

# Smart Growth for Our Communities Act 2015



**Strong Communities**

**A Better Land Use System**

Highlights of Changes to the Planning Act

# Smart Growth for Our Communities Act, 2015

- ***Smart Growth for Our Communities Act, 2015*** received Royal Assent on December 3, 2015
- **Act makes changes to the *Planning Act* to:**
  - give residents more say in how their communities grow
  - set out clearer rules for land use planning
  - give municipalities more independence to make local decisions
  - make it easier to resolve disputes
  - make section 37 density bonusing and the parkland dedication systems more predictable, transparent and accountable
- **Act also made changes to the *Development Charges Act, 1997***



# Province-wide Consultation

- **October 2013 to January 2014:**
  - Ministry of Municipal Affairs (MMA) undertook a review of land use planning and appeal system (LUPA), together with a parallel review of development charges system
- **Two consultation guides helped focus the consultation:**
  - Land Use Planning and Appeal System
  - Development Charges System
- **Working group of stakeholders was established to provide advice on specific land use issues:**
  - what constitutes a minor variance
  - modernization of notice regulations



# Province-wide Consultation

- **Formal consultation on LUPA included:**
  - e-reviews
  - staff-led meetings with stakeholders
  - MPP reviews with their constituents
  - regional public workshops held in Thunder Bay, Sault Ste. Marie, Ottawa, Waterloo, Mississauga and Toronto - approximately 300 participants
  - outreach with Indigenous groups
- **LUPA consultation focused on how to:**
  - better engage citizens
  - achieve more predictability
  - support greater municipal leadership
  - protect long-term public interests
- **Out of scope land use matters included:**
  - eliminating or changing Ontario Municipal Board (OMB) operations, practices, procedures
  - removing or restricting Province's approval role / ability to intervene in matters
  - removing municipal flexibility in addressing local priorities

**CONTEXT**



# Relationship to Other Provincial Land Use Initiatives

- **Previous Reforms:**

- current changes build on previous land use reforms (Bill 51 - Planning and Conservation Land Statute Law Amendment Act, 2006 and Bill 26 - Strong Communities (Planning Amendment) Act, 2004) to help make communities sustainable and liveable, and to make the land use planning system more open, transparent, and responsive to today's needs

- **Ongoing and Future Reforms:**

- Coordinated Plan Review (Growth Plan for the Greater Golden Horseshoe, Greenbelt Plan, Oak Ridges Moraine Conservation Plan, Niagara Escarpment Plan)
- Ontario Municipal Board (OMB) Review
  - comments received during LUPA will help inform OMB review



# In Force Date / Proclamation / Regulations

- Four *Planning Act* changes came into force through Royal Assent (December 3, 2015):
  - subsection 1(2): Restricts ability of ministries other than the Ministry of Municipal Affairs (MMA) to be added as a party to an OMB appeal
  - subsection 3(10): Extends Provincial Policy Statement (PPS) review cycle from 5 to 10 years
  - subsections 4(1), 4(2): Removes references to “referral” as MMA Minister does not have delegation powers for site plan
  - section 22.1: Clarifies transition on Official Plan Amendments (OPA) (i.e., grandfathered OPA applications must meet complete application requirements)
- Remainder of *Planning Act* changes take effect upon proclamation – July 1, 2016
- Number of regulations are also required to implement *Planning Act* changes made through Bill 73



# Key Areas of Change to Planning Act

1. Citizen Engagement
2. Certainty, Stability and Costs
3. Local Decision Making and Accountability
4. Dispute Resolution
5. Transparency



**All upper-tier municipalities and single-tier municipalities located in southern Ontario required to establish Planning Advisory Committees (PACs). All PACs (whether required / discretionary) must have at least one resident member**

## Intended Outcomes

- Help facilitate greater collaboration and exchange of ideas between council / public
- Increase use of PACs and ensure citizen representation
- Ensure that land use advice provided to councils includes citizen perspectives

## Previously

- Municipalities **could** create PACs (PACs authorized under *Planning Act* since 1983)

## Implementation Considerations

- PACs are intended as advisory committees (i.e., they are not decision-making committees of council)
- Municipalities continue to have flexibility / discretion to determine how PACs would be most effective within their communities:
  - councils determine which planning matters PACs can review/provide input
  - municipalities can potentially utilize existing advisory committees to meet requirement for PAC (e.g., heritage committees, etc.)
  - PAC recommendations are not binding
- Lower-tiers, single-tiers in territorial districts (northern Ontario), or Township of Pelee, **may** establish PACs



# Enhanced Requirement to Have Regard to Public Input

**Ontario Municipal Board (OMB) must have regard to all information received from the municipality when adjudicating non-decision appeals. The OMB and approval authorities must have regard to both written and oral submissions received at the municipal level**

## Intended Outcomes

- Certainty of continued relevance of public input made at the municipal level

## Previously

- *Planning Act* did not specifically require the OMB to have regard to any information, including written and oral submissions received by the municipality from the public, for non-decision appeals

## Implementation Considerations

- Change clarifies that all public input at municipal level must be considered by approval authorities and OMB, even in cases of an appeal due to a municipal non-decision
- Complements other provisions in *Smart Growth for Our Communities Act, 2015* that require municipalities and approval authorities to explain effect of public input on planning decisions



