

Bulletin #2021-27

MUNICIPAL RELATIONS

Notice to All Chief Administrative Officers and Elected Officials

Upcoming Changes to the Planning System in Manitoba: Appeals

Bill 37, The Planning Amendment and City of Winnipeg Charter Amendment Act (the “Act”), was passed after third reading by the Legislative Assembly on May 20, 2021. Municipal Relations will be issuing a series of bulletins to municipalities about upcoming changes to the planning system. The first topic is Appeals.

Planning appeals are fundamental to open and fair planning systems, and are necessary for upholding transparent and accountable planning decisions. Modernizing Manitoba’s planning system will strengthen trust and confidence in the process among citizens, landowners and development applicants. It will create a solid framework for economic growth by creating a mechanism for ensuring that development decisions are timely and consistent across Manitoba.

Through a variety of processes already established by municipal councils, citizens across Manitoba have had the ability to receive notice and participate in public review of items before councils. The Act enhances these individual processes by providing a single province-wide appeal process to be used only when existing municipal processes are unable to meet the needs of citizens, landowners and development applicants.

The Act gives the public in Winnipeg the ability to formally challenge decisions on zoning by-law amendments and secondary plan amendments at the Municipal Board, as the public outside of Winnipeg already has that entitlement.

The Act also gives landowners and applicants the right to appeal council or planning board decisions on development proposals and missed timelines to the Municipal Board where they are unable to work out a mutually agreeable path forward. In the case of appeals that do reach the Municipal Board, modernized planning appeals processes will be developed to ensure smooth and timely resolutions.

The new planning legislation complements existing authority of Manitoba municipalities to create, administer and enforce their own development plans, zoning and other bylaws respecting land use and development in their municipality. If municipalities undertake effective and timely decision-making processes, with up-to-date development plans and zoning bylaws, fewer appeals could result. However, if local decision-making is not transparent, if development plans and zoning by-laws are unclear, or if municipal officials are unable or unwilling to explain their outcomes to applicants, the appeals process will ensure a fair and unbiased decision is ultimately made by the Municipal Board.

Municipal Board appeal hearings will continue to be transparent and open to the public. The Board will continue to hear from various entities, including the applicable local planning authority and appellant, as well as members of the public who wish to make a representation on matters to be considered by the Board. Board members must come to a unified written decision, with supportive analysis and reasons, within time limits specified in the legislation. All Municipal Board appeal hearings will continue to be recorded, with Board decisions available for inspection and copying.

Municipal Board members are selected based on their experience, knowledge, and background, and have a clear understanding of all applicable legislation pertaining to planning and land use to be able to fulfill their duties and responsibilities. Board members are professionals from all across urban and rural Manitoba, including lawyers, engineers, and planners, as well as former municipal councillors, mayors, and CAOs. Members are appointed to these positions but are not subject to direction from any Minister, member of the Legislative Assembly, or government official.

As indicated earlier, efforts continue to build upon success to date in improving the timeliness of Municipal Board appeals. This includes the use of case management, a mediation-driven process in which the parties come together and try to find resolution to the issues without going to a hearing. The Province is also increasing the resources provided to the Municipal Board by 42% to enhance the Board's capacity in processing the appeals and providing timely hearings.

The new legislation is expected to come into effect upon proclamation along with the publication of associated regulations. The Department of Municipal Relations is committed to working with stakeholders to implement the legislation through clear rules and procedures for planning appeals resulting in an efficient appeals system that delivers timely results. Your valued input will continue to be sought as new processes are implemented.

For more information on changes to planning appeals please visit the Department's website at <https://www.gov.mb.ca/mr/pubs/bill37-guide.pdf>.

If you have questions or require further information, please contact your regional Community Planning office, or call the Winnipeg Office at (204) 945-2150.

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