A certified copy of the official plan shall be lodged in the office of the clerk of each municipality to which the plan or any part of the plan applies.

### **Who to lodge plan**

(2) The lodging required by subsection (1) shall be carried out,

- (a) in the case of an official plan that applies to only one municipality or part thereof or to only one municipality and territory without municipal organization, by the clerk of the municipality; and
- (b) in the case of an official plan that applies to more than one municipality or parts thereof, by the clerk of the municipality that has the largest population.

### **Public inspection**

(3) All copies lodged under subsection (1) shall be available for public inspection during office hours. R.S.O. 1990, c. P.13, s. 20.

### **Amendment or repeal of plan**

**21** (1) Except as hereinafter provided and except where the context requires otherwise, the provisions of this Act with respect to an official plan apply, with necessary modifications, to amendments thereto or the repeal thereof, and the council of a municipality that is within a planning area may initiate an amendment to or the repeal of any official plan that applies to the municipality, and section 17 applies to any such amendment or repeal. R.S.O. 1990, c. P.13, s. 21 (1); 2015, c. 26, s. 20 (1).

### **Exception**

(2) Subsections 17 (34.1) and (40.2) apply to an amendment to a lower-tier municipality's official plan only if it is a revision that is adopted in accordance with section 26. 2015, c. 26, s. 20 (2).

### **Exception**

(3) Subsection 17 (36.5) applies to an amendment only if it is,

(a) an amendment that has been the subject of a referral to the Tribunal for a recommendation pursuant to subsection 17 (55); or

(b) a revision that is adopted in accordance with section 26

### ~~**Exception**~~

~~(3) Subsection 17 (36.5) applies to an amendment only if it is a revision that is adopted in accordance with section 26. 2017, c. 23, Sched. 3, s. 7.~~

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## **PART V LAND USE CONTROLS AND RELATED ADMINISTRATION**

### **Zoning by-laws**

**34** (1) Zoning by-laws may be passed by the councils of local municipalities:

#### **Restricting use of land**

1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or abutting on any defined highway or part of a highway.

#### **Restricting erecting, locating or using of buildings**

2. For prohibiting the erecting, locating or using of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway.

#### **Marshy lands, etc.**

3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land with steep slopes, or that is rocky, low-lying, marshy, unstable, hazardous, subject to erosion or to natural or artificial perils.

#### **Contaminated lands; sensitive or vulnerable areas**

- 3.1 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures on land,
  - i. that is contaminated,
  - ii. that contains a sensitive groundwater feature or a sensitive surface water feature, or
  - iii. that is within an area identified as a vulnerable area in a drinking water source protection plan that has taken effect under the *Clean Water Act, 2006*.

#### **Natural features and areas**

- 3.2 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures within any defined area or areas,
  - i. that is a significant wildlife habitat, wetland, woodland, ravine, valley or area of natural and scientific interest,
  - ii. that is a significant corridor or shoreline of a lake, river or stream, or

- iii. that is a significant natural corridor, feature or area.

#### **Significant archaeological resources**

- 3.3 For prohibiting any use of land and the erecting, locating or using of any class or classes of buildings or structures on land that is the site of a significant archaeological resource.

#### **Construction of buildings or structures**

- 4. For regulating the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings or structures to be erected or located within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy.

#### **Minimum elevation of doors, etc.**

- 5. For regulating the minimum elevation of doors, windows or other openings in buildings or structures or in any class or classes of buildings or structures to be erected or located within the municipality or within any defined area or areas of the municipality.

#### **Loading or parking facilities**

- 6. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway. R.S.O. 1990, c. P.13, s. 34 (1); 1994, c. 23, s. 21 (1, 2); 1996, c. 4, s. 20 (1-3); 2006, c. 22, s. 115.

#### **Pits and quarries**

- (2) The making, establishment or operation of a pit or quarry shall be deemed to be a use of land for the purposes of paragraph 1 of subsection (1). R.S.O. 1990, c. P.13, s. 34 (2).

#### **Area, density and height**

- (3) The authority to regulate provided in paragraph 4 of subsection (1) includes and, despite the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the minimum and maximum density and the minimum and maximum height of development in the municipality or in the area or areas defined in the by-law. 2006, c. 23, s. 15 (1).

#### **City of Toronto**

- (3.1) Subsection (3) does not apply with respect to the City of Toronto. 2006, c. 23, s. 15 (2).

#### **Interpretation**

- (4) A trailer as defined in subsection 164 (4) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be, and a mobile home as defined in subsection 46 (1) of this Act are deemed to be buildings or structures for the purpose of this section. 2006, c. 32, Sched. C, s. 47 (5).

#### **Prohibition of use of land, etc., availability of municipal services**

- (5) A by-law passed under paragraph 1 or 2 of subsection (1) or a predecessor of that paragraph may prohibit the use of land or the erection or use of buildings or structures unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be. R.S.O. 1990, c. P.13, s. 34 (5).

#### **Loading or parking facilities – by-law provisions**

- (5.1) A by-law passed under paragraph 6 of subsection (1) shall include the prescribed provisions and provisions about the prescribed matters. 2016, c. 25, Sched. 4, s. 3 (1).

#### **Certificates of occupancy**

- (6) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certificate shall be refused if the proposed use is not prohibited by the by-law. R.S.O. 1990, c. P.13, s. 34 (6).

#### **Use of maps**

- (7) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law and the information shown on such maps shall form part of the by-law to the same extent as if included therein. R.S.O. 1990, c. P.13, s. 34 (7).

### **Acquisition and disposition of non-conforming lands**

(8) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum established for the erection of a building or structure in the defined area in which such land is situate, and the council may dispose of any of such land, building or structure or may exchange any of such land for other land within the municipality. R.S.O. 1990, c. P.13, s. 34 (8); 1996, c. 4, s. 20 (4).

### **Excepted lands and buildings**

(9) No by-law passed under this section applies,

- (a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or
- (b) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure for which a permit has been issued under subsection 8 (1) of the *Building Code Act, 1992*, prior to the day of the passing of the by-law, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under subsection 8 (10) of that Act. R.S.O. 1990, c. P.13, s. 34 (9); 2009, c. 33, Sched. 21, s. 10 (1).

### **By-law may be amended**

(10) Despite any other provision of this section, any by-law passed under this section or a predecessor of this section may be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed. R.S.O. 1990, c. P.13, s. 34 (10).

### **Two-year period, no application for amendment**

(10.0.0.1) If the council carries out the requirements of subsection 26 (9) by simultaneously repealing and replacing all the zoning by-laws in effect in the municipality, no person or public body shall submit an application for an amendment to any of the by-laws before the second anniversary of the day on which the council repeals and replaces them. 2015, c. 26, s. 26 (1).

### **Exception**

(10.0.0.2) Subsection (10.0.0.1) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, a class of applications or in respect of such applications generally. 2015, c. 26, s. 26 (2).

### **Consultation**

(10.0.1) The council,

- (a) shall permit applicants to consult with the municipality before submitting applications to amend by-laws passed under this section; and
- (b) may, by by-law, require applicants to consult with the municipality as described in clause (a). 2006, c. 23, s. 15 (3).

### **Prescribed information**

(10.1) A person or public body that applies for an amendment to a by-law passed under this section or a predecessor of this section shall provide the prescribed information and material to the council. 1996, c. 4, s. 20 (5).

### **Other information**

(10.2) A council may require that a person or public body that applies for an amendment to a by-law passed under this section or a predecessor of this section provide any other information or material that the council considers it may need, but only if the official plan contains provisions relating to requirements under this subsection. 2006, c. 23, s. 15 (4).

### **Refusal and timing**

(10.3) Until the council has received the information and material required under subsections (10.1) and (10.2), if any, and any fee under section 69,

- (a) the council may refuse to accept or further consider the application for an amendment to the by-law; and
- (b) the time period referred to in subsection (11) or (11.0.0.1), as the case may be, does not begin. 2006, c. 23, s. 15 (4).

### **Response re completeness of application**

(10.4) Within 30 days after the person or public body that makes the application for an amendment to a by-law pays any fee under section 69, the council shall notify the person or public body that the information and material required under subsections (10.1) and (10.2), if any, have been provided, or that they have not been provided, as the case may be. 2006, c. 23, s. 15 (4).

### **Motion re dispute**

(10.5) Within 30 days after a negative notice is given under subsection (10.4), the person or public body or the council may make a motion for directions to have the Tribunal determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (10.2) is reasonable. 2017, c. 23, Sched. 5, s. 93 (1).

### **Same**

(10.6) If the council does not give any notice under subsection (10.4), the person or public body may make a motion under subsection (10.5) at any time after the 30-day period described in subsection (10.4) has elapsed. 2006, c. 23, s. 15 (4).

### **Notice of particulars and public access**

(10.7) Within 15 days after the council gives an affirmative notice under subsection (10.4), or within 15 days after the Tribunal advises the clerk of its affirmative decision under subsection (10.5), as the case may be, the council shall,

- (a) give the prescribed persons and public bodies, in the prescribed manner, notice of the application for an amendment to a by-law, accompanied by the prescribed information; and
- (b) make the information and material provided under subsections (10.1) and (10.2) available to the public. 2006, c. 23, s. 15 (4); 2017, c. 23, Sched. 5, s. 80.

### **Final determination**

(10.8) The Tribunal's determination under subsection (10.5) is not subject to appeal or review. 2006, c. 23, s. 15 (4); 2017, c. 23, Sched. 5, s. 80.

### **Notice of refusal**

(10.9) When a council refuses an application to amend its by-law, it shall ensure that written notice of the refusal is given in the prescribed manner, no later than 15 days after the day of the refusal,

- (a) to the person or public body that made the application;
- (b) to each person and public body that filed a written request to be notified of a refusal; and
- (c) to any prescribed person or public body. 2015, c. 26, s. 26 (3).

### **Contents**

(10.10) The notice under subsection (10.9) shall contain,

- (a) a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (10.11) had on the decision; and
- (b) any other information that is prescribed. 2015, c. 26, s. 26 (3).

### **Written and oral submissions**

(10.11) Clause (10.10) (a) applies to,

- (a) any written submissions relating to the application that were made to the council before its decision; and
- (b) any oral submissions relating to the application that were made at a public meeting. 2015, c. 26, s. 26 (3).

### **Appeal to Tribunal**

(11) Subject to subsection (11.0.0.0.1), where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council fails to make a decision on it within 90 days after the receipt by the clerk of the application, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal, accompanied by the fee charged by the Tribunal:

1. The applicant.
2. The Minister. 2017, c. 23, Sched. 3, s. 10 (1); 2019, c. 9, Sched. 12, s. 6 (1); 2021, c. 4, Sched. 6, s. 80 (1).

### **Refund of fee**

(10.12) With respect to an application received on or after the day subsection 4 (2) of Schedule 5 to the *More Homes for Everyone Act, 2022* comes into force, the municipality shall refund any fee paid pursuant to section 69 in respect of the application in accordance with the following rules:

1. If the municipality makes a decision on the application within the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall not refund the fee.
2. If the municipality fails to make a decision on the application within the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund 50 per cent of the fee.
3. If the municipality fails to make a decision on the application within the time period that is 60 days longer than the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund 75 per cent of the fee.
4. If the municipality fails to make a decision on the application within the time period that is 120 days longer than the time period referred to in subsection (11) or (11.0.0.0.1), as the case may be, the municipality shall refund all of the fee.

### **Same, where amendment to official plan required**

(11.0.0.0.1) If an amendment to a by-law passed under this section or a predecessor of this section in respect of which an application to the council is made would also require an amendment to the official plan of the local municipality and the application is made on the same day as the request to amend the official plan, an appeal to the Tribunal under subsection (11) may be made only if the application is refused or the council fails to make a decision on it within 120 days after the receipt by the clerk of the application. 2017, c. 23, Sched. 3, s. 10 (1); 2019, c. 9, Sched. 12, s. 6 (2).

(11.0.0.0.2)-(11.0.0.0.5) REPEALED: 2019, c. 9, Sched. 12, s. 6 (3).

### **Use of dispute resolution techniques**

(11.0.0.1) If an application for an amendment is refused as described in subsection (11) and a notice of appeal is filed under that subsection, the council may use mediation, conciliation or other dispute resolution techniques to attempt to resolve the dispute. 2015, c. 26, s. 26 (5).

### **Notice and invitation**

(11.0.0.2) If the council decides to act under subsection (11.0.0.1),

- (a) it shall give a notice of its intention to use dispute resolution techniques to all the appellants; and
- (b) it shall give an invitation to participate in the dispute resolution process to,
  - (i) as many of the appellants as the council considers appropriate,
  - (ii) the applicant, if the applicant is not an appellant, and
  - (iii) any other persons or public bodies that the council considers appropriate. 2015, c. 26, s. 26 (5).

### **Extension of time**

(11.0.0.3) When the council gives a notice under clause (11.0.0.2) (a), the 15-day period mentioned in clause (23) (b) is extended to 75 days. 2015, c. 26, s. 26 (5).

### **Participation voluntary**

(11.0.0.4) Participation in the dispute resolution process by the persons and public bodies who receive invitations under clause (11.0.0.2) (b) is voluntary. 2015, c. 26, s. 26 (5).

### **Consolidated hearing**

(11.0.1) Despite section 21 of the *Ontario Land Tribunal Act, 2021*, the proponent of an undertaking, as those terms are defined in that section, shall not give notice to the Tribunal in respect of an application for an amendment to a by-law unless the council has made a decision on the application or the time period referred to in subsection (11) has expired. 2021, c. 4, Sched. 6, s. 80 (4).



(11.0.2) REPEALED: 2017, c. 23, Sched. 3, s. 10 (2).

#### **Time for filing certain appeals**

(11.0.3) A notice of appeal under subsection (11) with respect to the refusal of an application shall be filed no later than 20 days after the day that the giving of notice under subsection (10.9) is completed. 2006, c. 23, s. 15 (5).

#### **Restricted appeals, areas of settlement**

(11.0.4) Despite subsection (11), there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the amendment proposes to implement,

- (a) an alteration to all or any part of the boundary of an area of settlement; or
- (b) a new area of settlement. 2006, c. 23, s. 15 (5).

#### **Restricted appeals, areas of employment**

(11.0.5) Despite subsection (11), if the official plan contains policies dealing with the removal of land from areas of employment, there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the amendment proposes to remove any land from an area of employment, even if other land is proposed to be added. 2006, c. 23, s. 15 (5).

#### **No appeal re inclusionary zoning policies**

(11.0.6) Despite subsection (11), there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the amendment proposes to amend or repeal a part of the by-law that gives effect to policies described in subsection 16 (4). 2016, c. 25, Sched. 4, s. 3 (2).

#### **No appeal re renewable energy undertakings**

(11.0.7) Despite subsection (11), there is no appeal in respect of all or any part of an application for an amendment to a by-law if the amendment or part of the amendment proposes to permit a renewable energy undertaking. 2018, c. 16, s. 8 (6).

#### **Exception re Minister**

(11.0.8) Subsection (11.0.7) does not apply to an appeal by the Minister. 2018, c. 16, s. 8 (6).

#### **Withdrawal of appeal**

(11.1) If all appeals under subsection (11) are withdrawn, the Tribunal shall notify the clerk of the municipality and the decision of the council is final and binding or the council may proceed to give notice of the public meeting or pass or refuse to pass the by-law, as the case may be. 1999, c. 12, Sched. M, s. 25 (1); 2017, c. 23, Sched. 5, s. 82.

#### **Information and public meeting; open house in certain circumstances**

(12) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Tribunal made under subsection (26),

- (a) the council shall ensure that,
  - (i) sufficient information and material is made available to enable the public to understand generally the zoning proposal that is being considered by the council, and
  - (ii) at least one public meeting is held for the purpose of giving the public an opportunity to make representations in respect of the proposed by-law; and
- (b) in the case of a by-law that is required by subsection 26 (9) or is related to a development permit system, the council shall ensure that at least one open house is held for the purpose of giving the public an opportunity to review and ask questions about the information and material made available under subclause (a) (i). 2006, c. 23, s. 15 (6); 2009, c. 33, Sched. 21, s. 10 (2); 2017, c. 23, Sched. 3, s. 10 (3).

#### **Notice**

(13) Notice of the public meeting required under subclause (12) (a) (ii) and of the open house, if any, required by clause (12) (b),

- (a) shall be given to the prescribed persons and public bodies, in the prescribed manner; and
- (b) shall be accompanied by the prescribed information. 2006, c. 23, s. 15 (6).

### **Timing of open house**

(14) The open house required by clause (12) (b) shall be held no later than seven days before the public meeting required under subclause (12) (a) (ii) is held. 2006, c. 23, s. 15 (6).

### **Timing of public meeting**

(14.1) The public meeting required under subclause (12) (a) (ii) shall be held no earlier than 20 days after the requirements for giving notice have been complied with. 2006, c. 23, s. 15 (6).

### **Participation in public meeting**

(14.2) Every person who attends a public meeting required under subclause (12) (a) (ii) shall be given an opportunity to make representations in respect of the proposed by-law. 2006, c. 23, s. 15 (6).

### **Alternative measures**

(14.3) If an official plan sets out alternative measures for informing and obtaining the views of the public in respect of proposed zoning by-laws, and if the measures are complied with, clause (10.7) (a) and subsections (12) to (14.2) do not apply to the proposed by-laws, but subsection (14.6) does apply. 2015, c. 26, s. 26 (6).

### **Same**

(14.4) In the course of preparing the official plan, before including alternative measures described in subsection (14.3), the council shall consider whether it would be desirable for the measures to allow for notice of the proposed by-laws to the prescribed persons and public bodies mentioned in clause (13) (a). 2015, c. 26, s. 26 (6).

### **Transition**

(14.4.1) For greater certainty, subsection (14.4) does not apply with respect to alternative measures that were included in an official plan before the day subsection 26 (6) of the *Smart Growth for Our Communities Act, 2015* comes into force. 2015, c. 26, s. 26 (6).

### **Information**

(14.5) At a public meeting under subclause (12) (a) (ii), the council shall ensure that information is made available to the public regarding who is entitled to appeal under subsections (11) and (19). 2006, c. 23, s. 15 (6).

### **Where alternative procedures followed**

(14.6) If subsection (14.3) applies, the information required under subsection (14.5) shall be made available to the public at a public meeting or in the manner set out in the official plan for informing and obtaining the views of the public in respect of proposed zoning by-laws. 2006, c. 23, s. 15 (6); 2015, c. 26, s. 26 (7).

### **Information to public bodies**

(15) The council shall forward to such public bodies as the council considers may have an interest in the zoning proposal sufficient information to enable them to understand it generally and such information shall be forwarded not less than twenty days before passing a by-law implementing the proposal. R.S.O. 1990, c. P.13, s. 34 (15); 1994, c. 23, s. 21 (5).

### **Conditions**

(16) If the official plan in effect in a municipality contains policies relating to zoning with conditions, the council of the municipality may, in a by-law passed under this section, permit a use of land or the erection, location or use of buildings or structures and impose one or more prescribed conditions on the use, erection or location. 2006, c. 23, s. 15 (7).

### **Same**

(16.1) The prescribed conditions referred to in subsection (16) may be made subject to such limitations as may be prescribed. 2006, c. 23, s. 15 (7).

### **Same**

(16.2) When a prescribed condition is imposed under subsection (16),

- (a) the municipality may require an owner of land to which the by-law applies to enter into an agreement with the municipality relating to the condition;
- (b) the agreement may be registered against the land to which it applies; and
- (c) the municipality may enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 2006, c. 23, s. 15 (7).

## **City of Toronto**

(16.3) Subsections (16), (16.1) and (16.2) do not apply with respect to the City of Toronto. 2006, c. 23, s. 15 (8).

### **Further notice**

(17) Where a change is made in a proposed by-law after the holding of the public meeting mentioned in subclause (12) (a) (ii), the council shall determine whether any further notice is to be given in respect of the proposed by-law and the determination of the council as to the giving of further notice is final and not subject to review in any court irrespective of the extent of the change made in the proposed by-law. R.S.O. 1990, c. P.13, s. 34 (17); 2006, c. 23, s. 15 (9).

### **Notice of passing of by-law**

(18) If the council passes a by-law under this section, except a by-law passed pursuant to an order of the Tribunal made under subsection (11.0.2) or (26), the council shall ensure that written notice of the passing of the by-law is given in the prescribed manner, no later than 15 days after the day the by-law is passed,

- (a) to the person or public body that made the application, if any;
- (b) to each person and public body that filed a written request to be notified of the decision; and
- (c) to any prescribed person or public body. 2015, c. 26, s. 26 (8); 2017, c. 23, Sched. 5, s. 93 (2).

### **Contents**

(18.1) The notice under subsection (18) shall contain,

- (a) a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (18.2) had on the decision; and
- (b) any other information that is prescribed. 2015, c. 26, s. 26 (8).

### **Written and oral submissions**

(18.2) Clause (18.1) (a) applies to,

- (a) any written submissions relating to the by-law that were made to the council before its decision; and
- (b) any oral submissions relating to the by-law that were made at a public meeting. 2015, c. 26, s. 26 (8).

### **Appeal to Tribunal**

(19) Not later than 20 days after the day that the giving of notice as required by subsection (18) is completed, any of the following may appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal:

1. The applicant.
2. A person or public body who, before the by-law was passed, made oral submissions at a public meeting or written submissions to the council.
3. The Minister. 2006, c. 23, s. 15 (10); 2017, c. 23, Sched. 3, s. 10 (4); 2019, c. 9, Sched. 12, s. 6 (4); 2021, c. 4, Sched. 6, s. 80 (1).

### **Same**

(19.0.1) If the appellant intends to argue that the by-law is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform with an applicable official plan, the notice of appeal must also explain how the by-law is inconsistent with, fails to conform with or conflicts with the other document. 2019, c. 9, Sched. 12, s. 6 (5).

(19.0.2) REPEALED: 2019, c. 9, Sched. 12, s. 6 (5).

### **No appeal re additional residential unit policies**

(19.1) Despite subsection (19), there is no appeal in respect of the parts of a by-law that give effect to policies described in subsection 16 (3), including, for greater certainty, no appeal in respect of any requirement or standard relating to such policies. 2016, c. 25, Sched. 4, s. 3 (3).

### **Exception re Minister**

(19.2) Subsection (19.1) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 3 (3).

### **No appeal re inclusionary zoning policies**

(19.3) Despite subsection (19), there is no appeal in respect of the parts of a by-law that give effect to policies described in subsection 16 (4), including, for greater certainty, no appeal in respect of any condition, requirement or standard relating to such policies. 2016, c. 25, Sched. 4, s. 3 (4).

### **Matters referred to in s. 34 (1)**

(19.3.1) Despite subsection (19.3), there is an appeal in respect of any matter referred to in subsection (1) even if such matter is included in the by-law as a measure or incentive in support of the policies described in subsection 16 (4). 2016, c. 25, Sched. 4, s. 3 (5); 2017, c. 23, Sched. 3, s. 10 (6).

### **Exception re Minister**

(19.4) Subsection (19.3) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 3 (4).

### **No appeal re protected major transit station area – permitted uses, etc.**

(19.5) Despite subsections (19) and (19.3.1), and subject to subsections (19.6) to (19.8), there is no appeal in respect of,

- (a) the parts of a by-law that establish permitted uses or the minimum or maximum densities with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15) or (16); or
- (b) the parts of a by-law that establish minimum or maximum heights with respect to buildings and structures on lands in a protected major transit station area that is identified in accordance with subsection 16 (15) or (16). 2017, c. 23, Sched. 3, s. 10 (7).

### **Same, by-law of a lower-tier municipality**

(19.6) Subsection (19.5) applies to a by-law of a lower-tier municipality only if the municipality's official plan contains all of the policies described in subclauses 16 (16) (b) (i) and (ii) with respect to the protected major transit station area. 2017, c. 23, Sched. 3, s. 10 (7).

### **Exception**

(19.7) Clause (19.5) (b) does not apply in circumstances where the maximum height that is permitted with respect to a building or structure on a particular parcel of land would result in the building or structure not satisfying the minimum density that is required in respect of that parcel. 2017, c. 23, Sched. 3, s. 10 (7).

### **Exception re Minister**

(19.8) Subsection (19.5) does not apply to an appeal by the Minister. 2017, c. 23, Sched. 3, s. 10 (7).

### **When giving of notice deemed completed**

(20) For the purposes of subsections (11.0.3) and (19), the giving of written notice shall be deemed to be completed,

- (a) where notice is given by publication in a newspaper, on the day that such publication occurs;
- (a.1) where notice is given by e-mail, on the day that the sending by e-mail of all required notices is completed;
- (b) where notice is given by personal service, on the day that the serving of all required notices is completed;
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed; and
- (d) where notice is given by telephone transmission of a facsimile of the notice, on the day that the transmission of all required notices is completed. R.S.O. 1990, c. P.13, s. 34 (20); 1994, c. 23, s. 21 (9); 2015, c. 26, s. 26 (10).

### **Use of dispute resolution techniques**

(20.1) When a notice of appeal is filed under subsection (19), the council may use mediation, conciliation or other dispute resolution techniques to attempt to resolve the dispute. 2015, c. 26, s. 26 (11).

### **Notice and invitation**

(20.2) If the council decides to act under subsection (20.1),

- (a) it shall give a notice of its intention to use dispute resolution techniques to all the appellants; and
- (b) it shall give an invitation to participate in the dispute resolution process to,
  - (i) as many of the appellants as the council considers appropriate,
  - (ii) the applicant, if there is an applicant who is not an appellant, and

(iii) any other persons or public bodies that the council considers appropriate. 2015, c. 26, s. 26 (11).

#### **Extension of time**

(20.3) When the council gives a notice under clause (20.2) (a), the 15-day period mentioned in clause (23) (b) and subsections (23.2) and (23.3) is extended to 75 days. 2015, c. 26, s. 26 (11).

#### **Participation voluntary**

(20.4) Participation in the dispute resolution process by the persons and public bodies who receive invitations under clause (20.2) (b) is voluntary. 2015, c. 26, s. 26 (11).

#### **When by-law deemed to have come into force**

(21) When no notice of appeal is filed under subsection (19), the by-law shall be deemed to have come into force on the day it was passed except that where the by-law is passed under circumstances mentioned in subsection 24 (2) the by-law shall not be deemed to have come into force on the day it was passed until the amendment to the official plan comes into effect. R.S.O. 1990, c. P.13, s. 34 (21); 1994, c. 23, s. 21 (10); 1996, c. 4, s. 20 (8).

#### **Affidavit re no appeal, etc.**

(22) An affidavit or declaration of an employee of the municipality that notice was given as required by subsection (18) or that no notice of appeal was filed under subsection (19) within the time allowed for appeal shall be conclusive evidence of the facts stated therein. R.S.O. 1990, c. P.13, s. 34 (22); 1996, c. 4, s. 20 (9).

#### **Record**

(23) The clerk of a municipality who receives a notice of appeal under subsection (11) or (19) shall ensure that,

- (a) a record that includes the prescribed information and material is compiled;
- (b) the notice of appeal, record and fee are forwarded to the Tribunal,
  - (i) within 15 days after the last day for filing a notice of appeal under subsection (11.0.3) or (19), as the case may be, or
  - (ii) within 15 days after a notice of appeal is filed under subsection (11) with respect to the failure to make a decision; and
- (c) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal. 2017, c. 23, Sched. 3, s. 10 (8).