**Municipalities authorized to expand alternative notice procedures for additional planning matters (i.e., plans of subdivision and consents) and for additional processes (i.e., notice of complete application and open house)**

## Intended Outcomes

- Provide municipalities with increased ability to tailor public notification requirements

## Previously

- Alternative notice was allowed for official plan amendments (OPAs), zoning by-laws (ZBLs), zoning by-law amendments (ZBLAs), community improvement plans (CIPs) in respect of narrower range of requirements

## Implementation Considerations

- Allows municipalities to tailor their notice procedures (e.g. who receives notice, how notice is given) through the use of the alternative notice provisions for a broader list of planning matters (including notices of complete application)
- Provides local flexibility, through an official plan (OP) public engagement process, to determine whether a departure from provincial requirements is appropriate
- Any OP policies providing for alternative notice that were in place prior to the enactment of the new provisions continue to apply



# Requirement to Explain Effect of Public Input

Ss. 17, 22,  
34, 45, 51,  
53

## Municipalities and approval authorities required to explain effect of public input on planning decisions

### Intended Outcomes

- More transparency and consistency in municipal decision-making

### Previously

- No requirement for municipalities and approval authorities to explain the effect of the public input on their decision

### Implementation Considerations:

- Change complements other provisions in *Smart Growth for Our Communities Act, 2015* that enhance the role of the public and their input in the planning process
- Notices of decision must include explanation of effect of public input
- Local discretion in how to explain effect of public input on land use decisions
- Existing practices can provide guidance on this requirement:
  - municipal planning reports often include description of public feedback
  - province routinely provides explanation of effect of public submissions on planning decisions through Environmental Bill of Rights Registry



**Municipal official plans must include description of measures and procedures for informing and obtaining views of the public on official plan amendments, zoning by-laws, plans of subdivision and consents**

## Intended Outcomes

- Highlight importance of public participation and provide public with greater certainty regarding how they will be engaged in planning process

## Previously

- Municipalities could include public consultation policies in official plans

## Implementation Considerations

- Requirement complements changes to various *Planning Act* regulations which prescribe a public consultation strategy as a required part of complete application
- Municipalities have ability to tailor official plan policies to meet local context / needs (municipality may decide to add policies to the official plan that simply reflect current legislative requirements if they are determined to be sufficient to address local needs)



## Provincial Policy Statement (PPS) review cycle changed from 5 to 10 years

### Intended Outcomes

- Provide a more stable provincial policy framework for municipalities – it often takes years for municipalities to update their official plans to align with a new PPS
- Harmonize PPS review cycle with review cycle for provincial plans – 10 year cycle is the standard for provincial plans

### Previously

- Requirement to commence a review of PPS at least every five years from the date of issue to determine need for revision

### Implementation Considerations

- Required review of PPS occurs on a 10-year basis rather than the previous 5 years
- Change took effect with Royal Assent (December 3, 2015)
- Government has discretion to commence a PPS review earlier, should the need arise



# Requirement to Submit Official Plan Documents to MMA

Subsections  
17(17.1) –  
(17.2)

**Municipalities required to provide copy of a proposed Official Plan (OP) / Official Plan Amendment (OPA) to MMA at least 90 days prior to giving notice of public meeting (where MMA is the approval authority and the OP is not exempt from approval)**

## Intended Outcomes

- Help ensure an effective, streamlined approval process with provincial comments identified early in the process to allow time to resolve issues prior to adoption
- More transparency by enabling provincial comments to be available at public meeting

## Previously

- No specific timeline for submitting draft official plan documents to MMAH in advance of a public meeting

## Implementation Considerations

- Requirement applies where MMA is the approval authority and the official plan is not exempt from approval (e.g. upper-tier / single-tier OPs and 5-year OP updates)
- Requirement does not apply to those official plan amendments in respect of which notice of public meeting was given within 120 days of the coming into effect of this provision
- Transition provision, which is provided in Bill 73 itself [s.38(3)], will be automatically repealed 121 days after the coming into effect of the provision

**CERTAINTY, STABILITY AND COSTS**



# Upper / Lower-Tier Conformity

Subsections  
17(34.1) –  
(34.2), 17(40.2)-  
(40.4) and 21(2)

**Prevent certain approvals and appeals of lower-tier Official Plans (OPs) / s. 26 “update” Official Plan Amendments (OPAs) unless it conforms with upper-tier in effect/adopted OP / s. 26 OPA**

## **Intended Outcomes**

- Achieve better co-ordination between different levels of government
- Help ensure lower-tier official plan conformity with upper-tier official plan by reducing potential for inconsistent policies between upper and lower-tier municipalities
- Avoid potential for unnecessary appeals to OMB

## **Previously**

- Lower-tier municipalities were not restricted in their ability to appeal an upper-tier’s non-decision in relation to the lower-tier’s OP update or new OP

