

Planning Act

R.S.O. 1990, CHAPTER P.13

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Interpretation

1. (1) In this Act,

“area of employment” means an area of land designated in an official plan for clusters of business and economic uses including, without limitation, the uses listed in subsection (5), or as otherwise prescribed by regulation; (“zone d’emploi”)

“area of settlement” means an area of land designated in an official plan for urban uses including urban areas, urban policy areas, towns, villages, hamlets, rural clusters, rural settlement areas, urban systems, rural service centres or future urban use areas, or as otherwise prescribed by regulation; (“zone de peuplement”)

“committee of adjustment” means a committee of adjustment constituted under section 44; (“comité de dérogation”)

“First Nation” means a band as defined in the *Indian Act* (Canada); (“première nation”)

“land division committee” means a land division committee constituted under section 56; (“comité de morcellement des terres”)

“local appeal body” means an appeal body for certain local land use planning matters, constituted under section 8.1; (“organisme d’appel local”)

“local board” means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, police services board, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof; (“conseil local”)

“Minister” means the Minister of Municipal Affairs and Housing; (“ministre”)

“Municipal Board” means the Ontario Municipal Board; (“Commission des affaires municipales”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“provincial plan” means,

- (a) the Greenbelt Plan established under section 3 of the *Greenbelt Act, 2005*,
- (b) the Niagara Escarpment Plan established under section 3 of the *Niagara Escarpment Planning and Development Act*,
- (c) the Oak Ridges Moraine Conservation Plan established under section 3 of the *Oak Ridges Moraine Conservation Act, 2001*,
- (d) a development plan approved under the *Ontario Planning and Development Act, 1994*,
- (e) a growth plan approved under the *Places to Grow Act, 2005*, or
- (f) a prescribed plan or policy or a prescribed provision of a prescribed plan or policy made or approved by the Lieutenant Governor in Council, a minister of the Crown, a ministry or a board, commission or agency of the Government of Ontario; (“plan provincial”)

“public body” means a municipality, a local board, a ministry, department, board, commission, agency or official of a provincial or federal government or a First Nation; (“organisme public”)

“public work” means any improvement of a structural nature or other undertaking that is within the jurisdiction of the council of a municipality or a local board; (“travaux publics”)

“regulations” means regulations made under this Act. (“règlements”)

“residential unit” means a unit that,

- (a) consists of a self-contained set of rooms located in a building or structure,
- (b) is used or intended for use as residential premises, and
- (c) contains kitchen and bathroom facilities that are intended for the use of the unit only. (“unité d’habitation”) R.S.O. 1990, c. P.13, s. 1; 1994, c. 23, s. 3 (2); 1996, c. 4, s. 1 (1-3); 2002, c. 17, Sched. B, s. 1; 2004, c. 18, s. 1; 2006, c. 23, s. 1 (1-4).

Limitation

(2) The term “public body” in subsection (1) excludes all ministries of the Province of Ontario except the Ministry of Municipal Affairs and Housing in respect of subsections 17 (24), (36) and (40), 22 (7.4), 34 (19), 38 (4), 45 (12), 51 (39), (43) and (48) and 53 (19) and (27). 1996, c. 4, s. 1 (4); 2006, c. 23, s. 1 (5).

Designation

(3) Despite subsection (2), the Minister may by regulation designate any other ministry of the Province of Ontario to be a public body for the purpose of the provisions referred to in subsection (2). 1996, c. 4, s. 1 (4).

Exclusion

(4) The Minister may by regulation exclude any board, commission, agency or official of the Province of Ontario from the definition of “public body” set out in subsection (1) in respect of the provisions referred to in subsection (2). 1996, c. 4, s. 1 (4).

Uses re “area of employment”

- (5) The uses referred to in the definition of “area of employment” in subsection (1) are,
 - (a) manufacturing uses;
 - (b) warehousing uses;
 - (c) office uses;
 - (d) retail uses that are associated with uses mentioned in clauses (a) to (c); and
 - (e) facilities that are ancillary to uses mentioned in clauses (a) to (d). 2006, c. 23, s. 1 (6).

Information and material to be made available to public

1.0.1 Information and material that is required to be provided to a municipality or approval authority under this Act shall be made available to the public. 2006, c. 23, s. 2.

Purposes

- 1.1** The purposes of this Act are,
 - (a) to promote sustainable economic development in a healthy natural environment within the policy and by the means provided under this Act;
 - (b) to provide for a land use planning system led by provincial policy;
 - (c) to integrate matters of provincial interest in provincial and municipal planning decisions;
 - (d) to provide for planning processes that are fair by making them open, accessible, timely and efficient;
 - (e) to encourage co-operation and co-ordination among various interests;
 - (f) to recognize the decision-making authority and accountability of municipal councils in planning. 1994, c. 23, s. 4.

PART I PROVINCIAL ADMINISTRATION

Provincial interest

2. The Minister, the council of a municipality, a local board, a planning board and the Municipal Board, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,

- (a) the protection of ecological systems, including natural areas, features and functions;
- (b) the protection of the agricultural resources of the Province;
- (c) the conservation and management of natural resources and the mineral resource base;
- (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- (e) the supply, efficient use and conservation of energy and water;
- (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;
- (g) the minimization of waste;
- (h) the orderly development of safe and healthy communities;
- (h.1) the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;
 - (i) the adequate provision and distribution of educational, health, social, cultural and recreational facilities;
 - (j) the adequate provision of a full range of housing;
 - (k) the adequate provision of employment opportunities;
 - (l) the protection of the financial and economic well-being of the Province and its municipalities;
- (m) the co-ordination of planning activities of public bodies;
- (n) the resolution of planning conflicts involving public and private interests;
- (o) the protection of public health and safety;
- (p) the appropriate location of growth and development;
- (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians. 1994, c. 23, s. 5; 1996, c. 4, s. 2; 2001, c. 32, s. 31 (1); 2006, c. 23, s. 3.

Decisions of councils and approval authorities

2.1 When an approval authority or the Municipal Board makes a decision under this Act that relates to a planning matter, it shall have regard to,

- (a) any decision that is made under this Act by a municipal council or by an approval authority and relates to the same planning matter; and
- (b) any supporting information and material that the municipal council or approval authority considered in making the decision described in clause (a). 2006, c. 23, s. 4.

Policy statements

3. (1) The Minister, or the Minister together with any other minister of the Crown, may from time to time issue policy statements that have been approved by the Lieutenant Governor in Council on matters relating to municipal planning that in the opinion of the Minister are of provincial interest. R.S.O. 1990, c. P.13, s. 3 (1).

Minister to confer

(2) Before issuing a policy statement, the Minister shall confer with such persons or public bodies that the Minister considers have an interest in the proposed statement. 1994, c. 23, s. 6 (1).

Notice

(3) If a policy statement is issued under subsection (1), the Minister shall cause it to be published in *The Ontario Gazette* and shall give such further notice of it, in such manner as the Minister considers appropriate, to all members of the Assembly and to any other persons or public bodies that the Minister considers have an interest in the statement. 1994, c. 23, s. 6 (1).

Idem

(4) Each municipality that receives notice of a policy statement under subsection (3) shall in turn give notice of the statement to each local board of the municipality that it considers has an interest in the statement. R.S.O. 1990, c. P.13, s. 3 (4).

Policy statements and provincial plans

(5) A decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Municipal Board, in respect of the exercise of any authority that affects a planning matter,

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. 2006, c. 23, s. 5.

Same

(6) Comments, submissions or advice affecting a planning matter that are provided by the council of a municipality, a local board, a planning board, a minister or ministry, board, commission or agency of the government,

- (a) shall be consistent with the policy statements issued under subsection (1) that are in effect on the date the comments, submissions or advice are provided; and
- (b) shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be. 2006, c. 23, s. 5.

Duties of Minister unaffected

(7) Except as provided in subsections (5) and (6), nothing in this section affects nor restricts the Minister in carrying out the Minister's duties and responsibilities under this Act. 1996, c. 4, s. 3.

- (8), (9) REPEALED: 1996, c. 4, s. 3.

Review

(10) The Minister shall, at least every five years from the date that a policy statement is issued under subsection (1), ensure that a review of the policy statement is undertaken for the purpose of determining the need for a revision of the policy statement. 1994, c. 23, s. 6 (3).

Delegation of Minister's powers

4. (1) The Minister, on the request of the council of any municipality, may, by order, delegate to the council any of the Minister's authority under this Act, other than the authority to approve or the authority to exempt from approval the official plan or amendments to the official plan of the municipality of which it is the council and, where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. R.S.O. 1990, c. P.13, s. 4 (1); 1996, c. 4, s. 4 (1); 1999, c. 12, Sched. M, s. 21; 2006, c. 23, s. 6.

Same

(2) The Minister, on the request of the planning board of any planning area in a territorial district, may, by order, delegate to the planning board any of the Minister's authority under this Act, other than the authority to approve or the authority to exempt from approval an official plan or amendments to an official plan, and where the Minister has delegated any such authority the planning board has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the planning board shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. R.S.O. 1990, c. P.13, s. 4 (2); 1996, c. 4, s. 4 (2).

Delegation where no request is made

(2.1) The Minister may, after the prescribed notice is given, by order delegate to the council of an upper-tier municipality or a single-tier municipality any of the Minister's authority described in subsection (1) if the municipality has an official plan. 2002, c. 17, Sched. B, s. 2.

Delegation to planning board

(2.2) The Minister may, after the prescribed notice is given, by order delegate to a planning board any of the Minister's authority described in subsection (2) if the planning board has an official plan. 1996, c. 4, s. 4 (3).

- (3) REPEALED: 1994, c. 23, s. 7.

Conditions

(4) A delegation made by the Minister under this section may be subject to such conditions as the Minister may by order provide. 1996, c. 4, s. 4 (4).

Withdrawal of delegation of powers

(5) The Minister may by order, accompanied by a written explanation therefor, withdraw any delegation made under this section and, without limiting the generality of the foregoing, such withdrawal may be either in respect of one or more applications for approval specified in the order or in respect of any or all applications for approval made subsequent to the withdrawal of the delegation, and immediately following any such withdrawal the council or the planning board, as the case may be, shall forward to the Minister all papers, plans, documents and other material in the possession of the municipal corporation or the planning board that relate to any matter in respect of which the authority was withdrawn and of which a final disposition was not made by the council or the planning board prior to such withdrawal. R.S.O. 1990, c. P.13, s. 4 (5); 1993, c. 26, s. 49 (4); 1996, c. 4, s. 4 (5).

Further delegation of powers

5. (1) Where the Minister has delegated any authority to a council under section 4, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate any of such authority, other than the authority to approve official plans or the authority to exempt from approval plans as official plans or amendments to official plans, to a committee of council or to an appointed officer identified in the by-law either by name or position occupied and such committee or officer, as the case may be, has, in lieu of the Minister, all the powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including the referral of any matter to the Municipal Board. R.S.O. 1990, c. P.13, s. 5 (1); 1996, c. 4, s. 5 (1).

Limitation

(2) Despite subsection (1), a council may not delegate the authority to approve or the authority to exempt from approval amendments to official plans without the prior written approval of the Minister, which approval may be subject to such further conditions as the Minister considers appropriate. R.S.O. 1990, c. P.13, s. 5 (2); 1996, c. 4, s. 5 (2).

Further delegation of powers

(3) In addition to the authority of a council to, in turn, delegate any authority under subsection (1), where the Minister has delegated to a council his or her authority for the giving of consents under section 53, such council may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate the authority for the giving of consents to a committee of adjustment constituted under section 44.

Conditions

(4) A delegation made by a council under subsection (1) or (3) may be subject to such conditions as the council may by by-law provide and as are not in conflict with any conditions provided by order of the Minister under section 4.

Withdrawal of delegation of powers

(5) A council may by by-law withdraw any delegation made under subsection (1) or (3), whereupon subsection 4 (5) applies with necessary modifications. R.S.O. 1990, c. P.13, s. 5 (3-5).

Consultation

6. (1) In this section,

“ministry” means any ministry or secretariat of the Government of Ontario and includes a board, commission or agency of the Government. R.S.O. 1990, c. P.13, s. 6 (1); 1998, c. 15, Sched. E, s. 27 (3).

Planning policies

(2) A ministry, before carrying out or authorizing any undertaking that the ministry considers will directly affect any municipality, shall consult with, and have regard for, the established planning policies of the municipality. R.S.O. 1990, c. P.13, s. 6 (2).

Grants

7. The Minister may, out of the money appropriated therefor by the Legislature, make grants of money to assist in the performing of any duty or function of a planning nature. R.S.O. 1990, c. P.13, s. 7.

PART II LOCAL PLANNING ADMINISTRATION

Planning advisory committee

8. (1) The council of a municipality may appoint a planning advisory committee composed of such persons as the council may determine.

Joint planning by agreement

(2) The councils of two or more municipalities may enter into agreement to provide for the joint undertaking of such matters of a planning nature as may be agreed upon and may appoint a joint planning advisory committee composed of such persons as they may determine.

Remuneration

(3) Persons appointed to a committee under this section may be paid such remuneration and expenses as the council or councils may determine, and where a joint committee is appointed, the councils may by agreement provide for apportioning to their respective municipalities the costs of the payments. R.S.O. 1990, c. P.13, s. 8.

Local appeal body

8.1 (1) If a municipality meets the prescribed conditions, the council may by by-law constitute and appoint one appeal body for certain local land use planning matters, composed of such persons as the council considers advisable, subject to subsections (3), (4) and (5). 2006, c. 23, s. 7.

Local and upper-tier municipalities

(2) For greater certainty, this section applies to both local and upper-tier municipalities. 2006, c. 23, s. 7.

Term and qualifications

- (3) A person who is appointed to the local 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. 23, s. 7.

Eligibility criteria

(4) In appointing persons to the local appeal body, the council shall have regard to any prescribed eligibility criteria. 2006, c. 23, s. 7.

Restriction

- (5) The council shall not appoint to the local appeal body a person who is,
- (a) an employee of the municipality;
 - (b) a member of a municipal council, land division committee, committee of adjustment, planning board or planning advisory committee; or
 - (c) a member of a prescribed class. 2006, c. 23, s. 7.

Power to hear appeals

- (6) The council may by by-law empower the local appeal body to hear appeals under,
- (a) subsection 45 (12);
 - (b) subsections 53 (14), (19) and (27); or
 - (c) the provisions listed in both clauses (a) and (b). 2006, c. 23, s. 7.

Effect of by-law under subs. (6)

- (7) If a by-law has been passed under subsection (6),
- (a) the local appeal body has all the powers and duties of the Municipal Board under the relevant provisions of this Act;
 - (b) all references in this Act to the Municipal Board in connection with appeals shall be read as references to the local appeal body; and
 - (c) appeals under the relevant provisions shall be made to the local appeal body, not to the Municipal Board. 2006, c. 23, s. 7.

Prescribed requirements

(8) The local appeal body shall comply with any prescribed requirements including, without limitation, requirements for the rules governing the practice and procedure before the local appeal body. 2006, c. 23, s. 7.

Fee

- (9) An appellant shall pay to the local appeal body any fee that the council establishes by by-law. 2006, c. 23, s. 7.

Appeal

(10) An appeal lies from the local appeal body to the Divisional Court, with leave of the Divisional Court, on a question of law. 2006, c. 23, s. 7.