#### **Withdrawal of appeals**

(23.1) If all appeals to the Tribunal under subsection (19) are withdrawn and the time for appealing has expired, the Tribunal shall notify the clerk of the municipality and the decision of the council is final and binding. 2017, c. 23, Sched. 5, s. 93 (3).

#### **Exception**

(23.2) Despite clause (23) (b), if all appeals under subsection (19) are withdrawn within 15 days after the last day for filing a notice of appeal, the municipality is not required to forward the materials described under clauses (23) (b) and (c) to the Tribunal. 1999, c. 12, Sched. M, s. 25 (2); 2017, c. 23, Sched. 5, s. 93 (4).

#### **Decision final**

(23.3) If all appeals to the Tribunal under subsection (19) are withdrawn within 15 days after the last day for filing a notice of appeal, the decision of the council is final and binding. 1999, c. 12, Sched. M, s. 25 (2); 2017, c. 23, Sched. 5, s. 93 (5).

#### **Hearing and notice thereof**

(24) On an appeal to the Tribunal, the Tribunal shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Tribunal may determine. 2017, c. 23, Sched. 5, s. 93 (6).

#### **Restriction re adding parties**

(24.1) Despite subsection (24), in the case of an appeal under subsection (11) that relates to all or part of an application for an amendment to a by-law that is refused, or in the case of an appeal under subsection (19), only the following may be added as parties:

1. A person or public body who satisfies one of the conditions set out in subsection (24.2).
2. The Minister. 2006, c. 23, s. 15 (12).

### **Same**

(24.2) The conditions mentioned in paragraph 1 of subsection (24.1) are:

1. Before the by-law was passed, the person or public body made oral submissions at a public meeting or written submissions to the council.
2. The Tribunal is of the opinion that there are reasonable grounds to add the person or public body as a party. 2006, c. 23, s. 15 (12); 2017, c. 23, Sched. 5, s. 80.

### **New information and material at hearing**

(24.3) This subsection applies if information and material that is presented at the hearing of an appeal described in subsection (24.1) was not provided to the municipality before the council made the decision that is the subject of the appeal. 2019, c. 9, Sched. 12, s. 6 (6).

### **Same**

(24.4) When subsection (24.3) applies, the Tribunal may, on its own initiative or on a motion by the municipality or any party, consider whether the information and material could have materially affected the council's decision and, if the Tribunal determines that it could have done so, it shall not be admitted into evidence until subsection (24.5) has been complied with and the prescribed time period has elapsed. 2019, c. 9, Sched. 12, s. 6 (6).

### **Notice to council**

(24.5) The Tribunal shall notify the council that it is being given an opportunity to,

- (a) reconsider its decision in light of the information and material; and
- (b) make a written recommendation to the Tribunal. 2019, c. 9, Sched. 12, s. 6 (6).

### **Council's recommendation**

(24.6) The Tribunal shall have regard to the council's recommendation if it is received within the time period referred to in subsection (24.4), and may, but is not required to, do so if it is received afterwards. 2019, c. 9, Sched. 12, s. 6 (6).

### **Conflict with SPPA**

(24.7) Subsections (24.1) to (24.6) apply despite the *Statutory Powers Procedure Act*. 2019, c. 9, Sched. 12, s. 6 (7).

### **Dismissal without hearing**

(25) Despite the *Statutory Powers Procedure Act* and subsection (24), the Tribunal may, on its own initiative or on the motion of any party, dismiss all or part of an appeal without holding a hearing if any of the following apply:

1. The Tribunal is of the opinion that,
  - i. the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could allow all or part of the appeal,
  - ii. the appeal is not made in good faith or is frivolous or vexatious,
  - iii. the appeal is made only for the purpose of delay, or
  - iv. the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process.
2. The appellant has not provided written reasons for the appeal.
3. The appellant intends to argue a matter mentioned in subsection (19.0.1) but has not provided the explanations required by that subsection.
4. The appellant has not paid the fee charged by the Tribunal.
5. The appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 2019, c. 9, Sched. 12, s. 6 (8); 2021, c. 4, Sched. 6, s. 80 (1).

### **Representation**

(25.1) Before dismissing all or part of an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under paragraph 5 of subsection (25). 2000, c. 26, Sched. K, s. 5 (2); 2017, c. 23, Sched. 3, s. 10 (12); 2019, c. 9, Sched. 12, s. 6 (9).



## **Same**

(25.1.1) Despite the *Statutory Powers Procedure Act* and subsection (24), the Tribunal may, on its own initiative or on the motion of the municipality or the Minister, dismiss all or part of an appeal without holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision. 2017, c. 23, Sched. 3, s. 10 (13).

## **Dismissal**

(25.2) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (25) or (25.1.1), as it considers appropriate. 2017, c. 23, Sched. 5, s. 93 (7).

## **Powers of Tribunal**

(26) The Tribunal may,

- (a) on an appeal under subsection (11) or (19), dismiss the appeal;
- (b) on an appeal under subsection (11) or (19), amend the by-law in such manner as the Tribunal may determine or direct the council of the municipality to amend the by-law in accordance with the Tribunal's order; or
- (c) on an appeal under subsection (19), repeal the by-law in whole or in part or direct the council of the municipality to repeal the by-law in whole or in part in accordance with the Tribunal's order. 2019, c. 9, Sched. 12, s. 6 (10).

(26.1)-(26.13) REPEALED: 2019, c. 9, Sched. 12, s. 6 (10).

## **Matters of provincial interest**

(27) Where an appeal is made to the Tribunal under subsection (11) or (19), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify,

- (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 3, s. 10 (15); 2019, c. 9, Sched. 12, s. 6 (11).

## **No hearing or notice required**

(28) The Minister is not required to give notice or to hold a hearing before taking any action under subsection (27). 2004, c. 18, s. 6 (3).

## **No order to be made**

(29) If the Tribunal has received a notice from the Minister under subsection (27) and has made a decision on the by-law, the Tribunal shall not make an order under subsection (26) in respect of the part or parts of the by-law identified in the notice. 2019, c. 9, Sched. 12, s. 6 (12).

## **Action of L.G. in C.**

(29.1) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Tribunal in respect of the part or parts of the by-law identified in the notice and in doing so may repeal the by-law in whole or in part or amend the by-law in such a manner as the Lieutenant Governor in Council may determine. 2004, c. 18, s. 6 (3); 2017, c. 23, Sched. 5, s. 93 (8).

## **Coming into force**

(30) If one or more appeals have been filed under subsection (19), the by-law does not come into force until all of such appeals have been withdrawn or finally disposed of, whereupon the by-law, except for those parts of it repealed or amended under subsection (26) or as are repealed or amended by the Lieutenant Governor in Council under subsection (29.1), shall be deemed to have come into force on the day it was passed. 1996, c. 4, s. 20 (13); 2004, c. 18, s. 6 (4); 2017, c. 23, Sched. 3, s. 10 (17); 2019, c. 9, Sched. 12, s. 6 (13).

## **Unappealed portions**

(31) Despite subsection (30), before all of the appeals have been finally disposed of, the Tribunal may make an order providing that any part of the by-law not in issue in the appeal shall be deemed to have come into force on the day the by-law was passed. 1993, c. 26, s. 53 (5); 2017, c. 23, Sched. 5, s. 80.



## **Method**

(32) The Tribunal may make an order under subsection (31) on its own initiative or on the motion of any person or public body. 1993, c. 26, s. 53 (5); 1996, c. 4, s. 20 (14); 2006, c. 23, s. 15 (18); 2017, c. 23, Sched. 5, s. 80.

## **Notice and hearing**

(33) The Tribunal may,

- (a) dispense with giving notice of a motion under subsection (32) or require the giving of such notice of the motion as it considers appropriate; and
- (b) make an order under subsection (31) after holding a hearing or without holding a hearing on the motion, as it considers appropriate. 2017, c. 23, Sched. 5, s. 93 (9).

## **Notice**

(34) Despite clause (33) (a), the Tribunal shall give notice of a motion under subsection (32) to any person or public body who filed with the Tribunal a written request to be notified if a motion is made. 2017, c. 23, Sched. 5, s. 93 (9).

## **Minister's order at request of municipality**

### **Request for order**

**34.1** (1) The council of a municipality may pass a resolution requesting that the Minister,

- (a) make an order that involves the exercise of the municipality's powers under section 34, or that may be exercised in a development permit by-law; or
- (b) amend an order made under subsection (9) of this section.

### **No delegation**

(2) A council may not delegate its powers under subsection (1).

### **Content of resolution**

(3) A resolution referred to in clause (1) (a) shall identify,

- (a) the lands to which the requested order would apply; and
- (b) the manner in which the exercise of the municipality's powers under section 34, or that may be exercised in a development permit by-law, would be exercised in respect to the lands.

### **Same**

(4) A resolution referred to in clause (1) (b) shall identify the requested amendments to the order.

### **Same**

(5) For greater certainty, the inclusion of a draft by-law with the resolution shall be deemed to satisfy the requirements of clause (3) (b) or subsection (4), as the case may be.

### **Consultation**

(6) Before passing a resolution referred to in subsection (1), the municipality shall,

- (a) give notice to the public in such manner as the municipality considers appropriate; and
- (b) consult with such persons, public bodies and communities as the municipality considers appropriate.

### **Forwarding to Minister**

(7) Within 15 days after passing a resolution referred to in subsection (1), the municipality shall forward to the Minister,

- (a) a copy of the resolution;
- (b) a description of the consultation undertaken pursuant to clause (6) (b);
- (c) a description of any licences, permits, approvals, permissions or other matters that would be required before a use that would be permitted by the requested order could be established; and
- (d) any prescribed information and material.

### **Other information**

(8) The Minister may require the council to provide such other information or material that the Minister considers necessary.

## **Orders**

(9) The Minister may make an order,

(a) upon receiving a request from a municipality under subsection (1), exercising the municipality's powers under section 34, or that may be exercised in a development permit by-law, in the manner requested by the municipality with such modifications as the Minister considers appropriate; and

(b) upon receiving a request from the municipality or at such other time as the Minister considers advisable, amending the order made under clause (a).

## **Lands covered by orders**

(10) An order under subsection (9) shall apply to the lands requested by the municipality with such modifications as the Minister considers appropriate.

## **Non-application to Greenbelt Area**

(11) An order under subsection (9) may not be made in respect of any land in the Greenbelt Area.

## **Non-application to order**

(12) Despite any Act or regulation, the following do not apply to the making of an order under subsection (9):

1. A policy statement issued under subsection 3 (1).

2. A provincial plan.

3. An official plan.

## **Conditions**

(13) The Minister may, in an order under subsection (9), impose such conditions on the use of land or the erection, location or use of buildings or structures as in the opinion of the Minister are reasonable.

## **Same**

(14) When a condition is imposed under subsection (13),

(a) the Minister or the municipality in which the land in the order is situate may require an owner of the land to which the order applies to enter into an agreement with the Minister or the municipality, as the case may be;

(b) the agreement may be registered against the land to which it applies; and

(c) the Minister or the municipality, as the case may be, may enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

## **Application of subs. (12) to licences, etc.**

(15) If a licence, permit, approval, permission or other matter is required before a use permitted by an order under subsection (9) may be established and the resolution referred to in subsection (1) includes a request that the Minister act under this subsection, the Minister may, in an order under subsection (9), provide that subsection (12) applies, with necessary modifications, to such licence, permit, approval, permission or other matter.

## **Coming into force**

(16) An order made under subsection (9) comes into force in accordance with the following rules:

1. If no condition has been imposed under subsection (13), the order comes into force on the day the order is made or on such later day as is specified in the order.

2. If a condition has been imposed under subsection (13), the order comes into force on the later of,

i. the day the Minister gives notice to the clerk of the municipality that the Minister is satisfied that all conditions have been or will be fulfilled, and

ii. the day specified in the order.

## **Copy of order to clerk**

(17) After making an order under subsection (9), the Minister shall provide a copy of the order to the clerk of the municipality in which the land in the order is situate.

## **Same, conditions fulfilled**

(18) When the Minister gives notice to the clerk for the purposes of subparagraph 2 i of subsection (16), the Minister shall provide a copy of the order that does not include the conditions imposed under subsection (13).

#### **Same, not revocation**

(19) For greater certainty, the provision of a copy of the order that does not include the conditions imposed under subsection (13) is not a revocation of the order originally provided to the clerk.

#### **Publication and availability**

(20) The following publication rules apply with respect to an order under subsection (9):

1. Within 15 days after receiving a copy of the order pursuant to subsection (17) or (18), as the case may be, the clerk shall.
  - i. provide a copy of the order to the owner of any land subject to the order and to any other prescribed persons or public bodies, and
  - ii. make the order available to the public in accordance with the regulations, if any.
2. The clerk shall ensure that the order remains available to the public until such time as the order is revoked.
3. If the municipality in which the lands subject to the order are situate has a website, the clerk shall ensure that the order is published on such website.

#### **Revocation order**

(21) The Minister may, by order, revoke an order under subsection (9).

#### **Copy of revocation order to clerk**

(22) The Minister shall provide a copy of an order under subsection (21) to the clerk of the municipality in which the land is situate.

#### **Publication of revocation order**

(23) The following publication rules apply with respect to an order under subsection (21):

1. Within 15 days after receiving a copy of the order pursuant to subsection (22), the clerk shall.
  - i. provide a copy of the order to the owner of any land subject to the order and to any other prescribed persons or public bodies, and
  - ii. make the order available to the public in accordance with the regulations, if any.
2. If the municipality in which the lands subject to the order are situate has a website, the clerk shall ensure that the order is published on such website.

#### **Conflict**

(24) In the event of a conflict between an order under subsection (9) and a by-law under section 34 or 38 or a predecessor of those sections, the order prevails to the extent of the conflict, but in all other respects the by-law remains in full force and effect.

#### **Guidelines**

(25) Before an order may be issued under subsection (9), the Minister must establish guidelines respecting orders under subsection (9) and publish the guidelines in accordance with subsection (26).

#### **Same, publishing**

(26) The Minister shall publish and maintain the guidelines established under subsection (25) on a website of the Government of Ontario.

#### **Same, content**

(27) Guidelines under subsection (25) may be general or particular in application and may, among other matters, restrict orders to certain geographic areas or types of development.

#### **Non-application of Legislation Act, 2006, Part III**

(28) Part III (Regulations) of the Legislation Act, 2006 does not apply to an order under subsection (9) or (21) or to a guideline under subsection (25).

#### **Deemed zoning by-law**

(29) An order under subsection (9) that has come into force is deemed to be a by-law passed under section 34 for the purposes of the following:

1. Subsections 34 (9), 41 (3) and 47 (3) of this Act.
2. Sections 46, 49, 67 and 67.1 of this Act.
3. Subsection 114 (3) of the City of Toronto Act, 2006.
4. The Building Code Act, 1992.
5. Any other prescribed Act, regulation or provision of an Act or regulation.

#### **Section Amendments with date in force (d/m/y)**

##### **No distinction on the basis of relationship**

**35 (1)** REPEALED: 1996, c. 4, s. 21 (1).

##### **No distinction on the basis of relationship**

(2) The authority to pass a by-law under section 34, subsection 38 (1) or section 41 does not include the authority to pass a by-law that has the effect of distinguishing between persons who are related and persons who are unrelated in respect of the occupancy or use of a building or structure or a part of a building or structure, including the occupancy or use as a single housekeeping unit. 1994, c. 2, s. 43.

##### **Provision of no effect**

(3) A provision in a by-law passed under section 34, subsection 38 (1) or section 41 or in an order made under subsection 47 (1) is of no effect to the extent that it contravenes the restrictions described in subsection (2). 1994, c. 2, s. 43; 1996, c. 4, s. 21 (2).

(4) REPEALED: 1996, c. 4, s. 21 (3).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 2, s. 43 - 14/07/1994; 1996, c. 4, s. 21 (1-3) - 16/11/1995

##### **By-laws to give effect to additional residential unit policies**

**35.1 (1)** The council of each local municipality shall ensure that the by-laws passed under section 34 give effect to the policies described in subsection 16 (3). 2011, c. 6, Sched. 2, s. 6.

##### **Regulations**

(2) The Minister may make regulations,

- (a) authorizing the use of residential units referred to in subsection 16 (3);
- (b) establishing requirements and standards with respect to residential units referred to in subsection 16 (3). 2011, c. 6, Sched. 2, s. 6.

##### **Regulation applies as zoning by-law**

(3) A regulation under subsection (2) applies as though it is a by-law passed under section 34. 2011, c. 6, Sched. 2, s. 6.

##### **Regulation prevails**

(4) A regulation under subsection (2) prevails over a by-law passed under section 34 to the extent of any inconsistency, unless the regulation provides otherwise. 2011, c. 6, Sched. 2, s. 6.

##### **Exception**

(5) A regulation under subsection (2) may provide that a by-law passed under section 34 prevails over the regulation. 2011, c. 6, Sched. 2, s. 6.

##### **Regulation may be general or particular**

(6) A regulation under subsection (2) may be general or particular in its application and may be restricted to those municipalities or parts of municipalities set out in the regulation. 2011, c. 6, Sched. 2, s. 6.

#### **Section Amendments with date in force (d/m/y)**

2011, c. 6, Sched. 2, s. 6 - 01/01/2012

### **By-laws to give effect to inclusionary zoning policies**

**35.2** (1) If the official plan in effect in a local municipality contains policies described in subsection 16 (4),

- (a) the council of the municipality shall pass one or more by-laws under section 34 to give effect to the policies, if the municipality is prescribed for the purpose of subsection 16 (4);
- (b) the council of the municipality may pass one or more by-laws under section 34 to give effect to the policies, if the municipality is not prescribed for the purpose of subsection 16 (4). 2016, c. 25, Sched. 4, s. 4.

### **Content of by-law**

(2) If a by-law is passed under section 34 to give effect to policies described in subsection 16 (4), the by-law,

- (a) shall require that the development or redevelopment of specified lands, buildings or structures include,
  - (i) the number of affordable housing units determined under the regulations or, in the absence of such regulations, the number of affordable housing units determined under the by-law, or
  - (ii) affordable housing units occupying the gross floor area determined under the regulations or, in the absence of such regulations, the gross floor area determined under the by-law;
- (b) shall require that the affordable housing units be maintained as affordable housing units for the period of time determined under the regulations or, in the absence of such regulations, for the period of time determined under the by-law;
- (c) shall require that the affordable housing units meet the requirements and standards specified in the regulations or, in the absence of such regulations, that the affordable housing units meet requirements and standards specified in the by-law;
- (d) in addition to requiring that the affordable housing units meet the requirements and standards specified in the regulations, may require that the affordable housing units meet additional requirements and standards specified in the by-law;
- (e) shall provide for the measures and incentives specified in the regulations to support the policies described in subsection 16 (4) or, in the absence of such regulations, may provide for measures and incentives to support those policies;
- (f) in addition to providing for the measures and incentives specified in the regulations to support the policies described in subsection 16 (4), may provide for additional measures and incentives to support those policies;
- (g) shall require that when the affordable housing units are sold or leased, they be sold at the price or leased at the rent determined under the regulations or, in the absence of such regulations, may require that when the affordable housing units are sold or leased, they be sold at the price or leased at the rent determined under the by-law;
- (h) shall include the prescribed provisions and provisions about the prescribed matters; and
- (i) shall require that the owners of any lands, buildings or structures that are to be developed or redeveloped under the by-law enter into agreements with the municipality, dealing with the matters mentioned in clauses (a) to (h) and ensuring continued compliance with those matters. 2016, c. 25, Sched. 4, s. 4.

### **Procedure to ensure affordability maintained**

(3) A council of a municipality that passes a by-law giving effect to policies described in subsection 16 (4) shall establish a procedure for monitoring and ensuring that the required number of affordable housing units, or the required gross floor area to be occupied by affordable housing units, as the case may be, is maintained for the required period of time. 2016, c. 25, Sched. 4, s. 4.

### **Same**

(4) The procedure required under subsection (3) shall include the prescribed provisions and provisions about the prescribed matters. 2016, c. 25, Sched. 4, s. 4.

### **Restrictions on authority**

(5) If a council of a municipality passes a by-law giving effect to policies described in subsection 16 (4), the council may, subject to the prohibitions or restrictions contained in the regulations, authorize the erection or location of some or all of the required affordable housing units in or on lands, buildings or structures other than those that are the subject of the development or redevelopment giving rise to the by-law requirement for affordable housing units. 2019, c. 9, Sched. 12, s. 7.

### **No authority for payment in lieu**

(6) For greater certainty, if a council of a municipality passes a by-law giving effect to policies described in subsection 16 (4), nothing in this section authorizes the council to authorize the payment of money in lieu of the provision of any or all of the required affordable housing units. 2016, c. 25, Sched. 4, s. 4.

### **Registration of agreements**

(7) An agreement entered into under clause (2) (i) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions of the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners of the land. 2016, c. 25, Sched. 4, s. 4.

### **Application of *Municipal Act, 2001* or *City of Toronto Act, 2006***

(8) Section 446 of the *Municipal Act, 2001* or section 386 of the *City of Toronto Act, 2006*, as the case may be, applies to the requirements imposed by an agreement entered into under clause (2) (i). 2016, c. 25, Sched. 4, s. 4.

### **Reports and information**

(9) A council of a municipality that passes a by-law giving effect to policies described in subsection 16 (4) shall provide the prescribed reports and information concerning affordable housing units in the municipality to the prescribed persons or classes of persons at such times, in such manner and in accordance with such other requirements as may be prescribed. 2016, c. 25, Sched. 4, s. 4.

### **Section Amendments with date in force (d/m/y)**

2016, c. 25, Sched. 4, s. 4 - 12/04/2018

2019, c. 9, Sched. 12, s. 7 - 03/09/2019

### **Holding provision by-law**

**36** (1) The council of a local municipality may, in a by-law passed under section 34, by the use of the holding symbol “H” (or “h”) in conjunction with any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law. R.S.O. 1990, c. P.13, s. 36 (1).

### **Condition**

(2) A by-law shall not contain the provisions mentioned in subsection (1) unless there is an official plan in effect in the local municipality that contains provisions relating to the use of the holding symbol mentioned in subsection (1). R.S.O. 1990, c. P.13, s. 36 (2).

### **Appeal to Tribunal**

(3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council fails to make a decision thereon within 90 days after receipt by the clerk of the application, the applicant may appeal to the Tribunal and the Tribunal shall hear the appeal and dismiss the same or amend the by-law to remove the holding symbol or direct that the by-law be amended in accordance with its order. 2017, c. 23, Sched. 3, s. 11 (1); 2019, c. 9, Sched. 12, s. 8 (1).

### **Matters of provincial interest**

(3.1) Where an appeal is made to the Tribunal under subsection (3), the Minister, if he or she is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the by-law, may so advise the Tribunal in writing not later than 30 days before the day fixed by the Tribunal for the hearing of the appeal and the Minister shall identify,

- (a) the part or parts of the by-law by which the provincial interest is, or is likely to be, adversely affected; and
- (b) the general basis for the opinion that a matter of provincial interest is, or is likely to be, adversely affected. 2017, c. 23, Sched. 5, s. 94.

### **No hearing or notice required**

(3.2) The Minister is not required to give notice or to hold a hearing before taking any action under subsection (3.1). 2004, c. 18, s. 7 (2).

### **No order to be made**

(3.3) If the Tribunal has received notice from the Minister under subsection (3.1) and has made a decision on the by-law, the Tribunal shall not make an order under subsection (3) in respect of the part or parts of the by-law identified in the notice. 2017, c. 23, Sched. 5, s. 94.

### **Action of L.G. in C.**

(3.4) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Tribunal in respect of the part or parts of the by-law identified in the notice and in doing so may repeal the by-law in whole or in part or amend the by-law in such a manner as the Lieutenant Governor in Council may determine. 2017, c. 23, Sched. 5, s. 94.

### **Application of s. 34 (10.7, 10.9-25.1)**

(4) Subsections 34 (10.7) and (10.9) to (25.1) do not apply to an amending by-law passed by the council to remove the holding symbol, but the council shall, in the manner and to the persons and public bodies and containing the information prescribed, give notice of its intention to pass the amending by-law. R.S.O. 1990, c. P.13, s. 36 (4); 1994, c. 23, s. 22 (2); 1996, c. 4, s. 22; 2009, c. 33, Sched. 21, s. 10 (6); 2017, c. 23, Sched. 3, s. 11 (2); 2019, c. 9, Sched. 12, s. 8 (2).

### **Section Amendments with date in force (d/m/y)**

1994, c. 23, s. 22 (1, 2) - 28/03/1995; 1996, c. 4, s. 22 - 22/05/1996

2004, c. 18, s. 7 (1, 2) - 30/11/2004

2009, c. 33, Sched. 21, s. 10 (6) - 15/12/2009

2017, c. 23, Sched. 3, s. 11 (1, 2) - 03/04/2018; 2017, c. 23, Sched. 5, s. 94 - 03/04/2018

2019, c. 9, Sched. 12, s. 8 (1, 2) - 03/09/2019

### **Community benefits charges**

#### **Definitions**

**37** (1) In this section,

“specified date” means the specified date for the purposes of section 9.1 of the *Development Charges Act, 1997*; (“date précisée”)

“valuation date” means, with respect to land that is the subject of development or redevelopment,

- (a) the day before the day the building permit is issued in respect of the development or redevelopment, or
- (b) if more than one building permit is required for the development or redevelopment, the day before the day the first permit is issued. (“date d’évaluation”) 2020, c. 18, Sched. 17, s. 1.

#### **Community benefits charge by-law**

(2) The council of a local municipality may by by-law impose community benefits charges against land to pay for the capital costs of facilities, services and matters required because of development or redevelopment in the area to which the by-law applies. 2020, c. 18, Sched. 17, s. 1.

#### **What charge can be imposed for**

(3) A community benefits charge may be imposed only with respect to development or redevelopment that requires,

- (a) the passing of a zoning by-law or of an amendment to a zoning by-law under section 34;
- (b) the approval of a minor variance under section 45;
- (c) a conveyance of land to which a by-law passed under subsection 50 (7) applies;
- (d) the approval of a plan of subdivision under section 51;
- (e) a consent under section 53;
- (f) the approval of a description under section 9 of the *Condominium Act, 1998*; or
- (g) the issuing of a permit under the *Building Code Act, 1992* in relation to a building or structure. 2020, c. 18, Sched. 17, s. 1.

#### **Excluded development or redevelopment**

(4) A community benefits charge may not be imposed with respect to,

- (a) development of a proposed building or structure with fewer than five storeys at or above ground;
- (b) development of a proposed building or structure with fewer than 10 residential units;



- (c) redevelopment of an existing building or structure that will have fewer than five storeys at or above ground after the redevelopment;
- (d) redevelopment that proposes to add fewer than 10 residential units to an existing building or structure; or
- (e) such types of development or redevelopment as are prescribed. 2020, c. 18, Sched. 17, s. 1.

**Community benefits charge — relationship to development charge, etc.**

(5) For greater certainty, nothing in this Act prevents a community benefits charge from being imposed with respect to land for park or other public recreational purposes or with respect to the services listed in subsection 2 (4) of the *Development Charges Act, 1997*, provided that the capital costs that are intended to be funded by the community benefits charge are not capital costs that are intended to be funded under a development charge by-law or from the special account referred to in subsection 42 (15). 2020, c. 18, Sched. 17, s. 1.

**In-kind contributions**

(6) A municipality that has passed a community benefits charge by-law may allow an owner of land to provide to the municipality facilities, services or matters required because of development or redevelopment in the area to which the by-law applies. 2020, c. 18, Sched. 17, s. 1.