**CERTAINTY, STABILITY AND COSTS**



## Implementation Considerations

- Changes prevent:
  - approval authority from approving lower-tier OP or OP update if the upper-tier believes that lower-tier OP / OP update does not conform with upper-tier policies
  - appeals of approval authority's non-decisions on lower-tier OP / OP updates if the approval authority has stated an opinion within 180 days of receiving the lower-tier document that does not conform with the in-effect policies of the upper-tier OP or those upper-tier OP policies that have been adopted as part of a new OP or s. 26 update prior to the expiry of the 180 days
- Approval authority's opinion of the lower-tier's conformity to the upper-tier plan is not subject to review by OMB
- Provision only applies to lower tier OPAs that are adopted in accordance with s. 26 of Planning Act
- Change does not prevent approval authorities from modifying lower-tier official plans to conform with upper-tier official plans



**New official plans (OP) must be reviewed and revised, as necessary, within 10 years of coming into effect**

## **Intended Outcomes**

- Harmonize with review cycles of PPS and Provincial Plans
- Allow municipalities to use resources more efficiently and provides them more time to engage with stakeholders in the review process - municipalities often invest years of both municipal and community resources in creating official plans
- Encourage more comprehensive updates

## **Previously**

- Municipalities required to update official plans no later than every 5 years

## **Implementation Considerations**

- 10-year cycle applies to new official plans (i.e., repeal and replacement of an official plan with a new official plan) - 5-year cycle continues to apply in situations where an official plan is being updated and not replaced in its entirety
- Municipalities continue to have ability to amend official plan, or prepare a new official plan, at any time



# 2-year “Time-Out” - New Official Plans and Zoning By-laws

Subsection 22  
(2.1) – (2.2) &  
34 (10.0.0.1) –  
(10.0.0.2)

**No privately-initiated applications to amend a new Official Plan (OP) or Zoning By-law (ZBL) for 2 years, unless supported by municipality**

## **Intended Outcomes**

- Increase stability by affording municipalities ability to implement their new OP or ZBL without having to contend with immediate requests / pressures for amendments
- Give greater control to municipalities
- Continue to provide municipalities with flexibility to allow or make amendments that they feel are appropriate

## **Previously**

- Privately-initiated amendments to OPs and ZBLs permitted at any time

**CERTAINTY, STABILITY AND COSTS**



# 2-year “Time-Out” - New Official Plans and Zoning By-laws

Subsection 22  
(2.1) – (2.2) &  
34 (10.0.0.1) –  
(10.0.0.2)

## Implementation Considerations

- No privately-initiated applications to amend a new official plan or zoning by-law can be made until end of 2-year period (2 years from the first day any part of the official plan takes effect/ zoning by-law is passed), unless municipality passes a resolution to allow them to proceed
- 2 year “time-out” only applies to **new** official plans / **new comprehensive** zoning by-laws passed within 3 years of new official plan (i.e., when municipality fully repeals any existing official plan and all zoning by-laws in effect in the municipality and replaces them with a new official plan or zoning by-law)
- 2-year “time-out” does not apply when municipality makes changes to its official plan through an amendment as part of its 5-year review
- Municipalities continue to have ability to make municipally-initiated amendments and can pass resolutions to allow applications during “time-out” – a resolution can relate to site-specific applications, a class of applications, or applications generally
- Any applications proceeding during this “time-out” would be subject to all the normal *Planning Act* requirements for public meetings, notice and appeal rights

CERTAINTY, STABILITY AND COSTS



**Section 2 of *Planning Act* includes new provincial interest relating to built form – “built form that is well designed, encourages a sense of place, provides for public places that are of high quality, safe, accessible, attractive and vibrant”**

## **Intended Outcomes**

- Ensure “built form” is appropriately considered in planning decisions
- Complement provincial land use policies reflected in policy 1.7.1 d) of PPS 2014

## **Previously**

- “Built form” was not specifically included as one of the 18 listed provincial interests

## **Implementation Considerations**

- Land use decision-makers required to have regard to range of provincial interests identified in section 2 of *Planning Act*, including new provincial interest related to built form
- Implementation standard for provincial interests – “shall have regard to”
- New provincial interest is supported by PPS 2014 and, where applicable, provincial plan policies
- New provincial interest reinforces need for decision makers to consider built form which will vary between communities and local circumstances; this is complemented by requirement for Official Plans to include policies on built environment



## Requirement for official plans to contain policies related to the built environment

### Intended Outcomes

- Have built environment policies incorporated into local official plans
- Complement provincial land use policies reflected in PPS 2014

### Previously

- No explicit requirement to include built environment policies in OP's
- Official plans required to contain policies related to “goals, objectives and policies established to manage and direct physical change and the effects on the social, economic, and natural environment of the municipality”

### Implementation Considerations

- Official plans must now also contain policies related to the built environment: “goals, objectives and policies established to manage and direct physical change and the effects on the social, economic, **built** and natural environment of the municipality”
- Municipal discretion on how built environment is to be best considered in official plans (no minimum standards for this in *Planning Act*), but subject to any applicable policies in PPS and provincial plans



## Municipalities no longer required to revise their employment land policies / designations at time of official plan update

### Intended Outcomes

- Greater municipal control over preservation of employment lands
- Help prevent potential erosion of employment land supply through OMB appeals

### Previously

- Municipalities required to revise by confirming or amending their employment land policies and designations at 5-year official plan update – as a result, any party could appeal employment land policies / designations at this time

### Implementation Considerations

- Municipalities have greater control over the preservation of their employment lands, as these policies are no longer required to be opened and where not opened would not be subject to public appeals
- Municipalities are still encouraged to keep their employment policies and land designations up-to-date



