

# ***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, 3<sup>rd</sup> 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 30<sup>th</sup>** 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