**Notice of value of in-kind contributions**

(7) Before the owner of land provides facilities, services or matters in accordance with subsection (6), the municipality shall advise the owner of land of the value that will be attributed to them. 2020, c. 18, Sched. 17, s. 1.

**Deduction of value of in-kind contributions**

(8) The value attributed under subsection (7) shall be deducted from the amount the owner of land would otherwise be required to pay under the community benefits charge by-law. 2020, c. 18, Sched. 17, s. 1.

**Community benefits charge strategy**

(9) Before passing a community benefits charge by-law under subsection (2), the municipality shall prepare a community benefits charge strategy that,

- (a) identifies the facilities, services and matters that will be funded with community benefits charges; and
- (b) complies with any prescribed requirements. 2020, c. 18, Sched. 17, s. 1.

**Consultation**

(10) In preparing the community benefits charge strategy, the municipality shall consult with such persons and public bodies as the municipality considers appropriate. 2020, c. 18, Sched. 17, s. 1.

**Commencement of by-law**

(11) A community benefits charge by-law comes into force on the day it is passed or the day specified in the by-law, whichever is later. 2020, c. 18, Sched. 17, s. 1.

**Limitation**

(12) Only one community benefits charge by-law may be in effect in a local municipality at a time. 2020, c. 18, Sched. 17, s. 1.

**Notice of by-law and time for appeal**

(13) The clerk of a municipality that has passed a community benefits charge by-law shall give written notice of the passing of the by-law, and of the last day for appealing the by-law, which shall be the day that is 40 days after the day the by-law is passed. 2020, c. 18, Sched. 17, s. 1.

**Requirements of notice**

(14) Notices required under subsection (13) must meet the prescribed requirements and shall be given in accordance with the regulations. 2020, c. 18, Sched. 17, s. 1.

**Same**

(15) Every notice required under subsection (13) must be given no later than 20 days after the day the by-law is passed. 2020, c. 18, Sched. 17, s. 1.

### **When notice given**

(16) A notice required under subsection (13) is deemed to have been given on the prescribed day. 2020, c. 18, Sched. 17, s. 1.

### **Appeal of by-law after passed**

(17) Any person or public body may appeal a community benefits charge by-law to the Tribunal by filing with the clerk of the municipality, on or before the last day for appealing the by-law, a notice of appeal setting out the objection to the by-law and the reasons supporting the objection. 2020, c. 18, Sched. 17, s. 1.

### **Clerk's duties on appeal**

(18) If the clerk of the municipality receives a notice of appeal on or before the last day for appealing a community benefits charge by-law, the clerk shall compile a record that includes,

- (a) a copy of the by-law certified by the clerk;
- (b) a copy of the community benefits charge strategy;
- (c) an affidavit or declaration certifying that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Act; and
- (d) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed. 2020, c. 18, Sched. 17, s. 1.

### **Same**

(19) The clerk shall forward a copy of the notice of appeal and the record to the Tribunal within 30 days after the last day for appealing the by-law and shall provide such other information or material as the Tribunal may require in respect of the appeal. 2020, c. 18, Sched. 17, s. 1.

### **Affidavit, declaration conclusive evidence**

(20) An affidavit or declaration of the clerk of a municipality that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Act is conclusive evidence of the facts stated in the affidavit or declaration. 2020, c. 18, Sched. 17, s. 1.

### **Tribunal hearing of appeal**

(21) The Tribunal shall hold a hearing to deal with any notice of appeal of a community benefits charge by-law forwarded by the clerk of a municipality. 2020, c. 18, Sched. 17, s. 1.

### **Notice of hearing**

(22) The Tribunal shall determine who shall be given notice of the hearing and in what manner. 2020, c. 18, Sched. 17, s. 1.

### **Powers of Tribunal**

(23) After the hearing, the Tribunal may,

- (a) dismiss the appeal in whole or in part;
- (b) order the council of the municipality to repeal or amend the by-law in accordance with the Tribunal's order; or
- (c) repeal or amend the by-law in such manner as the Tribunal may determine. 2020, c. 18, Sched. 17, s. 1.

### **Limitation on powers**

(24) The Tribunal may not amend or order the amendment of a by-law so as to,

- (a) increase the amount of a community benefits charge that will be payable in any particular case;
- (b) add or remove, or reduce the scope of, an exemption provided in the by-law;
- (c) change a provision for the phasing in of community benefits charges in such a way as to make a charge, or part of a charge, payable earlier; or
- (d) change the date, if any, the by-law will expire. 2020, c. 18, Sched. 17, s. 1.

### **Dismissal without hearing**

(25) Despite subsection (21), the Tribunal may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing after notifying the appellant and giving the appellant an opportunity to make representations as to the merits of the appeal. 2020, c. 18, Sched. 17, s. 1.

**When Tribunal ordered repeals, amendments effective**

(26) The repeal or amendment of a community benefits charge by-law by the Tribunal, or by the council of a municipality pursuant to an order of the Tribunal, is deemed to have come into force on the day the by-law came into force. 2020, c. 18, Sched. 17, s. 1.

**Refunds if Tribunal repeals by-law, etc.**

(27) If the Tribunal repeals or amends a community benefits charge by-law, or orders the council of a municipality to repeal or amend a community benefits charge by-law, the municipality shall refund,

- (a) in the case of a repeal, any community benefits charge paid under the by-law; or
- (b) in the case of an amendment, the difference between any community benefits charge paid under the by-law and the community benefits charge that would have been payable under the by-law as amended. 2020, c. 18, Sched. 17, s. 1.

**When refund due**

(28) If a municipality is required to make a refund under subsection (27), it shall do so,

- (a) if the Tribunal repeals or amends the by-law, within 30 days after the Tribunal's order; or
- (b) if the Tribunal orders the council of the municipality to repeal or amend the by-law, within 30 days after the repeal or amendment by the council. 2020, c. 18, Sched. 17, s. 1.

**Interest**

(29) The municipality shall pay interest on an amount it refunds, at a rate not less than the prescribed minimum interest rate, from the day the amount was paid to the municipality to the day it is refunded. 2020, c. 18, Sched. 17, s. 1.

**Application of specified provisions to by-law amendments**

(30) Subsections (9) to (11) and (13) to (29) apply, with necessary modifications, to an amendment to a community benefits charge by-law other than an amendment by, or pursuant to an order of, the Tribunal. 2020, c. 18, Sched. 17, s. 1.

**Limitation of Tribunal powers**

(31) In an appeal of an amendment to a community benefits charge by-law, the Tribunal may exercise its powers only in relation to the amendment. 2020, c. 18, Sched. 17, s. 1.

**Maximum amount of community benefits charge**

(32) The amount of a community benefits charge payable in any particular case shall not exceed an amount equal to the prescribed percentage of the value of the land as of the valuation date. 2020, c. 18, Sched. 17, s. 1.

**Payment under protest and appraisal provided by owner**

(33) If the owner of land is of the view that the amount of the community benefits charge exceeds the amount permitted under subsection (32), the owner shall,

- (a) pay the charge under protest; and
- (b) within the prescribed time period, provide the municipality with an appraisal of the value of the land as of the valuation date. 2020, c. 18, Sched. 17, s. 1.

**No appraisal under subs. (33) (b)**

(34) If an owner of land pays a community benefits charge under protest but does not provide an appraisal in accordance with clause (33) (b), the payment is deemed not to have been made under protest. 2020, c. 18, Sched. 17, s. 1.

**Appraisal provided by the municipality**

(35) If the municipality disputes the value of the land identified in the appraisal referred to in clause (33) (b), the municipality shall, within the prescribed time period, provide the owner with an appraisal of the value of the land as of the valuation date. 2020, c. 18, Sched. 17, s. 1.

**No appraisal under subs. (35)**

(36) If the municipality does not provide an appraisal in accordance with subsection (35), the municipality shall immediately refund to the owner the difference, if any, between the amount of the community benefits charge imposed by the municipality and the maximum amount determined in accordance with subsection (32) based on the value of the land identified in the appraisal referred to in clause (33) (b). 2020, c. 18, Sched. 17, s. 1.

#### **Appraisal under subs. (35) within 5%**

(37) If the municipality provides an appraisal in accordance with subsection (35) and the value of the land identified in that appraisal is within 5 per cent of the value identified in the appraisal referred to in clause (33) (b), the municipality shall immediately refund to the owner the difference, if any, between the amount of the community benefits charge imposed by the municipality and the maximum amount determined in accordance with subsection (32) based on the value of the land identified in the appraisal referred to in clause (33) (b) or subsection (35), whichever identifies the higher value of the land. 2020, c. 18, Sched. 17, s. 1.

#### **Appraisal under subs. (35) not within 5%**

(38) If the municipality provides an appraisal in accordance with subsection (35) and the value of the land identified in that appraisal is not within 5 per cent of the value identified in the appraisal referred to in clause (33) (b), the municipality shall request that a person selected by the owner from the list referred to in subsection (42) prepare an appraisal of the value of the land as of the valuation date. 2020, c. 18, Sched. 17, s. 1.

#### **Time period for appraisal referred to in subs. (38)**

(39) The municipality shall provide the owner with the appraisal referred to in subsection (38) within the prescribed time period. 2020, c. 18, Sched. 17, s. 1.

#### **Appraisal under subs. (38)**

(40) If an appraisal is prepared in accordance with subsection (38), the municipality shall immediately refund to the owner the difference, if any, between the amount of the community benefits charge imposed by the municipality and the maximum amount determined in accordance with subsection (32) based on the value of the land identified in the appraisal referred to in subsection (38). 2020, c. 18, Sched. 17, s. 1.

#### **Non-application of subss. (36), (37) and (40)**

(41) For greater certainty, a refund is not required under subsection (36), (37) or (40) if the maximum amount determined in accordance with subsection (32), based on the value of the land identified in the applicable appraisal, is greater than the amount of the community benefits charge imposed by the municipality. 2020, c. 18, Sched. 17, s. 1.

#### **List of appraisers**

(42) A municipality that has passed a community benefits charge by-law shall maintain a list of at least three persons who,

- (a) are not employees of the municipality or members of its council; and
- (b) have an agreement with the municipality to perform appraisals for the purposes of subsection (38). 2020, c. 18, Sched. 17, s. 1.

#### **Same**

(43) A municipality shall maintain the list referred to in subsection (42) until the later of,

- (a) the day on which the community benefits charge by-law is repealed; and
- (b) the day on which there is no longer any refund that is or could be required to be made under subsection (40). 2020, c. 18, Sched. 17, s. 1.

#### **No building without payment**

(44) No person shall construct a building on the land proposed for development or redevelopment unless,

- (a) the payment required by the community benefits charge by-law has been made or arrangements for the payment that are satisfactory to the council have been made; and
- (b) any facilities, services or matters being provided in accordance with subsection (6) have been provided or arrangements for their provision that are satisfactory to the council have been made. 2020, c. 18, Sched. 17, s. 1.

#### **Special account**

(45) All money received by the municipality under a community benefits charge by-law shall be paid into a special account. 2020, c. 18, Sched. 17, s. 1.

#### **Investments**

(46) The money in the special account may be invested in securities in which the municipality is permitted to invest under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, and the earnings derived from the investment of the money shall be paid into the special account. 2020, c. 18, Sched. 17, s. 1.

### **Requirement to spend or allocate monies in special account**

(47) In each calendar year, a municipality shall spend or allocate at least 60 per cent of the monies that are in the special account at the beginning of the year. 2020, c. 18, Sched. 17, s. 1.

### **Reports and information**

(48) A council of a municipality that passes a community benefits charge by-law shall provide the prescribed reports and information to the prescribed persons or classes of persons at such times, in such manner and in accordance with such other requirements as may be prescribed. 2020, c. 18, Sched. 17, s. 1.

### **Application of subs. (51)**

(49) Subsection (51) applies with respect to the following:

1. A special account established in accordance with subsection 37 (5), as it read on the day before section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* comes into force.
2. A reserve fund established by a local municipality in accordance with section 33 of the *Development Charges Act, 1997* for any service other than the services described in paragraphs 1 to 20 of subsection 2 (4) of the *Development Charges Act, 1997*. 2020, c. 18, Sched. 17, s. 1.

### **Same, services prescribed under par. 21 of s. 2 (4) of *Development Charges Act, 1997***

(50) Despite subsection (49), subsection (51) does not apply with respect to a reserve fund established for a service that is prescribed for the purposes of paragraph 21 of subsection 2 (4) of the *Development Charges Act, 1997* if the service is prescribed before the earlier of,

- (a) the day the municipality passes a community benefits charge by-law under subsection (2); and
- (b) the specified date. 2020, c. 18, Sched. 17, s. 1.

### **Transition respecting special account and reserve fund described in subs. (49)**

(51) The following rules apply with respect to a special account or reserve fund to which this subsection applies:

1. If the municipality passes a community benefits charge by-law under this section before the specified date, the municipality shall, on the day it passes the by-law, allocate the money in the special account or reserve fund to the special account referred to in subsection (45).
2. If the municipality has not passed a community benefits charge by-law under this section before the specified date, the special account or reserve fund is deemed to be a general capital reserve fund for the same purposes for which the money in the special account or reserve fund was collected.
3. Despite paragraph 2, subsection 417 (4) of the *Municipal Act, 2001* and any equivalent provision of, or made under, the *City of Toronto Act, 2006* do not apply with respect to the general capital reserve fund referred to in paragraph 2.
4. If paragraph 2 applies and the municipality passes a community benefits charge by-law under this section on or after the specified date, the municipality shall, on the day it passes the by-law, allocate any money remaining in the general capital reserve fund referred to in paragraph 2 to the special account referred to in subsection (45). 2020, c. 18, Sched. 17, s. 1.

### **Credit under s. 38 of *Development Charges Act, 1997***

(52) If the municipality passes a community benefits charge by-law under this section before the specified date, any credit under section 38 of the *Development Charges Act, 1997* that was held as of the day before the day the by-law is passed and that relates to any services other than the services described in paragraphs 1 to 20 of subsection 2 (4) of that Act may be used by the holder of the credit with respect to a community benefits charge that the holder is required to pay under a community benefits charge by-law. 2020, c. 18, Sched. 17, s. 1.

### **Same, services prescribed under par. 21 of s. 2 (4) of *Development Charges Act, 1997***

(53) Subsection (52) does not apply with respect to a credit that relates to a service that is prescribed for the purposes of paragraph 21 of subsection 2 (4) of the *Development Charges Act, 1997* if the service is prescribed before the date the municipality passes the community benefits charge by-law. 2020, c. 18, Sched. 17, s. 1.

### **Regular review of by-law**

(54) If a community benefits charge by-law is in effect in a local municipality, the municipality shall ensure that a review of the by-law is undertaken to determine the need for a revision of the by-law.

### **Same, consultation**

(55) In undertaking the review required under subsection (54), the municipality shall consult with such persons and public bodies as the municipality considers appropriate.

#### **Resolution re need for revision**

(56) After conducting a review under subsection (54), the council shall pass a resolution declaring whether a revision to the by-law is needed.

#### **Timing of review**

(57) A resolution under subsection (56) shall be passed at the following times:

1. Within five years after the by-law was first passed.
2. If more than five years have passed since the by-law was first passed, within five years after the previous resolution was passed pursuant to subsection (56).

#### **Notice**

(58) Within 20 days of passing a resolution pursuant to subsection (56), the council shall give notice, on the website of the municipality, of the council's determination regarding whether a revision to the by-law is needed.

#### **Failure to pass resolution**

(59) If the council does not pass a resolution pursuant to subsection (56) within the relevant time period set out in subsection (57), the by-law shall be deemed to have expired on the day that is five years after the by-law was passed or five years after the previous resolution was passed pursuant to subsection (56), as the case may be.

#### **Section Amendments with date in force (d/m/y)**

2015, c. 26, s. 27 - 01/07/2016

2019, c. 9, Sched. 12, s. 9 - no effect - see 2020, c. 18, Sched. 17, s. 6 - 21/07/2020; 2019, c. 15, Sched. 31, s. 1 (1, 2) - no effect - see: 2020, c. 18, Sched. 17, s. 7 - 21/07/2020

2020, c. 18, Sched. 17, s. 1 - 18/09/2020

#### **Transitional matters respecting repealed s. 37, etc.**

##### **Definitions**

**37.1** (1) In this section,

“by-law described in the repealed subsection 37 (1)” means a by-law passed under section 34 that includes, under subsection 37 (1) as it read on the day before the effective date, any requirement to provide facilities, services or matters; (“règlement municipal visé au paragraphe 37 (1) abrogé”)

“effective date” means the day section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* comes into force. (“date d’effet”) 2020, c. 18, Sched. 17, s. 1.

##### **Continued application of repealed s. 37 (1) to (5)**

(2) Despite their repeal by section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, the following provisions continue to apply to a local municipality until the applicable date described in subsection (5) of this section:

1. Subsections 37 (1) to (4), as they read on the day before the effective date.
2. Subsection 37 (5), as it read on the day before the effective date, except that the reference to a special account in that subsection shall be read as a reference to the special account referred to in subsection 37 (45). 2020, c. 18, Sched. 17, s. 1.

##### **By-law described in repealed s. 37 (1)**

(3) On and after the applicable date described in subsection (5), the following rules apply if, before that date, the local municipality has passed a by-law described in the repealed subsection 37 (1):

1. Subsections 37 (1) to (4), as they read on the day before the effective date, continue to apply with respect to the by-law and the lands that are the subject of the by-law.
2. Subsection 37 (5), as it read on the day before the effective date, continues to apply with respect to the by-law and the lands that are the subject of the by-law, except that the reference to a special account in that subsection shall be read as a reference to the special account referred to in subsection 37 (45).



3. The development or redevelopment of the lands that are the subject of the by-law described in the repealed subsection 37 (1) is not subject to a community benefits charge by-law passed under section 37. 2020, c. 18, Sched. 17, s. 1.

#### **Non-application of subs. (3)**

(4) Subsection (3) does not apply with respect to the lands that are the subject of a by-law described in the repealed subsection 37 (1) if, on or after the applicable date described in subsection (5), the by-law,

- (a) is amended to remove any requirement to provide facilities, services or matters that was included under subsection 37 (1), as it read on the day before the effective date; or
- (b) is repealed. 2020, c. 18, Sched. 17, s. 1.

#### **Applicable date**

(5) The applicable date referred to in subsections (2), (3) and (4) is the earlier of,

- (a) the day the municipality passes a community benefits charge by-law under subsection 37 (2); and
- (b) the specified date for the purposes of section 9.1 of the *Development Charges Act, 1997*. 2020, c. 18, Sched. 17, s. 1.

#### **Section Amendments with date in force (d/m/y)**

2019, c. 9, Sched. 12, s. 10 - no effect - see 2020, c. 18, Sched. 17, s. 6 - 21/07/2020; 2019, c. 15, Sched. 31, s. 2 - no effect - see 2020, c. 18, Sched. 17, s. 7 - 21/07/2020

2020, c. 18, Sched. 17, s. 1 - 18/09/2020

#### **Interim control by-law**

**38** (1) Where the council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the council of the municipality may pass a by-law (hereinafter referred to as an interim control by-law) to be in effect for a period of time specified in the by-law, which period shall not exceed one year from the date of the passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law.

#### **Extension of period by-law in effect**

(2) The council of the municipality may amend an interim control by-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed two years from the date of the passing of the interim control by-law. R.S.O. 1990, c. P.13, s. 38 (1, 2).

#### **Notice of passing of by-law**

(3) No notice or hearing is required prior to the passing of a by-law under subsection (1) or (2) but the clerk of the municipality shall, in the manner and to the persons and public bodies and containing the information prescribed, give notice of a by-law passed under subsection (1) or (2) within thirty days of the passing thereof. R.S.O. 1990, c. P.13, s. 38 (3); 1994, c. 23, s. 23 (1).

#### **Appeal to Tribunal re by-law passed under subs. (1)**

(4) The Minister may, within 60 days after the date of the passing of a by-law under subsection (1), appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. 2017, c. 23, Sched. 3, s. 12 (1).

#### **Appeal to Tribunal re by-law passed under subs. (2)**

(4.1) Any person or public body who was given notice of the passing of a by-law under subsection (2) may, within 60 days after the date of the passing of the by-law, appeal to the Tribunal by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. 2017, c. 23, Sched. 3, s. 12 (1).

#### **Application**

(5) If a notice of appeal is filed under subsection (4) or (4.1), subsections 34 (23) to (26) apply with necessary modifications to the appeal. 1996, c. 4, s. 23; 2017, c. 23, Sched. 3, s. 12 (2); 2019, c. 9, Sched. 12, s. 11.

#### **When prior zoning by-law again has effect**

(6) Where the period of time during which an interim control by-law is in effect has expired and the council has not passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, or where an interim control by-law is repealed or the extent of the area covered thereby is reduced,

the provisions of any by-law passed under section 34 that applied immediately prior to the coming into force of the interim control by-law again come into force and have effect in respect of all lands, buildings or structures formerly subject to the interim control by-law. R.S.O. 1990, c. P.13, s. 38 (6).

#### **Where by-law appealed**

(6.1) If the period of time during which an interim control by-law is in effect has expired and the council has passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, but there is an appeal of the by-law under subsection 34 (19), the interim control by-law continues in effect as if it had not expired until the date of the order of the Tribunal or until the date of a notice issued by the Tribunal under subsection 34 (23.1) unless the interim control by-law is repealed. 2017, c. 23, Sched. 5, s. 95.

#### **Prohibition**

(7) Where an interim control by-law ceases to be in effect, the council of the municipality may not for a period of three years pass a further interim control by-law that applies to any lands to which the original interim control by-law applied.

#### **Application of s. 34 (9)**

(8) Subsection 34 (9) applies with necessary modifications to a by-law passed under subsection (1) or (2). R.S.O. 1990, c. P.13, s. 38 (7, 8).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 23, s. 23 (1-3) - 28/03/1995; 1996, c. 4, s. 23 - 22/05/1996

2017, c. 23, Sched. 3, s. 12 (1, 2) - 03/04/2018; 2017, c. 23, Sched. 5, s. 95 - 03/04/2018

2019, c. 9, Sched. 12, s. 11 - 03/09/2019

#### **Temporary use provisions**

**39** (1) The council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law. R.S.O. 1990, c. P.13, s. 39 (1).

(1.1), (1.2) REPEALED: 2002, c. 17, Sched. B, s. 11 (1).

#### **Area and time in effect**

(2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and specify the period of time for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law. 2002, c. 17, Sched. B, s. 11 (2).

#### **Extension**

(3) Despite subsection (2), the council may by by-law grant further periods of not more than three years each during which the temporary use is authorized. R.S.O. 1990, c. P.13, s. 39 (3).

#### **Non-application of cl. 34 (9) (a)**

(4) Upon the expiry of the period or periods of time mentioned in subsections (2) and (3), clause 34 (9) (a) does not apply so as to permit the continued use of the land, buildings or structures for the purpose temporarily authorized. R.S.O. 1990, c. P.13, s. 39 (4).

#### **Section Amendments with date in force (d/m/y)**

1994, c. 2, s. 44 (2) - 14/07/1994

2002, c. 17, Sched. B, s. 11 (1, 2) - 01/01/2003

#### **Garden suites**

**39.1** (1) As a condition to passing a by-law authorizing the temporary use of a garden suite under subsection 39 (1), the council may require the owner of the suite or any other person to enter into an agreement with the municipality dealing with such matters related to the temporary use of the garden suite as the council considers necessary or advisable, including,

- (a) the installation, maintenance and removal of the garden suite;
- (b) the period of occupancy of the garden suite by any of the persons named in the agreement; and
- (c) the monetary or other form of security that the council may require for actual or potential costs to the municipality related to the garden suite. 2002, c. 17, Sched. B, s. 12; 2009, c. 33, Sched. 21, s. 10 (7).

## **Definition**

(2) In this section,

“garden suite” means a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable. 2002, c. 17, Sched. B, s. 12.

## **Area and time in effect**

(3) Despite subsection 39 (2), a by-law authorizing the temporary use of a garden suite shall define the area to which it applies and specify the period of time for which the authorization shall be in effect, which shall not exceed 20 years from the day of the passing of the by-law. 2011, c. 6, Sched. 2, s. 7.

## **Extension**

(4) Despite subsection (3), the council may by by-law grant further periods of not more than three years each during which the temporary use is authorized. 2002, c. 17, Sched. B, s. 12.

## **Non-application**

(5) Upon the expiry of the period or periods of time mentioned in subsections (3) and (4), clause 34 (9) (a) does not apply so as to permit the continued use of the garden suite. 2002, c. 17, Sched. B, s. 12.

## **Section Amendments with date in force (d/m/y)**

2002, c. 17, Sched. B, s. 12 - 01/01/2003

2009, c. 33, Sched. 21, s. 10 (7, 8) - 15/12/2009

2011, c. 6, Sched. 2, s. 7 - 04/05/2011

## **Minor by-laws — delegation**

**39.2** (1) Subject to subsection (2), the council of a local municipality may, by by-law, delegate the authority to pass by-laws under section 34 that are of a minor nature to,

(a) a committee of council; or

(b) an individual who is an officer, employee or agent of the municipality. 2021, c. 34, Sched. 19, s. 1.

## **Official plan requirement**

(2) Subsection (1) does not apply unless there is an official plan in effect in the local municipality that specifies the types of by-laws in respect of which there may be a delegation of authority under that subsection. 2021, c. 34, Sched. 19, s. 1.

## **Same**

(3) Without limiting the generality of the meaning of a by-law passed under section 34 that is of a minor nature, such by-laws may include,

(a) a by-law to remove a holding symbol; and

(b) a by-law to authorize the temporary use of land, buildings or structures in accordance with subsection 39 (1). 2021, c. 34, Sched. 19, s. 1.

## **Conditions**

(4) A delegation of authority made by a council under subsection (1) may be subject to such conditions as the council, by by-law, provides. 2021, c. 34, Sched. 19, s. 1.

## **Withdrawal of delegation**

(5) A council may, by by-law, withdraw a delegation of authority made by it under subsection (1), and the withdrawal may be in respect of one or more by-laws in respect of which a final disposition was not made before the withdrawal. 2021, c. 34, Sched. 19, s. 1.

## **Section Amendments with date in force (d/m/y)**

2021, c. 34, Sched. 19, s. 1 - 02/12/2021

## **Agreement exempting owner from requirement to provide parking**

**40** (1) Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter

into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities. R.S.O. 1990, c. P.13, s. 40 (1).

#### **Payment of money**

(2) An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated. R.S.O. 1990, c. P.13, s. 40 (2).

#### **Special account**

(3) All money received by a municipality under an agreement entered into under this section shall be paid into a special account and,

- (a) the money in that account shall be applied for the same purposes as a reserve fund established under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be;
- (b) the money in that account may be invested in securities in which the municipality is permitted to invest under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be;
- (c) earnings derived from the investment of the money in the special account shall be paid into that account; and
- (d) the auditor of the municipality, in the auditor's annual report, shall report on the activities and position of the account. 2002, c. 17, Sched. B, s. 13 (1); 2006, c. 32, Sched. C, s. 47 (6).

#### **Registration of agreement**

(4) An agreement entered into under this section may be registered in the proper land registry office against the land to which it applies and, when so registered, any money payable to the municipality under the agreement that has become due for payment shall have priority lien status as described in section 1 of the *Municipal Act, 2001* or section 3 of the *City of Toronto Act, 2006*, as the case may be. 2002, c. 17, Sched. B, s. 13 (2); 2006, c. 32, Sched. C, s. 47 (7).