# 90-day “Time-Out” for Official Plans/Official Plan Amendments

**Approval authority and adopting municipality / applicant can agree to extension of up to 90 days in 180-day decision timeline for approving Official Plan (OP) / Official Plan Amendment (OPA)**

## **Intended Outcomes**

- Provide more time to resolve disputes without the threat of a 3<sup>rd</sup> party appeal

## **Previously**

- No previous ability to suspend decision timeframe

## **Implementation Considerations**

- Both parties need to be agreeable to this “time-out”; otherwise it will not apply
- While either party can initiate the “time-out” prior to expiry of 180 days, either party can also terminate "time-out" at any time by giving notice of this intention
- 90 days is maximum length for “time-out” (can be less) – can be applied only once
- Municipalities decide whether and how they notify other interested parties of the “time-out.” Interested parties and / or members of the public (3<sup>rd</sup> parties) can contact the municipality to confirm the status of the matter



## “Development Permit System” (DPS) name changed to “Community Planning Permit System” (CPPS)

### Intended Outcomes

- Ensures system reflects key strengths – i.e., through the system a community is better able to set out their vision for the community and it provides greater certainty about the form and shape of development

### Previously

- The system was known as the Development Permit System

### Implementation Considerations

- Local municipalities encouraged to use CPPS term for consistency and clarity
- Municipalities with existing DPS policies / DP by-laws can continue to use these (without amendment)
- Municipalities with existing DPS policies / by-laws are encouraged to use the new term CPPS when they amend their documents



# 5-year “Time-Out” for Community Planning Permit System

## No privately-initiated amendments to Community Planning Permit System (CPPS) for 5 years, unless supported by municipality

### Intended Outcomes

- Increases stability by affording municipalities ability to implement their new CPPS without having to contend with immediate requests / pressures for amendments
- Gives greater control to municipalities, while still providing municipal flexibility to allow or make amendments they feel are appropriate

### Previously

- Applications to amend DPS OP policies / DP By-law could be made at any time

### Implementation Considerations

- Development continues to be permitted as long as it complied with CPPS by-law
- All privately-initiated applications have to wait until end of 5-year period from the day CPPS by-law is passed, unless municipality allows them to proceed during that time (through resolution)
- Municipalities continue to have ability to make municipally-initiated amendments
- Any amendments made or applications permitted during the five-year period are subject to all normal Planning Act requirements for public meetings, notice and appeal rights



# Requiring Use of Community Planning Permit System

**New authority authorizing MMA Minister or upper-tier municipality to require use of Community Planning Permit System (CPPS) for specific purposes (requires implementing regulation)**

## Intended Outcomes

- Would help facilitate implementation of provincial / regional interests (e.g., CPPS could be required in certain areas to support provincial interests such as transit investments)

## Previously

- Use of DPS was at municipal discretion

## Implementation Considerations

- Use of new legislative authority requires implementing regulation - no regulation is currently proposed
- Regulation would authorize MMA Minister or an upper-tier to require a local municipality to establish the CPPS for specified purposes
- It is up to local municipality to determine where they establish the system
- Stakeholder working group may be asked to provide recommendations on implementing CPPS assist in identifying appropriate areas for CPPS (geographic or criteria-based)



**Change to clarify transition - applications for Official Plan Amendments (OPAs) are subject to previous policies / legislation only if the complete application was made prior to transition date**

## **Intended Outcomes**

- Ensure “grandfathered” applications meet certain established complete application tests

## **Previously**

- n/a

## **Implementation Considerations**

- New provision came into force through Royal Assent
- New provision clarifies potential ambiguity by clarifying that a requested OPA amendment is “transitioned” only if the request included required supporting material prior to the applicable transition date



# No Appeal of Specific Provincial Approvals

Subsections  
17(24.4) - (24.5)  
and 17(36.4)

## No appeals of official plans / OPAs that implement the following provincially-approved matters:

- Boundary of a vulnerable area as defined in Clean Water Act, 2006
- Boundary of Lake Simcoe watershed
- Boundary of Greenbelt Area, Protected Countryside or a specialty crop area designated by Greenbelt Plan
- Boundary of Oak Ridges Moraine Conservation Plan Area
- Forecasted population and employment growth in accordance with the Growth Plan for the Greater Golden Horseshoe
- Forecasted population and employment growth in lower-tier official plan in accordance with an allocation in the upper-tier municipality's official plan that has been approved by the Minister
- Boundary of an area of settlement in lower-tier official plan to reflect the boundary set out in the upper-tier municipality's official plan that has been approved by the Minister



# No Appeal of Specific Provincial Approvals

## Intended Outcomes

- Facilitate implementation of provincial interests by eliminating the possibility of appeals where municipalities are simply implementing certain provincially-approved matters into their planning documents
- Facilitate municipal implementation of provincially approved matters by eliminating unnecessary appeals
- Increase certainty in the planning process
- Support provincial interests
- Reduce appeals, resulting in cost savings for municipalities and the province

## Previously

- Most matters, including provincially-approved matters, could be appealed to OMB

## Implementation Considerations

- No appeals of OPs/OPAs that implement specific provincially-approved matters
- Prohibition on appeals is specific to parts of official plan identifying boundaries or forecasts (not the whole of a conformity exercise for example)