Saving

(11) For greater certainty, the local appeal body does not have power to make determinations under subsection 53 (4.1). 2006, c. 23, s. 7.

Exception, related appeals

(12) Despite subsection (7), an appeal under a provision listed in subsection (6) shall be made to the Municipal Board, not to the local appeal body, if a related appeal,

- (a) has previously been made to the Board and has not yet been finally disposed of; or
- (b) is made to the Board together with the appeal under a provision listed in subsection (6). 2006, c. 23, s. 7.

Same

(13) For the purposes of subsections (12) and (16), an appeal is a related appeal with respect to an appeal under a provision listed in subsection (6) if it is made,

- (a) under section 17, 22, 34, 36, 38, 41 or 51 or in relation to a development permit system; and
- (b) in respect of the same matter as the appeal under a provision listed in subsection (6). 2006, c. 23, s. 7.

Dispute

(14) A person may make a motion for directions to have the Municipal Board determine a dispute about whether subsection (12) or (16) applies to an appeal. 2006, c. 23, s. 7.

Final determination

(15) The Municipal Board's determination under subsection (14) is not subject to appeal or review. 2006, c. 23, s. 7.

O.M.B. to assume jurisdiction

(16) If an appeal has been made to a local appeal body under a provision listed in subsection (6) but no hearing has begun, and a notice of appeal is filed in respect of a related appeal, the Municipal Board shall assume jurisdiction to hear the first-mentioned appeal. 2006, c. 23, s. 7.

Same

- (17) When the Municipal Board assumes jurisdiction as described in subsection (16), the local appeal body,
- (a) shall immediately forward to the Board 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. 2006, c. 23, s. 7.

Withdrawal of power

(18) The Minister may by order, accompanied by a written explanation for it, withdraw the power given to a local appeal body under subsections (6) and (7), and the order may be in respect of the appeals specified in the order, subject to subsection (19), or in respect of any or all appeals made after the order is made. 2006, c. 23, s. 7.

Exception

(19) An order made under subsection (18) does not apply to an appeal if the hearing before the local appeal body has begun on or before the date of the order. 2006, c. 23, s. 7.

Effect of withdrawal

- (20) If an order is made under subsection (18),
- (a) the Municipal Board shall hear all appeals to which the order applies; and
 - (b) the local appeal body to which the order relates shall forward to the Board all information and material in its possession that relates to any appeal to which the order applies. 2006, c. 23, s. 7.

Revocation of withdrawal

(21) The Minister may by order, accompanied by a written explanation for it, revoke all or part of an order made under subsection (18). 2006, c. 23, s. 7.

Exception

(22) An order made under subsection (21) does not apply to an appeal if the hearing before the Municipal Board has begun on or before the date of the order. 2006, c. 23, s. 7.

Effect of revocation

(23) If an order is made under subsection (21),

- (a) the local appeal body shall hear all appeals to which the order applies; and
- (b) the Municipal Board shall forward to the local appeal body all information and material in its possession that relates to any appeal to which the order applies. 2006, c. 23, s. 7.

Restriction

(24) This section does not authorize a municipality to,

- (a) establish a joint local appeal body together with one or more other municipalities; or
- (b) empower a local appeal body that is established by another municipality to hear appeals. 2006, c. 23, s. 7.

City of Toronto

(25) This section does not apply with respect to the City of Toronto. 2006, c. 23, s. 7.

Transition

(26) This section does not apply with respect to an appeal that is made before the day a by-law passed under subsection (6) by the council of the relevant municipality comes into force. 2006, c. 23, s. 7.

Planning area defined by Minister

9. (1) The Minister may define and name a planning area consisting of the whole of two or more municipalities that are situate in a territorial district or consisting of the whole of one or more municipalities and territory without municipal organization.

Planning board for planning area

(2) Where a planning area is defined under subsection (1), the Minister shall establish the planning board for the planning area and specify the name of the board and the number of members to be appointed to it by the council of each municipality within the planning area and the number of members, if any, to be appointed by the Minister.

Appointments to board

(3) The council of each municipality shall appoint to the planning board the number of members specified by the Minister under subsection (2) and, after the initial appointments, the appointments shall be made by each successive council as soon as practicable after the council is organized.

Term of office

(4) The members,

- (a) appointed by the council of each municipality shall hold office for the term of the council that appointed them; and
- (b) appointed by the Minister shall hold office for the term specified by the Minister in their appointment,

and until their successors are appointed. R.S.O. 1990, c. P.13, s. 9.

Planning area in unorganized territory

10. The Minister may define and name a planning area consisting of territory without municipal organization and may establish and name a planning board for the planning area and appoint the members thereof. R.S.O. 1990, c. P.13, s. 10.

Body corporate

11. (1) A planning board is a body corporate and a majority of its members constitutes a quorum.

Chair

(2) A planning board shall annually elect a chair and a vice-chair who shall preside in the absence of the chair.

Secretary-treasurer, employees, consultants

(3) A planning board shall appoint a secretary-treasurer, who may be a member of the board, and may engage such employees and consultants as are considered appropriate.

Execution of documents

(4) The execution of documents by a planning board shall be evidenced by the signatures of the chair or the vice-chair and of the secretary-treasurer, and the corporate seal of the board. R.S.O. 1990, c. P.13, s. 11.

Estimates

12. (1) A planning board established by the Minister for a planning area consisting of one municipality and territory without municipal organization shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may amend such estimate and shall pay to the secretary-treasurer of the planning board out of the money appropriated for the planning board such amounts as may be requisitioned from time to time.

Two or more municipalities

(2) In the case of a planning board established for a planning area consisting of two or more municipalities or consisting of two or more municipalities and territory without municipal organization, the planning board shall annually submit its estimates to the council of each of such municipalities together with a statement as to the proportion thereof to be chargeable to each municipality.

When estimates binding

(3) If the estimates submitted under subsection (2) are approved, or are amended and approved, by the councils of municipalities representing more than one-half of the population of the planning area for which the board was established, the estimates are binding on all the municipalities.

Notification

(4) After the estimates have been approved as provided in subsection (3), the planning board shall so notify each municipality involved and shall notify each such municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection (2).

Where apportionment not satisfactory

(5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection (4), notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Board.

Power of O.M.B.

(6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final.

Payment

(7) Each municipality shall pay to the secretary-treasurer of the planning board such amounts as may be requisitioned from time to time up to the amount determined by the planning board under subsection (4) or by the Municipal Board under subsection (6), as the case may be. R.S.O. 1990, c. P.13, s. 12.

Municipal grants

13. Any municipality within a planning area may make grants of money to the planning board of the planning area. R.S.O. 1990, c. P.13, s. 13.

Duties of planning board

14. (1) A planning board shall provide advice and assistance in respect of such planning matters affecting the planning area as are referred to the board,

- (a) by the councils to which the board submits its estimates under section 12, or by any of such councils; or
- (b) by the Minister, in the case of a planning board appointed for a planning area consisting solely or partially of territory without municipal organization.

Preparation of official plan

(2) A planning board shall prepare a plan suitable for adoption as the official plan of the planning area, or at the request of any of the councils mentioned in subsection (1), prepare a plan suitable for adoption as the official plan of the municipality of which it is the council. R.S.O. 1990, c. P.13, s. 14.

Joint planning areas

14.1 (1) The councils of two or more local municipalities that are within one or more counties whether or not they form part of a county for municipal purposes may by by-law define a municipal planning area, establish a municipal planning authority for the area and specify the name of the authority.

Approval of by-law

(2) The council of a municipality shall not pass a by-law under subsection (1) unless the proposed by-law is approved by the Minister after consulting with the council of any affected county.

Body corporate

(3) A municipal planning authority is a body corporate.

Composition

(4) All the members of a municipal planning authority shall be members of council.

Number of members

(5) The council of each local municipality shall appoint to the municipal planning authority the number of members prescribed and, after the initial appointments, the appointments shall be made by each successive council as soon as possible after the council is organized.

Term

(6) The members of the municipal planning authority shall hold office for the term of the council that appointed them and until their successors are appointed.

Vacancies

(7) If a vacancy occurs from any cause, the council shall, as soon as possible, appoint a member of its council to the municipal planning authority who shall hold office for the remainder of the unexpired term. 1994, c. 23, s. 8.

Municipal planning authority

14.2 (1) Each member of a municipal planning authority is entitled to one vote. 1994, c. 23, s. 8.

Quorum

(2) A majority of the members of a municipal planning authority constitutes a quorum. 1994, c. 23, s. 8.

Chair

(3) A municipal planning authority shall annually elect a chair and a vice-chair who shall preside in the absence of the chair. 1994, c. 23, s. 8.

Secretary-treasurer

(4) A municipal planning authority shall appoint a secretary-treasurer who may be a member of the authority. 1994, c. 23, s. 8.

Documents

(5) The execution of documents by a municipal planning authority shall be evidenced by the signatures of the chair or the vice-chair and of the secretary-treasurer and the corporate seal of the authority. 1994, c. 23, s. 8.

Records, inspection

(6) The secretary-treasurer shall keep on file minutes and records of all applications and the decisions on them and of all other business of the authority, and section 253 of the *Municipal Act, 2001* applies with necessary modifications in respect of the documents kept. 1994, c. 23, s. 8; 2002, c. 17, Sched. B, s. 3.

Finance

14.3 (1) On or before March 31 of each year, a municipal planning authority shall determine its financial requirements and the proportion of it to be chargeable to each municipality and shall notify the council of each of the municipalities within the municipal planning area of its financial requirements together with a statement as to the proportion of it to be chargeable to each municipality.

Determination by O.M.B.

(2) If the council of any municipality is not satisfied with the apportionment, it may, within 15 days after receiving the notice, notify the municipal planning authority and the Municipal Board that it desires the apportionment to be made by the Board.

Hearing

(3) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final.

Payments

(4) Each municipality shall pay to the secretary-treasurer of the municipal planning authority such amounts as may be requisitioned from time to time up to the amount determined by the municipal planning authority under subsection (1) or by the Municipal Board under subsection (3), as the case may be. 1994, c. 23, s. 8.

County levy

(5) If a municipal planning authority has been established, a county shall raise the amounts required for county land use planning purposes by levying a special rate on rateable property not in the municipal planning area. 1997, c. 29, s. 65.

Expansion

14.4 (1) A municipal planning authority may, upon the request of the council of a local municipality that is within a county, whether or not it forms part of the county for municipal purposes, by by-law redefine the municipal planning area to add the municipality to the planning area and rename the municipal planning authority.

Approval of by-law

(2) A municipal planning authority shall not pass a by-law under subsection (1) unless the proposed by-law is approved by the Minister after consulting with the council of any affected county.

Appointments

(3) The council of a municipality added to a municipal planning authority under subsection (1) shall, as soon as possible, appoint to the authority the number of members prescribed and, after the initial appointment, the appointments shall be made by each successive council, as soon as possible, after the council is organized. 1994, c. 23, s. 8.

Removal

14.5 (1) Upon the request of the council of a local municipality that is within a municipal planning area, the municipal planning authority shall by by-law redefine the municipal planning area to remove the municipality from the planning area and may rename the municipal planning authority.

Approval

(2) A municipal planning authority shall not pass a by-law under subsection (1) unless the proposed by-law is approved by the Minister.

Adjustment

(3) The members of a municipal planning authority appointed by a local municipality which is removed from the authority shall cease to be members of the authority on the date the by-law passed under subsection (1) comes into effect. 1994, c. 23, s. 8.

Dissolution

14.6 (1) A municipal planning authority may by by-law dissolve the municipal planning area and the municipal planning authority.

Approval

(2) A municipal planning authority shall not pass a by-law under subsection (1) unless the proposed by-law is approved by the Minister.

Dissolution by Minister

(3) The Minister may by order dissolve a municipal planning area and a municipal planning authority.

Assets, liabilities

(4) All the assets and liabilities of a municipal planning authority dissolved under this section are assets and liabilities of the municipalities that formed part of the municipal planning area and, if such municipalities cannot agree as to the disposition of the assets and liabilities, the Municipal Board, upon the application of one or more of the municipalities, shall direct a final disposition.

Same

(5) If assets or liabilities are transferred or assigned to a municipality under an agreement or an order of the Municipal Board under this section, the municipality stands in the place of the municipal planning authority for all purposes.

Transitional matters

(6) Despite this or any other Act, the Minister may by order provide for transitional matters which, in the opinion of the Minister, are necessary or expedient to establish, expand or dissolve a municipal planning authority or to remove a municipality from a municipal planning authority. 1994, c. 23, s. 8.

Official plan

14.7 (1) If land in a municipal planning area is covered by the official plan of a county, the parts of the official plan which affect the land in the municipal planning area shall be deemed for all purposes to be the official plan of the municipal planning authority on the day the municipal planning authority is established and the county shall forward to the municipal planning authority all papers, plans and documents and other material that relate to the parts of the official plan that are deemed to be the official plan of the municipal planning authority.

Restriction

(2) The council of a county shall not exercise any power under section 17 in respect of land in the county that is in a municipal planning area. 1994, c. 23, s. 8.

Preparation of plan

(3) A municipal planning authority shall prepare and adopt a plan and, unless exempt from approval, submit it for approval as an official plan in respect of the land in the municipal planning area that is not covered by an official plan deemed under subsection (1) to be the official plan of the municipal planning authority. 1994, c. 23, s. 8; 1996, c. 4, s. 6 (1).

Application

(4) Section 17 applies with necessary modification to the preparation and adoption of a plan by a municipal planning authority and, unless exempt from approval, the approval of the plan as an official plan as though the planning authority were the council of the municipality and the secretary-treasurer were the clerk of the municipality. 1996, c. 4, s. 6 (2).

Deemed official plan

(5) If land that is in a local municipality that forms part of a county for municipal purposes is removed from a municipal planning area, the parts of the official plan of the municipal planning authority which affect the land removed from the municipal planning area shall be deemed for all purposes to be the official plan of the county on the day the by-law removing the land is passed and the municipal planning authority shall forward to the county all papers, plans and documents and other materials that relate to the parts of the plan that are deemed to be the official plan of the county.

Revocation

(6) If land that is in a local municipality that does not form part of a county for municipal purposes is removed from a municipal planning area, the parts of the official plan which affect the land removed from the municipal planning area are revoked.

Deemed plan

(7) If land that is in a local municipality that forms part of a county for municipal purposes is in a municipal planning area that is dissolved, the parts of the official plan of the municipal planning authority which affect land in the local municipality shall be deemed for all purposes to be the official plan of the county on the day the municipal planning authority is dissolved.

Revocation

(8) If land that is in a local municipality that does not form part of a county for municipal purposes is in a municipal planning area that is dissolved, the parts of the official plan of the municipal planning authority which affect land in the local municipality are revoked.

Conformity with upper tier plan

(9) Section 27 applies with necessary modifications to the official plan of a planning authority as though the official plan of the municipal planning authority were the official plan of a county and the municipal planning authority were the council of a county. 1994, c. 23, s. 8.

Deemed council, municipality

14.8 (1) Sections 2 and 3, subsections 4 (1), (4) and (5), 5 (1), (2), (4) and (5), 6 (2), 8 (1) and (3), sections 16, 16.1, 17, 20, 21, 22, 23 and 26, subsection 51 (37) and (45), sections 62.1, 65, 66, 68 and 69 apply to a municipal planning area or a municipal planning authority, as appropriate, and the municipal planning area and municipal planning authority shall be deemed to be a municipality or a council of a municipality, respectively, for those purposes. 1994, c. 23, s. 8.