#### **Certificate**

(5) When all money payable to the municipality under an agreement registered under subsection (4) has been paid, or such agreement has been terminated, the clerk of the municipality shall, at the request of the owner of the land, provide a certificate in a form registrable in the proper land registry office, certifying that the money has been paid or that the agreement has been terminated. R.S.O. 1990, c. P.13, s. 40 (5).

#### **Section Amendments with date in force (d/m/y)**

2002, c. 17, Sched. B, s. 13 (1, 2) - 01/01/2003

2006, c. 32, Sched. C, s. 47 (6, 7) - 01/01/2007

#### **Site plan control area**

**41** (1) In this section,

“development” means 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, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in subsection 164 (4) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be, or of sites for the location of three or more mobile homes as defined in subsection 46 (1) of this Act or of sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46 (1) of this Act. R.S.O. 1990, c. P.13, s. 41 (1); 1994, c. 4, s. 14; 2002, c. 17, Sched. B, s. 14 (1); 2006, c. 32, Sched. C, s. 47 (8).

#### **Exception**

(1.1) The definition of “development” in subsection (1) does not include the placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007. 2006, c. 23, s. 16 (1).

#### **Establishment of site plan control area**

(2) Where in an official plan an area is shown or described as a proposed site plan control area, the council of the local municipality in which the proposed area is situated may, by by-law, designate the whole or any part of such area as a site plan control area. R.S.O. 1990, c. P.13, s. 41 (2).

#### **Designation of site plan control area**

(3) A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34. R.S.O. 1990, c. P.13, s. 41 (3).

## **Consultation**

~~(3.1) The council;~~

~~—(a) shall permit applicants to consult with the municipality before submitting plans and drawings for approval under subsection (4); and~~

~~—(b) may, by by-law, require applicants to consult with the municipality as described in clause (a). 2006, c. 23, s. 16 (2).~~

## **Consultation**

(3.1) The council may, by by-law, require applicants to consult with the municipality before submitting plans and drawings for approval under subsection (4).

## **Same**

(3.2) Where a by-law referred to in subsection (3.1) does not apply, the municipality shall permit applicants to consult with the municipality as described in that subsection.

## **Prescribed information**

(3.3) If information or materials are prescribed for the purposes of this section, an applicant shall provide the prescribed information and material to the municipality.

## **Other information**

(3.4) A municipality may require that an applicant provide any other information or material that the municipality considers it may need, but only if the official plan contains provisions relating to requirements under this subsection.

## **Refusal and timing**

(3.5) Until the municipality has received the plans and drawings referred to in subsection (4), the information and material required under subsections (3.3) and (3.4), if any, and any fee under section 69,

(a) the municipality may refuse to accept or further consider the application; and

(b) the time period referred to in subsection (12) of this section does not begin.

## **Response re completeness of application**

(3.6) Within 30 days after the applicant pays any fee under section 69, the municipality shall notify the person or public body that the plans and drawings referred to in subsection (4) and the information and material required under subsections (3.3) and (3.4), if any, have been provided, or that they have not been provided, as the case may be.

## **Motion re dispute**

(3.7) Within 30 days after a negative notice is given under subsection (3.6), the applicant or municipality may make a motion for directions to have the Tribunal determine,

(a) whether the plans and drawings and the information and material have in fact been provided; or

(b) whether a requirement made under subsection (3.4) is reasonable.

## **Same**

(3.8) If the municipality does not give any notice under subsection (3.6), the applicant may make a motion under subsection (3.7) at any time after the 30-day period described in subsection (3.6) has elapsed.

## **Final determination**

(3.9) The Tribunal's determination under subsection (3.7) is not subject to appeal or review.

## **Approval of plans or drawings**

~~(4) No person shall undertake any development in an area designated under subsection (2) unless the council of the municipality or, where a referral has been made under subsection (12), the Tribunal has approved one or both, as the council may determine, of the following:~~

(4) No person shall undertake any development in an area designated under subsection (2) unless the authorized person referred to in subsection (4.0.1) or, where an appeal has been made under subsection (12), the Tribunal has approved one or both, as the authorized person may determine, of the following:

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (7) (a), including facilities designed to have regard for accessibility for persons with disabilities.
2. Drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes containing fewer than 25 dwelling units, which drawings are sufficient to display,
  - (a) the massing and conceptual design of the proposed building;
  - (b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access;
  - (c) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings;
  - (d) matters relating to exterior design, including without limitation the character, scale, appearance and design features of buildings, and their sustainable design, but only to the extent that it is a matter of exterior design, if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the municipality;
  - (d.1) matters relating to exterior access to each building that will contain affordable housing units or to any part of such building, but only to the extent that it is a matter of exterior design, if the municipal by-law passed under subsection (2) and the official plan to which the by-law gives effect both include provisions relating to policies described in subsection 16 (4) and both include requirements or standards for exterior access to buildings that will contain affordable housing units;
  - (e) the sustainable design elements on any adjoining highway under a municipality's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities, if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the municipality; and
  - (f) facilities designed to have regard for accessibility for persons with disabilities. R.S.O. 1990, c. P.13, s. 41 (4); 2002, c. 9, s. 56 (1); 2006, c. 23, s. 16 (3, 4); 2009, c. 33, Sched. 21, s. 10 (9); 2016, c. 25, Sched. 4, s. 5; 2017, c. 23, Sched. 5, s. 80.

#### **Authorized person**

(4.0.1) A council that passes a by-law under subsection (2) shall appoint an officer, employee or agent of the municipality as an authorized person for the purposes of subsection (4).

#### **Exclusions from site plan control**

(4.1) The following matters relating to buildings described in paragraph 2 of subsection (4) are not subject to site plan control:

1. Interior design.
2. The layout of interior areas, excluding interior walkways, stairs, elevators and escalators referred to in subparagraph 2 (c) of subsection (4).
3. The manner of construction and standards for construction. 2006, c. 23, s. 16 (5).

#### **Dispute about scope of site plan control**

(4.2) The owner of land or the municipality may make a motion for directions to have the Tribunal determine a dispute about whether a matter referred to in paragraph 1 or 2 of subsection (4) is subject to site plan control. 2017, c. 23, Sched. 5, s. 96.

#### **Final determination**

(4.3) The Tribunal's determination under subsection (4.2) is not subject to appeal or review. 2006, c. 23, s. 16 (5); 2017, c. 23, Sched. 5, s. 80.

#### **Drawings for residential buildings**

(5) Despite the exception provided in paragraph 2 of subsection (4), the council of the municipality may require the drawings mentioned therein for a building to be used for residential purposes containing fewer than 25 dwelling units if the proposed building is to be located in an area specifically designated in the official plan mentioned in subsection (2) as an area wherein such drawings may be required. R.S.O. 1990, c. P.13, s. 41 (5).



### Proviso

(6) Nothing in this section shall be deemed to confer on ~~the council of~~ the municipality power to limit the height or density of buildings to be erected on the land. R.S.O. 1990, c. P.13, s. 41 (6).

### Conditions to approval of plans

(7) As a condition to the approval of the plans and drawings referred to in subsection (4), a municipality may require the owner of the land to,

- (a) provide to the satisfaction of and at no expense to the municipality any or all of the following:
  - 1. Subject to the provisions of subsections (8) and (9), widenings of highways that abut on the land.
  - 2. Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbs and traffic direction signs.
  - 3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.
  - 4. Walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access.
- 4.1 Facilities designed to have regard for accessibility for persons with disabilities.
- 5. Facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon.
- 6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.
- 7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
- 8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board thereof on the land.
- 9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;
- (b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause (a), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;
- (c) enter into one or more agreements with the municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) or (d) and the maintenance thereof as mentioned in clause (b) or with the provision and approval of the plans and drawings referred to in subsection (4);
- (c.1) enter into one or more agreements with the municipality ensuring that development proceeds in accordance with the plans and drawings approved under subsection (4);
- (d) subject to subsection (9.1), convey part of the land to the municipality to the satisfaction of and at no expense to the municipality for a public transit right of way. R.S.O. 1990, c. P.13, s. 41 (7); 1996, c. 4, s. 24 (1, 2); 2006, c. 23, s. 16 (6, 7).

### Where area is in upper-tier municipality

(8) If an area designated under subsection (2) is within an upper-tier municipality, plans and drawings in respect of any development proposed to be undertaken in the area shall not be approved until the upper-tier municipality has been advised of the proposed development and afforded a reasonable opportunity to require the owner of the land to,

- (a) provide to the satisfaction of and at no expense to the upper-tier municipality any or all of the following:
  - (i) subject to subsection (9), widenings of highways that are under the jurisdiction of the upper-tier municipality and that abut on the land,
  - (ii) subject to the *Public Transportation and Highway Improvement Act*, where the land abuts a highway under the jurisdiction of the upper-tier municipality, facilities to provide access to and from the land such as access ramps and curbs and traffic direction signs,

- (iii) where the land abuts a highway under the jurisdiction of the upper-tier municipality, offstreet vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways,
- (iv) where the land abuts a highway under the jurisdiction of the upper-tier municipality, grading or alteration in elevation or contour of the land in relation to the elevation of the highway and provision for the disposal of storm and surface water from the land,
- (v) where the land abuts a highway under the jurisdiction of the upper-tier municipality, facilities designed to have regard for accessibility for persons with disabilities;
- (b) enter into one or more agreements with the upper-tier municipality dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) or (c) and the maintenance thereof at the sole risk and expense of the owner, including the removal of snow from access ramps and driveways and parking and loading areas;
- (c) subject to subsection (9.1), convey part of the land to the upper-tier municipality to the satisfaction of and at no expense to the municipality for a public transit right of way. 2002, c. 17, Sched. B, s. 14 (2); 2006, c. 23, s. 16 (8).

#### **Widening must be described in official plan**

(9) An owner may not be required to provide a highway widening under paragraph 1 of clause (7) (a) or under paragraph 1 of clause (8) (a) unless the highway to be widened is shown on or described in an official plan as a highway to be widened and the extent of the proposed widening is likewise shown or described. R.S.O. 1990, c. P.13, s. 41 (9).

#### **Limitation**

(9.1) An owner of land may not be required to convey land under clause (7) (d) or (8) (c) unless the public transit right of way to be provided is shown on or described in an official plan. 1994, c. 23, s. 24 (3); 1996, c. 4, s. 24 (3).

#### **Registration of agreements**

(10) Any agreement entered into under clause (7) (c) or (c.1) or under clause (8) (b) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. R.S.O. 1990, c. P.13, s. 41 (10); 2002, c. 17, Sched. B, s. 14 (3); 2006, c. 23, s. 16 (9).

#### **Application of *Municipal Act, 2001* or *City of Toronto Act, 2006***

(11) Section 446 of the *Municipal Act, 2001* or section 386 of the *City of Toronto Act, 2006*, as the case may be, applies to any requirements made under clauses (7) (a) and (b) and to any requirements made under an agreement entered into under clause (7) (c) or (c.1). R.S.O. 1990, c. P.13, s. 41 (11); 2002, c. 17, Sched. B, s. 14 (4); 2006, c. 23, s. 16 (10); 2006, c. 32, Sched. C, s. 47 (9).

#### **Refund**

(11.1) With respect to plans and drawings referred to in subsection (4) that are submitted on or after the day subsection 7 (5) of Schedule 5 to the *More Homes for Everyone Act, 2022* comes into force, the municipality shall refund any fee paid pursuant to section 69 in respect of the plans and drawings in accordance with the following rules:

1. If the municipality approves the plans or drawings under subsection (4) within the time period referred to in subsection (12), the municipality shall not refund the fee.
2. If the municipality has not approved the plans or drawings under subsection (4) within the time period referred to in subsection (12), the municipality shall refund 50 per cent of the fee.
3. If the municipality has not approved the plans or drawings under subsection (4) within a time period that is 30 days longer than the time period referred to in subsection (12), the municipality shall refund 75 per cent of the fee.
4. If the municipality has not approved the plans or drawings under subsection (4) within a time period that is 60 days longer than the time period referred to in subsection (12), the municipality shall refund all of the fee.

#### **Appeal to Tribunal re approval of plans or drawings**

(12) If the municipality fails to approve the plans or drawings referred to in subsection (4) within ~~30~~ 60 days after they are submitted to the municipality, the owner may appeal the failure to approve the plans or drawings to the Tribunal by filing with the clerk of the local municipality a notice of appeal accompanied by the fee charged by the Tribunal. 2017, c. 23, Sched. 3, s. 13 (1); 2021, c. 4, Sched. 6, s. 80 (1).

### **Appeal to Tribunal re requirement under subs. (7) or (8)**

(12.0.1) If the owner of the land is not satisfied with any requirement made by the municipality under subsection (7) or by the upper-tier municipality under subsection (8) or with any part thereof, including the terms of any agreement required, the owner may appeal the unsatisfactory requirements, or parts thereof, including the terms of any agreement required, to the Tribunal by filing with the clerk of the local municipality a notice of appeal accompanied by the fee charged by the Tribunal. 2017, c. 23, Sched. 3, s. 13 (1); 2021, c. 4, Sched. 6, s. 80 (1).

### **Record**

(12.0.2) If the clerk receives a notice of appeal under subsection (12) or (12.0.1), the clerk shall ensure that the following are forwarded to the Tribunal within 15 days after the notice is filed:

1. The notice of appeal.
2. The fee.
3. The plans and drawings submitted for approval under subsection (4).
4. In the case of an appeal under subsection (12.0.1), documents that set out the requirements made by the municipality under subsection (7) or by the upper-tier municipality under subsection (8), as the case may be. 2017, c. 23, Sched. 3, s. 13 (1).

### **Hearing**

(12.1) The Tribunal shall hear and determine the matter in issue and determine the details of the plans or drawings and determine the requirements, including the provisions of any agreement required. 2002, c. 17, Sched. B, s. 14 (5); 2017, c. 23, Sched. 3, s. 13 (2).

### **~~Classes of development, delegation~~**

~~(13) Where the council of a municipality has designated a site plan control area under this section, the council may, by by-law,~~

- ~~—(a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (4) or (5); and~~
- ~~—(b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause (a). R.S.O. 1990, c. P.13, s. 41 (13).~~

### **Classes of development, delegation**

(13) Where the council of a municipality has designated a site plan control area under this section, the council may, by by-law, define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (4) or (5).

### **Proviso**

(14) Section 35a of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as it existed on the 21st day of June, 1979, shall be deemed to continue in force in respect of any by-law passed under that section on or before that day. R.S.O. 1990, c. P.13, s. 41 (14).

### **Certain agreements declared valid and binding**

(15) Every agreement entered into by a municipality after the 16th day of December, 1973 and before the 22nd day of June, 1979, to the extent that the agreement deals with facilities and matters mentioned in subsection 35a (2) of *The Planning Act*, being chapter 349 of the Revised Statutes of Ontario, 1970, as it existed on the 21st day of June, 1979, is hereby declared to be valid and binding. R.S.O. 1990, c. P.13, s. 41 (15).

### **Transition**

(15.1) This section as it read immediately before the day subsection 7 (8) of Schedule 5 to the *More Homes for Everyone Act*, 2022 comes into force continues to apply with respect to plans and drawings that were submitted for approval under subsection (4) of this section before that day.

### **Same**

(15.2) This section as it read immediately before July 1, 2022 continues to apply with respect to plans and drawings that were submitted for approval under subsection (4) on or after the day subsection 7 (8) of Schedule 5 to the *More Homes for Everyone Act*, 2022 comes into force but before July 1, 2022.

## **City of Toronto**

(16) This section does not apply to the City of Toronto. 2017, c. 23, Sched. 3, s. 13 (3).

### **Section Amendments with date in force (d/m/y)**

1994, c. 4, s. 14 - 23/06/1994; 1994, c. 23, s. 24 (3) - 28/03/1995; 1996, c. 4, s. 24 (1-3) - 22/05/1996

2002, c. 9, s. 56 (1, 2) - 01/07/2005; 2002, c. 17, Sched. B, s. 14 (1-5) - 01/01/2003

2006, c. 23, s. 16 (1-11) - 01/01/2007; 2006, c. 32, Sched. C, s. 47 (8, 9) - 01/01/2007

2009, c. 33, Sched. 21, s. 10 (9) - 15/12/2009

2016, c. 25, Sched. 4, s. 5 - 12/04/2018

2017, c. 23, Sched. 3, s. 13 (1-3) - 03/04/2018; 2017, c. 23, Sched. 5, s. 80, 96 - 03/04/2018

2021, c. 4, Sched. 6, s. 80 (1) - 01/06/2021

### **Conveyance of land for park purposes**

#### **Definitions**

**42** (0.1) In this section,

“dwelling unit” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals; (“logement”)

“effective date” means July 1, 2016. (“date d’effet”) 2015, c. 26, s. 28 (1); 2020, c. 18, Sched. 17, s. 2 (1).

#### **Conveyance**

(1) As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land be conveyed to the municipality for park or other public recreational purposes. R.S.O. 1990, c. P.13, s. 42 (1).

#### **Commencement of by-law**

(2) A by-law passed under this section comes into force on the day it is passed or the day specified in the by-law, whichever is later. 2020, c. 18, Sched. 17, s. 2 (2).

#### **Alternative requirement**

(3) Subject to subsection (4), as an alternative to requiring the conveyance provided for in subsection (1), in the case of land proposed for development or redevelopment for residential purposes, the by-law may require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law. R.S.O. 1990, c. P.13, s. 42 (3).

#### **Consultation**

(3.1) Before passing a by-law under this section that provides for the alternative requirement authorized by subsection (3), the municipality shall consult with such persons and public bodies as the municipality considers appropriate. 2020, c. 18, Sched. 17, s. 2 (3).

#### **Exception, transit-oriented community land**

(3.2) Subsections (3.3) and (3.4) apply to land that is designated as transit-oriented community land under subsection 2 (1) of the *Transit-Oriented Communities Act, 2020*.

#### **Same, alternative requirement**

(3.3) A by-law that provides for the alternative requirement authorized by subsection (3) shall not require a conveyance or payment in lieu that is greater than,

(a) in the case of land proposed for development or redevelopment that is five hectares or less in area, 10 per cent of the land or the value of the land, as the case may be; and

(b) in the case of land proposed for development or redevelopment that is greater than five hectares in area, 15 per cent of the land or the value of the land, as the case may be.

#### **Deemed amendment of by-law**

(3.4) If a by-law passed under this section requires a conveyance or payment in lieu that exceeds the amount permitted by subsection (3.3), the by-law is deemed to be amended to be consistent with subsection (3.3).

#### **Official plan requirement**

(4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless there is an official plan in effect in the local municipality that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement. R.S.O. 1990, c. P.13, s. 42 (4).

#### **Parks plan**

(4.1) Before adopting the official plan policies described in subsection (4), the local municipality shall prepare and make available to the public a parks plan that examines the need for parkland in the municipality. 2015, c. 26, s. 28 (3).

#### **Same**

(4.2) In preparing the parks plan, the municipality,

- (a) shall consult with every school board that has jurisdiction in the municipality; and
- (b) may consult with any other persons or public bodies that the municipality considers appropriate. 2015, c. 26, s. 28 (3).

#### **Same**

(4.3) For greater certainty, subsection (4.1) and clause (4.2) (a) do not apply with respect to official plan policies adopted before the effective date. 2015, c. 26, s. 28 (3).

#### **Application, subss. (4.5) to (4.24)**

(4.4) Subsections (4.5) to (4.24) apply in respect of a by-law passed under this section or an amendment to such a by-law only if the by-law or amendment provides for the alternative requirement authorized by subsection (3). 2020, c. 18, Sched. 17, s. 2 (4).

#### **Notice of by-law and time for appeal**

(4.5) The clerk of a municipality that has passed a by-law under this section shall give written notice of the passing of the by-law, and of the last day for appealing the by-law, which shall be the day that is 40 days after the day the by-law is passed. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Requirements of notice**

(4.6) Notices required under subsection (4.5) must meet the prescribed requirements and shall be given in accordance with the regulations. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Same**

(4.7) Every notice required under subsection (4.5) must be given not later than 20 days after the day the by-law is passed. 2020, c. 18, Sched. 17, s. 2 (4).

#### **When notice given**

(4.8) A notice required under subsection (4.5) is deemed to have been given on the prescribed day. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Appeal of by-law after passed**

(4.9) Any person or public body may appeal a by-law passed under this section to the Tribunal by filing with the clerk of the municipality, on or before the last day for appealing the by-law, a notice of appeal setting out the objection to the by-law and the reasons supporting the objection. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Clerk's duty on appeal**

(4.10) If the clerk of the municipality receives a notice of appeal on or before the last day for appealing a by-law passed under this section, the clerk shall compile a record that includes,

- (a) a copy of the by-law certified by the clerk;
- (b) a copy of the parks plan referred to in subsection (4.1), if one exists;
- (c) an affidavit or declaration certifying that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Act; and
- (d) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed. 2020, c. 18, Sched. 17, s. 2 (4).

### **Same**

(4.11) The clerk shall forward a copy of the notice of appeal and the record to the Tribunal within 30 days after the last day for appealing the by-law and shall provide such other information or material as the Tribunal may require in respect of the appeal. 2020, c. 18, Sched. 17, s. 2 (4).

### **Affidavit, declaration conclusive evidence**

(4.12) An affidavit or declaration of the clerk of a municipality that notice of the passing of the by-law and of the last day for appealing it was given in accordance with this Act is conclusive evidence of the facts stated in the affidavit or declaration. 2020, c. 18, Sched. 17, s. 2 (4).

### **Tribunal hearing of appeal**

(4.13) The Tribunal shall hold a hearing to deal with any notice of appeal of a by-law passed under this section forwarded by the clerk of a municipality. 2020, c. 18, Sched. 17, s. 2 (4).

### **Notice**

(4.14) The Tribunal shall determine who shall be given notice of the hearing and in what manner. 2020, c. 18, Sched. 17, s. 2 (4).

### **Powers of Tribunal**

(4.15) After the hearing, the Tribunal may,

- (a) dismiss the appeal in whole or in part;
- (b) order the council of the municipality to amend the by-law as it relates to a requirement under subsection (3) or (6.0.1) in accordance with the Tribunal's order; or
- (c) amend the by-law as it relates to a requirement under subsection (3) or (6.0.1) in such manner as the Tribunal may determine. 2020, c. 18, Sched. 17, s. 2 (4).

### **Limitation on powers**

(4.16) The Tribunal may not amend or order the amendment of a by-law so as to,

- (a) increase the amount of parkland that will be required to be conveyed or payment in lieu that will be required to be paid in any particular case;
- (b) add or remove, or reduce the scope of, an exemption provided in the by-law; or
- (c) change the date, if any, the by-law will expire. 2020, c. 18, Sched. 17, s. 2 (4).

### **Dismissal without hearing**

(4.17) Despite subsection (4.13), the Tribunal may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing after notifying the appellant and giving the appellant an opportunity to make representations as to the merits of the appeal. 2020, c. 18, Sched. 17, s. 2 (4).

### **When Tribunal ordered amendments effective**

(4.18) The amendment of a by-law passed under this section by the Tribunal, or by the council of a municipality pursuant to an order of the Tribunal, is deemed to have come into force on the day the by-law came into force. 2020, c. 18, Sched. 17, s. 2 (4).

### **Refunds if Tribunal amends by-law, orders amendment**

(4.19) If the Tribunal amends a by-law passed under this section or orders the council of a municipality to amend a by-law passed under this section, the municipality shall refund,

- (a) in the case of a development or redevelopment that was subject to a requirement to convey land but not a requirement for a payment in lieu, the difference between the value of the land that was conveyed and the value of the land required to be conveyed under the by-law as amended;
- (b) in the case of a development or redevelopment that was subject to a requirement for a payment in lieu but not a requirement to convey land, the difference between the payment in lieu that was paid and the payment in lieu required under the by-law as amended; or
- (c) in the case of a development or redevelopment that was subject both to a requirement for a payment in lieu and to a requirement to convey land,



- (i) if the amount of land that was conveyed is greater than or equal to the amount of land required to be conveyed under the by-law as amended, the payment in lieu and the difference between the value of the land that was conveyed and the value of the land required to be conveyed under the by-law as amended, or
- (ii) if the amount of land that was conveyed is less than the amount of land required to be conveyed under the by-law as amended, the difference between the payment in lieu that was paid and the payment in lieu required under the by-law as amended. 2020, c. 18, Sched. 17, s. 2 (4).

#### **When refund due**

(4.20) If a municipality is required to make a refund under subsection (4.19), it shall do so,

- (a) if the Tribunal amends the by-law, within 30 days after the Tribunal's order; or
- (b) if the Tribunal orders the council of the municipality to amend the by-law, within 30 days after the amendment by the council. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Interest**

(4.21) The municipality shall pay interest on an amount it refunds, at a rate not less than the prescribed minimum interest rate, from the day the amount was paid to the municipality or, where land was required to be conveyed, the day the building permit was issued in respect of the development or redevelopment, to the day the amount is refunded. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Same, more than one building permit**

(4.22) If more than one building permit was required for the development or redevelopment in respect of which an amount is being refunded, the municipality shall pay interest, at a rate not less than the prescribed minimum interest rate, from the day the first permit was issued for the development or redevelopment to the day the amount is refunded. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Application of specified provisions to by-law amendments**

(4.23) Subsections (2), (3.1) and (4.5) to (4.22) apply, with necessary modifications, to an amendment to a by-law passed under this section other than an amendment by, or pursuant to an order of, the Tribunal. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Limitation of Tribunal powers**

(4.24) In an appeal of an amendment to a by-law passed under this section, the Tribunal may exercise its powers only in relation to the amendment. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Non-application**

(4.25) For greater certainty, subsections (3.1) and (4.5) to (4.24) do not apply to a by-law passed under this section or an amendment to a by-law passed under this section before the day subsection 2 (5) of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* comes into force. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Transition, expiry of by-law**

(4.26) A by-law passed under this section that is in force on the day subsection 2 (5) of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* comes into force and that provides for the alternative requirement authorized by subsection (3) expires on the specified date for the purposes of section 9.1 of the *Development Charges Act, 1997* unless it is repealed earlier. 2020, c. 18, Sched. 17, s. 2 (4).

#### **Encumbered land, identification by Minister of Infrastructure**

(4.27) The Minister of Infrastructure may, by order, identify land as encumbered land for the purposes of subsection (4.28) if,

(a) the land is designated as transit-oriented community land under subsection 2 (1) of the *Transit-Oriented Communities Act, 2020*;

(b) the land is,

(i) part of a parcel of land that abuts one or more other parcels of land on a horizontal plane only,

(ii) subject to an easement or other restriction, or

(iii) encumbered by below grade infrastructure; and

(c) in the opinion of the Minister of Infrastructure, the land is capable of being used for park or other public recreational purposes.

#### **Same, conveyance of described land**

(4.28) If land proposed for development or redevelopment includes land identified as encumbered land in an order under subsection (4.27), the encumbered land,

(a) shall be conveyed to the local municipality for park or other public recreational purposes; and

(b) despite any provision in a by-law passed under this section, shall be deemed to count towards any requirement, set out in the by-law, applicable to the development or redevelopment.

### **Same, non-application of *Legislation Act, 2006*, Part III**

(4.29) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made under subsection (4.27).