## Changes remove ability to appeal second unit policies at time of an OP update

### Intended Outcomes

- Removes ability to appeal second unit policies at time of an official plan update
- Provide municipalities with increased ability to facilitate second units (i.e., basement apartments)

### Previously

- Municipal second unit policies included in an update of the official plan could be appealed by any party

### Implementation Considerations

- Provides municipalities with control over second unit policies / standards
- Changes made to Planning Act in 2011 require municipalities to permit second units, while enabling municipalities to consider any constraints (e.g., flood-prone areas or those with inadequate servicing) in developing or reviewing second unit policies or standards
- Second unit policies should continue to be reviewed during the regular OP policy updates
- No change to non-appealability of second unit policies at all other times



# No Ability to Appeal Entire New Official Plan

Sbs. 17 (24.2) -  
(24.3), 17 (25)(a),  
17(36.2)-(36.3),  
17(37)(a), 21(1)

## Changes remove ability for an appellant to appeal an entire OP

### Intended Outcomes

- Help streamline the land use process and create more certainty
- Can help avoid costly disputes later in the hearing process
- Help allow uncontested policies to come into effect and scope matters before the OMB

### Previously

- Any party could appeal the entire official plan

### Implementation Considerations

- This applies when official plans are subject to a full, comprehensive update, resulting in a new official plan; official plan amendments remain appealable in their entirety



**Changes allow approval authorities to establish optional time limit for additional appeals, following an appeal of a non-decision of OPs / OPAs**

## **Intended Outcomes**

- Help streamline OMB hearings and allow for focusing of appeals earlier in the process, facilitating effective preparation for hearings

## **Previously**

- No ability for approval authorities to create a time limit for additional “non-decision” appeals

## **Implementation Considerations**

- Optional new tool which provides the approval authority, after receiving a notice of appeal, with the option to give a notice establishing a 20-day time limit to appeal a non-decision
- Once 20-day window closes, no additional appeals of non-decisions may be permitted on any part of official plan
- When municipality uses this new tool, notice would be provided to all those that would have received a notice in the case of a decision



# Clearer Reasons for Appeals

**Appellants need to explain the reasons for an appeal in respect of provincial / local policies - failure to do so means that appellant may not be able to argue issue before OMB**

## Intended Outcomes

- Help to better scope appeals and provide OMB parties and public with more transparency with regards to what will be raised during Board hearings
- Provide more specific direction regarding the needed explanation, which can help reduce number of vexatious appeals

## Previously

- Notice of appeal was required to set out reasons for the appeal

## Implementation Considerations

- If appellant intends to argue that by-law is inconsistent with a provincial policy, fails to conform with or conflicts with a provincial plan or fails to conform with an applicable OP, the appeal letter must explain how the by-law is inconsistent with, fails to conform with, or conflicts with, the other document
- Complementary change in *Planning Act* gives OMB ability to dismiss all or part of an appeal without holding a hearing if the required explanation has not been provided in the appeal letter



**Changes allow Council or approval authority to determine, after an appeal is made, if Alternative Dispute Resolution (ADR) is appropriate prior to sending the appeal record to Ontario Municipal Board (OMB), and extend time for sending record where pursuing ADR**

## Intended Outcomes

- Increase understanding and uptake of ADR as dispute resolution tool
- Enhance opportunities to resolve disputes locally before appeals are forwarded to OMB – can help avoid potential for lengthy and costly hearings

## Previously

- ADR could be used to try to resolve planning disputes but the deadline for forwarding the appeal record to the OMB remained unchanged (i.e., 15 days)

## Implementation Considerations

- Municipality must give notice of intention to use ADR to all appellants, and must include the applicant, such appellants as are desired and others (e.g., MMA Minister, approval authority, municipality) in any invitation to participate in ADR
- If ADR is initiated, a 60-day "time-out" would apply to allow a pause in the process to work out disputes and potentially avoid an OMB hearing
- The time period to forward the appeal record to the OMB would be extended to 75 days (i.e., 60 days for ADR and 15 days to forward the record)



## 2 Year "Time-Out" for Minor Variances

**Changes remove ability to apply for a minor variance for 2 years following the passing of an applicant-initiated zoning by-law amendment (ZBLA) , unless application is permitted by Council (through resolution)**

### Intended Outcomes

- Give greater control to municipalities
- Prevent zoning provisions that council determines to be important from being reversed through the minor variance process for 2 years
- Increase stability by affording municipalities ability to implement site-specific zoning by-laws

### Previously

- Applications for minor variances could be made at any time following applicant-initiated ZBLA

### Implementation Considerations

- Municipalities continue to have ability, through resolution, to allow minor variance applications to proceed
- Up to municipality to determine a local process for deciding which applications proceed. Once council allows applications to proceed, they would be subject to all the normal *Planning Act* requirements for public meetings, notice and appeal rights



# Additional Criteria for Minor Variances



- **New authority to establish additional criteria through provincial regulation**
- **New authority for municipalities to establish additional criteria through municipal by-laws**

## Intended Outcomes

- Would help clarify what constitutes a minor variance
- Would empower municipalities to establish additional criteria reflective of local context