(2) REPEALED: 1996, c. 4, s. 7.

Upper-tier municipalities, planning functions

15. The council of an upper-tier municipality, on such conditions as may be agreed upon with the council of a lower-tier municipality, may,

- (a) assume any authority, responsibility, duty or function of a planning nature that the lower-tier municipality has under this or any other Act; or
- (b) provide advice and assistance to the lower-tier municipality in respect of planning matters generally. 2002, c. 17, Sched. B, s. 4.

PART III OFFICIAL PLANS

Contents of official plan

16. (1) An official plan shall contain,

- (a) goals, objectives and policies established primarily to manage and direct physical change and the effects on the social, economic and natural environment of the municipality or part of it, or an area that is without municipal organization; and
- (b) such other matters as may be prescribed. 2006, c. 23, s. 8.

Same

(2) An official plan may contain,

- (a) a description of the measures and procedures proposed to attain the objectives of the plan;
 - (b) a description of the measures and procedures for informing and obtaining the views of the public in respect of a proposed amendment to the official plan or proposed revision of the plan or in respect of a proposed zoning by-law; and
 - (c) such other matters as may be prescribed. 2006, c. 23, s. 8.
- (3), (4) REPEALED: 1996, c. 4, s. 8 (2).

Prescribed process

16.1 The council of a municipality or a planning board may by by-law elect to follow the prescribed processes and develop the materials prescribed for the preparation of an official plan and any processes followed or materials developed in the preparation of the plan may be considered under the *Environmental Assessment Act* with respect to any requirement that it must meet under that Act. 1994, c. 23, s. 9.

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).

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 procedure

(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) do not apply to the proposed amendments, but subsections (19.4) and (19.6) do apply. 2006, c. 23, s. 9 (2).

Open house

(19.4) If subsection (19.3) applies and the plan is being revised under section 26 or amended in relation to a development permit system,

- (a) 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 proposed amendments; and
- (b) if a public meeting is also held, the open house shall be held no later than seven days before the public meeting. 2006, c. 23, s. 9 (2).

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, not later than 15 days after the day the plan was adopted, ensure that written notice is given of its adoption containing the prescribed information to,

- (a) 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) 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) any other person or public body prescribed. 1996, c. 4, s. 9.

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 Municipal Board 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).

No appeal re second unit policies

(24.1) Despite subsection (24), there is no appeal in respect of official plan policies adopted to permit the erecting, locating or use of two residential units in a detached house, semi-detached house or rowhouse situated in an area where residential use, other than ancillary residential use, is permitted. 2006, c. 23, s. 9 (4).

Exception

(24.2) Subsection (24.1) does not apply to an official plan or official plan amendment adopted in accordance with subsection 26 (1). 2006, c. 23, s. 9 (4).

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, if the notice does not apply to all of the plan;
- (b) set out the reasons for the appeal; and
- (c) be accompanied by the fee prescribed under the *Ontario Municipal Board Act*. 1996, c. 4, s. 9.

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;
- (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.

Decision final

(27) If no notice of appeal is filed under subsection (24) in respect of all or part of the decision of council 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.

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 prescribed under the *Ontario Municipal Board Act* are forwarded to the Municipal Board 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 Municipal Board may require in respect of the appeal is forwarded to the Board. 1996, c. 4, s. 9; 1999, c. 12, Sched. M, s. 22 (2).

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 Municipal Board and under clause (29) (c) to the appropriate approval authority. 1999, c. 12, Sched. M, s. 22 (3).

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 secretary of the Municipal Board 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.

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.

Notice

(35) If the approval authority makes a decision under subsection (34) it shall ensure that written notice of its decision containing the prescribed information is given 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 prescribed. 1996, c. 4, s. 9.

Appeal to O.M.B.

(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 Municipal Board 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).

No appeal re second unit policies

(36.1) Despite subsection (36), there is no appeal in respect of the approval of official plan policies adopted to permit the erecting, locating or use of two residential units in a detached house, semi-detached house or rowhouse situated in an area where residential use, other than ancillary residential use, is permitted. 2006, c. 23, s. 9 (6).

Exception

(36.2) Subsection (36.1) does not apply to an official plan or official plan amendment adopted in accordance with subsection 26 (1). 2006, c. 23, s. 9 (6).

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 unless the notice applies to all of the plan;
 - (b) set out the reasons for the appeal; and
 - (c) be accompanied by the fee prescribed under the *Ontario Municipal Board Act*. 1996, c. 4, s. 9.

Decision final

(38) If no notice of appeal is filed under subsection (36) in respect of all or part of the decision of the approval authority 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.

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 secretary of the Municipal Board 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.

Appeal to O.M.B.

(40) If the approval authority fails to give notice of a decision in respect of all or part of a plan within 180 days after the day the plan is received by the approval authority, any person or public body may appeal to the Municipal Board 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. 1996, c. 4, s. 9; 2004, c. 18, s. 3 (1).

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 prescribed under the *Ontario Municipal Board Act*. 1996, c. 4, s. 9.

Documents to O.M.B.

- (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 prescribed under the *Ontario Municipal Board Act* are forwarded to the Municipal Board 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 Municipal Board may require in respect of the appeal is forwarded to the Board. 1996, c. 4, s. 9.

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 Municipal Board. 1999, c. 12, Sched. M, s. 22 (3).

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 last day for filing a notice of appeal, 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).

Appeals withdrawn

(43) If all appeals under subsection (40) with respect to all or part of a plan are withdrawn, the Municipal Board 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.

Hearing

(44) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to such persons or such public bodies and in such manner as the Board may determine. 1996, c. 4, s. 9.

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 Municipal Board 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).

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. 2006, c. 23, s. 9 (7).

Same

(44.4) When subsection (44.3) applies, the Municipal Board 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 Board 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. 2006, c. 23, s. 9 (7).

Notice to council

(44.5) The Municipal Board 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 Board. 2006, c. 23, s. 9 (7).

Council's recommendation

(44.6) The Municipal Board 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. 2006, c. 23, s. 9 (7).

Conflict with SPPA

(44.7) Subsections (44.1) to (44.6) apply despite the *Statutory Powers Procedure Act*. 2006, c. 23, s. 9 (7).

Dismissal without hearing

(45) Despite the *Statutory Powers Procedure Act* and subsection (44), the Municipal Board may dismiss all or part of an appeal without holding a hearing on its own initiative or on the motion of any party 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 plan or part of the plan that is the subject of the appeal could be approved or refused by the Board,
 - (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 Board proceedings that constitute an abuse of process;
- (b) REPEALED: 2006, c. 23, s. 9 (10).
- (c) the appellant has not provided written reasons with respect to an appeal under subsection (24) or (36);
- (d) the appellant has not paid the fee prescribed under the *Ontario Municipal Board Act*; or
- (e) the appellant has not responded to a request by the Municipal Board for further information within the time specified by the Board. 1996, c. 4, s. 9; 2006, c. 23, s. 9 (8-10).

Same

(45.1) Despite the *Statutory Powers Procedure Act* and subsection (44), the Municipal Board 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 Board'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. 2006, c. 23, s. 9 (11).

Representation

(46) Before dismissing all or part of an appeal, the Municipal Board 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 (45) (e). 2000, c. 26, Sched. K, s. 5 (1).

Dismissal

(46.1) Despite the *Statutory Powers Procedure Act*, the Municipal Board 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. 2006, c. 23, s. 9 (12).

Dismissal

(47) If the Municipal Board 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 secretary of the Municipal Board 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. 1996, c. 4, s. 9.

Same

(48) If the Municipal Board dismisses an appeal under subsection (40) without holding a hearing and if there is no other appeal in respect of the same matter, the secretary of the Board 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. 1996, c. 4, s. 9.

Transfer

(49) If a notice of appeal under subsection (24), (36) or (40) is received by the Municipal Board, the Board may require that a municipality or approval authority transfer to the Board any other part of the plan that is not in effect and to which the notice of appeal does not apply. 1996, c. 4, s. 9.

Powers of O.M.B.

(50) On an appeal or a transfer, the Municipal Board 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.

Same

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

- (a) is in effect; and
- (b) was not dealt with in the decision of council to which the notice of appeal relates. 2006, c. 23, s. 9 (13).

Matters of provincial interest

(51) Where an appeal is made to the Municipal Board 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 Board in writing not later than 30 days before the day fixed by the Board 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. 2004, c. 18, s. 3 (2).

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 Municipal Board has received notice from the Minister under subsection (51), the decision of the Board 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 the provisions. 2004, c. 18, s. 3 (2).

Action of L.G. in C.

(54) The Lieutenant Governor in council may confirm, vary or rescind the decision of the Municipal Board 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).

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.

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), (33) and (34). R.S.O. 1990, c. P.13, s. 18 (3); 1994, c. 23, s. 11 (1); 1996, c. 4, s. 11 (1).

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 subs. 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).

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.

Deemed council

19.1 Sections 34 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.

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, 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).

(2) REPEALED: 1994, c. 23, s. 13.

Request for amendment

- 22.** (1) If a person or public body requests a council to amend its official plan, the council shall,
- (a) forward a copy of the request and the information and material required under subsections (4) and (5), if any to the appropriate approval authority, whether or not the requested amendment is exempt from approval; and
 - (b) hold a public meeting under subsection 17 (15) or comply with the alternative measures set out in the official plan. 1996, c. 4, s. 13; 2004, c. 18, s. 4 (1); 2006, c. 23, s. 11 (1).

Request to planning board

(2) If a person or public body requests a planning board to amend its official plan and the plan applies in whole or in part to territory without municipal organization, the planning board or council of the municipality having jurisdiction over the land to which the proposed amendment applies shall,

- (a) forward a copy of the request and the information and material required under subsections (4) and (5), if any to the appropriate approval authority, whether or not the requested amendment is exempt from approval; and
- (b) hold a public meeting under subsection 17 (15) or comply with the alternative measures set out in the official plan. 1996, c. 4, s. 13; 2004, c. 18, s. 4 (2); 2006, c. 23, s. 11 (2).

No open house or public meeting

(3) Despite subsections (1) and (2), the requirement to hold a public meeting under subsection 17 (15) does not apply if the council or the planning board refuses to adopt an amendment to its official plan requested by a person or public body. 2006, c. 23, s. 11 (3).

Consultation

- (3.1) The council or planning board,
- (a) shall permit applicants to consult with the municipality or planning board, as the case may be, before submitting requests under subsection (1) or (2); and
 - (b) may, by by-law, require applicants to consult with the municipality or planning board as described in clause (a). 2006, c. 23, s. 11 (3).

Prescribed information

(4) A person or public body that requests an amendment to the official plan of a municipality or planning board shall provide the prescribed information and material to the council or planning board. 1996, c. 4, s. 13.

Other information

(5) A council or a planning board may require that a person or public body that requests an amendment to its official plan provide any other information or material that the council or planning board considers it may need, but only if the official plan contains provisions relating to requirements under this subsection. 2006, c. 23, s. 11 (4).

Refusal and timing

(6) Until the council or planning board has received the information and material required under subsections (4) and (5), if any, and any fee under section 69,

- (a) the council or planning board may refuse to accept or further consider the request for an amendment to its official plan; and
- (b) the time periods referred to in paragraphs 1 and 2 of subsection (7.0.2) do not begin. 2006, c. 23, s. 11 (4).

Response re completeness of request

(6.1) Within 30 days after the person or public body that requests the amendment pays any fee under section 69, the council or planning board shall notify the person or public body that the information and material required under subsections (4) and (5), if any, have been provided, or that they have not been provided, as the case may be. 2006, c. 23, s. 11 (4).

Motion re dispute

(6.2) Within 30 days after a negative notice is given under subsection (6.1), the person or public body or the council or planning board may make a motion for directions to have the Municipal Board determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (5) is reasonable. 2006, c. 23, s. 11 (4).

Same

(6.3) If the council or planning board does not give any notice under subsection (6.1), the person or public body may make a motion under subsection (6.2) at any time after the 30-day period described in subsection (6.1) has elapsed. 2006, c. 23, s. 11 (4).

Notice of particulars and public access

(6.4) Within 15 days after the council or planning board gives an affirmative notice under subsection (6.1), or within 15 days after the Municipal Board advises the clerk of its affirmative decision under subsection (6.2), as the case may be, the council or planning board shall,

- (a) give the prescribed persons and public bodies, in the prescribed manner, notice of the request for amendment, accompanied by the prescribed information; and
- (b) make the information and material provided under subsections (4) and (5) available to the public. 2006, c. 23, s. 11 (4).

Final determination

(6.5) The Municipal Board's determination under subsection (6.2) is not subject to appeal or review. 2006, c. 23, s. 11 (4).

Notice of refusal

(6.6) A council or planning board that refuses a request to amend its official plan shall, not later than 15 days after the day of the refusal, ensure that written notice of the refusal, containing the prescribed information, is given to,

- (a) the person or public body that made the request;
- (b) each person or public body that filed a written request to be notified of a refusal;
- (c) the appropriate approval authority; and
- (d) any prescribed person or public body. 2006, c. 23, s. 11 (4).

Appeal to O.M.B.

(7) When a person or public body requests an amendment to the official plan of a municipality or planning board, any of the following may appeal to the Municipal Board in respect of all or any part of the requested amendment, by filing a notice of appeal with the clerk of the municipality or the secretary-treasurer of the planning board, if one of the conditions set out in subsection (7.0.2) is met:

1. The person or public body that requested the amendment.
2. The Minister.

3. The appropriate approval authority. 2006, c. 23, s. 11 (5).

Consolidated Hearings Act

(7.0.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act in respect of an amendment requested under subsection (1) or (2) unless,

- (a) one of the conditions set out in subsection (7.0.2) is met;
- (b) if the plan is exempt from approval, the requested amendment has been adopted under subsection 17 (22);
- (c) the approval authority makes a decision under subsection 17 (34); or
- (d) the time period referred to in subsection 17 (40) has expired. 2006, c. 23, s. 11 (5).

Conditions

(7.0.2) The conditions referred to in subsections (7) and (7.0.1) are:

- 1. The council or the planning board fails to adopt the requested amendment within 180 days after the day the request is received.
- 2. A planning board recommends a requested amendment for adoption and the council or the majority of the councils fails to adopt the requested amendment within 180 days after the day the request is received.
- 3. A council, a majority of the councils or a planning board refuses to adopt the requested amendment.
- 4. A planning board refuses to approve a requested amendment under subsection 18 (1). 2006, c. 23, s. 11 (5).

Time for appeal

(7.0.3) A notice of appeal under paragraph 3 or 4 of subsection (7.0.2) shall be filed no later than 20 days after the day that the giving of notice under subsection (6.6) is completed. 2006, c. 23, s. 11 (5).

Appeals restricted re certain amendments

(7.1) Despite subsection (7) and subsections 17 (36) and (40), there is no appeal in respect of,

- (a) a refusal or failure to adopt an amendment described in subsection (7.2); or
- (b) a refusal or failure to approve an amendment described in subsection (7.2). 2006, c. 23, s. 11 (6).