### **Use and sale of land**

(5) Land conveyed to a municipality under this section shall be used for park or other public recreational purposes, but may be sold at any time. R.S.O. 1990, c. P.13, s. 42 (5).

### **Payment in lieu**

(6) If a rate authorized by subsection (1) applies, the council may require a payment in lieu, to the value of the land otherwise required to be conveyed. 2015, c. 26, s. 28 (4).

### **Same**

(6.0.1) If a rate authorized by subsection (3) applies, the council may require a payment in lieu, calculated by using a rate of one hectare for each 500 dwelling units proposed or such lesser rate as may be specified in the by-law. 2015, c. 26, s. 28 (4).

### **Deemed amendment of by-law**

(6.0.2) If a by-law passed under this section requires a payment in lieu that exceeds the amount calculated under subsection (6.0.1), in circumstances where the alternative requirement set out in subsection (3) applies, the by-law is deemed to be amended to be consistent with subsection (6.0.1). 2015, c. 26, s. 28 (4).

### **Transition**

(6.0.3) If, on or before the effective date, in circumstances where the alternative requirement set out in subsection (3) applies, a payment in lieu has been made or arrangements for a payment in lieu that are satisfactory to the council have been made, subsections (6.0.1) and (6.0.2) do not apply. 2015, c. 26, s. 28 (4).

### **No building without payment**

(6.1) If a payment is required under subsection (6) or (6.0.1), no person shall construct a building on the land proposed for development or redevelopment unless the payment has been made or arrangements for the payment that are satisfactory to the council have been made. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (5).

### **Redevelopment, reduction of payment**

(6.2) If land in a local municipality is proposed for redevelopment, a part of the land meets sustainability criteria set out in the official plan and the conditions set out in subsection (6.3) are met, the council shall reduce the amount of any payment required under subsection (6) or (6.0.1) by the value of that part. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (6).

### **Same**

(6.3) The conditions mentioned in subsection (6.2) are:

1. The official plan contains policies relating to the reduction of payments required under subsection (6) or (6.0.1).
2. No land is available to be conveyed for park or other public recreational purposes under this section. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (7).

### **Determination of value**

(6.4) For the purposes of subsections (4.19), (6), (6.0.1) and (6.2), the value of the land shall be determined as of the day before the day the building permit is issued in respect of the development or redevelopment or, if more than one building permit is required for the development or redevelopment, as of the day before the day the first permit is issued. 2006, c. 23, s. 17 (1); 2015, c. 26, s. 28 (8); 2020, c. 18, Sched. 17, s. 2 (5).

### **Where land conveyed**

(7) If land has been conveyed or is required to be conveyed to a municipality for park or other public purposes or a payment in lieu has been received by the municipality or is owing to it under this section or a condition imposed under section 51.1 or 53, no additional conveyance or payment in respect of the land subject to the earlier conveyance or payment may be required by a municipality in respect of subsequent development or redevelopment unless,

- (a) there is a change in the proposed development or redevelopment which would increase the density of development; or
- (b) land originally proposed for development or redevelopment for commercial or industrial purposes is now proposed for development or redevelopment for other purposes. 1994, c. 23, s. 25; 2015, c. 26, s. 28 (9).

#### **Non-application**

(8) Despite clauses 74.1 (2) (h) and (i), subsection (7) does not apply to land proposed for development or redevelopment if, before this subsection comes into force, the land was subject to a condition that land be conveyed to a municipality for park or other public purposes or that a payment of money in lieu of such conveyance be made under this section or under section 51 or 53. 1994, c. 23, s. 25.

#### **Changes**

(9) If there is a change under clause (7) (a) or (b), the land that has been conveyed or is required to be conveyed or the payment of money that has been received or that is owing, as the case may be, shall be included in determining the amount of land or payment of money in lieu of it that may subsequently be required under this section on the development, further development or redevelopment of the lands or part of them in respect of which the original conveyance or payment was made. 1994, c. 23, s. 25.

#### **Disputes**

(10) In the event of a dispute between a municipality and an owner of land on the value of land determined under subsection (6.4), either party may apply to the Tribunal to have the value determined and the Tribunal shall, in accordance as nearly as may be with the *Expropriations Act*, determine the value of the land and, if a payment has been made under protest under subsection (12), the Tribunal may order that a refund be made to the owner. 2017, c. 23, Sched. 5, s. 97 (1).

#### **Same, refund following appeal if by-law is amended**

(10.1) In the event of a dispute between a municipality and an owner of land as to the value of land for the purposes of subsection (4.19),

- (a) the municipality shall pay the owner the amount it considers to be owed under that subsection in accordance with subsection (4.20); and
- (b) the owner shall, no later than 30 days after receiving payment, apply to the Tribunal to have the value determined for the purpose of that subsection. 2020, c. 18, Sched. 17, s. 2 (6).

#### **Same**

(10.2) An owner of land who applies to the Tribunal under subsection (10.1) shall give notice of the application to the municipality within 15 days after the application is made. 2020, c. 18, Sched. 17, s. 2 (6).

#### **Same**

(10.3) On an application under subsection (10.1), the Tribunal shall, in accordance as nearly as may be with the *Expropriations Act*, determine the value of the land. 2020, c. 18, Sched. 17, s. 2 (6).

#### **Same**

(11) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money that may be required under subsection (9), either party may apply to the Tribunal and the Tribunal shall make a final determination of the matter. 2017, c. 23, Sched. 5, s. 97 (1).

#### **Payment under protest**

(12) If there is a dispute between a municipality and the owner of land under subsection (10), the owner may pay the amount required by the municipality under protest and shall make an application to the Tribunal under subsection (10) within 30 days of the payment of the amount. 1994, c. 23, s. 25; 2017, c. 23, Sched. 5, s. 97 (2).

#### **Notice**

(13) If an owner of land makes a payment under protest and an application to the Tribunal under subsection (12), the owner shall give notice of the application to the municipality within 15 days after the application is made. 1994, c. 23, s. 25; 2017, c. 23, Sched. 5, s. 97 (3).

#### **Park purposes**

(14) The council of a municipality may include in its estimates an amount to be used for the acquisition of land to be used for park or other public recreational purposes and may pay into the fund provided for in subsection (15) that amount, and any person may pay any sum into the same fund. 1994, c. 23, s. 25.

### **Special account**

(15) All money received by the municipality under subsections (6), (6.0.1) and (14) and all money received on the sale of land under subsection (5), less any amount spent by the municipality out of its general funds in respect of the land, shall be paid into a special account and spent only for the acquisition of land to be used for park or other public recreational purposes, including the erection, improvement or repair of buildings and the acquisition of machinery for park or other public recreational purposes. 1994, c. 23, s. 25; 2009, c. 33, Sched. 21, s. 10 (10); 2015, c. 26, s. 28 (10).

### **Investments**

(16) The money in the special account may be invested in securities in which the municipality is permitted to invest under the *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, and the earnings derived from the investment of the money shall be paid into the special account, and the auditor in the auditor's annual report shall report on the activities and status of the account. 1994, c. 23, s. 25; 1996, c. 32, s. 82 (5); 2002, c. 17, Sched. B, s. 15; 2006, c. 32, Sched. C, s. 47 (10).

### **Reports and information**

(17) A council of a municipality that passes a by-law under this section shall provide the prescribed reports and information to the prescribed persons or classes of persons at such times, in such manner and in accordance with such other requirements as may be prescribed. 2019, c. 9, Sched. 12, s. 12 (9).

(18)-(20) REPEALED: 2019, c. 9, Sched. 12, s. 12 (9).

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### **Plan of subdivision approvals**

51 (1), (2) REPEALED: 2002, c. 17, Sched. B, s. 19 (1).

### **Minister is approval authority**

(3) Except as otherwise provided in this section, the Minister is the approval authority for the purposes of this section and section 51.1. 1999, c. 12, Sched. M, s. 28 (1).

### **Deemed approval authority**

(3.1) If the Minister has delegated any authority under this section to a council or planning board, in accordance with section 4, the council or planning board is deemed to be the approval authority in respect of the land to which the delegation applies for the purposes of this section and section 51.1. 2009, c. 33, Sched. 21, s. 10 (12).

### **Single-tier municipality**

(4) If land is in a single-tier municipality that is not in a territorial district, the single-tier municipality is the approval authority for the purposes of this section and section 51.1, except as otherwise prescribed. 2002, c. 17, Sched. B, s. 19 (2).

### **Upper-tier municipality**

(5) Subject to subsection (6), if land is in an upper-tier municipality with an approved official plan, the upper-tier municipality is the approval authority for the purposes of this section and section 51.1. 2002, c. 17, Sched. B, s. 19 (3).

### **Timing, upper-tier as approval authority**

(5.1) On the day that all or part of a plan that covers all of an upper-tier municipality comes into effect as the official plan of the municipality, the upper-tier municipality is the approval authority under subsection (5). 2002, c. 17, Sched. B, s. 19 (3).

### **Prescribed lower-tier municipality**

(6) If land is in a prescribed lower-tier municipality, the lower-tier municipality is the approval authority for the purposes of this section and section 51.1. 2002, c. 17, Sched. B, s. 19 (3).

### **Prescribed single-tier municipality in a territorial district**

(7) If land is in a prescribed single-tier municipality that is in a territorial district, the municipality is the approval authority for the purposes of this section and section 51.1. 2002, c. 17, Sched. B, s. 19 (3).

(8)-(10) REPEALED: 2002, c. 17, Sched. B, s. 19 (4).

### **Removal of power**

(11) The Minister may by order, accompanied by a written explanation for it, remove the power given under subsection (3.1), (4), (5), (6) or (7) and the order may be in respect of the applications specified in the order or in respect of any or all applications made after the order is made. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (2); 2002, c. 17, Sched. B, s. 19 (5); 2009, c. 33, Sched. 21, s. 10 (13).

### **Minister to be approval authority**

(12) If an order is made under subsection (11), the Minister becomes the approval authority in respect of the applications to which the order relates and the council of the former approval authority shall forward to the Minister all papers, plans, documents and other material that relate to any matter in respect of which the power was removed and of which a final disposition was not made by the council before the power was removed. 1994, c. 23, s. 30.

### **Revocation**

(13) If the Minister revokes the order or part of the order made under subsection (11), the council reverts back to being the approval authority in respect of all applications to which the revoked order or revoked part of the order applied. 1994, c. 23, s. 30; 2021, c. 25, Sched. 24, s. 3 (1).

### **Delegation**

(14) If an order is made under subsection (11) in respect of land that is located in a municipal planning area, the Minister may by order delegate to the municipal planning authority the power to approve proposed plans of subdivision which was removed from the council and the municipal planning authority becomes the approval authority in respect of the applications to which the order made under this subsection relates and the delegation may be subject to such conditions as the order provides. 1994, c. 23, s. 30.

### **Effect of revocation**

(15) If the Minister revokes the order or part of the order made under subsection (14), the Minister reverts back to being the approval authority in respect of all applications to which the revoked order or revoked part of the order applies and the municipal planning authority shall forward to the Minister all papers, plans, documents and other material that relate to any matter to which the revoked order or part of the order applies and of which a final disposition was not made by the municipal planning authority before the order or part of the order was revoked. 1994, c. 23, s. 30.

### **Application**

(16) An owner of land or the owner's agent duly authorized in writing may apply to the approval authority for approval of a plan of subdivision of the land or part of it. 1994, c. 23, s. 30.

### **Consultation**

(16.1) The approval authority,

- (a) shall permit applicants to consult with it before submitting applications under subsection (16); and
- (b) in the case of an approval authority that is a municipality, may, by by-law, require applicants to consult with it as described in clause (a). 2006, c. 23, s. 22 (1).

### **Contents**

(17) The applicant shall provide the approval authority with the prescribed information and material and as many copies as may be required by the approval authority of a draft plan of the proposed subdivision drawn to scale and showing,

- (a) the boundaries of the land proposed to be subdivided, certified by an Ontario land surveyor;
- (b) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;
- (c) on a small key plan, on a scale of not less than one centimetre to 100 metres, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which the applicant has an interest, every subdivision adjacent to the proposed subdivision and the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which the land forms the whole or part;
- (d) the purpose for which the proposed lots are to be used;
- (e) the existing uses of all adjoining lands;
- (f) the approximate dimensions and layout of the proposed lots;

- (f.1) if any affordable housing units are being proposed, the shape and dimensions of each proposed affordable housing unit and the approximate location of each proposed affordable housing unit in relation to other proposed residential units;
- (g) natural and artificial features such as buildings or other structures or installations, railways, highways, watercourses, drainage ditches, wetlands and wooded areas within or adjacent to the land proposed to be subdivided;
- (h) the availability and nature of domestic water supplies;
- (i) the nature and porosity of the soil;
- (j) existing contours or elevations as may be required to determine the grade of the highways and the drainage of the land proposed to be subdivided;
- (k) the municipal services available or to be available to the land proposed to be subdivided; and
- (l) the nature and extent of any restrictions affecting the land proposed to be subdivided, including restrictive covenants or easements. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (3); 2016, c. 25, Sched. 4, s. 8 (1).

#### **Other information**

(18) An approval authority may require that an applicant provide any other information or material that the approval authority considers it may need, but only if the official plan contains provisions relating to requirements under this subsection. 2006, c. 23, s. 22 (2).

#### **Refusal and timing**

(19) Until the approval authority has received the information and material required under subsections (17) and (18), if any, and any fee under section 69 or 69.1,

- (a) the approval authority may refuse to accept or further consider the application; and
- (b) the time period referred to in subsection (34) does not begin. 2006, c. 23, s. 22 (2).

#### **Response re completeness of application**

(19.1) Within 30 days after the applicant pays any fee under section 69 or 69.1, the approval authority shall notify the applicant and the clerk of the local municipality in which the land is located or the secretary-treasurer of the planning board in whose planning area the land is located that the information and material required under subsections (17) and (18), if any, have been provided, or that they have not been provided, as the case may be. 2006, c. 23, s. 22 (2); 2021, c. 25, Sched. 24, s. 3 (2).

#### **Motion re dispute**

(19.2) Within 30 days after a negative notice is given under subsection (19.1), the applicant or the approval authority may make a motion for directions to have the Tribunal determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (18) is reasonable. 2017, c. 23, Sched. 5, s. 99 (1).

#### **Same**

(19.3) If the approval authority does not give any notice under subsection (19.1), the applicant may make a motion under subsection (19.2) at any time after the 30-day period described in subsection (19.1) has elapsed. 2006, c. 23, s. 22 (2).

#### **Alternative measures**

(19.3.1) Subject to subsection (19.3.3), if the official plan sets out alternative measures for informing and obtaining the views of the public in respect of proposed plans of subdivision and if the measures are complied with, clause (19.4) (a) and subsections (19.4.1) and (20) to (21) do not apply. 2015, c. 26, s. 31 (1); 2021, c. 25, Sched. 24, s. 3 (3).

#### **Same**

(19.3.2) In the course of preparing the official plan, before including alternative measures described in subsection (19.3.1), the council shall consider whether it would be desirable for the measures to allow for notice of the proposed plans of subdivision to the prescribed persons and public bodies mentioned in clause (19.4) (a). 2015, c. 26, s. 31 (1).

#### **Restriction**

(19.3.3) Subsection (19.3.1) applies only in the case of an application for approval that is made to an approval authority other than the Minister. 2015, c. 26, s. 31 (1).



### **Notice of particulars and public access**

(19.4) Subject to subsection (19.4.1), within 15 days after the approval authority gives an affirmative notice under subsection (19.1), or within 15 days after the Tribunal advises the approval authority and the clerk or secretary-treasurer of its affirmative decision under subsection (19.2), the approval authority shall ensure that,

- (a) the prescribed persons and public bodies are given notice of the application, in the prescribed manner, and that the notice is accompanied by the prescribed information; and
- (b) the information and material provided under subsections (17) and (18) are made available to the public. 2021, c. 25, Sched. 24, s. 3 (4).

### **Exception**

(19.4.1) Subsection (19.4) does not apply if the land that is the subject of the application is not located in a municipality or in the planning area of a planning board. 2021, c. 25, Sched. 24, s. 3 (4).

### **Request by approval authority**

(19.4.2) An approval authority may request that a local municipality or a planning board having jurisdiction over the land that is proposed to be subdivided give the notice of the application referred to in clause (19.4) (a) and make the information and material referred to in clause (19.4) (b) available to the public. 2021, c. 25, Sched. 24, s. 3 (4).

### **Responsibilities**

(19.4.3) A local municipality or planning board that is requested under subsection (19.4.2) to give notice of the application shall ensure that the notice is given in accordance with clause (19.4) (a). 2021, c. 25, Sched. 24, s. 3 (4).

### **Final determination**

(19.5) The Tribunal's determination under subsection (19.2) is not subject to appeal or review. 2017, c. 23, Sched. 5, s. 99 (1).

### **Public meeting**

(20) Before a decision is made by an approval authority under subsection (31), the approval authority shall ensure that a public meeting is held, if required by regulation, for the purpose of giving the public an opportunity to make representations in respect of the proposed subdivision. 2021, c. 25, Sched. 24, s. 3 (5).

### **Notice of meeting**

(20.1) Notice of the public meeting required under subsection (20),

- (a) shall be given to the prescribed persons and public bodies, in the prescribed manner; and
- (b) shall be accompanied by the prescribed information. 2021, c. 25, Sched. 24, s. 3 (5).

### **Participation in public meeting**

(20.2) Every person who attends a public meeting referred to in subsection (20) shall be given an opportunity to make representations in respect of the proposed subdivision. 2021, c. 25, Sched. 24, s. 3 (5).

### **Information**

(20.3) At a public meeting referred to in subsection (20), the approval authority shall ensure that information is made available to the public regarding who is entitled to appeal under subsections (34), (39), (43) and (48). 2021, c. 25, Sched. 24, s. 3 (5).

### **Transition**

(20.4) For clarity, subsections (20.2) and (20.3) do not apply with respect to a public meeting held before the day those subsections came into force. 2021, c. 25, Sched. 24, s. 3 (5).

### **Request**

(21) An approval authority may request that a local municipality or a planning board having jurisdiction over the land that is proposed to be subdivided hold the public meeting referred to in subsection (20). 2019, c. 9, Sched. 12, s. 14 (1).

### **Responsibilities**

(21.1) A local municipality or planning board that is requested to hold the public meeting referred to in subsection (20) shall ensure that,

- (a) notice of the meeting is given in accordance with subsection (20.1);

- (b) the public meeting is held in accordance with subsections (20), (20.2) and (20.3); and
- (c) the prescribed information and material are submitted to the approval authority within 15 days after the meeting is held. 2019, c. 9, Sched. 12, s. 14 (1); 2021, c. 25, Sched. 24, s. 3 (6).

(21.2) REPEALED: 2019, c. 9, Sched. 12, s. 14 (1).

#### **Written submissions**

(22) Any person or public body may make written submissions to the approval authority before the approval authority makes its decision under subsection (31). 1994, c. 23, s. 30.

#### **Consultation**

(23) The approval authority may confer with the persons or public bodies that the approval authority considers may have an interest in the approval of the proposed subdivision. 1994, c. 23, s. 30.

#### **Criteria**

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

#### **Conditions**

(25) The approval authority may impose such conditions to the approval of a plan of subdivision as in the opinion of the approval authority are reasonable, having regard to the nature of the development proposed for the subdivision, including a requirement,

- (a) that land be dedicated or other requirements met for park or other public recreational purposes under section 51.1;
- (b) that such highways, including pedestrian pathways, bicycle pathways and public transit rights of way, be dedicated as the approval authority considers necessary;
- (b.1) that such land be dedicated for commuter parking lots, transit stations and related infrastructure for the use of the general public using highways, as the approval authority considers necessary;

- (c) when the proposed subdivision abuts on an existing highway, that sufficient land, other than land occupied by buildings or structures, be dedicated to provide for the widening of the highway to such width as the approval authority considers necessary;
- (d) that the owner of the land proposed to be subdivided enter into one or more agreements with a municipality, or where the land is in territory without municipal organization, with any minister of the Crown in right of Ontario or planning board dealing with such matters as the approval authority may consider necessary, including the provision of municipal or other services; and
- (e) in the case of an application for approval of a description or an amendment to a description, as referred to in subsection 9 (2) of the *Condominium Act, 1998*, if the condominium will contain affordable housing units and if a shared facilities agreement will be entered into with respect to the condominium, whether under section 21.1 of that Act or otherwise, that the shared facilities agreement be satisfactory to the approval authority. 1994, c. 23, s. 30; 2005, c. 26, Sched. B, s. 1; 2006, c. 23, s. 22 (5); 2016, c. 25, Sched. 4, s. 8 (3).

#### Same, exception

(25.1) With respect to an application made on or after the day a regulation made pursuant to this subsection comes into force, despite subsection (25), the approval authority may not impose conditions respecting any prescribed matters.

#### **Agreements**

(26) A municipality or approval authority, or both, may enter into agreements imposed as a condition to the approval of a plan of subdivision and the agreements may be registered against the land to which it applies and the municipality or the approval authority, as the case may be, is entitled to enforce the provisions of it against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 1994, c. 23, s. 30.

#### **Land outside municipalities**

(27) If the land proposed to be subdivided is located in territory without municipal organization, any minister of the Crown in right of Ontario or planning board may enter into agreements imposed as a condition to the approval of a plan of subdivision and the agreement may be registered against the land to which it applies and the minister or the planning board is entitled to enforce the provisions of it against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of land. 1994, c. 23, s. 30.

(28)-(30) REPEALED: 1996, c. 4, s. 28 (5).

#### **Decision**

(31) The approval authority may give or refuse to give approval to a draft plan of subdivision. 1994, c. 23, s. 30.

#### **Lapse of approval**

(32) In giving approval to a draft plan of subdivision, the approval authority may provide that the approval lapses at the expiration of the time period specified by the approval authority, being not less than three years, and the approval shall lapse at the expiration of the time period, but if there is an appeal under subsection (39) the time period specified for the lapsing of approval does not begin until the date the Tribunal's decision is issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (51). 2017, c. 23, Sched. 5, s. 99 (1).

#### **Extension**

~~(33) The approval authority may extend the approval for a time period specified by the approval authority and may further extend it but no extension is permissible if the approval lapses before the extension is given. 1994, c. 23, s. 30.~~

#### Extension

(33) The approval authority may extend the approval for a time period specified by the approval authority, but no extension under this subsection is permissible if the approval lapses before the extension is given, even if the approval has been deemed not to have lapsed under subsection (33.1).

#### Deemed not to have lapsed

(33.1) If an approval of a plan of subdivision lapses before an extension is given, the approval authority may deem the approval not to have lapsed unless,

- (a) five or more years have passed since the approval lapsed;
- (b) the approval has previously been deemed not to have lapsed under this subsection; or

(c) an agreement had been entered into for the sale of the land by a description in accordance with the draft approved plan of subdivision.

#### **Same**

(33.2) Before an approval is deemed not to have lapsed under subsection (33.1), the owner of the land proposed to be subdivided shall provide the approval authority with an affidavit or sworn declaration certifying that no agreement had been entered into for the sale of any land by a description in accordance with the draft approved plan of subdivision.

#### **Same, new time period**

(33.3) If an approval authority deems an approval not to have lapsed under subsection (33.1), the approval authority shall provide that the approval lapses at the expiration of the time period specified by the approval authority.

#### **Appeal to Tribunal**

(34) If an application is made for approval of a plan of subdivision and the approval authority fails to make a decision under subsection (31) on it within 120 days after the day the application is received by the approval authority, the applicant may appeal to the Tribunal with respect to the proposed subdivision by filing a notice with the approval authority, accompanied by the fee charged by the Tribunal. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (6); 2004, c. 18, s. 8; 2017, c. 23, Sched. 5, ss. 80, 81; 2019, c. 9, Sched. 12, s. 14 (2); 2021, c. 4, Sched. 6, s. 80 (1).

#### **Consolidated hearing**

(34.1) Despite section 21 of the *Ontario Land Tribunal Act, 2021*, the proponent of an undertaking, as those terms are defined in that section, shall not give notice to the Tribunal in respect of an application for approval of a draft plan of subdivision unless the approval authority has given or refused to give approval to the draft plan of subdivision or the time period referred to in subsection (34) has expired. 2021, c. 4, Sched. 6, s. 80 (7).

#### **Record**

(35) An approval authority that receives a notice of appeal under subsection (34) shall ensure that,

- (a) a record is compiled which includes the prescribed information and material;
- (b) the record, the notice of appeal and the fee are forwarded to the Tribunal within 15 days after the notice is filed; and
- (c) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (7); 2017, c. 23, Sched. 5, s. 99 (2); 2021, c. 25, Sched. 24, s. 3 (7).

#### **Exception**

(35.1) Despite clause (35) (b), if all appeals under subsection (34) are withdrawn within 15 days after the first notice of appeal is filed, the approval authority is not required to forward the materials described under clause (35) (b) to the Tribunal. 1999, c. 12, Sched. M, s. 28 (3); 2015, c. 26, s. 31 (2); 2017, c. 23, Sched. 5, s. 99 (3).

#### **Where all appeals withdrawn**

(35.2) If all appeals under subsection (34) are withdrawn within 15 days after the first notice of appeal is filed, the approval authority may proceed to make a decision under subsection (31). 1999, c. 12, Sched. M, s. 28 (3); 2015, c. 26, s. 31 (3).

#### **Withdrawal**

(36) If an appeal under subsection (34) is withdrawn, the Tribunal shall notify the approval authority and the approval authority may proceed to make a decision under subsection (31). 1994, c. 23, s. 30; 2017, c. 23, Sched. 5, s. 80.

#### **Notice**

(37) If the approval authority gives or refuses to give approval to a draft plan of subdivision, the approval authority shall, within 15 days of its decision, give written notice of it in the prescribed manner to,

- (a) the applicant;
- (b) each person or public body that made a written request to be notified of the decision;
- (c) a municipality or a planning board for a planning area in which the land to be subdivided is situated; and
- (d) any other person or public body that is prescribed. 2015, c. 26, s. 31 (4).

#### **Contents**

(38) The notice under subsection (37) shall contain,

- (a) a brief explanation of the effect, if any, that the written and oral submissions mentioned in subsection (38.1) had on the decision; and
- (b) any other information that is prescribed. 2015, c. 26, s. 31 (4).

#### **Written and oral submissions**

(38.1) Clause (38) (a) applies to,

- (a) any written submissions relating to the draft plan of subdivision that were made to the approval authority before its decision; and
- (b) any oral submissions relating to the draft plan of subdivision that were made at a public meeting. 2015, c. 26, s. 31 (4).

#### **Exception**

(38.2) If the notice under subsection (37) is given by the Minister and he or she is also giving notice of the matter in accordance with section 36 of the *Environmental Bill of Rights, 1993*, the brief explanation referred to in clause (38) (a) is not required. 2015, c. 26, s. 31 (4).

(38) REPEALED: 1996, c. 4, s. 28 (9).

#### **Appeal**

(39) Subject to subsection (43), not later than 20 days after the day that the giving of notice under subsection (37) is completed, any of the following may appeal the decision, the lapsing provision or any of the conditions to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged by the Tribunal:

1. The applicant.
2. A public body that, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority.
- 2.1 A person listed in subsection (48.3) who, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority.
3. The Minister.
4. The municipality in which the land is located or the planning board in whose planning area the land is located.
5. If the land is not located in a municipality or in the planning area of a planning board, any person or public body. 2006, c. 23, s. 22 (8); 2017, c. 23, Sched. 5, ss. 80, 81; 2019, c. 9, Sched. 12, s. 14 (3, 4); 2021, c. 4, Sched. 6, s. 80 (1).