## Previously

- Planning Act sets out tests for minor variances in s. 45

## Implementation Considerations

- Legislative changes would be implemented through a regulation – no provincial regulation is currently proposed
- Municipalities would have ability to establish their additional criteria for minor variances that augment provincial criteria and help better respond to local context
- Committees of Adjustment and OMB would assess applications based on:
  - 4 tests in section 45 of *Planning Act*
  - any additional criteria in regulation
  - any local criteria established through municipal by-law

**Municipal treasurers required to provide council with an annual financial statement related to density bonusing and parkland monies that is available to the public**

## Intended Outcomes

- Enhanced transparency and accountability regarding the use of bonusing and parkland monies
- Greater opportunities for citizens to see how and where fees are spent and to identify any issues to their local politicians

## Previously

- Money collected by municipalities would be subject to the reporting requirements as outlined in the Municipal Act / City of Toronto Act

## Implementation Considerations

- Money collected under section 37 and parkland dedication provisions of *Planning Act* will be subject to a detailed financial statement
- Statements shall be made available to the public



# Alternative Parkland Rate for Cash-in-lieu Dedications

**Maximum alternative parkland rate changes from 1 ha for 300 units to 1 ha for every 500 units for cash-in-lieu**

## Intended Outcomes

- Help incent acquisition of land for parks (rather than collecting money)
- Help provide parkland more quickly and address current needs in communities

## Previously

- Maximum alternative parkland dedication rate was 1 hectare for every 300 units for both land dedications and cash-in-lieu

## Implementation Considerations

- Maximum rates for parkland dedication are now the following:
  - no change to standard rate based on percentage of land in development (e.g., 5% of land – this standard rate has traditionally been most commonly used for greenfield development)
  - alternative rate (1ha to 300 units) retained when land for parks is being provided
  - for cash-in-lieu, alternative rate changes from 1 ha to 300 units to 1 ha for every 500 units - this new rate will override an existing cash-in-lieu rate that exceeds 1 ha for 500 units
  - new maximum rate does not apply where payments or arrangements for payments have already been made



**Requirement for municipalities to develop parks plans, in consultation with school boards and, as appropriate, the public, prior to adopting new / updated alternative parkland official plan policies**

## Intended Outcomes

- Better positions municipalities to strategically plan for parks and be prepared for potential opportunities to acquire park land to meet community needs

## Previously

- Parks plans were not required prior to adopting / updating alternative parkland policies

## Implementation Considerations

- Parks plans not required:
  - if municipalities use 2% and 5% parkland dedication rates
  - for existing official plans already containing policies dealing with alternative parkland - in these cases, parks plans are required only at such time as municipality adopts new alternative parkland rate policies in their official plan
- Municipalities required to consult with every school board that has jurisdiction in the municipality when preparing parks plan



# Parks Plans

- Parks plans lay out goals and policies to guide the development of a municipality's parks and recreation system
  - can focus solely on parks or can be integrated with other aspects (e.g., recreation, heritage, culture or trails plans)
  - can include planning for acquisition, development, and management of parks and parks services
  - can provide opportunities to identify and discuss future surplus school sites and plan accordingly
- Some common purposes of parks plans:
  - assessing community recreation needs
  - engaging citizens in decisions about programs that affect the community
  - identifying unique resources that should be preserved (e.g., surplus school sites)
  - prioritizing facility and program creation and maintenance
  - recommending short, medium and long-term actions



## Some Common Components

- **Context:** geographic / demographic / economic profile of community
- **Goals:** specific, measurable, attainable, realistic, time-bound
- **Needs / Supply Analysis**
  - inventory and quality of assessment of recreation facilities, parks and trails inventory of policies for parks
  - analysis of anticipated future needs and standards for different park types
  - upgrading of existing parks to accommodate larger populations
- **Financial Analysis**
  - current budget, potential costs and funding sources
- **Public Consultation:** process undertaken to develop parks plan; key findings
- **Recommendations / Implementation:** how and when recommendations are to be implemented; who is responsible



# In-Effect Dates: Royal Assent and Proclamation

Four *Planning Act* changes made through Bill 73 came into force through Royal Assent (December 3, 2015):

- subsection 1(2): Restricts ability of ministries other than MMA to be added as a party to an OMB appeal
- subsection 3(10): Extends PPS review cycle from 5 to 10 years
- subsections 4(1), 4(2): Removes references to “referral” as MMA Minister does not have, and therefore could not delegate, powers for site plan
- section 22.1: Clarifies transition on OPAs (i.e., grandfathered OPA applications must meet complete application requirements)

Remainder of *Planning Act* changes made through Bill 73 came into force upon proclamation - July 1, 2016



# Regulations

- Number of regulations are also required to implement Planning Act changes made through Bill 73
- **Minister's Regulations**
  - enhanced notice (impacts 5 regulations)
  - enhanced complete application (impacts 4 regulations)
  - enhanced OMB record for minor variance
  - transition
- **Cabinet (Lieutenant-Governor-in-Council) Regulations**
  - renaming of DPS
  - DPS 5-year "time-out"