Application of subs. (7.1)

(7.2) Subsection (7.1) applies in respect of amendments requested under subsection (1) or (2) that propose to,

- (a) alter all or any part of the boundary of an area of settlement in a municipality;
- (b) establish a new area of settlement in a municipality; or
- (c) amend or revoke official plan policies that are adopted to permit the erecting, locating or use of two residential units in a detached house, semi-detached house or rowhouse situated in an area where residential use, other than ancillary residential use, is permitted. 2006, c. 23, s. 11 (6).

Same

(7.3) If the official plan contains policies dealing with the removal of land from areas of employment, subsection (7.1) also applies in respect of amendments requested under subsection (1) or (2) that propose to remove any land from an area of employment, even if other land is proposed to be added. 2006, c. 23, s. 11 (6).

Exception

(7.4) Despite subsection (7.1), a person or public body may appeal to the Municipal Board in respect of all or any part of a requested amendment described in clause (7.2) (a) or (b) if the requested amendment,

- (a) is in respect of the official plan of a lower-tier municipality; and
- (b) conforms with the official plan of the upper-tier municipality. 2006, c. 23, s. 11 (6).

Contents

(8) A notice of appeal under subsection (7) shall,

- (a) set out the specific part of the requested official plan amendment to which the appeal applies, if the notice of appeal does not apply to all of the requested amendment; and

(b) be accompanied by the fee prescribed under the *Ontario Municipal Board Act*. 1996, c. 4, s. 13.

Record and forwarding material

(9) The clerk of a municipality or the secretary-treasurer of a planning board who receives a notice of appeal under subsection (7) shall ensure that,

- (a) a record is compiled which includes the prescribed information and material;
- (b) the notice of appeal, the record and the fee are forwarded to the Municipal Board within 15 days after the notice is received;
- (c) the notice of appeal and the record are forwarded to the appropriate approval authority within 15 days after the notice is received, whether or not the plan is exempt from approval, unless the approval authority has notified the municipality or the planning board 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 Municipal Board may require in respect of the appeal is forwarded to the Board. 1996, c. 4, s. 13; 1999, c. 12, Sched. M, s. 23 (1).

Exception

(9.1) Despite clause (9) (b), if all appeals under subsection (7) are withdrawn within 15 days after the notice of appeal is filed, the municipality or planning board is not required to forward the materials described under clauses (9) (b) and (d) to the Municipal Board or under clause (9) (c) to the appropriate approval authority. 1999, c. 12, Sched. M, s. 23 (2).

Appeals withdrawn, amendment

(9.2) If all appeals under subsection (7) brought in accordance with paragraph 1 or 2 of subsection (7.0.2) in respect of all or any part of the requested amendment are withdrawn within 15 days after the date that the most recent notice of appeal was filed, the council or planning board may, unless there are any outstanding appeals, proceed to give notice of the public meeting to be held under subsection 17 (15) or adopt or refuse to adopt the requested amendment, as the case may be. 2006, c. 23, s. 11 (7).

Decision final

(9.3) If all appeals under subsection (7) brought in accordance with paragraph 3 or 4 of subsection (7.0.2) in respect of all or any part of the requested amendment are withdrawn within 15 days after the last day for filing a notice of appeal, the decision of the council or planning board is final on the day that the last outstanding appeal has been withdrawn. 2006, c. 23, s. 11 (7).

Other information

(10) A person or public body that files a notice of appeal under subsection (7) shall provide to the Municipal Board the prescribed information or material and such other information as the Board may require. 1996, c. 4, s. 13.

Application

(11) Subsections 17 (44) to (44.7), (45), (45.1), (46), (46.1), (49), (50) and (50.1) apply with necessary modifications to a requested official plan amendment under this section, except that subsections 17 (44.1) to (44.7) and (45.1) do not apply to an appeal under subsection (7) of this section, brought in accordance with paragraph 1 or 2 of subsection (7.0.2). 2006, c. 23, s. 11 (8).

Matters of provincial interest

(11.1) Where an appeal is made to the Municipal Board 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 amendment or any part of the amendment in respect of which the appeal is made, may so advise the Board in writing not later than 30 days before the day fixed by the Board for the hearing of the appeal and the Minister shall identify,

- (a) the provisions of the amendment or any part of the amendment 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. 2004, c. 18, s. 4 (9).

No hearing or notice required

(11.2) The Minister is not required to give notice or to hold a hearing before taking any action under subsection (11.1). 2004, c. 18, s. 4 (9).

Confirmation by L.G. in C.

(11.3) If the Municipal Board has received notice from the Minister under subsection (11.1), the decision of the Board is not final and binding in respect of the provisions of the amendment or the provisions of any part of the amendment identified in the notice unless the Lieutenant Governor in Council has confirmed the decision in respect of those provisions. 2004, c. 18, s. 4 (9).

Action of L.G. in C.

(11.4) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board in respect of the provisions of the amendment or the provisions of any part of the amendment identified in the notice and in doing so may direct the Minister to modify the amendment to the plan. 2004, c. 18, s. 4 (9).

Withdrawal of appeal

(12) If all appeals under subsection (7) brought in accordance with paragraph 1 or 2 of subsection (7.0.2) are dismissed by the Municipal Board without holding a hearing or are withdrawn, the secretary of the Board shall notify the council or the planning board and the council or the planning board may proceed to give notice of the public meeting or adopt or refuse to adopt the requested amendment, as the case may be. 1996, c. 4, s. 13; 2004, c. 18, s. 4 (10); 2006, c. 23, s. 11 (9).

Same

(13) If all appeals under subsection (7) brought in accordance with paragraph 3 or 4 of subsection (7.0.2) are dismissed by the Municipal Board without holding a hearing or are withdrawn, the secretary of the Board shall notify the council or the planning board and the decision of the council or the planning board is final on the day that the last outstanding appeal has been withdrawn or dismissed. 1996, c. 4, s. 13; 2006, c. 23, s. 11 (10).

Request by Minister to amend plan

23. (1) Where the Minister is of the opinion that a matter of provincial interest as set out in a policy statement issued under section 3 is, or is likely to be, affected by an official plan, the Minister may request the council of a municipality to adopt such amendment as the Minister specifies to an official plan and, where the council refuses the request or fails to adopt the amendment within such time as is specified by the Minister in his or her request, the Minister may make the amendment. R.S.O. 1990, c. P.13, s. 23 (1).

Hearing by O.M.B.

(2) Where the Minister proposes to make an amendment to an official plan under subsection (1), the Minister may, and on the request of any person or municipality shall, request the Municipal Board to hold a hearing on the proposed amendment and the Board shall thereupon hold a hearing as to whether the amendment should be made. R.S.O. 1990, c. P.13, s. 23 (2).

Refusal to refer to O.M.B.

(3) Despite subsection (2), where the Minister is of the opinion that a request of any person or municipality made under subsection (2) is not made in good faith or is frivolous or vexatious or is made only for the purpose of delay, the Minister may refuse the request. R.S.O. 1990, c. P.13, s. 23 (3).

Notice

(4) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (2), notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board. R.S.O. 1990, c. P.13, s. 23 (4).

Decision of O.M.B.

(5) The Municipal Board, after the conclusion of the hearing, shall make a decision as to whether the proposed amendment, or an alternative form of amendment, should be made but the decision is not final and binding unless the Lieutenant Governor in Council has confirmed it. R.S.O. 1990, c. P.13, s. 23 (5); 1994, c. 23, s. 15 (1); 2004, c. 18, s. 5 (1).

Powers of L.G. in C.

(6) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board made under subsection (5) and in doing so may direct the Minister to amend the plan in such manner as the Lieutenant Governor in Council may determine. 2004, c. 18, s. 5 (2).

Public works and by-laws to conform with plan

24. (1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith. R.S.O. 1990, c. P.13, s. 24 (1); 1999, c. 12, Sched. M, s. 24.

Pending amendments

(2) If a council or a planning board has adopted an amendment to an official plan, the council of any municipality or the planning board of any planning area to which the plan or any part of the plan applies may, before the amendment to the official plan comes into effect, pass a by-law that does not conform with the official plan but will conform with it if the amendment comes into effect. 2006, c. 23, s. 12.

Same

(2.1) A by-law referred to in subsection (2),

(a) shall be conclusively deemed to have conformed with the official plan on and after the day the by-law was passed, if the amendment to the official plan comes into effect; and

(b) is of no force and effect, if the amendment to the official plan does not come into effect. 2006, c. 23, s. 12.

Preliminary steps that may be taken where proposed public work would not conform with official plan

(3) Despite subsections (1) and (2), the council of a municipality may take into consideration the undertaking of a public work that does not conform with the official plan and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this subsection authorizes the actual undertaking of any public work that does not conform with an official plan. R.S.O. 1990, c. P.13, s. 24 (3).

Deemed conformity

(4) If a by-law is passed under section 34 by the council of a municipality or a planning board in a planning area in which an official plan is in effect and, within the time limited for appeal no appeal is taken or an appeal is taken and the appeal is withdrawn or dismissed or the by-law is amended by the Municipal Board or as directed by the Board, the by-law shall be conclusively deemed to be in conformity with the official plan, except, if the by-law is passed in the circumstances mentioned in subsection (2), the by-law shall be conclusively deemed to be in conformity with the official plan on and after the day the by-law was passed, if the amendment to the official plan comes into effect. 1994, c. 23, s. 16 (2); 1996, c. 4, s. 14 (2).

Acquisition of lands in accordance with provisions of plan

25. (1) If there is an official plan in effect in a municipality that includes provisions relating to the acquisition of land, which provisions have come into effect after the 28th day of June, 1974, the council may, in accordance with such provisions, acquire and hold land within the municipality for the purpose of developing any feature of the official plan, and any land so acquired or held may be sold, leased or otherwise disposed of when no longer required. R.S.O. 1990, c. P.13, s. 25 (1); 1994, c. 23, s. 17; 1996, c. 4, s. 15.

Contribution towards cost

(2) Any municipality may contribute towards the cost of acquiring land under this section. R.S.O. 1990, c. P.13, s. 25 (2).

Updating official plan

26. (1) If an official plan is in effect in a municipality, the council of the municipality that adopted the official plan shall, not less frequently than every five years after the plan comes into effect as an official plan or after that part of a plan comes into effect as a part of an official plan, if the only outstanding appeals relate to those parts of the plan that propose to specifically designate land uses,

(a) revise the official plan as required to ensure that it,

(i) conforms with provincial plans or does not conflict with them, as the case may be,

(ii) has regard to the matters of provincial interest listed in section 2, and

(iii) is consistent with policy statements issued under subsection 3 (1); and

(b) revise the official plan, if it contains policies dealing with areas of employment, including, without limitation, the designation of areas of employment in the official plan and policies dealing with the removal of land from areas of employment, to ensure that those policies are confirmed or amended. 2006, c. 23, s. 13.

Effect of provincial plan conformity exercise

(2) For greater certainty, the council revises the official plan under subsection (1) if it,

(a) amends the official plan, in accordance with another Act, to conform with a provincial plan; and

(b) in the course of making amendments under clause (a), complies with clauses (1) (a) and (b) and with all the procedural requirements of this section. 2006, c. 23, s. 13.

Consultation and special meeting

- (3) Before revising the official plan under subsection (1), the council shall,
- (a) consult with the approval authority and with the prescribed public bodies with respect to the revisions that may be required; and
 - (b) hold a special meeting of council, open to the public, to discuss the revisions that may be required. 2006, c. 23, s. 13.

Notice

(4) Notice of every special meeting to be held under clause (3) (b) shall be published at least once a week in each of two separate weeks, and the last publication shall take place at least 30 days before the date of the meeting. 2006, c. 23, s. 13.

Public participation

(5) The council shall have regard to any written submissions about what revisions may be required and shall give any person who attends the special meeting an opportunity to be heard on that subject. 2006, c. 23, s. 13.

No exemption from approval

- (6) An order under subsection 17 (9) does not apply to an amendment made under subsection (1). 2006, c. 23, s. 13.

Declaration

(7) Each time it revises the official plan under subsection (1), the council shall, by resolution, declare to the approval authority that the official plan meets the requirements of subclauses (1) (a) (i), (ii) and (iii). 2006, c. 23, s. 13.

Direction by approval authority

(8) Despite subsection (1), the approval authority may, at any time, direct the council of a municipality to undertake a revision of all or part of any official plan in effect in the municipality and when so directed the council shall cause the revision to be undertaken without undue delay. 2006, c. 23, s. 13.

Updating zoning by-laws

(9) No later than three years after a revision under subsection (1) or (8) comes into effect, the council of the municipality shall amend all zoning by-laws that are in effect in the municipality to ensure that they conform with the official plan. 2006, c. 23, s. 13.

Minister may request amendment to zoning by-law

(10) The Minister may, if he or she is of the opinion that a zoning by-law in effect in the municipality does not conform with the official plan as revised under subsection (1) or (8), request the council of the municipality to pass an amendment to the zoning by-law to achieve conformity. 2006, c. 23, s. 13.

Amendments to conform to official plan

27. (1) The council of a lower-tier municipality shall amend every official plan and every by-law passed under section 34, or a predecessor of it, to conform with a plan that comes into effect as the official plan of the upper-tier municipality. 2002, c. 17, Sched. B, s. 7.

Failure to make amendments

(2) If the official plan of an upper-tier municipality comes into effect as mentioned in subsection (1) and any official plan or zoning by-law is not amended as required by that subsection within one year from the day the plan comes into effect as the official plan, the council of the upper-tier municipality may amend the official plan of the lower-tier municipality or zoning by-law, as the case may be, in the like manner and subject to the same requirements and procedures as the council that failed to make the amendment within the one-year period as required. 2002, c. 17, Sched. B, s. 7.

Deemed by-law

(3) An amending by-law passed under subsection (2) by the council of an upper-tier municipality shall be deemed for all purposes to be a by-law passed by the council of the municipality that passed the by-law that was amended. 2002, c. 17, Sched. B, s. 7.

Conflicts

(4) In the event of a conflict between the official plan of an upper-tier municipality and the official plan of a lower-tier municipality, the plan of the upper-tier municipality prevails to the extent of the conflict but in all other respects the official plan of the lower-tier municipality remains in effect. 2002, c. 17, Sched. B, s. 7.

**PART IV
COMMUNITY IMPROVEMENT**

Community improvement project area

28. (1) In this section,

“community improvement” means the planning or replanning, design or redesign, resubdivision, clearance, development or redevelopment, construction, reconstruction and rehabilitation, improvement of energy efficiency, or any of them, of a community improvement project area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, structures, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary; (“améliorations communautaires”)

“community improvement plan” means a plan for the community improvement of a community improvement project area; (“plan d’améliorations communautaires”)

“community improvement project area” means a municipality or an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other environmental, social or community economic development reason. (“zone d’améliorations communautaires”) R.S.O. 1990, c. P.13, s. 28 (1); 2001, c. 17, s. 7 (1, 2); 2006, c. 23, s. 14 (1).

Affordable housing

(1.1) Without limiting the generality of the definition of “community improvement” in subsection (1), for greater certainty, it includes the provision of affordable housing. 2006, c. 23, s. 14 (2).

Designation of community improvement project area

(2) Where there is an official plan in effect in a local municipality or in a prescribed upper-tier municipality that contains provisions relating to community improvement in the municipality, the council may, by by-law, designate the whole or any part of an area covered by such an official plan as a community improvement project area. R.S.O. 1990, c. P.13, s. 28 (2); 2006, c. 23, s. 14 (3).

