

The Planning Amendment and City of Winnipeg Charter Amendment Act (Bill 37)

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Municipal Webinar - Update

Manitoba Municipal Relations
November 29, 2021



Purpose of *The Planning Amendment and City of Winnipeg Charter Amendment Act (Bill 37)*

- The Act delivered on key planning recommendations in the (June 2019) Treasury Board Secretariat review of Planning Zoning and Permitting in Manitoba.
- The purpose is to streamline planning and approval processes to ensure timely and transparent decisions on private sector capital investment opportunities in Manitoba.

Consultation

- For the past two years, the department has been actively engaging stakeholders and the public through:
 - webinars,
 - presentations to groups,
 - one on one meetings,
 - detailed Guide on the new legislation (on website),
 - fact sheet (on website),
 - flow charts (on website),
 - brochure on the bill (on website),
 - articles,
 - information bulletins to municipalities,
 - *EngageMB* portal, and
 - responding to numerous letters (mostly to municipalities) on Bill.

Consultation, cont'd...

- The department held 65 meetings with key stakeholders to date, including:
 - advisory groups,
 - AMM (Association of Manitoba Municipalities),
 - individual municipalities including the City of Winnipeg,
 - representatives from planning districts,
 - Winnipeg Metropolitan Region,
 - development and building industries,
 - planning consultants,
 - MPPI (Manitoba Professional Planners Institute), and others

Proclamation of Act

- The Act received Concurrence, 3rd Reading and Royal Assent on May 20, 2021.
- On October 29, 2021, key parts were proclaimed, including:
 - Service standards
 - Appeals to Manitoba Municipal Board
 - Written reasons required for rejection of planning application.
 - Other changes to streamline process

What you need to know

- Certain planning applications submitted after October 29, 2021 **must be dealt with under the new provisions.**
- For example, applicants have the right to a decision within the timelines specified in The Act.
- Missed timelines are appealable by the applicant if they feel that adequate progress is not being made.
- Applications that were submitted **prior to Oct 30th** should be processed under the previous system.

Service Standards

- New service standards (timelines) have been introduced for certain applications across Manitoba. The following are key timelines established under The Act:
 - Completion of **development agreement** – **90 days**
 - **Subdivision** (minor) decision – **60 days**
 - Acceptance of **development permit** application – **20 days**
 - After receipt of appeal, **Municipal Board hearing** within – **120 days**
 - After hearing, **Municipal Board report** within – **60 days**
 - **Secondary Plan** amendment
 - **Zoning** amendment
 - **Subdivision (standard)**
- } **150 days**

Appeals

- Applicants can appeal council decisions on secondary plan amendments, zoning by-law amendments, subdivisions and development agreements, as well as missed timelines to the Municipal Board.
- Also, the public can now appeal amendments to secondary plans and zoning by-laws in the City of Winnipeg.
- The Municipal Board may continue to assign costs incurred by the board, as well as assign costs in the case of unreasonable delays in dealing with planning applications.

Reasons for rejection

- Municipalities and Planning Districts must now give written reasons for denying, rejecting or refusing to approve a land development application (that came in after Oct 29, 2021).
- The reasons for denial can be embedded in the resolution and/or could be stated in the cover letter to the applicant.
- That cover letter must state how the applicant can appeal the decision and within what time.

- **Appeals can be avoided** by making decisions that are consistent with local by-laws.
- Reasons for denial, rejection or refusal to approve **should be based on rational grounds that can be defended in an appeal hearing.**
- **For example,** a subdivision of land must not be approved unless:
 - the land that is proposed to be subdivided is suitable for the purpose for which the subdivision is intended; and
 - the proposed subdivision conforms with the development plan by-law and zoning by-law, any secondary plan by-law, and the Subdivision Regulation.

Required Changes in Municipal Actions

Reasons for rejection, Cont'd...

- For clarification purposes, a Council or Planning District Board motion to:
 - reject a development application that is passed by council or the board is considered rejected;
 - reject a development application that is **NOT** passed by council or the board should **not be considered an approval**. A new motion to approve the application should be passed;
 - approve a development application that is voted down by council or the board, **could be considered a rejection**. But it would be cleaner to pass a new motion to reject; and
 - approve a development application that is passed by council or the board, is considered approved.

Notification of Applicants

- Municipalities and Planning Districts should immediately (if they have not already done so) adjust their written materials to reflect the new processes:
 - Any information on a municipal or planning district website or printed materials which deal with land development applications should be revised appropriately to reflect new appeal opportunities for applicants,
 - Application forms should be adjusted to indicate the appeal provisions and timelines,

Required Changes in Municipal Actions - Notification of Applicants, Cont'd...

- Covering letters indicating the acceptance of an application should state the applicant's ability to appeal timelines and decisions.
- If a municipality or planning district turns down an application, its cover letter notifying the applicant of the decision should outline the applicant's methods of appeal.
- The Department will provide sample wording to use in cover letters.
- The City of Winnipeg must state in its materials (especially Public Notices) that citizens have the right of appeal within stated timelines. People who object at a hearing or in writing must be notified of their right to appeal.

Other Changes to keep in mind

- Public Hearings can now be scheduled prior to First Reading of a by-law.
- The City of Winnipeg can now attach development agreements to Variances and Conditional Use approvals for applications after Oct 29 (other municipalities have had this ability for many years).
- Conditional Use approvals for applications after Oct 29 can now be extended for one additional year (to a maximum of 3 years).

Support for Implementation

- The Department is taking further steps to **support the Municipal Board:**
 - Increasing resources to the Board (staff).
 - Increasing the size of the Board (members).
 - Ensuring board can apply case management and mediation to avoid hearings and scope issues.
 - The Department has hired Fillmore Riley and Landmark Planning to consult with stakeholders, develop new procedures and offer training.
- Thank you to those of you who participated in the Municipal Board survey that was posted on the EngageMB site. A 'What We Heard' document is being prepared and will be available on the site.

Support for Implementation, Cont'd...

- The Department is consulting with stakeholders on a new detailed **Planning Handbook** that will provide comprehensive direction on the municipal and planning district interpretation and administration of planning procedures.
- The Department has hired WSP, together with McCandless Tramley, to consult with stakeholders, develop the resource material and offer training.

Commitment to Engagement

- The Department continues to engage with the Bill 37 Working Group and is available to meet with municipalities and planning districts.
- We are committed to continue to consult on implementing sections of The Act that have not yet been proclaimed.
 - Regional planning provisions including creation of the Capital Planning Region, and
 - Enabling municipalities to attach development agreements to permits (to support re-development of older sites).
- These sections are expected to be proclaimed once regulations are developed and available for public review and comment on our *EngageMB* portal.

QUESTIONS