## EBR Registry

### Numbers

- 012-6823
- 012-6824
- 012-6825
- 012-6826
- 012-6827

REGULATIONS



# New / Amended Planning Act Regulations

Regulation	Regulation #	Planning Act Reference	Minister / LGIC
Official Plans and Plan Amendments	O. Reg. 543/06 (amended by O. Reg. 180/16)	ss. 17 & 22	Minister
Zoning, Holding, Interim Control By-laws	O. Reg. 545/06 (amended by O. Reg. 179/16 )	ss. 34, 36 & 38	Minister
Plans of Subdivision	O. Reg. 544/06 (amended by O. Reg. 178/16 )	s. 51	Minister
Consent Applications	O. Reg. 197/96 (amended by O. Reg. 176/16)	s. 53	Minister
Minor Variances	O. Reg. 200/96 (amended by O. Reg. 175/16 )	s. 45	Minister
Minister's Zoning Order – Requests to Amend or Revoke	O. Reg. 546/06 (amended by O. Reg. 177/16 )	s. 47	Minister
Transition – Matters and Proceedings	O. Reg. 174/16 (new regulation)	s. 70.6	Minister
Development Permit System	O. Reg. 173/16 (new regulation; replaces prev. O. Reg. 608/06)	ss. 70.2 & 70.2.1	LGIC



# Enhanced Complete Application

- Regulations amended:
  - O. Reg. 543/06: Official Plans and Plan Amendments
  - O. Reg. 545/06: Zoning By-laws, Holding & Interim Control By-laws
  - O. Reg. 544/06: Plans of Subdivision
  - O. Reg. 546/06: Requests to Amend or Revoke Minister's Zoning Orders
- Regulation changes support enhanced citizen engagement by adding to minimum requirements for “complete applications”- applicants now need to submit public consultation strategy as part of a complete application

REGULATIONS



# Enhanced Notice

- Regulations amended:
  - O. Reg. 543/06: Official Plans and Plan Amendments
  - O. Reg. 545/06: Zoning By-laws, Holding & Interim Control By-laws
  - O. Reg. 544/06: Plans of Subdivision
  - O. Reg. 200/96: Minor Variance Applications
  - O. Reg. 197/96: Consent Applications
- Regulation changes:
  - enhance relevant notice requirements
  - modernize and simplify the content of notices for publishing in newspapers and posting on properties
  - prescribe requirements for new optional notice to establish a 20-day period for appealing a non-decision of an official plan



# Enhanced Notice – Details of Regulation Changes

## Email Notice

- Notices were previously required to be given in one of certain specified formats (e.g. personal service, mail or fax) to:
  - prescribed persons and public bodies
  - persons and public bodies who asked to be notified
  - in some cases, approval authority/MMA Minister
- Changes add email as an additional notification option to those listed above

## Notices in multi-tenant residential buildings

- There was no previous requirement to provide notice to tenants
- Where notices are given to owner(s) of a structure, changes require notices to include a request for owner to post notice in a location visible to all tenants



# Enhanced Notice – Details of Regulation Changes

## **Aligning Zoning By-law Decision Notice Requirements with Official Plan Decision Notice Requirements**

- Previous requirements required a wider notice for the passing of a ZBL than what is required for decision notices for other planning matters
- Regulation changes align decision notice requirements for ZBLs with those for official plans

## **Content of Newspaper / Written Notices**

- Previous regulations required that newspaper (and written) notices contain specific statements regarding the need for public participation in order to maintain appeal rights
- Regulation changes:
  - modernize and simplify required content - previously required statements in newspaper notices are replaced with a statement directing readers to where they can find essential information on participating in the process, including how to preserve their appeal rights
  - update required content of a notice given by posting a sign on the subject property



# Enhanced Notice – Details of Regulation Changes

## **New Optional Notice Re Appealing Non-Decisions**

- Regulation changes prescribe requirements for the content of the new optional notice introduced by Bill 73
  - Approval authorities that have received at least one appeal of a non-decision on official plans now have the option to give a notice establishing 20-day limit for additional appeals of a non-decision
- Required content of new optional notice is similar to the content of other notices (e.g. an explanation of the purpose and effect of the OP/OPA, where and when information will be available, and information on appeal rights and the last date for filing a notice of appeal) but includes some statements to provide information about this notice



# Enhanced OMB Record for Minor Variances

- Regulation amended:  
O. Reg. 200/96: Minor Variance Applications
- Change adds requirement that minutes of the public hearing be forwarded to the OMB after a minor variance appeal (in addition to the information and material required to be forwarded under the Planning Act)
- Change supports enhanced citizen engagement



# Community Planning Permit System (CPPS)

- New Regulation:  
O. Reg. 173/16: Development Permits

## **Renaming of Development Permit System**

- Provides “Community Planning Permit System” (CPPS) as an updated name for the “Development Permit System”
- Change ensures name reflects key strengths of the system – i.e., through the system, a community is better able to set out their vision for the community and greater certainty about the form and shape of development is provided

## **5-year “time-out” for CPPS**

- Change provides for 5-year “time-out” for private applications to amend the CPPS after the system comes into effect, unless municipality passes a resolution to allow applications during the “time-out”
- Applies to applications in respect of systems that were established on or after July 1, 2016