Acquisition and clearance of land

(3) When a by-law has been passed under subsection (2), the municipality may,

- (a) acquire land within the community improvement project area with the approval of the Minister if the land is acquired before a community improvement plan mentioned in subsection (4) comes into effect and without the approval of the Minister if the land is acquired after the community improvement plan comes into effect;
- (b) hold land acquired before or after the passing of the by-law within the community improvement project area; and
- (c) clear, grade or otherwise prepare the land for community improvement. R.S.O. 1990, c. P.13, s. 28 (3); 2001, c. 17, s. 7 (3).

Community improvement plan

(4) When a by-law has been passed under subsection (2), the council may provide for the preparation of a plan suitable for adoption as a community improvement plan for the community improvement project area and the plan may be adopted and come into effect in accordance with subsections (5) and (5.1). 2006, c. 32, Sched. C, s. 47 (1).

Restriction re upper-tier municipality

(4.0.1) The community improvement plan of an upper-tier municipality may deal only with prescribed matters. 2006, c. 23, s. 14 (4).

(4.1)-(4.4) REPEALED: 2006, c. 32, Sched. C, s. 47 (1).

Same

(5) Subsections 17 (15), (17), (19) to (19.3), (19.5) to (24), (25) to (30.1), (44) to (47) and (49) to (50.1) apply, with necessary modifications, in respect of a community improvement plan and any amendments to it. 2006, c. 32, Sched. C, s. 47 (1).

Same

(5.1) The Minister is deemed to be the approval authority for the purpose of subsection (5). 2006, c. 32, Sched. C, s. 47 (1).

Same

(5.2) Despite subsection (5), if an official plan contains provisions describing the alternative measures mentioned in subsection 17 (19.3), subsections 17 (15), (17) and (19) to (19.2) do not apply in respect of the community improvement plan and any amendments to it, if the measures are complied with. 2006, c. 32, Sched. C, s. 47 (1).

Powers of council re land

- (6) For the purpose of carrying out a community improvement plan that has come into effect, the municipality may,
- (a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the community improvement project area in conformity with the community improvement plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;
 - (b) sell, lease or otherwise dispose of any land acquired or held by it in the community improvement project area to any person or governmental authority for use in conformity with the community improvement plan. R.S.O. 1990, c. P.13, s. 28 (6); 2001, c. 17, s. 7 (6).

Grants or loans re eligible costs

(7) For the purpose of carrying out a municipality's community improvement plan that has come into effect, the municipality may make grants or loans, in conformity with the community improvement plan, to registered owners, assessed owners and tenants of lands and buildings within the community improvement project area, and to any person to whom such an owner or tenant has assigned the right to receive a grant or loan, to pay for the whole or any part of the eligible costs of the community improvement plan. 2006, c. 23, s. 14 (8).

Eligible costs

(7.1) For the purposes of subsection (7), the eligible costs of a community improvement plan may include costs related to environmental site assessment, environmental remediation, development, redevelopment, construction and reconstruction of lands and buildings for rehabilitation purposes or for the provision of energy efficient uses, buildings, structures, works, improvements or facilities. 2006, c. 23, s. 14 (8).

Grants or loans between upper and lower-tier municipalities

(7.2) The council of an upper-tier municipality may make grants or loans to the council of a lower-tier municipality and the council of a lower-tier municipality may make grants or loans to the council of the upper-tier municipality, for the purpose of carrying out a community improvement plan that has come into effect, on such terms as to security and otherwise as the council considers appropriate, but only if the official plan of the municipality making the grant or loan contains provisions relating to the making of such grants or loans. 2006, c. 23, s. 14 (8).

Maximum amount

(7.3) The total of the grants and loans made in respect of particular lands and buildings under subsections (7) and (7.2) and the tax assistance as defined in section 365.1 of the *Municipal Act, 2001* or section 333 of the *City of Toronto Act, 2006*, as the case may be, that is provided in respect of the lands and buildings shall not exceed the eligible cost of the community improvement plan with respect to those lands and buildings. 2006, c. 23, s. 14 (8); 2006, c. 32, Sched. C, s. 48 (3).

(8) REPEALED: 2006, c. 32, Sched. C, s. 47 (3).

Application of s. 32 (2, 3)

(9) Subsections 32 (2) and (3) apply with necessary modifications to any loan made under subsection (7) of this section. R.S.O. 1990, c. P.13, s. 28 (9).

Conditions of sale, etc.

(10) Until a by-law or amending by-law passed under section 34 after the adoption of the community improvement plan is in force in the community improvement project area, no land acquired, and no building constructed, by the municipality in the community improvement project area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of enters into a written agreement with the municipality that the person or authority will keep and maintain the land and building and the use thereof in conformity with the community improvement plan until such a by-law or amending by-law is in force, but the municipality may, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the community improvement plan, for a term of not more than three years at any one time. R.S.O. 1990, c. P.13, s. 28 (10).

Registration of agreement

(11) An agreement concerning a grant or loan made under subsection (7) or an agreement entered into under subsection (10), may be registered against the land to which it applies and the municipality shall be entitled to enforce the provisions

thereof against any party to the agreement and, subject to the provisions of the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners or tenants of the land. R.S.O. 1990, c. P.13, s. 28 (11); 2006, c. 23, s. 14 (10).

Debentures

(12) Despite subsection 408 (3) of the *Municipal Act, 2001* or any regulation under section 256 of the *City of Toronto Act, 2006*, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides. 2002, c. 17, Sched. B, s. 9; 2006, c. 32, Sched. C, s. 47 (4).

Dissolution of area

(13) When the council is satisfied that the community improvement plan has been carried out, the council may, by by-law, dissolve the community improvement project area. R.S.O. 1990, c. P.13, s. 28 (13).

Agreement re studies and development

29. (1) A municipality, with the approval of the Minister, may enter into agreement with any governmental authority or any agency thereof created by statute, for the carrying out of studies and the preparation and implementation of plans and programs for the development or improvement of the municipality.

Where approval of Minister not required

(2) Despite subsection (1), a municipality may enter into agreement with one or more other municipalities under subsection (1) without the approval of the Minister. R.S.O. 1990, c. P.13, s. 29.

Agreements for grants in aid of community improvement

30. The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the community improvement of a community improvement project area as defined in section 28, including the carrying out of studies for the purpose of selecting areas for community improvement. R.S.O. 1990, c. P.13, s. 30.

31. REPEALED: 1997, c. 24, s. 226 (1).

Note: Despite the repeal of section 31, an order made under that section is continued as an order made under the corresponding provision of the *Building Code Act, 1992*. See: 1997, c. 24, ss. 226 (2), 228.

Grants or loans for repairs

32. (1) When a by-law under section 15.1 of the *Building Code Act, 1992* is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which an order has been made under subsection 15.2 (2) of that Act to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council may prescribe. R.S.O. 1990, c. P.13, s. 32 (1); 1997, c. 24, s. 226 (3).

Loans collected as taxes, lien on land

(2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

Registration of certificate

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which the loan has been made, sufficient for registration, shall be registered in the proper land registry office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged. R.S.O. 1990, c. P.13, s. 32 (2, 3).

Demolition control area

33. (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”)

“residential property” means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building. (“immeuble d’habitation”) R.S.O. 1990, c. P.13, s. 33 (1).

Establishment of demolition control area by by-law

(2) When a by-law under section 15.1 of the *Building Code Act, 1992* or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a municipality, the council of the local municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless the person is the holder of a demolition permit issued by the council under this section. R.S.O. 1990, c. P.13, s. 33 (2); 1997, c. 24, s. 226 (4).

Council may issue or refuse to issue permit

(3) Subject to subsection (6), where application is made to the council for a permit to demolish residential property, the council may issue the permit or refuse to issue the permit.

Appeal to O.M.B.

(4) Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final.

Notice of appeal

(5) The person appealing to the Municipal Board under subsection (4) shall, in such manner and to such persons as the Board may direct, give notice of the appeal to the Board.

Application for demolition permit where building permit issued

(6) Subject to subsection (7), the council shall, on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the residential property sought to be demolished.

Conditions of demolition permit

(7) A demolition permit under subsection (6) may be issued on the condition that the applicant for the permit construct and substantially complete the new building to be erected on the site of the residential property proposed to be demolished by not later than such date as the permit specifies, such date being not less than two years from the day demolition of the existing residential property is commenced, and on the condition that on failure to complete the new building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector’s roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies, but not in any case to exceed the sum of \$20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.

Registration of notice

(8) Notice of any condition imposed under subsection (7) may be registered in the proper land registry office against the land to which it applies.

Registration of certificate

(9) Where the clerk of the municipality adds a sum of money to the collector’s roll under subsection (7), a certificate signed by the clerk setting out the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon payment in full to the municipality of the sum added to the roll, a certificate signed by the clerk of the municipality showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the roll is discharged.

Appeal to O.M.B.

(10) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, the applicant may appeal to the Municipal Board for a variation of the conditions and, where an appeal is brought, the Board shall hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate, and the decision of the Board shall be final.

Application to council for relief from conditions of demolition permit

(11) Where a condition has been imposed under subsection (7) and the holder of the demolition permit considers that it is not possible to complete the new building within the time specified in the permit or where the holder of the permit is of the opinion that the construction of the new building has become not feasible on economic or other grounds, the permit holder may apply to the council of the municipality for relief from the conditions on which the permit was issued.

Notice of application

(12) Notice of application under subsection (11) shall be sent by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and, where the council under subsection (14) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

Extension of time

(13) Despite subsection (12), the council may, at any time, extend the date specified in that subsection for the making of an application for relief from the conditions on which the permit was issued.

Powers of council on application

(14) Where an application is made under subsection (11), the council shall consider the application and may grant the same or may extend the time for completion of the new building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the new building.

Appeal to O.M.B.

(15) Any person who has made application to the council under subsection (11) may appeal from the decision of the council to the Municipal Board within twenty days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under subsection (14) and the decision of the Board shall be final.

Offence

(16) Every person who demolishes a residential property, or any portion thereof, in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 for each dwelling unit contained in the residential property, the whole or any portion of which residential property has been demolished.

Standards for health and safety remain in force

(17) The provisions of any general or special Act and any by-law passed thereunder respecting standards relating to the health or safety of the occupants of buildings and structures remain in full force and effect in respect of residential property situate within an area of demolition control. R.S.O. 1990, c. P.13, s. 33 (3-17).

Certain proceedings stayed

(18) Subject to subsection (17), an application to the council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any by-law under section 15.1 of the *Building Code Act, 1992* or a predecessor thereof or under any special Act respecting maintenance or occupancy standards in respect of the residential property sought to be demolished, until the council disposes of the application, or where an appeal is taken under subsection (4), until the Municipal Board has heard the appeal and issued its order thereon. R.S.O. 1990, c. P.13, s. 33 (18); 1997, c. 24, s. 226 (5).

Exemption re Building Code

(19) Where a permit to demolish residential property is obtained under this section, it is not necessary for the holder thereof to obtain the permit mentioned in subsection 8 (1) of the *Building Code Act, 1992*. R.S.O. 1990, c. P.13, s. 33 (19); 1997, c. 24, s. 226 (6).

**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).

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 section 5 of the *Building Code Act*, 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 section 6 of the *Building Code Act*. R.S.O. 1990, c. P.13, s. 34 (9).

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).

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) 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 Municipal Board determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (10.2) is reasonable. 2006, c. 23, s. 15 (4).

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 Municipal Board 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).

Final determination

(10.8) The Municipal Board's determination under subsection (10.5) is not subject to appeal or review. 2006, c. 23, s. 15 (4).

Notice of refusal

(10.9) When a council refuses an application to amend its by-law, it shall, not later than 15 days after the day of the refusal, ensure that written notice of the refusal, containing the prescribed information, is given to,

- (a) the person or public body that made the application;
- (b) each person and public body that filed a written request to be notified of a refusal; and
- (c) any prescribed person or public body. 2006, c. 23, s. 15 (4).

Appeal to O.M.B.

(11) 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 refuses or neglects to make a decision on it within 120 days after the receipt by the clerk of the application, any of the following may appeal to the Municipal Board by filing a notice of appeal with the clerk of the municipality:

1. The applicant.
2. The Minister. 2006, c. 23, s. 15 (5).

Consolidated Hearings Act

(11.0.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act 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. 2006, c. 23, s. 15 (5).

Same

(11.0.2) The Municipal Board shall hear the appeal under subsection (11) and shall,

- (a) dismiss it;
- (b) amend the by-law in such manner as the Board may determine; or
- (c) direct that the by-law be amended in accordance with the Board's order. 2006, c. 23, s. 15 (5).

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).

Appeals restricted re certain amendments

(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).

Same

(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).

Withdrawal of appeal

(11.1) If all appeals under subsection (11) are withdrawn, the secretary of the Municipal Board 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).

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 Municipal Board made under subsection (11) or (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).

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 procedure

(14.3) If an official plan sets out alternative measures for informing and securing the views of the public in respect of proposed zoning by-laws, and if those measures are complied with, subsections (12) to (14.2) do not apply to the proposed by-laws, but subsections (14.4) and (14.6) do apply. 2006, c. 23, s. 15 (6).

Open house

(14.4) If subsection (14.3) applies and the proposed by-law is required by subsection 26 (9) or is related to a development permit system,

- (a) 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 proposed by-law; and
- (b) if a public meeting is also held, the open house shall be held no later than seven days before the public meeting. 2006, c. 23, s. 15 (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 securing the views of the public in respect of proposed zoning by-laws. 2006, c. 23, s. 15 (6).

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 Municipal Board made under subsection (11) or (26), the clerk of the municipality shall give written notice of the passing of the by-law not later than 15 days after the day the by-law is passed in the manner and in the form and to the persons or public bodies prescribed and the notice shall contain the prescribed information. 1994, c. 23, s. 21 (7); 1996, c. 4, s. 20 (7).

Appeal to O.M.B.

(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 Municipal Board 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 prescribed under the *Ontario Municipal Board Act*:

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).

No appeal re second unit policies

(19.1) Despite subsection (19), there is no appeal in respect of a by-law that is passed to permit the erecting, locating or use of two residential units in a detached house, semi-detached house or rowhouse situated in an area where residential use, other than ancillary residential use, is permitted. 2006, c. 23, s. 15 (10).

When giving of notice deemed completed

- (20) For the purposes of subsection (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;
 - (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).

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 Municipal Board 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; and
 - (c) such other information or material as the Municipal Board may require in respect of the appeal is forwarded to the Board. 2006, c. 23, s. 15 (11).

Withdrawal of appeals

(23.1) If all appeals to the Municipal Board under subsection (19) are withdrawn and the time for appealing has expired, the secretary of the Board shall notify the clerk of the municipality and the decision of the council is final and binding. 1993, c. 26, s. 53 (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 Municipal Board. 1999, c. 12, Sched. M, s. 25 (2).

Decision final

(23.3) If all appeals to the Municipal Board 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).

Hearing and notice thereof

(24) On an appeal to the Municipal Board, the Board shall hold a hearing of which notice shall be given to such persons or bodies and in such manner as the Board may determine. R.S.O. 1990, c. P.13, s. 34 (24).

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 Municipal Board 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).

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. 2006, c. 23, s. 15 (12).

Same

(24.4) When subsection (24.3) applies, the Municipal Board 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 Board 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. 2006, c. 23, s. 15 (12).