#### **Restriction**

(39.1) Despite subsection (39), there is no appeal in respect of a part of the decision, or a condition, that gives effect to a policy described in subsection 16 (4). 2016, c. 25, Sched. 4, s. 8 (4).

#### **Exception re Minister**

(39.2) Subsection (39.1) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 8 (4).

#### **Notice completed**

(40) For the purpose of subsections (39) and (49), the giving of written notice shall be deemed to be completed,

- (a) where notice is given by personal service, on the day that the serving of all required notices is completed;
- (a.1) where notice is given by e-mail, on the day that the sending by e-mail of all required notices is completed;
- (b) where notice is given by mail, on the day that the mailing of all required notices is completed; and
- (c) where notice is given by telephone transmission of a facsimile of the notice, on the day that the transmission of all required notices is completed. 1994, c. 23, s. 30; 2015, c. 26, s. 31 (5).

#### **No appeal**

(41) If no appeal is filed under subsection (39) or (48), subject to any other right of appeal that may be exercised under this section and subject to subsection (44), the decision of the approval authority to give or to refuse to give approval to a draft plan of subdivision shall be deemed to have been made on the day after the last day for appealing the decision. 1994, c. 23, s. 30.

## **Declaration**

(42) A sworn declaration by an employee of the approval authority that notice was given as required by subsection (37) or (45) or that no notice of appeal was filed under subsection (39) or (48) within the time allowed for appeal is conclusive evidence of the facts stated in it. 1994, c. 23, s. 30.

## **Appeal**

(43) At any time before the approval of the final plan of subdivision under subsection (58), any of the following may appeal any of the conditions to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged by the Tribunal:

1. The applicant.
2. A public body that, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority.
- 2.1 A person listed in subsection (48.3) who, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority.
3. The Minister.
4. The municipality in which the land is located or the planning board in whose planning area the land is located.
5. If the land is not located in a municipality or in the planning area of a planning board, any public body. 2006, c. 23, s. 22 (9); 2017, c. 23, Sched. 5, ss. 80, 81; 2019, c. 9, Sched. 12, s. 14 (5); 2021, c. 4, Sched. 6, s. 80 (1).

## **Restriction**

(43.1) Despite subsection (43), there is no appeal in respect of a condition that gives effect to a policy described in subsection 16 (4). 2016, c. 25, Sched. 4, s. 8 (5).

## **Exception re Minister**

(43.2) Subsection (43.1) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 8 (5).

## **Withdrawal of approval**

(44) The approval authority may, in its discretion, withdraw the approval of a draft plan of subdivision or change the conditions of such approval at any time before the approval of the final plan of subdivision under subsection (58). 1994, c. 23, s. 30.

## **Notice**

(45) If the approval authority changes the conditions to the approval of a plan of subdivision under subsection (44) after notice has been given under subsection (37), the approval authority shall, within 15 days of its decision, give written notice of the changes in the prescribed manner and containing the information prescribed to,

- (a) the applicant;
- (b) REPEALED: 1996, c. 4, s. 28 (11).
- (c) each person or public body that made a written request to be notified of changes to the conditions;
- (d) a municipality or a planning board for a planning area in which the land to be subdivided is situate; and
- (e) any other person or public body prescribed. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (11); 2000, c. 26, Sched. K, s. 5 (5); 2015, c. 26, s. 31 (6).

(46) REPEALED: 1996, c. 4, s. 28 (12).

## **No notice**

(47) An approval authority is not required to give written notice under subsection (45) if, in the opinion of the approval authority, the change to conditions is minor. 1994, c. 23, s. 30.

## **Appeal**

(48) Any of the following may appeal any of the changed conditions imposed by the approval authority to the Tribunal by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee charged by the Tribunal:

1. The applicant.



2. A public body that, before the approval authority gave approval to the draft plan of subdivision, made oral submissions at a public meeting or written submissions to the approval authority or made a written request to be notified of changes to the conditions.
- 2.1 A person listed in subsection (48.3) who, before the approval authority gave approval to the draft plan of subdivision, made oral submissions at a public meeting or written submissions to the approval authority or made a written request to be notified of changes to the conditions.
3. The Minister.
4. The municipality in which the land is located or the planning board in whose planning area the land is located.
5. If the land is not located in a municipality or in the planning area of a planning board, any person or public body. 2006, c. 23, s. 22 (10); 2017, c. 23, Sched. 5, ss. 80, 81; 2019, c. 9, Sched. 12, s. 14 (6, 7); 2021, c. 4, Sched. 6, s. 80 (1).

### **Restriction**

(48.1) Despite subsection (48), there is no appeal in respect of a changed condition that gives effect to a policy described in subsection 16 (4). 2016, c. 25, Sched. 4, s. 8 (6).

### **Exception re Minister**

(48.2) Subsection (48.1) does not apply to an appeal by the Minister. 2016, c. 25, Sched. 4, s. 8 (6).

### **Persons referred to in para. 2.1 of subs. (39), etc.**

(48.3) The following are listed for the purposes of paragraph 2.1 of subsection (39), paragraph 2.1 of subsection (43) and paragraph 2.1 of subsection (48):

1. A corporation operating an electric utility in the local municipality or planning area to which the plan of subdivision would apply.
2. Ontario Power Generation Inc.
3. Hydro One Inc.
4. A company operating a natural gas utility in the local municipality or planning area to which the plan of subdivision would apply.
5. A company operating an oil or natural gas pipeline in the local municipality or planning area to which the plan of subdivision would apply.
6. A person required to prepare a risk and safety management plan in respect of an operation under Ontario Regulation 211/01 (Propane Storage and Handling) made under the *Technical Standards and Safety Act, 2000*, if any part of the distance established as the hazard distance applicable to the operation and referenced in the risk and safety management plan is within the area to which the plan of subdivision would apply.
7. A company operating a railway line any part of which is located within 300 metres of any part of the area to which the plan of subdivision would apply.
8. A company operating as a telecommunication infrastructure provider in the area to which the plan of subdivision would apply. 2019, c. 9, Sched. 12, s. 14 (8).

### **Restriction**

(49) If the person appealing the changed conditions is other than the applicant or a public body, the appeal must be filed not later than 20 days after the day that the giving of written notice under subsection (45) is completed. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (13).

### **Use of dispute resolution techniques**

(49.1) When a notice of appeal is filed under subsection (39), (43) or (48), the approval authority may use mediation, conciliation or other dispute resolution techniques to attempt to resolve the dispute. 2015, c. 26, s. 31 (7).

### **Notice and invitation**

(49.2) If the approval authority decides to act under subsection (49.1),

- (a) it shall give a notice of its intention to use dispute resolution techniques to all the appellants; and
- (b) it shall give an invitation to participate in the dispute resolution process to,

- (i) as many of the appellants as the approval authority considers appropriate,
- (ii) the applicant, if the applicant is not an appellant, and
- (iii) any other persons or public bodies that the approval authority considers appropriate. 2015, c. 26, s. 31 (7).

#### **Extension of time**

(49.3) When the approval authority gives a notice under clause (49.2) (a), the 15-day period mentioned in clause (50) (b) and subsections (50.1) and (50.2) is extended to 75 days. 2015, c. 26, s. 31 (7).

#### **Participation voluntary**

(49.4) Participation in the dispute resolution process by the persons and public bodies who receive invitations under clause (49.2) (b) is voluntary. 2015, c. 26, s. 31 (7).

#### **Record**

(50) An approval authority that receives a notice of appeal under subsection (39), (43) or (48) shall ensure that,

- (a) a record is compiled which includes the prescribed information and material;
- (b) the record, notice of appeal and the fee are forwarded to the Tribunal within 15 days after the last day for filing a notice of appeal under subsection (39) or (49) or within 15 days after the notice of appeal under subsection (43) or (48) was received by the approval authority; and
- (c) such other information or material as the Tribunal may require in respect of the appeal is forwarded to the Tribunal. 1994, c. 23, s. 30; 2017, c. 23, Sched. 5, s. 99 (4); 2021, c. 25, Sched. 24, s. 3 (8).

#### **Exception**

(50.1) Despite clause (50) (b), if all appeals are withdrawn within 15 days after the last day for filing a notice of appeal under subsection (39) or (49) or within 15 days after the notice of appeal under subsection (43) or (48) was received by the approval authority, the approval authority is not required to forward the materials described under clause (50) (b) to the Tribunal. 1999, c. 12, Sched. M, s. 28 (3); 2017, c. 23, Sched. 5, s. 99 (5).

#### **Deemed decision**

(50.2) If all appeals are withdrawn within 15 days after the last day for filing a notice of appeal under subsection (39) or (49) or within 15 days after the notice of appeal under subsection (43) or (48) was received by the approval authority, the decision of the approval authority shall be deemed to have been made on the day after the day all appeals have been withdrawn, subject to any other right of appeal that may be exercised under this section and subject to subsection (44). 1999, c. 12, Sched. M, s. 28 (3).

#### **Appeals withdrawn**

(51) If all appeals under subsection (39) or (48) are withdrawn and the time for appealing has expired or if all appeals under subsection (43) are withdrawn, the Tribunal shall notify the approval authority and the decision of the approval authority shall be deemed to have been made on the day after the day all appeals have been withdrawn, subject to any other right of appeal that may be exercised under this section and subject to subsection (44). 1994, c. 23, s. 30; 2017, c. 23, Sched. 5, s. 82.

#### **Hearing**

(52) On an appeal, the Tribunal shall hold a hearing, notice of which shall be given to such persons or public bodies and in such manner as the Tribunal may determine. 2017, c. 23, Sched. 5, s. 99 (6).

#### **Restriction re adding parties**

(52.1) Despite subsection (52), in the case of an appeal under subsection (39), (43) or (48), only the following may be added as parties:

1. A person or public body who satisfies one of the conditions set out in subsection (52.2).
2. The Minister.
3. The appropriate approval authority.
4. The municipality in which the land is located or the planning board in whose planning area the land is located.
5. If the land is not located in a municipality or in the planning area of a planning board, any person or public body. 2006, c. 23, s. 22 (11).

### **Same**

(52.2) The conditions mentioned in paragraph 1 of subsection (52.1) are:

1. Before the approval authority made its decision with respect to the plan of subdivision, the person or public body made oral submissions at a public meeting or written submissions to the approval authority, or made a written request to be notified of changes to the conditions.
2. The Tribunal is of the opinion that there are reasonable grounds to add the person or public body as a party. 2006, c. 23, s. 22 (11); 2017, c. 23, Sched. 5, s. 80.

### **New evidence at hearing**

(52.3) This subsection applies if information and material that is presented at the hearing of an appeal under subsection (39), (43) or (48) was not provided to the approval authority before it made the decision that is the subject of the appeal. 2006, c. 23, s. 22 (11).

### **Same**

(52.4) When subsection (52.3) applies, the Tribunal may, on its own initiative or on a motion by the approval authority or any party, consider whether the information and material could have materially affected the approval authority's decision and, if the Tribunal determines that it could have done so, it shall not be admitted into evidence until subsection (52.5) has been complied with and the prescribed time period has elapsed. 2019, c. 9, Sched. 12, s. 14 (9).

### **Notice to approval authority**

(52.5) The Tribunal shall notify the approval authority that it is being given an opportunity to,

- (a) reconsider its decision in light of the information and material; and
- (b) make a written recommendation to the Tribunal. 2017, c. 23, Sched. 5, s. 99 (6).

### **Approval authority's recommendation**

(52.6) The Tribunal shall have regard to the approval authority's recommendation if it is received within the time period mentioned in subsection (52.4), and may but is not required to do so if it is received afterwards. 2017, c. 23, Sched. 5, s. 99 (6).

### **Conflict with SPPA**

(52.7) Subsections (52.1) to (52.6) apply despite the *Statutory Powers Procedure Act*. 2006, c. 23, s. 22 (11).

### **Dismissal without hearing**

(53) Despite the *Statutory Powers Procedure Act* and subsection (52), the Tribunal may, on its own initiative or on the motion of any party, dismiss an appeal without holding a hearing if,

- (a) it is of the opinion that,
  - (i) the reasons set out in the notice of appeal do not disclose any apparent land use planning ground upon which the Tribunal could give or refuse to give approval to the draft plan of subdivision or determine the question as to the condition appealed to it,
  - (ii) the appeal is not made in good faith or is frivolous or vexatious,
  - (iii) the appeal is made only for the purpose of delay, or
  - (iv) the appellant has persistently and without reasonable grounds commenced before the Tribunal proceedings that constitute an abuse of process;
- (b) REPEALED: 2006, c. 23, s. 22 (14).
- (c) the appellant has not provided written reasons for the appeal;
- (d) the appellant has not paid the fee charged by the Tribunal; or
- (e) the appellant has not responded to a request by the Tribunal for further information within the time specified by the Tribunal. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (14, 15); 2006, c. 23, s. 22 (12-14); 2017, c. 23, Sched. 5, s. 99 (7); 2019, c. 9, Sched. 12, s. 14 (10); 2021, c. 4, Sched. 6, s. 80 (1).

### **Same**

(53.1) Despite the *Statutory Powers Procedure Act* and subsection (52), the Tribunal may, on its own initiative or on the motion of the municipality, the appropriate approval authority or the Minister, dismiss all or part of an appeal without

holding a hearing if, in the Tribunal's opinion, the application to which the appeal relates is substantially different from the application that was before council at the time of its decision. 2017, c. 23, Sched. 5, s. 99 (8).

### **Representation**

(54) Before dismissing an appeal, the Tribunal shall notify the appellant and give the appellant the opportunity to make representation on the proposed dismissal but this subsection does not apply if the appellant has not complied with a request made under clause (53) (e). 2000, c. 26, Sched. K, s. 5 (6); 2017, c. 23, Sched. 5, s. 80.

### **Dismissal**

(54.1) Despite the *Statutory Powers Procedure Act*, the Tribunal may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (53) or (53.1), as it considers appropriate. 2017, c. 23, Sched. 5, s. 99 (8).

### **Decision**

(55) If all appeals under subsection (39), (43) or (48) are dismissed or withdrawn, the Tribunal shall notify the approval authority and the decision of the approval authority shall be deemed to have been made on the day after the day the last outstanding appeal has been dismissed or withdrawn, subject to any other right of appeal that may be exercised under this section and subject to subsection (44). 1994, c. 23, s. 30; 2017, c. 23, Sched. 5, s. 82.

### **Powers**

(56) On an appeal under subsection (34) or (39), the Tribunal may make any decision that the approval authority could have made on the application and on an appeal under subsection (43) or (48) shall determine the question as to the conditions appealed to it. 2017, c. 23, Sched. 5, s. 99 (8).

### **Final approval**

(56.1) If, on an appeal under subsection (34) or (39), the Tribunal has given approval to a draft plan of subdivision, the Tribunal may, by order, provide that the final approval of the plan of subdivision for the purposes of subsection (58) is to be given by the approval authority in which the land is situate. 2017, c. 23, Sched. 5, s. 99 (8)..

### **Change of conditions**

(56.2) If the final approval of a plan of subdivision is to be given under subsection (56.1), the Tribunal may change the conditions of the approval of the draft plan of subdivision under subsection (44) at any time before the approval of the final plan of subdivision by the approval authority. 1999, c. 12, Sched. M, s. 28 (3); 2017, c. 23, Sched. 5, s. 80.

### **When draft plan approved**

(57) When the draft plan is approved, the person seeking to subdivide may proceed to lay down the highways and lots upon the ground in accordance with the *Surveys Act* and with the *Registry Act* or the *Land Titles Act*, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor. 1994, c. 23, s. 30.

### **Final approval of plan**

(58) Upon presentation by the person seeking to subdivide, the approval authority may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and, once approved, the final plan of subdivision may be tendered for registration. 1994, c. 23, s. 30.

### **Withdrawal of approval**

(59) If a final plan of subdivision is approved under subsection (58), but is not registered within 30 days of the date of approval, the approval authority may withdraw its approval. 1994, c. 23, s. 30.

### **Duplicates**

(60) In addition to any requirement under the *Registry Act* or the *Land Titles Act*, the person tendering the plan of subdivision for registration shall deposit with the land registrar a duplicate, or when required by the approval authority two duplicates, of the plan of a type approved by the approval authority, and the land registrar shall endorse on it a certificate showing the number of the plan and the date when the plan was registered and shall deliver the duplicate or duplicates to the approval authority. 1994, c. 23, s. 30.

### **Saving**

(61) The approval of a plan of subdivision does not operate to release any person from doing anything that the person may be required to do by or under the authority of any other Act. 1994, c. 23, s. 30.

### **Section Amendments with date in force (d/m/y)**

1994, c. 23, s. 30 - 28/03/1995; 1996, c. 4, s. 28 (5) - 16/11/1995; 1996, c. 4, s. 28 (2-4, 6-15) - 22/05/1996; 1997, c. 31, s. 164 - see Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006* - 31/12/2011; 1999, c. 12, Sched. M, s. 28 (1, 3) - 22/12/1999

2000, c. 26, Sched. K, s. 5 (5, 6) - 06/12/2000

2001, c. 32, s. 31 (2) - 30/09/2002

2002, c. 17, Sched. B, s. 19 (1-5) - 01/01/2003

2004, c. 18, s. 8 - 30/11/2004

2005, c. 26, Sched. B, s. 1 - 28/04/2006

2006, c. 23, s. 22 (1-16) - 01/01/2007

2009, c. 33, Sched. 21, s. 10 (12, 13) - 01/07/2010

2015, c. 26, s. 31 (1-7) - 01/07/2016

2016, c. 25, Sched. 4, s. 8 (1-6) - 08/12/2016

2017, c. 23, Sched. 3, s. 16 - 03/04/2018; 2017, c. 23, Sched. 5, s. 80-82, 99 (1-8) - 03/04/2018

2019, c. 9, Sched. 12, s. 14 (1-10) - 03/09/2019

2021, c. 4, Sched. 6, s. 80 (1, 7) - 01/06/2021; 2021, c. 25, Sched. 24, s. 3 (1-8) - 01/01/2022

## **Parkland**

### **Definitions**

**51.1** (0.1) In this section,

“dwelling unit” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals; (“logement”)

“effective date” means July 1, 2016. (“date d’effet”) 2015, c. 26, s. 32 (1); 2020, c. 18, Sched. 17, s. 4.

### **Land conveyed or dedicated for parkland**

(1) The approval authority may impose as a condition to the approval of a plan of subdivision that land in an amount not exceeding, in the case of a subdivision proposed for commercial or industrial purposes, 2 per cent and in all other cases 5 per cent of the land included in the plan shall be conveyed to the local municipality for park or other public recreational purposes or, if the land is not in a municipality, shall be dedicated for park or other public recreational purposes. 1994, c. 23, s. 31.

### **Other criteria**

(2) If the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality and if the municipality has an official plan that contains specific policies relating to the provision of lands for park or other public recreational purposes, the municipality, in the case of a subdivision proposed for residential purposes, may, in lieu of such conveyance, require that land included in the plan be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be determined by the municipality. 1994, c. 23, s. 31.

### **Parks plan**

(2.1) Before adopting the official plan policies described in subsection (2), the municipality shall prepare and make available to the public a parks plan that examines the need for parkland in the municipality. 2015, c. 26, s. 32 (1).

### **Same**

(2.2) In preparing the parks plan, the municipality,

(a) shall consult with every school board that has jurisdiction in the municipality; and

(b) may consult with any other persons or public bodies that the municipality considers appropriate. 2015, c. 26, s. 32 (1).

### **Same**

(2.3) For greater certainty, subsection (2.1) and clause (2.2) (a) do not apply with respect to official plan policies adopted before the effective date. 2015, c. 26, s. 32 (1).

### **Conveyance of described land**

(2.4) If land proposed for a plan of subdivision includes land identified as encumbered land in an order under subsection 42 (4.27), the encumbered land,

(a) shall be conveyed to the local municipality for park or other public recreational purposes; and

(b) despite any provision in a by-law passed under section 42, shall be deemed to count towards any requirement applicable to the plan of subdivision under this section.

### **Payment in lieu**

(3) If the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality and subsection (2) does not apply, the municipality may require a payment in lieu, to the value of the land otherwise required to be conveyed. 2015, c. 26, s. 32 (2).

### **Same**

(3.1) If the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality and subsection (2) applies, the municipality may require a payment in lieu, calculated by using a rate of one hectare for each 500 dwelling units proposed or such lesser rate as may be determined by the municipality. 2015, c. 26, s. 32 (2).

### **Transition**

(3.2) If the draft plan of subdivision is approved on or before the effective date, the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality and subsection (2) applies,

(a) subsection (3.1) does not apply; and

(b) subsection (3), as it reads on the day before the effective date, continues to apply. 2015, c. 26, s. 32 (2).

### **Exception, transit-oriented community land**

(3.3) Subsection (3.4) applies to land that is designated as transit-oriented community land under subsection 2 (1) of the *Transit-Oriented Communities Act, 2020*.

### **Limits on subs. (2) re conveyance percentage**

(3.4) The amount of land a municipality may require to be conveyed under subsection (2) or the amount of a payment in lieu a municipality may require under subsection (3.1) shall not exceed,

(a) if the land included in the plan of subdivision is five hectares or less in area, 10 per cent of the land or the value of the land, as the case may be; or

(b) if the land included in the plan of subdivision is greater than five hectares in area, 15 per cent of the land or the value of the land, as the case may be.

### **Determination of value**

(4) For the purpose of determining the amount of any payment required under subsection (3) or (3.1), the value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision. 1994, c. 23, s. 31; 2015, c. 26, s. 32 (3).

### **Application**

(5) Subsections 42 (5) and (12) to (17) apply with necessary modifications to a conveyance of land or a payment of money under this section. 1994, c. 23, s. 31; 2015, c. 26, s. 32 (4); 2019, c. 9, Sched. 12, s. 15 (6).

### **Section Amendments with date in force (d/m/y)**

1994, c. 23, s. 31 - 28/03/1995

2015, c. 26, s. 32 (1-4) - 01/07/2016

2019, c. 9, Sched. 12, s. 15 (1-5, 7) - no effect - see 2020, c. 18, Sched. 17, s. 6 - 21/07/2020; 2019, c. 9, Sched. 12, s. 15 (6) - 18/09/2020; 2019, c. 15, Sched. 31, s. 4 (1, 2) - no effect - see 2020, c. 18, Sched. 17, s. 7 - 21/07/2020

2020, c. 18, Sched. 17, s. 4 - 18/09/2020

### **Delegation to committee or officer**

**51.2** (1) If a council of a municipality is the approval authority under section 51 in respect of the approval of plans of subdivision, the council may by by-law delegate all or any part of the authority to approve plans of subdivision to a



committee of council or to an appointed officer identified in the by-law by name or position occupied. 1994, c. 23, s. 31; 2002, c. 17, Sched. B, s. 20 (1).

#### **Delegation to lower-tier municipality**

(2) If an upper-tier council is the approval authority under section 51 in respect of the approval of plans of subdivision, the council may, after the prescribed notice is given, by by-law delegate all or any part of the authority to approve plans of subdivision to a lower-tier municipality in respect of land situate in the lower-tier municipality. 2002, c. 17, Sched. B, s. 20 (2).

#### **Delegation**

(2.1) Despite subsections 74 (2) and 74.1 (1), an upper-tier council may delegate the authority to approve plans of subdivision under subsection (2) with respect to applications made before March 28, 1995. 2002, c. 17, Sched. B, s. 20 (3).

#### **Delegation to planning authority**

(3) If a council is the approval authority under section 51 in respect of the approval of plans of subdivision, the council may, after the prescribed notice is given, by by-law delegate all or any part of the authority to approve plans of subdivision to a municipal planning authority in respect of land situate in the municipal planning area. 1994, c. 23, s. 31; 2002, c. 17, Sched. B, s. 20 (4).

#### **Further delegation**

(4) If authority is delegated to a council under subsection (2), the council may in turn by by-law delegate all or any part of the authority to a committee of council or to an appointed officer identified in the by-law by name or position occupied. 1994, c. 23, s. 31.

#### **Same**

(5) If authority is delegated to a municipal planning authority under subsection (3) or subsection 51 (14), the municipal planning authority may in turn by by-law delegate all or any part of the authority to a committee of the municipal planning authority or to an appointed officer identified in the by-law by name or position occupied. 1994, c. 23, s. 31.

#### **Conditions**

(6) A delegation of authority made by a council or municipal planning authority under this section may be subject to such conditions as the council or municipal planning authority by by-law provides. 1994, c. 23, s. 31.

#### **Withdrawal of delegation**

(7) A council or a municipal planning authority may by by-law withdraw a delegation of authority made by a council or a municipal planning authority under this section and such withdrawal may be either in respect of one or more plans of subdivision specified in the by-law or any or all plans of subdivision in respect of which a final disposition was not made before the withdrawal. 1994, c. 23, s. 31.

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#### **Reporting on planning matters**

64. A council of a municipality or planning board, as the case may be, shall,

(a) if requested by the Minister, provide such information to the Minister on such planning matters as the Minister may request; and

(b) report on the prescribed planning matters in accordance with the regulations.