# Transition Regulation

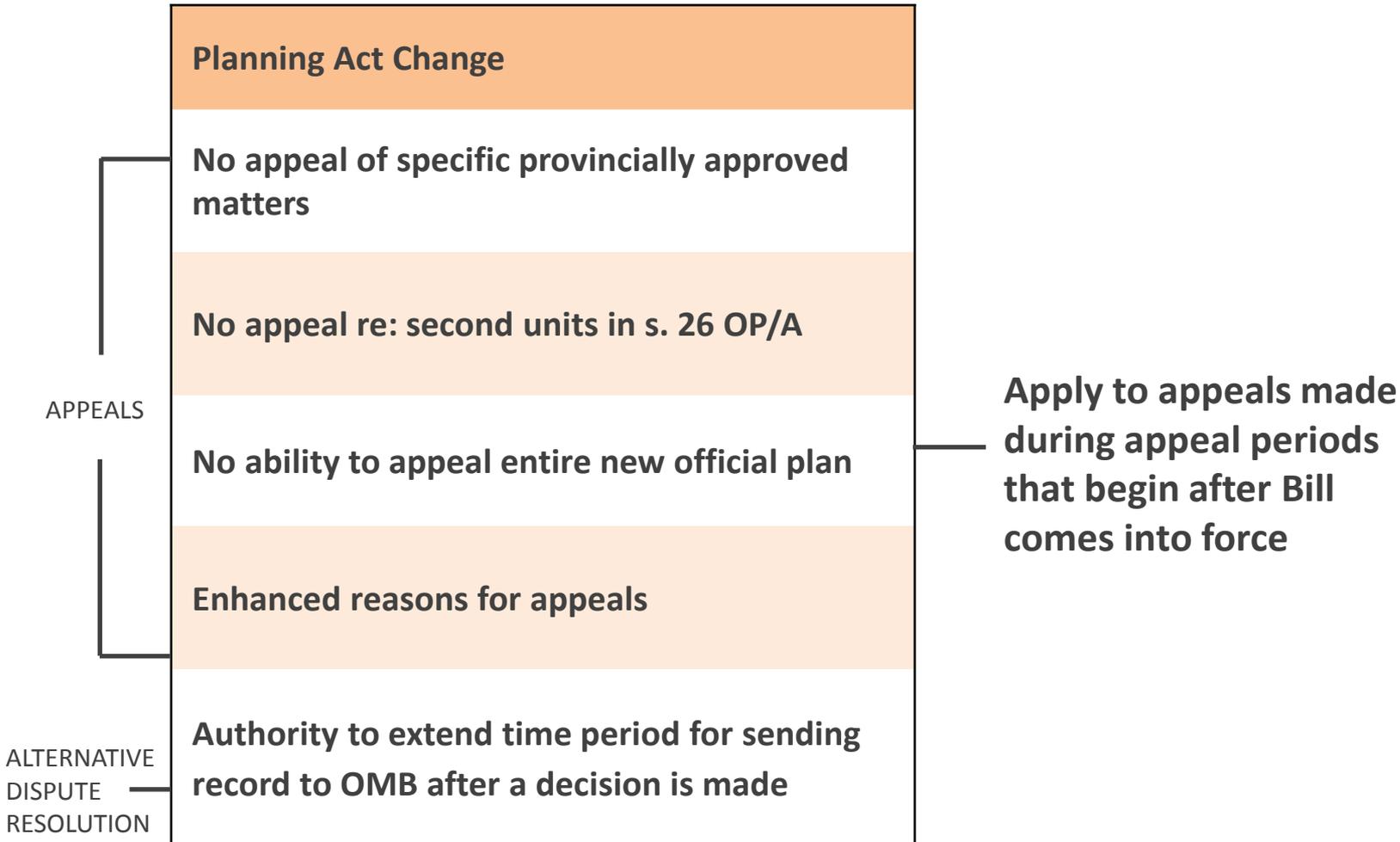
New Regulation O. Reg. 174/16 sets out the application of Bill 73 Planning Act changes as follows:

	Planning Act Change	Transition
IMPACT OF PUBLIC INPUT	Enhanced requirement to have regard to municipal process (including public input)	Applies to matters that come before OMB/approval authority after Bill comes into force
	Requirement to explain effect of public input	Applies to decisions made after Bill comes into force
TIME-OUT FOR NEW PLANNING DOCUMENTS	“Time-outs”: 2-year for new OPs/ZBLs and minor variances	Applies to applications in respect of new planning documents that come into force after Bill comes into force



# Transition Regulation

Bill 73 Planning Act changes are transitioned as follows:



# Where to Find Resources – Planning Act

Education materials are available: [www.mah.gov.on.ca/Page11014.aspx](http://www.mah.gov.on.ca/Page11014.aspx)

**Ministry of Municipal Affairs  
Ministry of Housing**

## Municipal Services Offices (MSOs)

### MSO Central (Toronto)

(416) 585-6226 or 1-800-668-0230

### MSO West (London)

(519) 873-4020 or 1-800-265-4736

### MSO East (Kingston)

(613) 545-2100 or 1-800-267-9438

### MSO North (Sudbury)

(705) 564-0120 or 1-800-461-1193

### MSO North (Thunder Bay)

(807) 475-1651 or 1-800-465-5027



# Where to Find Resources – Development Charges Act

E-mail to [DCAConsultation@ontario.ca](mailto:DCAConsultation@ontario.ca)

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# Questions?