Notice to council

(24.5) The Municipal Board 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 Board. 2006, c. 23, s. 15 (12).

Council's recommendation

(24.6) The Municipal Board shall have regard to the council's recommendation if it is received within the time period mentioned in subsection (24.4), and may but is not required to do so if it is received afterwards. 2006, c. 23, s. 15 (12).

Conflict with SPPA

(24.7) Subsections (24.1) to (24.6) apply despite the *Statutory Powers Procedure Act*. 2006, c. 23, s. 15 (12).

Dismissal without hearing

(25) Despite the *Statutory Powers Procedure Act* and subsections (11) and (24), the Municipal Board may dismiss all or part of an appeal without holding a hearing, on its own initiative or on the motion of any party, 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 Board 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 Board proceedings that constitute an abuse of process;
- (a.1) REPEALED: 2006, c. 23, s. 15 (15).
- (b) the appellant has not provided written reasons for the appeal;
 - (c) the appellant has not paid the fee prescribed under the *Ontario Municipal Board Act*; or
 - (d) the appellant has not responded to a request by the Municipal Board for further information within the time specified by the Board. 1994, c. 23, s. 21 (11); 1996, c. 4, s. 20 (11, 12); 2006, c. 23, s. 15 (13-15).

Representation

(25.1) Before dismissing all or part of an appeal, the Municipal Board 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 (25) (d). 2000, c. 26, Sched. K, s. 5 (2).

Same

(25.1.1) Despite the *Statutory Powers Procedure Act* and subsections (11.0.2) and (24), the Municipal Board 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 Board'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. 2006, c. 23, s. 15 (16).

Dismissal

(25.2) Despite the *Statutory Powers Procedure Act*, the Municipal Board 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. 2006, c. 23, s. 15 (17).

Powers of O.M.B.

- (26) The Municipal Board may,
- (a) dismiss the appeal; or
 - (b) allow the appeal in whole or in part and repeal the by-law in whole or in part or amend the by-law in such manner as the Board may determine or direct the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order. R.S.O. 1990, c. P.13, s. 34 (26).

Matters of provincial interest

(27) Where an appeal is made to the Municipal Board 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 Board in writing not later than 30 days before the day fixed by the Board 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. 2004, c. 18, s. 6 (3).

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 Municipal Board has received notice from the Minister under subsection (27) and has made a decision on the by-law, the Board shall not make an order under subsection (11) or (26) in respect of the part or parts of the by-law identified in the notice. 2004, c. 18, s. 6 (3).

Action of L.G. in C.

(29.1) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board 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).

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).

Unappealed portions

(31) Despite subsection (30), before all of the appeals have been finally disposed of, the Municipal Board 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).

Method

(32) The Municipal Board 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).

Notice and hearing

(33) The Municipal Board 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. 1993, c. 26, s. 53 (5).

Notice

(34) Despite clause (33) (a), the Municipal Board shall give notice of a motion under subsection (32) to any person or public body who filed with the Board a written request to be notified if a motion is made. 1993, c. 26, s. 53 (5); 1994, c. 23, s. 21 (14).

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).

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 O.M.B.

(3) Where an application to the council for an amendment to the by-law to remove the holding symbol is refused or the council refuses or neglects to make a decision thereon within 120 days after receipt by the clerk of the application, the

applicant may appeal to the Municipal Board and the Board 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. R.S.O. 1990, c. P.13, s. 36 (3); 1994, c. 23, s. 22 (1); 2004, c. 18, s. 7 (1).

Matters of provincial interest

(3.1) Where an appeal is made to the Municipal Board 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 Board in writing not later than 30 days before the day fixed by the Board 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. 2004, c. 18, s. 7 (2).

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 Municipal Board has received notice from the Minister under subsection (3.1) and has made a decision on the by-law, the Board shall not make an order under subsection (3) in respect of the part or parts of the by-law identified in the notice. 2004, c. 18, s. 7 (2).

Action of L.G. in C.

(3.4) The Lieutenant Governor in Council may confirm, vary or rescind the decision of the Municipal Board 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. 7 (2).

Application of subs. 34 (11-25.1)

(4) Subsections 34 (11) 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.

Increased density, etc., provision by-law

37. (1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law.

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 authorization of increases in height and density of development.

Agreements

(3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters.

Registration of agreement

(4) Any agreement entered into under subsection (3) 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. 37.

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 O.M.B.

(4) Any person or public body to whom notice of a by-law was given under subsection (3) may, within sixty days from the date of the passing of the by-law, appeal to the Municipal Board 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. R.S.O. 1990, c. P.13, s. 38 (4); 1994, c. 23, s. 23 (2).

Application

(5) If a notice of appeal is filed under subsection (4), subsections 34 (23) to (26) apply with necessary modifications to the appeal. 1996, c. 4, s. 23.

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 Municipal Board or until the date of a notice issued by the secretary of the Board under subsection 34 (23.1) unless the interim control by-law is repealed. 1994, c. 23, s. 23 (3).

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).

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).

Garden suites

39.1 (1) Despite subsection 39 (2), 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.

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) 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 10 years from the day of the passing of the by-law. 2002, c. 17, Sched. B, s. 12.

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.

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).

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 situate 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).

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 Municipal Board has approved one or both, as the council 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 less than twenty-five 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;
- (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) 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).

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 Municipal Board determine a dispute about whether a matter referred to in paragraph 1 or 2 of subsection (4) is subject to site plan control. 2006, c. 23, s. 16 (5).

Final determination

(4.3) The Municipal Board's determination under subsection (4.2) is not subject to appeal or review. 2006, c. 23, s. 16 (5).

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 less than twenty-five 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).

Appeal to O.M.B.

(12) If the municipality fails to approve the plans or drawings referred to in subsection (4) within 30 days after they are submitted to the municipality or 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 require the plans or drawings or the unsatisfactory requirements, or parts thereof, including the terms of any agreement required, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality or upper-tier municipality, as appropriate. 2002, c. 17, Sched. B, s. 14 (5).

Hearing

(12.1) The Municipal Board 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, and the decision of the Board is final. 2002, c. 17, Sched. B, s. 14 (5).

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).

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).

City of Toronto

(16) This section does not apply to the City of Toronto, except for subsection (1.1), paragraph 1 of subsection (4), subparagraph 2 (f) of subsection (4) and paragraph 4.1 of clause (7) (a), which provisions apply with necessary modifications. 2006, c. 23, s. 16 (11).

Conveyance of land for park purposes

42. (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).

Definition

- (2) For the purposes of subsection (3),

“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. R.S.O. 1990, c. P.13, s. 42 (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).

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).

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 instead of conveyance

(6) The council of a local municipality may require the payment of money to the value of the land otherwise required to be conveyed under this section in lieu of the conveyance. 2006, c. 23, s. 17 (1).

No building without payment

(6.1) If a payment is required under subsection (6), 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).

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) by the value of that part. 2006, c. 23, s. 17 (1).

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).
2. No land is available to be conveyed for park or other public recreational purposes under this section. 2006, c. 23, s. 17 (1).

Determination of value

(6.4) For the purposes of subsections (6) 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).

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 of money in lieu of such conveyance 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.

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 Municipal Board to have the value determined and the Board 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 Board may order that a refund be made to the owner. 1994, c. 23, s. 25; 2006, c. 23, s. 17 (2).

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 Municipal Board and the Board shall make a final determination of the matter. 1994, c. 23, s. 25.

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 Municipal Board under subsection (10) within 30 days of the payment of the amount. 1994, c. 23, s. 25.

Notice

(13) If an owner of land makes a payment under protest and an application to the Municipal Board 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.

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) 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 or repair of buildings and the acquisition of machinery for park or other public recreational purposes. 1994, c. 23, s. 25.

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).

Application of subs. 34 (12-34)

43. (1) Subsections 34 (12) to (34) do not apply to a by-law that amends a by-law only to express a word, term or measurement in the by-law in a unit of measurement set out in Schedule I of the *Weights and Measures Act* (Canada) in accordance with the definitions set out in Schedule II of that Act and that,

- (a) does not round any measurement so expressed further than to the next higher or lower multiple of 0.5 metres or 0.5 square metres, as the case may be; or
- (b) does not vary by more than 5 per cent any measurement so expressed. R.S.O. 1990, c. P.13, s. 43 (1); 1993, c. 26, s. 55.

Effect of amendment that conforms with subs. (1)

(2) Any land, building or structure that otherwise conforms with a by-law passed under section 34 or a predecessor thereof or an order made by the Minister under section 47 or a predecessor thereof does not cease to conform with the by-law or

order by reason only of an amendment to the by-law or order that conforms with subsection (1). R.S.O. 1990, c. P.13, s. 43 (2).

Committee of adjustment

44. (1) If a municipality has passed a by-law under section 34 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable. R.S.O. 1990, c. P.13, s. 44 (1).

Copy of by-law to Minister

(2) Where a by-law is passed under subsection (1), a certified copy of the by-law shall be sent to the Minister by registered mail by the clerk of the municipality within thirty days of the passing thereof. R.S.O. 1990, c. P.13, s. 44 (2).

Term of office

(3) The members of the committee who are not members of a municipal council shall hold office for the term of the council that appointed them and the members of the committee who are members of a municipal council shall be appointed annually. R.S.O. 1990, c. P.13, s. 44 (3).

Idem

(4) Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his or her term, the council shall appoint another eligible person for the unexpired portion of the term. R.S.O. 1990, c. P.13, s. 44 (4).

Quorum

(5) Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum. R.S.O. 1990, c. P.13, s. 44 (5).

Vacancy not to impair powers

(6) Subject to subsection (5), a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members. R.S.O. 1990, c. P.13, s. 44 (6).

Chair

(7) The members of the committee shall elect one of themselves as chair, and, when the chair is absent through illness or otherwise, the committee may appoint another member to act as acting chair. R.S.O. 1990, c. P.13, s. 44 (7).

Secretary-treasurer, employees

(8) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is considered expedient, within the limits of the money appropriated for the purpose. R.S.O. 1990, c. P.13, s. 44 (8).

Remuneration

(9) The members of the committee shall be paid such compensation as the council may provide. R.S.O. 1990, c. P.13, s. 44 (9).

Filing of documents, etc.

(10) The secretary-treasurer shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 253 of the *Municipal Act, 2001* or section 199 of the *City of Toronto Act, 2006*, as the case may be, applies with necessary modifications to such documents. R.S.O. 1990, c. P.13, s. 44 (10); 2002, c. 17, Sched. B, s. 16; 2006, c. 32, Sched. C, s. 47 (11).

Rules of procedure

(11) In addition to complying with the requirements of this Act, the committee shall comply with such rules of procedure as are prescribed. R.S.O. 1990, c. P.13, s. 44 (11).

Powers of committee

45. (1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is in effect under section 34 or 38, or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained. R.S.O. 1990, c. P.13, s. 45 (1); 2006, c. 23, s. 18 (1).

Restriction

(1.1) Subsection (1) does not allow the committee to authorize a minor variance from conditions imposed under subsection 34 (16) of this Act or under subsection 113 (2) of the *City of Toronto Act, 2006*. 2006, c. 23, s. 18 (2).

Other powers

- (2) In addition to its powers under subsection (1), the committee, upon any such application,
- (a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,
 - (i) the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or
 - (ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or
 - (b) where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law. R.S.O. 1990, c. P.13, s. 45 (2).

Power of committee to grant minor variances

(3) A council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provisions of any by-law of the municipality that implements an official plan, or from such by-laws of the municipality as are specified and that implement an official plan, and when a committee of adjustment is so empowered subsection (1) applies with necessary modifications. R.S.O. 1990, c. P.13, s. 45 (3).

Time for hearing

(4) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer. R.S.O. 1990, c. P.13, s. 45 (4).

Notice of hearing

(5) The committee, before hearing an application, shall in the manner and to the persons and public bodies and containing the information prescribed, give notice of the application. R.S.O. 1990, c. P.13, s. 45 (5); 1994, c. 23, s. 26 (1).

Hearing

(6) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision. R.S.O. 1990, c. P.13, s. 45 (6).

Oaths

- (7) The chair, or in his or her absence the acting chair, may administer oaths. R.S.O. 1990, c. P.13, s. 45 (7).

Decision

(8) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision. R.S.O. 1990, c. P.13, s. 45 (8).

Conditions in decision

(9) Any authority or permission granted by the committee under subsections (1), (2) and (3) may be for such time and subject to such terms and conditions as the committee considers advisable and as are set out in the decision. R.S.O. 1990, c. P.13, s. 45 (9).

Agreement re terms and conditions

(9.1) If the committee imposes terms and conditions under subsection (9), it may also require the owner of the land to enter into one or more agreements with the municipality dealing with some or all of the terms and conditions, and in that case the requirement shall be set out in the decision. 2006, c. 23, s. 18 (3).

Registration of agreement

(9.2) An agreement entered into under subsection (9.1) may be registered against the land to which it applies and the municipality is entitled to enforce 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. 2006, c. 23, s. 18 (3).

Notice of decision

(10) The secretary-treasurer shall not later than ten days from the making of the decision send one copy of the decision, certified by him or her,

- (a) to the Minister, if the Minister has notified the committee by registered mail that he or she wishes to receive a copy of all decisions of the committee;
- (b) to the applicant; and
- (c) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board. R.S.O. 1990, c. P.13, s. 45 (10).

Additional material

(11) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection (10), he or she shall also send to the Minister such other information and material as may be prescribed. R.S.O. 1990, c. P.13, s. 45 (11).

Appeal to O.M.B.

(12) The applicant, the Minister or any other person or public body who has an interest in the matter may within 20 days of the making of the decision appeal to the Municipal Board against the decision of the committee by filing with the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under the *Ontario Municipal Board Act* as payable on an appeal from a committee of adjustment to the Board. 1994, c. 23, s. 26 (2).

Idem

(13) The secretary-treasurer of a committee, upon receipt of a notice of appeal filed under subsection (12), shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (12) to the Municipal Board by registered mail together with all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Board. R.S.O. 1990, c. P.13, s. 45 (13).

Exception

(13.1) Despite subsection (13), if all appeals under subsection (12) are withdrawn within 15 days after the last day for filing a notice of appeal, the secretary-treasurer is not required to forward the materials described under subsection (13) to the Municipal Board. 1999, c. 12, Sched. M, s. 26.

Decision final

(13.2) If all appeals under subsection (12) are withdrawn within 15 days after the last day for filing a notice of appeal, the decision of the committee is final and binding and the secretary-treasurer of the committee shall notify the applicant and file a certified copy of the decision with the clerk of the municipality. 1999, c. 12, Sched. M, s. 26.

Where no appeal

(14) If within such 20 days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality. R.S.O. 1990, c. P.13, s. 45 (14); 1994, c. 23, s. 26 (3).

Where appeals withdrawn

(15) Where all appeals to the Municipal Board are withdrawn, the decision of the committee is final and binding and the secretary of the Board shall notify the secretary-treasurer of the committee who in turn shall notify the applicant and file a certified copy of the decision with the clerk of the municipality. R.S.O. 1990, c. P.13, s. 45 (15); 1994, c. 23, s. 26 (4).

Hearing

(16) On an appeal to the Municipal Board, the Board shall, except as provided in subsections (15) and (17), hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons or public bodies and in such manner as the Board may determine. R.S.O. 1990, c. P.13, s. 45 (16); 1994, c. 23, s. 26 (5).