#### **Section Amendments with date in force (d/m/y)**

2009, c. 33, Sched. 2, s. 59 (1) - 15/12/2009

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#### **General regulations, Minister**

**70.1** (1) The Minister may make regulations,

1. prescribing forms for the purposes of this Act and providing for their use;
2. prescribing information and material that are to be provided under this Act and the manner in which they are to be provided;
3. prescribing the manner in which any notice is to be given under this Act, including the persons or public bodies to whom it shall be given, the person or public bodies who shall give the notice and the contents of the notice;
4. prescribing the timing requirements for any notice given under any provision of this Act;
5. prescribing information and material that must be included in any record;
6. prescribing plans or policies and provisions of those plans or policies for the purposes of clause (f) of the definition of “provincial plan” in subsection 1 (1);
7. prescribing any ministry of the Province of Ontario to be a public body under subsection 1 (3);
8. excluding any board, commission, agency or official from the definition of “public body” under subsection 1 (4);
9. prescribing conditions for the purpose of subsection 8.1 (1);
10. prescribing a term for the purpose of clause 8.1 (3) (a) and qualifications for the purpose of clause 8.1 (3) (b);
11. prescribing eligibility criteria for the purpose of subsection 8.1 (4);
12. prescribing classes for the purpose of clause 8.1 (5) (c);
13. prescribing requirements for the purpose of subsection 8.1 (8);
14. prescribing the methods for determining the number of members from each municipality to be appointed to a municipal planning authority under subsection 14.1 (5);
15. prescribing matters for the purpose of clause 16 (1) (c) and for the purpose of clause 16 (2) (c);
- 15.1 prescribing municipalities for the purpose of subsection 16 (4);
- 15.2 in the case of municipalities prescribed for the purpose of subsection 16 (4),
  - i. governing the time within which each municipality must submit an official plan containing policies that authorize inclusionary zoning for approval by the approval authority, and
  - ii. governing the time within which each municipality must pass one or more by-laws under section 34 to give effect to those policies;
- 15.3 prescribing provisions and matters relating to the policies described in subsection 16 (4), for the purpose of subsection 16 (7);
- 15.4 specifying that a by-law passed under section 34 to give effect to policies described in subsection 16 (4) does not apply to development or classes of development specified in the regulation and specifying the circumstances in which the by-law does not apply;
16. prescribing the processes to be followed and the materials to be developed under section 16.1;
17. prescribing municipalities for the purposes of subsection 17 (13) and section 69.2;
18. prescribing information and material for the purposes of clauses 17 (15) (a) and (b), public bodies for the purposes of clause 17 (15) (b) and the manner of making information and material available for the purposes of clause 17 (15) (c);
19. prescribing, for the purposes of clauses 17 (17) (a) and (b), clause 22 (6.4) (a), clause 34 (10.7) (a), clauses 34 (13) (a) and (b) and clause 51 (19.4) (a),
  - i. persons and public bodies,
  - ii. the manner of giving notice, and
  - iii. information;
20. prescribing time periods for the purpose of subsections 17 (44.4), 34 (24.4) and 51 (52.4);
21. prescribing public bodies for the purpose of clause 26 (3) (a);
22. prescribing upper-tier municipalities for the purpose of subsection 28 (2);
23. prescribing matters for the purpose of subsection 28 (4.0.1);

- 23.1 prescribing provisions and matters relating to loading or parking facilities, for the purpose of subsection 34 (5.1);
- 23.2 respecting minimum parking requirements, including setting out minimum parking requirements for specified lands, buildings or structures or providing that there is no minimum parking requirement for specified lands, buildings or structures;
- 24. prescribing conditions for the purpose of subsection 34 (16) and limitations for the purpose of subsection 34 (16.1);
- 24.0.1 governing the provisions of an agreement described in clause 35.2 (2) (i);
- 24.1 prescribing types of development or redevelopment for the purposes of subsection 37 (4);
- 24.1.1 prescribing requirements for the purposes of clause 37 (9) (b);
- 24.1.2 prescribing the percentage referred to in subsection 37 (32) to be applied to the value of land;
- 24.1.3 prescribing time periods for the purposes of clause 37 (33) (b) and subsections 37 (35) and (39);
- 24.2 REPEALED: 2019, c. 9, Sched. 12, s. 17 (2).
- 25. prescribing rules of procedure for committees of adjustment;
- 26. prescribing conditions for the purposes of subsection 51 (25.1); ~~26. REPEALED: 2021, c. 25, Sched. 24, s. 8.~~
- 27. requiring that notice be given under subsection 53 (5);
- 28. prescribing rules of procedure under subsection 53 (9) for councils and their delegates;
- 29. prescribing persons or public bodies for the purposes of subsection 53 (10);
- 30. prescribing rules of procedure for district land division committees constituted under section 55;
- 30.0.1 for the purposes of section 64,
  - i. prescribing the planning matters in respect of which municipalities and planning boards must report and the information about the planning matters that must be included in a report,
  - ii. identifying the persons to whom a report must be provided,
  - iii. specifying the frequency with which reports must be produced and provided, and
  - iv. specifying the format in which a report must be provided;
- 30.1 for the different types of applications related to development or redevelopment that will include affordable housing units, prescribing a maximum fee that may be charged with respect to each type of application, for the purpose of subsection 69 (2.1);
- 31. respecting any other matter that this Act refers to as a matter prescribed, specified or determined under the regulations, or as a matter otherwise dealt with by the regulations, other than matters respecting which the Lieutenant Governor in Council has authority to make regulations under sections 70, 70.2 and 70.3. 2006, c. 23, s. 26; 2015, c. 26, s. 35; 2016, c. 25, Sched. 4, s. 10 (1-6); 2019, c. 9, Sched. 12, s. 17 (2-4); 2020, c. 18, Sched. 17, s. 5; 2021, c. 25, Sched. 24, s. 8.

#### **Same**

- (2) A regulation made under this section or section 70 may be general or particular in its application. 1994, c. 23, s. 45.

#### **Same**

- (3) A regulation made under paragraph 30.1 of subsection (1) may provide that a maximum fee for a particular type of application is nil. 2016, c. 25, Sched. 4, s. 10 (7).

#### **Conflict**

- (4) In the event of a conflict between a regulation made under paragraph 23.2 of subsection (1) and a by-law passed by a municipality under paragraph 6 of subsection 34 (1), or a predecessor thereof, the regulation prevails to the extent of the conflict, but in all other respects the by-law remains in full force and effect. 2016, c. 25, Sched. 4, s. 10 (8).

#### **Section Amendments with date in force (d/m/y)**

- 1994, c. 23, s. 45 - 28/03/1995; 1996, c. 4, s. 37 (1, 2) - 22/05/1996
- 2002, c. 17, Sched. B, s. 26 - 01/01/2003
- 2006, c. 23, s. 26 - 01/01/2007

2015, c. 26, s. 35 (1, 2) - 01/07/2016

2016, c. 25, Sched. 4, s. 10 (1-8) - 12/04/2018

2019, c. 9, Sched. 12, s. 17 (1, 5) - no effect - see 2020, c.18, Sched. 17, s.6 - 21/07/2020; 2019, c. 9, Sched. 12, s. 17 (2) - 18/09/2020;  
2019, c. 9, Sched. 12, s. 17 (3, 4) - 03/09/2019

2020, c. 18, Sched. 17, s. 5 - 18/09/2020

2021, c. 25, Sched. 24, s. 8 - 01/01/2022

### **Regulations re development permit system**

**70.2** (1) The Lieutenant Governor in Council may, by regulation,

- (a) establish a development permit system that local municipalities may by by-law adopt to control land use development in the municipality; or
- (b) delegate to local municipalities the power to establish a development permit system upon such conditions as may be set out in the regulation. 1994, c. 23, s. 46.

### **Contents**

(2) A regulation under subsection (1) may,

- (a) vary, supplement or override any provision in Part V as necessary to establish a development permit system, including, for greater certainty, providing that there is no appeal in respect of a by-law passed by a municipality to adopt or establish a development permit system;
- (a.1) vary, supplement or override any municipal by-law passed under Part V as necessary to establish a development permit system;
- (b) authorize or require a local municipality to pass a by-law to vary, supplement or override a by-law passed under Part V as necessary to establish a development permit system;
- (c) exempt a municipality which has adopted or established a development permit system from any provision of Part V set out in the regulation;
- (d) prohibit a municipality which has adopted or established a development permit system from passing a by-law under those provisions of Part V that are specified in the regulation;
- (e) set out procedures for appealing to the Tribunal in respect of a development permit or a condition in a permit, including prescribing persons or public bodies that may appeal to the Tribunal in that regard;
- (f) prescribe policies that must be contained in an official plan before a development permit system may be adopted or established;
- (g) prescribe conditions or criteria that must be met before a municipality passes a by-law adopting or establishing a development permit system;
- (h) prescribe conditions or criteria that must be met before a development permit may be issued or that must be included in a development permit;
- (i) prescribe powers that the municipality may exercise in administering a development permit system;
- (j) limit or restrict the manner in which municipalities may exercise the power to issue development permits or pass by-laws adopting or establishing a development permit system;
- (k) establish different standards or procedures for different municipalities or classes of municipalities;
- (l) authorize the municipalities to appoint employees to carry out the duties required under the development permit system and delegate to them the powers necessary to carry out these duties;
- (m) require any owner of land, upon the request of the municipality, to enter into agreements with the municipality as a condition to obtaining a development permit;
- (n) revoke any provision in a development permit by-law or any condition in a development permit in respect of any defined area and set out other provisions or conditions that apply in respect of that area;
- (o) prescribe provisions that must be contained in a development permit system;

- (p) exempt any development or class of development, any municipality or class of municipality or any areas from a development permit area or a development permit by-law;
- (q) provide for transitional matters that may be necessary to implement a development permit system or to cease using a development permit system. 1994, c. 23, s. 46; 2015, c. 26, s. 36 (1); 2017, c. 23, Sched. 5, s. 102; 2019, c. 9, Sched. 12, s. 18.

#### **Same, five-year period**

(2.1) A regulation under subsection (1) may,

- (a) provide that when a by-law adopting or establishing a development permit system is passed, no person or public body shall apply to amend the relevant official plan with respect to policies prescribed under clause (2) (f) before the fifth anniversary of the day the by-law is passed;
- (b) provide that no person or public body shall apply to amend a by-law adopting or establishing a development permit system before the fifth anniversary of the day the by-law is passed;
- (c) provide that a prohibition provided under clause (a) or (b) does not apply in respect of an application if the council has declared by resolution that such an application is permitted. 2015, c. 26, s. 36 (2).

#### **Same**

(3) A regulation under this section may be general or particular in its application and may be restricted to those municipalities set out in the regulation. 1994, c. 23, s. 46.

#### **Conflicts**

(4) A regulation made under this section prevails over the provisions of any other Act that are specified in the regulation. 1994, c. 23, s. 46.

#### **Registration of agreement**

(5) An agreement entered into under clause (2) (m) may be registered against the land to which it applies and the municipality may enforce its provisions against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 1994, c. 23, s. 46; 2006, c. 23, s. 27.

#### **Deemed conformity with official plan**

(6) If a development permit by-law is passed under this section by the council of a municipality in which an official plan is in effect, subsection 24 (4) applies to the by-law in the same manner as if it were a by-law passed under section 34. 1994, c. 23, s. 46.

#### **Conformity with upper tier plans**

(7) If an approval authority has approved an official plan adopted by an upper-tier municipality, every development permit by-law that is then in effect in the area affected by the plan shall be amended to conform with the plan and subsections 27 (2) to (4) apply, with necessary modifications, to the amendment. 1994, c. 23, s. 46; 2002, c. 17, Sched. B, s. 27.

#### **Offence**

(8) Every person who contravenes a development permit by-law passed under this section or the conditions of a development permit is guilty of an offence and on conviction is liable to the fines set out in section 67 and section 67 applies to the offence. 1994, c. 23, s. 46.

#### **Section Amendments with date in force (d/m/y)**

1994, c. 23, s. 46 - 28/03/1995

2002, c. 17, Sched. B, s. 27 - 01/01/2003

2006, c. 23, s. 27 - 01/01/2007

2015, c. 26, s. 36 (1, 2) - 01/07/2016

2017, c. 23, Sched. 5, s. 102 - 03/04/2018

2019, c. 9, Sched. 12, s. 18 - 03/09/2019

#### **Use of alternate terminology**

**70.2.1** (1) A regulation made under subsection 70.2 (1), an order made under section 70.2.2 or a by-law passed under section 70.2 or 70.2.2 may refer to development permits as community planning permits. 2015, c. 26, s. 37.

## **Same**

(2) When a regulation, order or by-law refers to development permits as community planning permits, as described in subsection (1),

- (a) the effect of the regulation, order or by-law is the same for all purposes as if the expression “development permit” were used; and
- (b) a permit that is referred to as a community planning permit is a development permit for all purposes. 2015, c. 26, s. 37.

## **Same**

(3) Subsections (1) and (2) also apply with respect to combined expressions such as “development permit system” and “development permit by-law”. 2015, c. 26, s. 37.

## **Section Amendments with date in force (d/m/y)**

2015, c. 26, s. 37 - 01/07/2016

## **Orders re development permit system**

**70.2.2** (1) The Minister may, by order, require a local municipality to adopt or establish a development permit system that applies to,

- (a) the area specified in the order, in the case of an order that delineates the area’s boundaries; or
- (b) an area surrounding and including a specified location, in the case of an order that does not delineate the area’s boundaries. 2019, c. 9, Sched. 12, s. 19.

## **Non-application of *Legislation Act, 2006*, Part III**

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to an order made under subsection (1). 2019, c. 9, Sched. 12, s. 19.

## **Effect of order under cl. (1) (a)**

(3) When an order made under clause (1) (a) is in effect, the local municipality shall, within the time period, if any, specified in the order, adopt or establish a development permit system in respect of the area referred to in clause (1) (a). 2019, c. 9, Sched. 12, s. 19.

## **Effect of order under cl. (1) (b)**

(4) When an order made under clause (1) (b) is in effect, the local municipality shall, within the time period, if any, specified in the order, adopt or establish a development permit system in respect of,

- (a) the specified location referred to in clause (1) (b); and
- (b) an area surrounding the specified location referred to in clause (1) (b). 2019, c. 9, Sched. 12, s. 19.

## **Determination of boundaries**

(5) For the purposes of clause (4) (b), the local municipality has discretion to determine the boundaries of the area that is to be governed by the development permit system. 2019, c. 9, Sched. 12, s. 19.

## **Section Amendments with date in force (d/m/y)**

2015, c. 26, s. 37 - 01/07/2016

2019, c. 9, Sched. 12, s. 19 - 03/09/2019

## **Regulations re sewage and water services**

**70.3** (1) The Lieutenant Governor in Council may by regulation authorize municipalities to pass by-laws establishing a system for allocating sewage and water services to land that is the subject of an application under section 51 upon such conditions as may be set out in the regulation. 1994, c. 23, s. 47.

## **Contents of regulations**

(2) A regulation under subsection (1) may,

- (a) prescribe conditions or criteria that must be met before a municipality passes a by-law establishing a system;
- (b) prescribe powers that the municipality may exercise in administering the system including the power to issue permits or collect fees;



- (c) prescribe policies that must be contained in an official plan before a system may be established;
- (d) require that the official plan of the municipality contain policies regarding the allocation of services;
- (e) authorize the by-law to apply to any class of plan of subdivision or description under the *Condominium Act, 1998* in respect of which draft approval was given before or after the by-law was passed; and
- (f) provide for transitional matters that may be necessary to implement a system. 1994, c. 23, s. 47; 2015, c. 28, Sched. 1, s. 155 (2).

#### **Same**

(3) A regulation under this section may be general or particular in its application and may be restricted to those municipalities set out in the regulation. 1994, c. 23, s. 47.

#### **Applications**

(3.1) Despite sections 74 and 74.1, a regulation under this section may apply to any application for approval of a plan of subdivision or an application for approval of a condominium description under the *Condominium Act, 1998* in respect of which draft approval was given before or after this subsection came into force. 1996, c. 4, s. 38; 2015, c. 28, Sched. 1, s. 155 (2).

#### **Conflicts**

(4) A regulation made under this section prevails over the provisions of any other Act that are specified in the regulation. 1994, c. 23, s. 47.

#### **Regulations re surety bonds and other instruments**

**70.3.1 (1) The Minister may make regulations.**

(a) prescribing and defining surety bonds and prescribing and further defining other instruments for the purposes of this section;

(b) authorizing owners of land, and applicants for approvals in respect of land use planning matters, to stipulate the specified types of surety bond or other instrument to be used to secure an obligation imposed by the municipality, if the municipality requires the obligation to be secured as a condition to an approval in connection with land use planning, and specifying any particular circumstances in which the authority can be exercised.

#### **Definition**

(2) In this section,

“other instrument” means an instrument that secures the performance of an obligation.

# City of Toronto Act, 2006

## Preamble

The Assembly recognizes that the City of Toronto, as Ontario's capital city, is an economic engine of Ontario and of Canada. The Assembly recognizes that the City plays an important role in creating and supporting economic prosperity and a high quality of life for the people of Ontario.

The Assembly recognizes that the success of the City requires the active participation of governments working together in a partnership based on respect, consultation and co-operation.

The Assembly recognizes the importance of providing the City with a legislative framework within which the City can build a strong, vibrant and sustainable city that is capable of thriving in the global economy. The Assembly recognizes that the City is a government that is capable of exercising its powers in a responsible and accountable fashion.

The Assembly recognizes that it is in the interests of the Province that the City be given these powers.

## PART I INTERPRETATION

### Governing principles

**1** (1) The City of Toronto exists for the purpose of providing good government with respect to matters within its jurisdiction, and the city council is a democratically elected government which is responsible and accountable. 2006, c. 11, Sched. A, s. 1 (1).

### Relationship with the Province

(2) The Province of Ontario endorses the principle that it is in the best interests of the Province and the City to work together in a relationship based on mutual respect, consultation and co-operation. 2006, c. 11, Sched. A, s. 1 (2).

### Consultation

(3) For the purposes of maintaining such a relationship, it is in the best interests of the Province and the City to engage in ongoing consultations with each other about matters of mutual interest and to do so in accordance with an agreement between the Province and the City. 2006, c. 11, Sched. A, s. 1 (3).

### Agreements with the federal government

(4) The Province acknowledges that the City has the authority to enter into agreements with the Crown in right of Canada with respect to matters within the City's jurisdiction. 2006, c. 11, Sched. A, s. 1 (4).

### Purposes of this Act

**2** The purpose of this Act is to create a framework of broad powers for the City which balances the interests of the Province and the City and which recognizes that the City must be able to do the following things in order to provide good government:

1. Determine what is in the public interest for the City.
2. Respond to the needs of the City.
3. Determine the appropriate structure for governing the City other than with respect to the composition of city council and the division of the City into wards.
4. Ensure that the City is accountable to the public and that the process for making decisions is transparent.
5. Determine the appropriate mechanisms for delivering municipal services in the City.
6. Determine the appropriate levels of municipal spending and municipal taxation for the City.
7. Use fiscal tools to support the activities of the City. 2006, c. 11, Sched. A, s. 2; 2018, c. 11, Sched. 1, s. 1.

## **Environmental standards; construction of buildings**

**108.1** (1) Without limiting sections 7 and 8, those sections authorize the City to pass a by-law respecting the protection or conservation of the environment that requires buildings to be constructed in accordance with provisions of the building code under the *Building Code Act, 1992* that are prescribed under that Act, subject to such conditions and limits as may be prescribed under that Act. 2017, c. 10, Sched. 2, s. 9.

### **Conflict**

(2) Despite section 35 of the *Building Code Act, 1992*, if there is a conflict between that Act or the building code under that Act and a by-law to which this section applies, that Act or the building code prevails. 2017, c. 10, Sched. 2, s. 9.

**Note:** On a day to be named by proclamation of the Lieutenant Governor, section 108.1 of the Act is amended by adding the following subsections: (See: 2017, c. 10, Sched. 2, s. 10)

### **Green roofs or alternative roof surfaces**

(3) Without limiting sections 7 and 8, the power described in subsection (1) includes the power to require the construction of green roofs or of alternative roof surfaces that achieve similar levels of performance to green roofs. 2017, c. 10, Sched. 2, s. 10.

### **Definition**

(4) For the purposes of subsection (3),

“green roof” means a roof surface that supports the growth of vegetation over a substantial portion of its area for the purpose of water conservation or energy conservation. 2017, c. 10, Sched. 2, s. 10.

### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 2, s. 9 - 30/05/2017; 2017, c. 10, Sched. 2, s. 10 - not in force

## **Non-application of *Line Fences Act***

**109** (1) The City may provide that the *Line Fences Act* does not apply to all or any part of the City. 2006, c. 11, Sched. A, s. 109 (1).

### **Exclusion**

(2) Despite a by-law passed under subsection (1), section 20 of the *Line Fences Act* continues to apply throughout the City. 2006, c. 11, Sched. A, s. 109 (2).

## **Advertising devices**

**110** (1) This subsection, as it read on the day before section 11 of Schedule 2 to the *Modernizing Ontario's Municipal Legislation Act, 2017* came into force, continues to apply to by-laws passed on or before that day. 2017, c. 10, Sched. 2, s. 11.

## **Lien for costs and charges**

(2) All costs and charges incurred by the City for the removal, care and storage of an advertising device that is erected or displayed in contravention of a City by-law are a lien on the advertising device that may be enforced by the City under the *Repair and Storage Liens Act*. 2006, c. 32, Sched. B, s. 23.

### **Disposal costs**

(3) All costs and charges incurred for disposing of an advertising device described in subsection (2) may be recovered by the City as a debt owed by the owner of the device. 2006, c. 32, Sched. B, s. 23.

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. B, s. 23 - 01/01/2007

2017, c. 10, Sched. 2, s. 11 - 30/05/2017

## **LAND USE PLANNING**

## **Demolition and conversion of residential rental properties**

**111** (1) The City may prohibit and regulate the demolition of residential rental properties and may prohibit and regulate the conversion of residential rental properties to a purpose other than the purpose of a residential rental property. 2006, c. 11, Sched. A, s. 111 (1).

### **Same**

(2) The power to pass a by-law respecting a matter described in subsection (1) includes the power,

- (a) to prohibit the demolition of residential rental properties without a permit;

This is an unofficial blackline showing the changes proposed by the first reading version of Bill 109 prepared by [Osler, Hoskin & Harcourt LLP](#) as of March 30, 2022. They were not in force as of that date

- (b) to prohibit the conversion of residential rental properties to a purpose other than the purpose of a residential rental property without a permit; and
- (c) to impose conditions as a requirement of obtaining a permit. 2006, c. 11, Sched. A, s. 111 (2).

#### **Agreements**

(2.1) If a condition referred to in clause (2) (c) requires an owner of land to which a by-law passed under this section applies to enter into an agreement with the City, the City may,

- (a) register the agreement against the title to the land to which it applies; and
- (b) enforce the agreement against the owner and any subsequent owners of the land. 2017, c. 10, Sched. 2, s. 12.

#### **Restriction**

(3) The City cannot prohibit or regulate the demolition or conversion of a residential rental property that contains less than six dwelling units. 2006, c. 11, Sched. A, s. 111 (3).

#### **Effect of building code, etc.**

(4) Despite section 35 of the *Building Code Act, 1992*, in the event that the *Building Code Act, 1992* or a regulation made under that Act and a by-law prohibiting or regulating the demolition or conversion of a residential rental property treat the same subject matter in different ways, that Act or the regulation under that Act prevails and the by-law is inoperative to the extent that the Act or regulation and the by-law treat the same subject matter. 2006, c. 11, Sched. A, s. 111 (4).

#### **Same**

(5) If a permit to demolish a residential rental property is issued under this section, no permit is required under section 8 of the *Building Code Act, 1992* to demolish the property. 2006, c. 11, Sched. A, s. 111 (5).

#### **Report**

(6) The City shall report statistics and other information concerning the demolition and conversion of residential rental properties to the Minister of Municipal Affairs and Housing and shall do so at the times and in the form and manner specified by the Minister. 2006, c. 11, Sched. A, s. 111 (6).

#### **Section Amendments with date in force (d/m/y)**

2017, c. 10, Sched. 2, s. 12 - 30/05/2017

**112 REPEALED:** 2006, c. 32, Sched. B, s. 24.

#### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. B, s. 24 - 01/01/2007

#### **Zoning by-laws re area, density and height**

**113** (1) The authority to regulate provided in paragraph 4 of subsection 34 (1) of the *Planning Act* includes and, despite the decision of any court, is deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the minimum and maximum density and the minimum and maximum height of development in the City or in the area or areas defined in the by-law. 2006, c. 11, Sched. A, s. 113 (1).

#### **Zoning with conditions**

(2) If the official plan in effect in the City contains policies relating to zoning with conditions, the City may, in a by-law passed under section 34 of the *Planning Act*, permit a use of land or the erection, location or use of buildings or structures and impose one or more prescribed conditions on the use, erection or location. 2006, c. 11, Sched. A, s. 113 (2).

#### **Same**

(2.1) The prescribed conditions referred to in subsection (2) may be made subject to such limitations as may be prescribed. 2006, c. 32, Sched. B, s. 25.

#### **Same**

(3) When a prescribed condition is imposed under subsection (2),

- (a) the City may require an owner of land to which the by-law applies to enter into an agreement with the City relating to the condition;
- (b) the agreement may be registered against the land to which it applies; and
- (c) the City may enforce the agreement against the owner and any and all subsequent owners of the land. 2006, c. 11, Sched. A, s. 113 (3).

#### **Section Amendments with date in force (d/m/y)**

This is an unofficial blackline showing the changes proposed by the first reading version of Bill 109 prepared by [Osler, Hoskin & Harcourt LLP](#) as of March 30, 2022. They were not in force as of that date

2006, c. 32, Sched. B, s. 25 - 01/01/2007

### **Notice or public meeting not required**

**113.1** Despite section 34 of the *Planning Act*, the City may amend by-laws passed under that section without giving notice to any person and without holding open houses, public meetings or public hearings if the effect of the amending by-law is only to set out the municipal addresses to which the original by-law applies. 2006, c. 32, Sched. B, s. 26.

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. B, s. 26 - 01/01/2007

### **Front yard parking**

#### **Definitions**

**113.2** (1) In this section,

“front yard” means that portion of private property located between the front wall of a residential building on the property and the abutting public highway; (“cour avant”)

“front yard parking” means the parking of a private passenger motor vehicle or motorcycle in a front yard. (“stationnement en cour avant”) 2006, c. 32, Sched. B, s. 26.

#### **Conflict between by-laws**

(2) Despite section 71 of the *Planning Act*, in the event of a conflict between a by-law passed under sections 7 and 8 authorizing front yard parking and a by-law passed under the *Planning Act*, or a predecessor of that Act, prohibiting front yard parking, the by-law passed under sections 7 and 8 prevails. 2006, c. 32, Sched. B, s. 26.

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. B, s. 26 - 01/01/2007

### **Site plan control area**

#### **Definition**

**114** (1) In this section,

“development” means 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, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers or of sites for the location of three or more mobile homes as defined in subsection 46 (1) of the *Planning Act* or of sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46 (1) of the *Planning Act*. 2006, c. 11, Sched. A, s. 114 (1).

#### **Exception**

(1.1) The definition of “development” in subsection (1) does not include the placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007. 2017, c. 23, Sched. 3, s. 18 (1).

#### **Establishment of site plan control area**

(2) Where in an official plan an area is shown or described as a proposed site plan control area, the City may, by by-law, designate the whole or any part of such area as a site plan control area. 2006, c. 11, Sched. A, s. 114 (2).

#### **Designation of site plan control area**

(3) A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34 of the *Planning Act*. 2006, c. 11, Sched. A, s. 114 (3).

#### ~~**Consultation**~~

~~(4) The City,~~

~~—(a) shall permit applicants to consult with the City before submitting plans and drawings for approval under subsection (5); and~~

~~—(b) may, by by-law, require applicants to consult with the City as described in clause (a). 2006, c. 11, Sched. A, s. 114 (4).~~

#### **Consultation**

(4) The City may, by by-law, require applicants to consult with the City before submitting plans and drawings for approval under subsection (5).

#### **Same**

(4.1) Where a by-law referred to in subsection (4) does not apply, the City shall permit applicants to consult with the City as described in that subsection.

#### **Prescribed information**

(4.2) If information or materials are prescribed for the purposes of this section, an applicant shall provide the prescribed information and material to the City.

#### **Other information**

(4.3) The City may require that an applicant provide any other information or material that the City considers it may need, but only if the official plan contains provisions relating to requirements under this subsection.

#### **Refusal and timing**

(4.4) Until the City has received the plans and drawings referred to in subsection (5), the information and material required under subsections (4.2) and (4.3), if any, and any fee under section 69 of the *Planning Act*,

- (a) the City may refuse to accept or further consider the application; and
- (b) the time period referred to in subsection 114 (15) of this Act does not begin.

#### **Response re completeness of application**

(4.5) Within 30 days after the applicant pays any fee under section 69 of the *Planning Act*, the City shall notify the person or public body that the plans and drawings referred to in subsection 114 (5) of this Act and the information and material required under subsections (4.2) and (4.3) , if any, have been provided, or that they have not been provided, as the case may be.

#### **Motion re dispute**

(4.6) Within 30 days after a negative notice is given under subsection (4.5), the applicant or the City may make a motion for directions to have the Ontario Land Tribunal determine,

- (a) whether the plans and drawings and the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (4.3) is reasonable.

#### **Same**

(4.7) If the City does not give any notice under subsection (4.5), the applicant may make a motion under subsection (4.6) at any time after the 30-day period described in subsection (4.5) has elapsed.