Dismissal without hearing

(17) Despite the *Statutory Powers Procedure Act* and subsection (16), the Municipal Board may dismiss all or part of an appeal without holding a hearing, on its own initiative or on the motion of any party, 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 Board 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 Board proceedings that constitute an abuse of process;
- (b) the appellant has not provided written reasons for the appeal;
- (c) the appellant has not paid the fee prescribed under the *Ontario Municipal Board Act*; or
- (d) the appellant has not responded to a request by the Municipal Board for further information within the time specified by the Board. 1994, c. 23, s. 26 (6); 2006, c. 23, s. 18 (4, 5).

Representation

(17.1) Before dismissing all or part of an appeal, the Municipal Board 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 (17) (d). 2000, c. 26, Sched. K, s. 5 (3).

Dismissal

(17.2) The Municipal Board may dismiss all or part of an appeal after holding a hearing or without holding a hearing on the motion under subsection (17), as it considers appropriate. 2000, c. 26, Sched. K, s. 5 (3).

Powers of O.M.B.

(18) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application. R.S.O. 1990, c. P.13, s. 45 (18).

Amended application

(18.1) On an appeal, the Municipal Board may make a decision on an application which has been amended from the original application if, before issuing its order, written notice is given to the persons and public bodies who received notice of the original application under subsection (5) and to other persons and agencies prescribed under that subsection. 1993, c. 26, s. 56; 1994, c. 23, s. 26 (7).

Exception

(18.1.1) The Municipal Board is not required to give notice under subsection (18.1) if, in its opinion, the amendment to the original application is minor. 1996, c. 4, s. 25 (1).

Notice of intent

(18.2) Any person or public body who receives notice under subsection (18.1) may, not later than thirty days after the day that written notice was given, notify the Board of an intention to appear at the hearing or the resumption of the hearing, as the case may be. 1993, c. 26, s. 56; 1994, c. 23, s. 26 (8).

Order

(18.3) If, after the expiry of the time period in subsection (18.2), no notice of intent has been received, the Board may issue its order. 1993, c. 26, s. 56.

Hearing

(18.4) If a notice of intent is received, the Board may hold a hearing or resume the hearing on the amended application or it may issue its order without holding a hearing or resuming the hearing. 1996, c. 4, s. 25 (2).

Notice of decision

(19) When the Municipal Board makes an order on an appeal, the secretary of the Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee. R.S.O. 1990, c. P.13, s. 45 (19).

Idem

(20) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality. R.S.O. 1990, c. P.13, s. 45 (20).

Mobile homes, land lease community homes

46. (1) In this section,

“land lease community home” means any dwelling that is a permanent structure where the owner of the dwelling leases the land used or intended for use as the site for the dwelling, but does not include a mobile home; (“maison de communauté de terrains à bail”)

“mobile home” means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed; (“maison mobile”)

“parcel of land” means a lot or block within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clause 50 (3) (b) or clause 50 (5) (a). (“parcelle de terrain”) R.S.O. 1990, c. P.13, s. 46 (1); 1994, c. 4, s. 15 (1).

One mobile home per parcel of land

(2) Unless otherwise authorized by a by-law in force under section 34 or an order of the Minister made under clause 47 (1) (a), or a permit issued under section 13 of the *Public Lands Act*, no person shall erect or locate or use or cause to be erected, located or used, a mobile home except on a parcel of land as defined in subsection (1), and in no case except as otherwise so authorized shall any person erect, locate or use or cause to be erected, located or used more than one mobile home on any such parcel of land. R.S.O. 1990, c. P.13, s. 46 (2).

One land lease community home per parcel of land

(2.1) Unless otherwise authorized by a by-law in force under section 34 or an order of the Minister made under clause 47 (1) (a), or a permit issued under section 13 of the *Public Lands Act*, no person shall construct or erect or locate or use or cause to be constructed, erected, located or used a land lease community home except on a parcel of land as defined in subsection (1), and in no case except as otherwise so authorized shall any person construct, erect, locate or use or cause to be constructed, erected, located or used more than one land lease community home on any such parcel of land. 1994, c. 4, s. 15 (2).

Saving

(3) This section does not apply to prevent the continued use in the same location of any mobile home that,

(a) was erected or located and in use prior to the 1st day of June, 1977; or

(b) was erected or located in accordance with a building permit issued prior to the 1st day of June, 1977. R.S.O. 1990, c. P.13, s. 46 (3).

Same

(4) This section does not apply to prevent the continued use in the same location of any land lease community home that,

(a) was constructed, erected or located and in use prior to the day the *Land Lease Statute Law Amendment Act, 1994* receives Royal Assent; or

(b) was constructed, erected or located in accordance with a building permit issued prior to the day the *Land Lease Statute Law Amendment Act, 1994* receives Royal Assent. 1994, c. 4, s. 15 (3).

Power of Minister re zoning and subdivision control

47. (1) The Minister may by order,

(a) in respect of any land in Ontario, exercise any of the powers conferred upon councils by section 34, 38 or 39, but subsections 34 (11) to (34) do not apply to the exercise of such powers; and

(b) in respect of any land in Ontario, exercise the powers conferred upon councils by subsection 50 (4). R.S.O. 1990, c. P.13, s. 47 (1); 1994, c. 23, s. 27 (1).

Power of Minister to allow minor variances

(2) Where an order has been made under clause (1) (a), the Minister, in respect of the lands affected by the order, has all the powers in respect of such order as a committee of adjustment has under subsections 45 (1) and (2) in respect of a by-law passed under section 34, but subsections 45 (4) to (8) and (10) to (20) do not apply to the exercise by the Minister of such powers. R.S.O. 1990, c. P.13, s. 47 (2).

Order prevails over by-law in event of conflict

(3) In the event of a conflict between an order made under clause (1) (a) and a by-law that is in effect under section 34 or 38, or a predecessor thereof, the order prevails to the extent of such conflict, but in all other respects the by-law remains in full force and effect. R.S.O. 1990, c. P.13, s. 47 (3).

Deemed by-law of municipality

(4) The Minister may, in the order or by separate order, provide that all or part of an order made under clause (1) (a) and any amendments to it in respect of land in a municipality, the council of which has the powers conferred by section 34, shall be deemed for all purposes, except the purposes of section 24, to be and to always have been a by-law passed by the council of the municipality in which the land is situate. 2001, c. 9, Sched. J, s. 2 (1).

Notice

(5) No notice or hearing is required prior to the making of an order under subsection (1) but the Minister shall give notice of any such order within thirty days of the making thereof in such manner as the Minister considers proper and shall set out in the notice the provisions of subsections (8), (9) and (10). R.S.O. 1990, c. P.13, s. 47 (5).

Idem

- (6) The Minister shall cause a duplicate or certified copy of an order made under clause (1) (a),
- (a) where the land affected is situate in a local municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situate in two or more local municipalities, in the office of the clerk of each of such municipalities; and
 - (b) where the land affected is situate in territory without municipal organization, to be lodged in the proper land registry office, where it shall be made available to the public as a production. R.S.O. 1990, c. P.13, s. 47 (6); 2002, c. 17, Sched. B, s. 17.

Registration

(7) The Minister shall cause a certified copy or duplicate of an order made under clause (1) (b) to be registered in the proper land registry office. R.S.O. 1990, c. P.13, s. 47 (7).

Revocation or amendment

(8) The Minister may, on his or her own initiative or at the request of any person or public body, by order, amend or revoke in whole or in part any order made under subsection (1). R.S.O. 1990, c. P.13, s. 47 (8); 1994, c. 23, s. 27 (2).

Information

(8.1) A request under subsection (8) shall include the prescribed information and material and such other information or material as the Minister may require. 1993, c. 26, s. 57 (2).

Refusal to consider

(8.2) The Minister may refuse to accept or further consider a request under subsection (8) until the prescribed information and material and the required fee are received. 1994, c. 23, s. 27 (3).

Notice

(9) Except as provided in subsection (10), the Minister before amending or revoking in whole or in part an order made under subsection (1) shall give notice or cause to be given notice thereof in such manner as the Minister considers proper and shall allow such period of time as he or she considers appropriate for the submission of representations in respect thereof. R.S.O. 1990, c. P.13, s. 47 (9).

Hearing by O.M.B.

(10) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection (1), the Minister may, and on the request of any person or public body shall, request the Municipal Board to hold a hearing on the application and thereupon the Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part. R.S.O. 1990, c. P.13, s. 47 (10); 1994, c. 23, s. 27 (4).

Reasons

(10.1) A request for a hearing must set out the reasons for the request and be accompanied by the fee prescribed under the *Ontario Municipal Board Act*. 1994, c. 23, s. 27 (5).

Refusal to refer

- (11) The Minister may refuse to refer a request under subsection (10) to the Municipal Board if,

- (a) the Minister is of the opinion that,
 - (i) the reasons set out in the request do not disclose any apparent land use planning ground upon which the Municipal Board could amend or revoke or refuse to revoke all or part of the order,
 - (ii) the request is not made in good faith or is frivolous or vexatious, or
 - (iii) the request is made only for the purpose of delay;
- (b) the person or public body requesting the hearing has not provided written reasons for the request. 1994, c. 23, s. 27 (6); 1996, c. 4, s. 26 (1).

Notice of hearing

(12) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (10), notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board. R.S.O. 1990, c. P.13, s. 47 (12).

Dismissal without hearing

(12.1) Despite the *Statutory Powers Procedure Act* and subsection (10), the Municipal Board may dismiss a request to hold a hearing without holding a hearing, on its own initiative or on the motion of any party, if,

- (a) it is of the opinion that,
 - (i) the reasons set out in the request do not disclose any apparent land use planning ground upon which the Board could amend or revoke or refuse to amend or revoke all or part of the order,
 - (ii) the request is not made in good faith or is frivolous or vexatious,
 - (iii) the request is made only for the purpose of delay, or
 - (iv) the person or public body requesting the hearing has persistently and without reasonable grounds commenced before the Board proceedings that constitute an abuse of process;
- (b) the person or public body requesting the hearing has not provided written reasons for the request;
- (c) the person or public body requesting the hearing has not paid the fee prescribed under the *Ontario Municipal Board Act*; or
- (d) the person or public body requesting the hearing has not responded to a request by the Municipal Board for further information within the time specified by the Board. 1994, c. 23, s. 27 (7); 1996, c. 4, s. 26 (2); 2006, c. 23, s. 19 (1, 2).

Representation

(12.2) Before dismissing a request to hold a hearing, the Municipal Board shall notify the person or public body requesting the hearing and give the person or public body the opportunity to make representation on the proposed dismissal but this subsection does not apply if the person or public body has not complied with a request made under clause (12.1) (d). 2000, c. 26, Sched. K, s. 5 (4).

Dismissal

(12.3) The Municipal Board may dismiss a request after holding a hearing or without holding a hearing on the motion under subsection (12.1), as it considers appropriate. 2000, c. 26, Sched. K, s. 5 (4).

Decision of O.M.B.

(13) The Municipal Board after the conclusion of the hearing shall make a decision to either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the Minister shall give effect to the decision of the Board. R.S.O. 1990, c. P.13, s. 47 (13); 1996, c. 4, s. 26 (3).

Minister's notice re matters of provincial interest

(13.1) If the Municipal Board has been requested to hold a hearing as provided for in subsection (10) and the Minister is of the opinion that a matter of provincial interest is, or is likely to be, adversely affected by the requested amendment or revocation, the Minister may so notify the Board in writing, not later than 30 days before the day fixed by the Board for the hearing. 2006, c. 23, s. 19 (3).

Same

- (13.2) The Minister's notice shall identify,

- (a) the provisions of the order by whose amendment or revocation 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. 2006, c. 23, s. 19 (3).

Same

(13.3) The Minister is not required to give notice or to hold a hearing before giving notice under subsection (13.1). 2006, c. 23, s. 19 (3).

Effect of notice

(13.4) If the Municipal Board receives notice from the Minister under subsection (13.1), the decision of the Board is not final and binding with respect to the amendment or revocation of provisions identified in the notice, until the Lieutenant Governor in Council confirms the decision in that respect. 2006, c. 23, s. 19 (3).

Power of Lieutenant Governor in Council

(13.5) The Lieutenant Governor in Council may confirm, vary or rescind the Municipal Board's decision with respect to the amendment or revocation of provisions identified in the notice, and may direct the Minister to amend or revoke the order, in whole or in part. 2006, c. 23, s. 19 (3).

Notification of decision

(14) A copy of the decision of the Municipal Board shall be sent to each person who appeared at the hearing and made representations and to any person who in writing requests a copy of the decision. R.S.O. 1990, c. P.13, s. 47 (14).

(15)-(17) REPEALED: 1994, c. 23, s. 27 (8).

Effect of land use order

(18) An order of the Minister made under clause (1) (b) has the same effect as a by-law passed under subsection 50 (4). R.S.O. 1990, c. P.13, s. 47 (18).

Deemed by-law

(19) The Minister may, in the order or by separate order, provide that all or part of an order made under clause (1) (a) and any amendments to it in respect of land in the planning area of a planning board shall be deemed to be and to always have been a by-law passed under section 34 by the planning board in which the land is situate. 2001, c. 9, Sched. J, s. 2 (2).

Where licence, etc., not to issue

48. Despite the provisions of any other general or special Act, a licence, permit, approval or permission shall not be issued or granted nor any utility or service provided by a utilities distributor or a public or Crown agency in respect of any land, building or structure where the proposed use of the land or the erection or proposed use of the building or structure would be in contravention of section 46 or of an order made under section 47 or of a by-law passed by a planning board under section 34 or 38. R.S.O. 1990, c. P.13, s. 48; 1994, c. 23, s. 28; 2006, c. 23, s. 20.

Power of entry

49. (1) In this section,

“officer” means an officer who has been assigned the responsibility of enforcing section 46, orders of the Minister made under clause 47 (1) (a) or zoning by-laws passed under section 34.

Entry and inspection

(2) Subject to subsection (3), where an officer believes on reasonable grounds that section 46, an order of the Minister made under clause 47 (1) (a) or a by-law passed under section 34 or 38 is being contravened, the officer or any person acting under his or her instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property on or in respect of which he or she believes the contravention is occurring. R.S.O. 1990, c. P.13, s. 49 (1, 2).

Where warrant required

(3) Except under the authority of a search warrant issued under section 49.1, an officer or any person acting under his or her instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant. R.S.O. 1990, c. P.13, s. 49 (3); 1994, c. 2, s. 45 (1).

Obstruction

(4) No person shall obstruct or attempt to obstruct an officer or a person acting under the officer's instructions in the exercise of a power under this section. 1994, c. 2, s. 45 (2).

Search warrant

49.1 (1) A provincial judge or justice of the peace may at any time issue a warrant in the prescribed form authorizing a person named in the warrant to enter and search a building, receptacle or place if the provincial judge or justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that,

- (a) an offence under section 67 has been committed; and
- (b) the entry and search will afford evidence relevant to the commission of the offence. 1994, c. 2, s. 46; 1997, c. 24, s. 226 (7).

Seizure

(2) In a search warrant, the provincial judge or justice of the peace may authorize the person named in the warrant to seize anything that, based on reasonable grounds, will afford evidence relevant to the commission of the offence.