#### **Final determination**

(4.8) The Ontario Land Tribunal's determination under subsection (4.6) is not subject to appeal or review.

#### **Approval of plans or drawings**

~~(5) No person shall undertake any development in an area designated under subsection (2) unless the City or, where a referral has been made under subsection (15), the Ontario Land Tribunal has approved one or both, as the City may determine, of the following:~~

#### **Approval of plans or drawings**

(5) No person shall undertake any development in an area designated under subsection (2) unless the authorized person referred to in subsection (5.1) or, where an appeal has been made under subsection (15), the Ontario Land Tribunal has approved one or both, as the authorized person may determine, of the following:

1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (11) (a), including facilities designed to have regard for accessibility for persons with disabilities.
2. Drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes containing fewer than 25 dwelling units, which drawings are sufficient to display,
  - i. the massing and conceptual design of the proposed building,
  - ii. the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access,
  - iii. the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,
  - iv. matters relating to exterior design, including without limitation the character, scale, appearance and design features of buildings, and their sustainable design, but only to the extent that it is a matter of exterior design, if an



official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the City,

- v. the sustainable design elements on any adjoining highway under the City's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities, if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the City, and
- vi. facilities designed to have regard for accessibility for persons with disabilities. 2006, c. 11, Sched. A, s. 114 (5); 2017, c. 23, Sched. 3, s. 18 (2, 3); 2021, c. 4, Sched. 6, s. 37 (1).

#### **Authorized person**

(5.1) If the City passes a by-law under subsection (2), the City shall appoint an officer, employee or agent of the City as an authorized person for the purposes of subsection (5).

#### **Exclusions from site plan control**

(6) The following matters are not subject to site plan control:

- 1. The interior design.
- 2. The layout of interior areas, excluding interior walkways, stairs, elevators and escalators referred to in subparagraph 2 iii of subsection (5).
- 3. The manner of construction and construction standards. 2006, c. 11, Sched. A, s. 114 (6).

#### **Dispute about scope of site plan control**

(7) The owner of land or the City may make a motion for directions to have the Ontario Land Tribunal determine a dispute about whether a matter referred to in paragraph 1 or 2 of subsection (5) is subject to site plan control. 2006, c. 11, Sched. A, s. 114 (7); 2017, c. 23, Sched. 5, s. 9 (1); 2021, c. 4, Sched. 6, s. 37 (1).

#### **Final determination**

(8) The Ontario Land Tribunal's determination under subsection (7) is not subject to appeal or review. 2006, c. 11, Sched. A, s. 114 (8); 2017, c. 23, Sched. 5, s. 9 (2); 2021, c. 4, Sched. 6, s. 37 (2).

#### **Drawings for residential buildings**

(9) Despite the exception provided in paragraph 2 of subsection (5), city council may require the drawings mentioned in that paragraph for a building to be used for residential purposes containing less than 25 dwelling units if the proposed building is to be located in an area specifically designated in the official plan mentioned in subsection (2) as an area in which such drawings may be required. 2006, c. 11, Sched. A, s. 114 (9).

#### **Proviso**

(10) Nothing in this section is deemed to confer on the City power to limit the height or density of buildings to be erected on the land. 2006, c. 11, Sched. A, s. 114 (10).

#### **Conditions to approval of plans**

(11) As a condition to the approval of the plans and drawings referred to in subsection (5), the City may require the owner of the land to,

- (a) provide to the satisfaction of and at no expense to the City any or all of the following:
  - (i) subject to subsection (12), widenings of highways that abut on the land,
  - (ii) facilities to provide access to and from the land such as access ramps and curbs and traffic direction signs,
  - (iii) off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways,
  - (iv) walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access,
  - (iv.1) facilities designed to have regard for accessibility for persons with disabilities;
  - (v) facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon,
  - (vi) walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands,
  - (vii) vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material,

- (viii) easements conveyed to the City for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the City on the land,
- (ix) grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;
- (b) maintain to the satisfaction of the City and at the sole risk and expense of the owner any or all of the facilities or works mentioned in subclauses (a) (ii) to (ix), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;
- (c) enter into one or more agreements with the City dealing with and ensuring the provision of any or all of the facilities, works or matters mentioned in clause (a) or (e) and the maintenance thereof as mentioned in clause (b) or with the provision and approval of the plans and drawings referred to in subsection (5);
- (d) enter into one or more agreements with the City ensuring that development proceeds in accordance with the plans and drawings approved under subsection (5);
- (e) subject to subsection (13), convey part of the land to the City to the satisfaction of and at no expense to the City for a public transit right of way. 2006, c. 11, Sched. A, s. 114 (11); 2017, c. 23, Sched. 3, s. 18 (4).

#### **Widening must be described in official plan**

(12) An owner may not be required to provide a highway widening under subclause (11) (a) (i) unless the highway to be widened is shown on or described in an official plan as a highway to be widened and the extent of the proposed widening is likewise shown or described. 2006, c. 11, Sched. A, s. 114 (12).

#### **Limitation**

(13) An owner of land may not be required to convey land under clause (11) (e) unless the public transit right of way to be provided is shown on or described in an official plan. 2006, c. 11, Sched. A, s. 114 (13).

#### **Registration of agreements**

(14) Any agreement entered into under clause (11) (c) or (d) may be registered against the land to which it applies and the City is entitled to enforce the provisions thereof against the owner and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land. 2006, c. 11, Sched. A, s. 114 (14).

#### **Refund**

(14.1) With respect to plans and drawings referred to in subsection (5) that are submitted on or after the day subsection 1 (4) of Schedule 1 to the *More Homes for Everyone Act*, 2022 comes into force, the City shall refund any fee paid pursuant to section 69 of the *Planning Act* in respect of the plans and drawings in accordance with the following rules:

1. If the City approves the plans or drawings under subsection 114 (5) of this Act within the time period referred to in subsection 114 (15) of this Act, the City shall not refund the fee.
2. If the City has not approved the plans or drawings under subsection 114 (5) of this Act within the time period referred to in subsection 114 (15) of this Act, the City shall refund 50 per cent of the fee.
3. If the City has not approved the plans or drawings under subsection 114 (5) of this Act within a time period that is 30 days longer than the time period referred to in subsection 114 (15) of this Act, the City shall refund 75 per cent of the fee.
4. If the City has not approved the plans or drawings under subsection 114 (5) of this Act within a time period that is 60 days longer than the time period referred to in subsection 114 (15) of this Act, the City shall refund all of the fee.

#### **Appeal to Tribunal re approval of plans or drawings**

(15) If the City fails to approve the plans or drawings referred to in subsection (5) within ~~30~~ 60 days after they are submitted to the City, the owner may appeal the failure to approve the plans or drawings to the Ontario Land Tribunal by filing with the city clerk a notice of appeal accompanied by the fee charged by the Tribunal. 2017, c. 23, Sched. 3, s. 18 (5); 2021, c. 4, Sched. 6, s. 37 (3).

#### **Appeal to Tribunal re requirement under subs. (11)**

(15.1) If the owner of the land is not satisfied with any requirement made by the City under subsection (11) or with any part thereof, including the terms of any agreement required, the owner may appeal the unsatisfactory requirements, or parts thereof, including the terms of any agreement required, to the Ontario Land Tribunal by filing with the city clerk a notice of appeal accompanied by the fee charged by the Tribunal. 2017, c. 23, Sched. 3, s. 18 (5); 2021, c. 4, Sched. 6, s. 37 (3).

#### **City clerk to forward plans and drawings, etc. to Tribunal**

(15.2) If the city clerk receives a notice of appeal under subsection (15) or (15.1), the city clerk shall ensure that the following are forwarded to the Ontario Land Tribunal within 15 days after the notice is filed:

1. The notice of appeal.
2. The fee.
3. The plans and drawings submitted for approval under subsection (5).
4. In the case of an appeal under subsection (15.1), documents that set out the requirements made by the municipality under subsection (11). 2017, c. 23, Sched. 3, s. 18 (5); 2021, c. 4, Sched. 6, s. 37 (1).

### **Hearing**

(16) The Ontario Land Tribunal shall hear and determine the matter in issue and determine the details of the plans or drawings and determine the requirements, including the provisions of any agreement required. 2017, c. 23, Sched. 3, s. 18 (5); 2021, c. 4, Sched. 6, s. 37 (1).

### **~~Classes of development, delegation~~**

~~(17) Where the City has designated a site plan control area under this section, the City may, by by-law,~~

- ~~—(a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (5); and~~
- ~~—(b) delegate to either a committee of city council or to an appointed officer of the City identified in the by-law either by name or position occupied, any of the City's powers or authority under this section, except the authority to define any class or classes of development as mentioned in clause (a). 2006, c. 11, Sched. A, s. 114 (17).~~

### **Classes of development, delegation**

(17) Where the City has designated a site plan control area under this section, the City may, by by-law, define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsection (5).

### **Transition**

(18) This section as it read immediately before the day subsection 1 (7) of Schedule 1 to the *More Homes for Everyone Act*, 2022 comes into force continues to apply with respect to plans and drawings that were submitted for approval under subsection (5) of this Act before that day.

### **Same**

(19) This section as it read immediately before July 1, 2022 continues to apply with respect to plans and drawings that were submitted for approval under subsection (5) on or after the day subsection 1 (7) of Schedule 1 to the *More Homes for Everyone Act*, 2022 comes into force but before July 1, 2022.

### **Section Amendments with date in force (d/m/y)**

2017, c. 23, Sched. 3, s. 18 (1-5) - 03/04/2018; 2017, c. 23, Sched. 5, s. 9 (1, 2) - 03/04/2018

2021, c. 4, Sched. 6, s. 37 (1-3) - 01/06/2021

### **Development permit system**

**114.1** A regulation made under section 70.2 of the *Planning Act* may,

- (a) vary, supplement or override section 113 or 114 of this Act or any by-law passed under either of those sections as necessary to establish a development permit system;
- (b) authorize or require the City to pass a by-law to vary, supplement or override a by-law passed under section 113 or 114 as necessary to establish a development permit system;
- (c) if the City has adopted or established a development permit system,
  - (i) exempt it from any provision of section 113 or 114 set out in the regulation,
  - (ii) prohibit it from passing a by-law under those provisions of section 113 or 114 that are specified in the regulation. 2006, c. 32, Sched. B, s. 27.

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. B, s. 27 - 01/01/2007

### **Appeal body for local land use planning matters**

**115** (1) The City may by by-law constitute and appoint one appeal body for local land use planning matters, composed of such persons as the City considers advisable, subject to subsections (2), (3) and (4). 2006, c. 11, Sched. A, s. 115 (1).

### **Term and qualifications**

- (2) A person who is appointed to the appeal body,
- (a) shall serve for the prescribed term, or if no term is prescribed, for the term specified in the by-law; and
  - (b) shall have the prescribed qualifications, if any. 2006, c. 11, Sched. A, s. 115 (2).

### **Eligibility criteria**

- (3) In appointing persons to the appeal body, the City shall have regard to any prescribed eligibility criteria. 2006, c. 11, Sched. A, s. 115 (3).

### **Restriction**

- (4) The City shall not appoint to the appeal body a person who is,
- (a) a city employee;
  - (b) a member of city council, a land division committee, a committee of adjustment or a planning advisory committee; or
  - (c) a member of a prescribed class. 2006, c. 11, Sched. A, s. 115 (4).

### **Power to hear appeals, etc.**

- (5) The City may by by-law empower the appeal body to hear appeals or motions for directions, as the case may be, under,
- (a) subsections 114 (7), (15) and (15.1);
  - (b) subsection 45 (12) of the *Planning Act*;
  - (c) subsections 53 (4.1), (14), (19) and (27) of the *Planning Act*; or
  - (d) the provisions listed in any combination of clauses (a), (b) and (c). 2017, c. 23, Sched. 3, s. 19 (1).

### **Interpretation re appeals**

- (5.1) The following rules apply if a by-law has been passed under subsection (5) empowering the appeal body to hear motions for directions under subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both:

1. References in this section to an appeal, other than in subsection (9), shall be read as including a reference to a motion for directions under either subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both, as the case may be.
2. The reference in subsection (8) to an appellant shall be read as including a reference to a person or public body making a motion for directions under either subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*, or both, as the case may be. 2017, c. 23, Sched. 3, s. 19 (1).

### **Effect of by-law under subs. (5)**

- (6) If a by-law has been passed under subsection (5),
- (a) the appeal body has all the powers and duties of the Ontario Land Tribunal under this section and the relevant provisions of the *Planning Act*;
  - (b) all references in this section and section 114 and in the *Planning Act* to the Ontario Land Tribunal in connection with appeals under the relevant provisions shall be read as references to the appeal body; and
  - (c) appeals under the relevant provisions shall be made to the appeal body, not to the Ontario Land Tribunal. 2017, c. 23, Sched. 3, s. 19 (1); 2021, c. 4, Sched. 6, s. 37 (1).

### **Prescribed requirements**

- (7) The appeal body shall comply with any prescribed requirements, including, without limitation, requirements for the rules governing the practice and procedure before the appeal body. 2006, c. 11, Sched. A, s. 115 (7).

### **Fee**

- (8) An appellant shall pay to the appeal body any fee that the City establishes by by-law. 2006, c. 11, Sched. A, s. 115 (8).

### **Appeal**

- (9) An appeal lies from the appeal body to the Divisional Court, with leave of the Divisional Court, on a question of law. 2006, c. 11, Sched. A, s. 115 (9).

### **Exception**

- (9.1) Subsection (9) does not apply in respect of a motion for directions under subsection 114 (7) of this Act or subsection 53 (4.1) of the *Planning Act*. 2017, c. 23, Sched. 3, s. 19 (2).

### **Exception, related appeals**

(10) Despite subsection (6), an appeal under a provision listed in subsection (5) shall be made to the Ontario Land Tribunal, not to the appeal body, if a related appeal,

- (a) has previously been made to the Tribunal and has not yet been finally disposed of; or
- (b) is made to the Tribunal together with the appeal under a provision listed in subsection (5). 2017, c. 23, Sched. 5, s. 10 (1); 2021, c. 4, Sched. 6, s. 37 (1).

### **Same**

(11) For the purpose of subsections (10) and (14), an appeal is a related appeal with respect to an appeal under a provision listed in subsection (5) if it is made,

- (a) in respect of the same matter as the appeal under a provision listed in subsection (5); and
- (b) under another provision listed in subsection (5) in respect of which the appeal body has not been empowered, under section 17, 22, 34, 36, 38 or 51 of the *Planning Act* or under a regulation made under section 70.2 of that Act. 2017, c. 23, Sched. 3, s. 19 (3).

### **Dispute about application of subs. (10) or (14)**

(12) A person may make a motion for directions to have the Ontario Land Tribunal determine a dispute about whether subsection (10) or (14) applies to an appeal. 2017, c. 23, Sched. 3, s. 19 (4); 2021, c. 4, Sched. 6, s. 37 (1).

### **Final determination**

(13) The Ontario Land Tribunal's determination under subsection (12) is not subject to appeal or review. 2006, c. 11, Sched. A, s. 115 (13); 2017, c. 23, Sched. 5, s. 10 (2); 2021, c. 4, Sched. 6, s. 37 (4).

### **Tribunal to assume jurisdiction**

(14) If an appeal has been made to the appeal body under a provision listed in subsection (5) but no hearing has begun, and a notice of appeal is filed with the Ontario Land Tribunal in respect of a related appeal, the Tribunal shall assume jurisdiction to hear the first-mentioned appeal. 2017, c. 23, Sched. 3, s. 19 (5); 2021, c. 4, Sched. 6, s. 37 (1)).

### **Same**

(15) When the Ontario Land Tribunal assumes jurisdiction as described in subsection (14), the appeal body,

- (a) shall immediately forward to the Tribunal all information and material in its possession that relates to the appeal; and
- (b) shall not take any further action with respect to the appeal. 2017, c. 23, Sched. 5, s. 10 (3); 2021, c. 4, Sched. 6, s. 37 (1).

### **Withdrawal of power**

(16) The Minister may by order, accompanied by a written explanation for it, withdraw the power given to the appeal body under subsections (5) and (6), and the order may be in respect of the appeals specified in the order, subject to subsection (17), or in respect of any or all appeals made after the order is made. 2006, c. 11, Sched. A, s. 115 (16).

### **Exception**

(17) An order made under subsection (16) does not apply to an appeal if the hearing before the appeal body has begun on or before the date of the order. 2006, c. 11, Sched. A, s. 115 (17).

### **Effect of withdrawal**

(18) If an order is made under subsection (16),

- (a) the Ontario Land Tribunal shall hear all appeals to which the order applies; and
- (b) the appeal body shall forward to the Tribunal all information and material in its possession that relates to any appeal to which the order applies. 2017, c. 23, Sched. 5, s. 10 (4); 2021, c. 4, Sched. 6, s. 37 (1).

### **Revocation of withdrawal**

(19) The Minister may by order, accompanied by a written explanation for it, revoke all or part of an order made under subsection (16). 2006, c. 11, Sched. A, s. 115 (19).

### **Exception**

(20) An order made under subsection (19) does not apply to an appeal if the hearing before the Ontario Land Tribunal has begun on or before the date of the order. 2006, c. 11, Sched. A, s. 115 (20); 2017, c. 23, Sched. 5, s. 10 (5); 2021, c. 4, Sched. 6, s. 37 (1).

### **Effect of revocation**

(21) If an order is made under subsection (19),

- (a) the appeal body shall hear all appeals to which the order applies; and
- (b) the Ontario Land Tribunal shall forward to the appeal body all information and material in its possession that relates to any appeal to which the order applies. 2006, c. 11, Sched. A, s. 115 (21); 2017, c. 23, Sched. 5, s. 10 (6); 2021, c. 4, Sched. 6, s. 37 (1).

### **Dissolution of appeal body**

(21.1) Subject to subsections (21.2) and (21.3), the Minister may by order dissolve the appeal body. 2017, c. 10, Sched. 2, s. 13.

### **Rules re dissolution order**

(21.2) If the Minister makes an order under subsection (21.1), the following rules apply:

1. In respect of an appeal that is made to the appeal body on or before the date the order is made and for which a hearing before the appeal body has not begun on or before that date, the appeal shall be heard by the Ontario Land Tribunal and the appeal body shall forward to the Tribunal all information and material in its possession that relates to any such appeal.
2. The appeal body shall continue to hear an appeal for which a hearing has begun on or before the date of the order.
3. An appeal under a provision listed in subsection (5) shall be made to the Ontario Land Tribunal. 2017, c. 10, Sched. 2, s. 13; 2017, c. 23, Sched. 5, s. 11; 2021, c. 4, Sched. 6, s. 37 (1).

### **Effective date of order under subs. (21.1)**

(21.3) An order made under subsection (21.1) shall take effect on the following:

1. If there are no appeals referred to in subsection (21.2) before the appeal body, the date on which the order is made.
2. If there are one or more appeals referred to in subsection (21.2) before the appeal body, the day on which the appeal body has finally disposed of all of those appeals. 2017, c. 10, Sched. 2, s. 13.

### **Not regulation**

(21.4) An order of the Minister under subsection (21.1) is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2017, c. 10, Sched. 2, s. 13.

### **Transition**

(22) This section does not apply to the following:

1. An appeal under subsection 45 (12) of the *Planning Act*, if the decision of the committee in respect of which a notice of appeal is filed is made before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force.
2. An appeal under subsection 53 (19) or (27) of the *Planning Act*, if the notice under subsection 53 (17) or (24) of that Act, as the case may be, is given before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force.
3. An appeal under subsection 114 (7), (15) or (15.1) of this Act or subsection 53 (4.1) or (14) of the *Planning Act*, if the appeal is made before the day on which a by-law passed under subsection (5) of this section by the City that empowers the appeal body to hear that type of appeal comes into force. 2017, c. 23, Sched. 3, s. 19 (6).

### **Deeming rule re appeals under subs. 53 (4.1) of the *Planning Act***

(23) If the City has, before the day subsection 19 (1) of Schedule 3 to the *Building Better Communities and Conserving Watersheds Act, 2017* comes into force, passed a by-law under subsection (5) empowering the appeal body to hear appeals under subsections 53 (14), (19) and (27) of the *Planning Act*, the by-law is deemed to empower the appeal body to hear appeals under subsection 53 (4.1) of that Act that are made on or after that day. 2017, c. 23, Sched. 3, s. 19 (6).

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. B, s. 28 (1-3), 29 (3) - 01/01/2007

2017, c. 10, Sched. 2, s. 13 - 30/05/2017; 2017, c. 23, Sched. 3, s. 19 (1-6) - 03/04/2018; 2017, c. 23, Sched. 5, s. 10 (1-6), 11 - 03/04/2018

2021, c. 4, Sched. 6, s. 37 (1, 4) - 01/06/2021



## DELIVERY NOISE

### Powers re delivery noise

**115.1** (1) Despite sections 7 and 8, the City does not have the power to prohibit and regulate with respect to noise made in the City in connection with the delivery of goods to any of the following, except as otherwise authorized by regulation:

1. Retail business establishments.
2. Restaurants, including cafes and bars.
3. Hotels and motels.
4. Goods distribution facilities. 2020, c. 29, Sched. 1, s. 1.

### Regulations

(2) The Minister may make regulations,

- (a) authorizing the City to prohibit and regulate with respect to noise made in the City in connection with the delivery of goods to any of the places described in subsection (1);
- (b) governing the powers of the City under clause (a), including authorizing the City to exercise those powers in specified parts of the City;
- (c) defining any word or expression referred to in paragraph 1, 2, 3 or 4 of subsection (1). 2020, c. 29, Sched. 1, s. 1.

### Section Amendments with date in force (d/m/y)

2020, c. 29, Sched. 1, s. 1 - 19/09/2021

## REGULATIONS

### Regulations re toll highways

**116** (1) The Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable for the purposes of section 41, including,

- (a) requiring the City to obtain the approval of any person or body before designating, operating or maintaining a highway as a toll highway;
- (b) providing for criteria which must be met before the City can designate, operate or maintain a highway as a toll highway;
- (c) imposing conditions and limitations on the powers of the City to designate, operate or maintain a highway as a toll highway;
- (d) granting the City additional powers with respect to the operation and maintenance of a toll highway, including powers with respect to the collection and enforcement of tolls imposed for the use of a toll highway;
- (e) without limiting clause (d), providing that the provisions of the *Capital Investment Plan Act, 1993* and the regulations under that Act which relate to toll highways apply to the City with such changes as are prescribed;
- (f) establishing process requirements with respect to the designation, operation and maintenance of a highway as a toll highway, including requiring the City to provide notice to the Minister of Municipal Affairs and Housing or any other person or body of its intention to designate a highway as a toll highway;
- (g) providing that the Minister of Municipal Affairs and Housing or any other person or body who receives notice under clause (f) may prohibit the City from making the designation even though the designation is otherwise authorized under the regulation. 2006, c. 11, Sched. A, s. 116 (1).

### Conflicts

(2) In the event of a conflict between a regulation made under this section and a provision of any Act or regulation, the regulation made under this section prevails. 2006, c. 11, Sched. A, s. 116 (2).

### Regulations re highways and bridges

**117** (1) The Minister of Transportation may make regulations establishing minimum standards of repair for highways and bridges or any class of them. 2006, c. 11, Sched. A, s. 117 (1).

### General or specific

(2) The minimum standards may be general or specific in their application. 2006, c. 11, Sched. A, s. 117 (2).

### **Adoption by reference**

(3) A regulation made under subsection (1) may adopt by reference, in whole or in part, with such changes as the Minister of Transportation considers desirable, any code, standard or guideline, as it reads at the time the regulation is made or as it is amended from time to time, whether before or after the regulation is made. 2006, c. 11, Sched. A, s. 117 (3).

### **Regulations re administrative penalties, parking by-laws**

**118** (1) Upon the recommendation of the Attorney General, the Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable for the purposes of section 81, including,

- (a) granting the City powers with respect to requiring that persons pay administrative penalties and with respect to other matters necessary for a system of administrative penalties;
- (b) imposing conditions and limitations on the City's powers with respect to administrative penalties;
- (c) providing for the refusal by the Registrar of Motor Vehicles to validate vehicle permits issued, or to issue vehicle permits, to a person who had not paid an administrative penalty that is owing to the City. 2006, c. 11, Sched. A, s. 118 (1).

### **Conflict**

(2) In the event of a conflict between a regulation made under this section and a provision of this or any other Act or regulation, the regulation made under this section prevails. 2006, c. 11, Sched. A, s. 118 (2).

### **Regulations re business licences**

**119** (1) The Minister of Municipal Affairs and Housing may make regulations,

- (a) exempting any business or class of business from all or any part of a by-law providing for a system of licences with respect to a business under any Act, including self-regulated businesses;
- (b) imposing conditions and limitations on the powers of the City under this Act to provide for a system of licences with respect to a business;
- (c) prohibiting the City from imposing on any business, in respect of which a provincial certificate has been issued, a condition on a licence requiring testing on the subject matter of the certification. 2006, c. 11, Sched. A, s. 119 (1).

### **Scope**

(2) A regulation under this section may,

- (a) be retroactive for a period not exceeding one year;
- (b) require the City to return licence fees collected during that period;
- (c) require the City to use the licence fees in the prescribed manner. 2006, c. 11, Sched. A, s. 119 (2).

### **Definition**

(3) In this section,

“business” means business as defined in section 85. 2006, c. 32, Sched. B, s. 30.

### **Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. B, s. 30 - 01/01/2007

### **Regulations re reciprocal licensing arrangements**

**120** For the purpose of subsection 91 (1), the Minister of Municipal Affairs and Housing may prescribe the bodies performing a public function and may impose conditions and limitations on the powers of the City to enter into agreements with those bodies. 2006, c. 11, Sched. A, s. 120.

### **Regulations re closing of business premises**

**121** The Minister of Municipal Affairs and Housing may make regulations prescribing goods and services for the purpose of clause 97 (3) (b). 2006, c. 11, Sched. A, s. 121.

### **Regulations re zoning by-laws**

**122** The Minister of Municipal Affairs and Housing may make regulations prescribing conditions for the purposes of subsection 113 (2). 2006, c. 11, Sched. A, s. 122.

### **Same**

**122.1** The Minister of Municipal Affairs and Housing may make regulations prescribing limitations for the purposes of subsection 113 (2.1). 2006, c. 32, Sched. B, s. 31.

This is an unofficial blackline showing the changes proposed by the first reading version of Bill 109 prepared by [Osler, Hoskin & Harcourt LLP](#) as of March 30, 2022. They were not in force as of that date

**Regulations re s. 114 (4.2)**

122.2 The Minister of Municipal Affairs and Housing may make regulations prescribing information and materials for the purposes of subsection 114 (4.2).

**Section Amendments with date in force (d/m/y)**

2006, c. 32, Sched. B, s. 31 - 1/01/2007

**Regulations re appeal body for local land use planning matters**

**123** The Minister of Municipal Affairs and Housing may make regulations,

- (a) prescribing a term for the purpose of clause 115 (2) (a) and qualifications for the purpose of clause 115 (2) (b);
- (b) prescribing eligibility criteria for the purpose of subsection 115 (3);
- (c) prescribing classes for the purpose of clause 115 (4) (c);
- (d) prescribing requirements for the purpose of subsection 115 (7);
- (e) respecting appeals that are affected by orders made under subsections 115 (16), (18), (19) and (21). 2006, c. 11, Sched. A, s. 123.