Receipt and removal

- (3) Anyone who seizes something under a search warrant shall,
- (a) give a receipt for the thing seized to the person from whom it was seized; and
 - (b) bring the thing seized before the provincial judge or justice of the peace issuing the warrant or another provincial judge or justice to be dealt with according to law.

Expiry

(4) A search warrant shall name the date upon which it expires, which shall be not later than fifteen days after the warrant is issued.

Time of execution

(5) A search warrant shall be executed between 6 a.m. and 9 p.m. unless it provides otherwise.

Other matters

(6) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of any thing seized under this section. 1994, c. 2, s. 46.

PART VI SUBDIVISION OF LAND

Interpretation

50. (1) In this section and in section 53,

“consent” means,

- (a) where land is situate in a lower-tier municipality, a consent given by the council of the upper-tier municipality,
- (b) where land is situate in a single-tier municipality that is not in a territorial district, a consent given by the council of the single-tier municipality,
- (c) where land is situate in a prescribed single-tier municipality that is in a territorial district, a consent given by the council of the single-tier municipality, and
- (d) except as otherwise provided in clauses (a), (b) and (c), a consent given by the Minister. 2002, c. 17, Sched. B, s. 18.

References include delegates

(1.0.1) A reference in subsection (1) and in section 53 to the Minister includes a delegate of the Minister under sections 4 and 55 and a reference to a council includes a delegate of a council under section 54. 2002, c. 17, Sched. B, s. 18.

Removal of power

(1.1) The Minister may by order, accompanied by a written explanation for it, remove the powers of the council of a municipality under this section and sections 53 and 57 and the order may be in respect of one or more applications for a consent, an approval under subsection (18) or for a certificate of validation specified in the order or in respect of any or all applications for consents, approvals under subsection (18) or for certificates of validation made after the order is made. 1994, c. 23, s. 29 (2).

Minister to grant consents, etc.

(1.2) If an order is made under subsection (1.1), the Minister has the power of the council to grant consents, to give approvals under subsection (18) or to issue a certificate of validation in respect of applications to which the order relates and the council shall forward to the Minister all papers, plans, documents and other materials that relate to any matter in respect of which the powers were removed and of which a final disposition was not made by the council before the power was removed. 1994, c. 23, s. 29 (2).

Effect of revocation

(1.3) If the Minister revokes the order or part of the order made under subsection (1.1), the power to grant consents, give approvals under subsection (18) or issue certificates of validation reverts back to the council in respect of all applications to which the revoked order or revoked part of the order applied. 1994, c. 23, s. 29 (2).

Delegation

(1.4) If an order is made under subsection (1.1) 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 which was removed from the council to grant consents, to give approvals under subsection (18) or to issue certificates of validation and the delegation may be subject to such conditions as the order provides. 1994, c. 23, s. 29 (2).

Effect of revocation

(1.5) If the Minister revokes the order or part of the order made under subsection (1.4), the power of the municipal planning authority to grant consents, to give approvals under subsection (18) or to issue certificates of validation reverts back to the Minister 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 materials 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. 29 (2).

Proviso

(2) For the purposes of this section, land shall be deemed and shall always have been deemed not to abut land that is being conveyed or otherwise dealt with if it abuts such land on a horizontal plane only. R.S.O. 1990, c. P.13, s. 50 (2).

Mining rights

(2.1) For the purposes of this section, land shall be deemed and shall always have been deemed to exclude mining rights in or under land but not mining rights on the land. 1994, c. 23, s. 29 (2).

Subdivision control

(3) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless,

- (a) the land is described in accordance with and is within a registered plan of subdivision;
- (b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than land that is the whole of one or more lots or blocks within one or more registered plans of subdivision;
- (c) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario or by any municipality;
- (d) the land or any use of or right therein is being acquired for the purpose of an electricity distribution line, electricity transmission line, hydrocarbon distribution line or hydrocarbon transmission line within the meaning of Part VI of the *Ontario Energy Board Act, 1998* and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;
- (e) the land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under section 24 of the *Conservation Authorities Act* and in respect of which an officer of the conservation authority acquiring the land or any use of or right therein has made a declaration

that it is being acquired for any of such purposes, which shall be conclusive evidence that it is being acquired for such purpose;

- (f) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land;
- (g) the land or any use of or right therein was acquired for the purpose of an electricity distribution line, electricity transmission line, hydrocarbon distribution line or hydrocarbon transmission line within the meaning of Part VI of the *Ontario Energy Board Act, 1998* and is being disposed of to the person from whom it was acquired; or
- (h) the only use of or right in land that is granted is an easement or covenant under the *Conservation Land Act*. R.S.O. 1990, c. P.13, s. 50 (3); 1998, c. 15, Sched. E, s. 27 (4-6); 2006, c. 23, s. 21 (1).

Designation of plans of subdivision not deemed registered

(4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3). R.S.O. 1990, c. P.13, s. 50 (4).

Part-lot control

(5) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed, or transfer, or grant, assign or exercise a power of appointment in respect of a part of any lot or block of the land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless,

- (a) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than land that is the whole of one or more lots or blocks within one or more registered plans of subdivision;
- (b) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario or by any municipality;
- (c) the land or any use of or right therein is being acquired for the purpose of a utility line within the meaning of the *Ontario Energy Board Act, 1998* and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose;
- (d) the land or any use of or right therein is being acquired for the purposes of flood control, erosion control, bank stabilization, shoreline management works or the preservation of environmentally sensitive lands under a project approved by the Minister of Natural Resources under section 24 of the *Conservation Authorities Act* and in respect of which an officer of the conservation authority acquiring the land or any use of or right therein has made a declaration that it is being acquired for any of such purposes, which shall be conclusive evidence that it is being acquired for such purpose;
- (e) the land that is being conveyed, or otherwise dealt with is the remaining part of a lot or block, the other part of which was acquired by a body that has vested in it the right to acquire land by expropriation;
- (f) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land;
- (g) the land or any use of or right therein was acquired for the purpose of a utility line within the meaning of the *Ontario Energy Board Act, 1998* and is being disposed of to the person from whom it was acquired; or
- (h) the only use of or right in land that is granted is an easement or covenant under the *Conservation Land Act*. R.S.O. 1990, c. P.13, s. 50 (5); 1998, c. 15, Sched. E, s. 27 (7-9); 2006, c. 23, s. 21 (2).

Conveyance of remaining part

(6) Despite subsections (3) and (5), where land is the remaining part of a parcel of land, the other part or parts of which parcel have been the subject of a consent given under clause (3) (f) or (5) (f), the whole of the remaining part may be conveyed or otherwise dealt with before the other part or parts are conveyed or otherwise dealt with, provided that the remaining part is conveyed or otherwise dealt with before the consent mentioned above lapses under subsection 53 (43). R.S.O. 1990, c. P.13, s. 50 (6); 1994, c. 23, s. 29 (3).

Designation of lands not subject to part-lot control

(7) Despite subsection (5), the council of a local municipality may by by-law provide that subsection (5) does not apply to land that is within such registered plan or plans of subdivision or parts of them as are designated in the by-law. 1996, c. 4, s. 27 (3).

Requirement for approval of by-law

(7.1) A by-law passed under subsection (7) does not take effect until it has been approved by the appropriate approval authority for the purpose of sections 51 and 51.1 in respect of the land covered by the by-law. 1996, c. 4, s. 27 (3).

Exemption from approval

(7.2) An approval under subsection (7.1) is not required if the council that passes a by-law under subsection (7) is authorized to approve plans of subdivision under section 51. 1996, c. 4, s. 27 (3).

Expiration of by-law

(7.3) A by-law passed under subsection (7) may provide that the by-law expires at the expiration of the time period specified in the by-law and the by-law expires at that time. 1996, c. 4, s. 27 (3).

Extension of time period

(7.4) The council of a local municipality may, at any time before the expiration of a by-law under subsection (7), amend the by-law to extend the time period specified for the expiration of the by-law and an approval under subsection (7.1) is not required. 1996, c. 4, s. 27 (3).

Amendment or repeal

(7.5) The council of a local municipality may, without an approval under subsection (7.1), repeal or amend a by-law passed under subsection (7) to delete part of the land described in it and, when the requirements of subsection (28) have been complied with, subsection (5) applies to the land affected by the repeal or amendment. 1996, c. 4, s. 27 (3).

Exception

(8) Nothing in subsections (3) and (5) prohibits, and subsections (3) and (5) shall be deemed never to have prohibited, the giving back of a mortgage or charge by a purchaser of land to the vendor of the land as part or all of the consideration for the conveyance of the land, provided that the mortgage or charge applies to all of the land described in the conveyance. R.S.O. 1990, c. P.13, s. 50 (8).

Part of building or structure

(9) Nothing in subsections (3) and (5) prohibits the entering into of an agreement that has the effect of granting the use of or right in a part of a building or structure for any period of years. R.S.O. 1990, c. P.13, s. 50 (9).

Exception

(10) This section does not apply to an agreement entered into under section 2 of the *Drainage Act*. R.S.O. 1990, c. P.13, s. 50 (10).

Application to ARDD

(11) This section does not apply so as to prevent the Agricultural Rehabilitation and Development Directorate of Ontario from conveying or leasing land where the land that is being conveyed or leased comprises all of the land that was acquired by the Directorate under one registered deed or transfer. R.S.O. 1990, c. P.13, s. 50 (11).

Exception to application of subss. (3, 5)

(12) Where a parcel of land is conveyed by way of a deed or transfer with a consent given under section 53, subsections (3) and (5) of this section do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land unless the council or the Minister, as the case may be, in giving the consent, stipulates either that subsection (3) or subsection (5) shall apply to any such subsequent conveyance or transaction. R.S.O. 1990, c. P.13, s. 50 (12).

Reference to stipulation

(13) Where the council or the Minister stipulates in accordance with subsection (12), the certificate provided for under subsection 53 (42) shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been given without the stipulation. R.S.O. 1990, c. P.13, s. 50 (13); 1994, c. 23, s. 29 (5).

Effect of contravention

(14) Where land is within a registered plan of subdivision or within a registered description under the *Condominium Act* or where land is conveyed, mortgaged or charged with a consent given under section 53 or a predecessor thereof, any

contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on June 25, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that occurred before the registration of the plan of subdivision or description or before the giving of a certificate under subsection 53(42) stating that a consent has been given, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in the land, but this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before December 15, 1978. 1994, c. 23, s. 29 (6).

Simultaneous conveyances, etc., of abutting lands

(15) Where a person conveys land or grants, assigns or exercises a power of appointment in respect of land, or mortgages or charges land, or enters into an agreement of sale and purchase of land, or enters into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more by way of simultaneous conveyances of abutting lands or by way of other simultaneous dealings with abutting lands, the person so conveying or otherwise dealing with the lands shall be deemed for the purposes of subsections (3) and (5) to retain, as the case may be, the fee or the equity of redemption in, or the power or right to grant, assign or exercise a power of appointment in respect of, land abutting the land that is being conveyed or otherwise dealt with but this subsection does not apply to simultaneous conveyances or other simultaneous dealings involving the same parties acting in their same respective capacities. R.S.O. 1990, c. P.13, s. 50 (15).

Partial discharges, etc., effect of

(16) Where a person gives a partial discharge of a mortgage on land or gives a partial cessation of a charge on land, the person giving the partial discharge or partial cessation shall be deemed to hold the fee in the lands mentioned in the mortgage or charge and to retain, after the giving of the partial discharge or partial cessation, the fee in the balance of the lands, and for the purposes of this section shall be deemed to convey by way of deed or transfer the land mentioned in the partial discharge or partial cessation. R.S.O. 1990, c. P.13, s. 50 (16).

Saving

(17) Subsection (16) does not apply to a partial discharge of mortgage or partial cessation of charge where the land described in the partial discharge or partial cessation,

- (a) is the same land in respect of which a consent to convey has previously been given;
- (b) includes only the whole of one or more lots or blocks within a registered plan of subdivision, unless such plan of subdivision has been designated under subsection (4);
- (c) is owned by Her Majesty in right of Canada or Her Majesty in right of Ontario or by any municipality; or
- (d) is land to which clause (3) (g) or (5) (g) applies. R.S.O. 1990, c. P.13, s. 50 (17); 1998, c. 15, Sched. E, s. 27 (10).

Foreclosure or exercise of power of sale

(18) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without the approval of the Minister or of the council authorized to give a consent under section 53, as the case may be, other than a council authorized to give a consent pursuant to an order under section 4, unless all of the land subject to such mortgage or charge is included in the foreclosure or exercise of the power of sale, but this subsection does not apply where the land foreclosed or in respect of where the power of sale is exercised comprises only,

- (a) the whole of one or more lots or blocks within one or more registered plans of subdivision;
- (b) one or more parcels of land that do not abut any other parcel of land that is subject to the same mortgage or charge;
- (c) the identical parcel of land that has been the subject of a consent to convey given under section 53 and the consent did not stipulate that subsection (3) or (5) applies to any subsequent conveyance or transaction; or
- (d) the whole of the remaining part of a parcel of land, the other part or parts of which parcel have been the subject of a consent to convey given under section 53 and the consent did not stipulate that subsection (3) or (5) applies to any subsequent conveyance or transaction. R.S.O. 1990, c. P.13, s. 50 (18); 1993, c. 26, s. 58 (1); 1994, c. 23, s. 29 (7); 1996, c. 4, s. 27 (4).

Criteria

(18.1) No approval shall be given by a council under subsection (18) unless the approval conforms with the prescribed criteria. 1993, c. 26, s. 58 (2).

Release of interest by joint tenant or tenant in common

(19) Where a joint tenant or tenant in common of land releases or conveys the tenant's interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either alone or together with any other person, the tenant shall be deemed, for the purposes of subsections (3) and (5), to convey such land by way of deed or transfer and to retain the fee in the abutting land. R.S.O. 1990, c. P.13, s. 50 (19).

Partition orders

- (20) No order made under the *Partition Act* for the partition of land shall have any effect in law unless,
- (a) irrespective of the order, each part of the land described in the order could be conveyed without contravening this section; or
 - (b) a consent is given to the order. R.S.O. 1990, c. P.13, s. 50 (20).

Conveyance, etc., contrary to section not to create or convey interest in land

(21) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with. R.S.O. 1990, c. P.13, s. 50 (21).

Exception re prescribed statements

- (22) Where a deed or transfer,
- (a) contains a statement by the grantor, verifying that to the best of the grantor's knowledge and belief the deed or transfer does not contravene this section;
 - (b) contains a statement by the grantor's solicitor, verifying that,
 - (i) he or she has explained the effect of this section to the grantor,
 - (ii) he or she has made inquiries of the grantor to determine that the deed or transfer does not contravene this section,
 - (iii) based on the information supplied by the grantor, to the best of the solicitor's knowledge and belief, the deed or transfer does not contravene this section, and
 - (iv) he or she is an Ontario solicitor in good standing; and
 - (c) contains a statement by the grantee's solicitor, verifying that,
 - (i) he or she has investigated the title to the land and, where relevant, to abutting land,
 - (ii) he or she is satisfied that the record of title to the land and, where relevant, to abutting land, reveals no existing contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, that has the effect of preventing the conveyance of any interest in the land,
 - (iii) to the best of his or her knowledge and belief, the deed or transfer does not contravene this section, and
 - (iv) he or she acts independently of the grantor's solicitor and is an Ontario solicitor in good standing; and
 - (d) is registered under the *Land Titles Act* or the *Registry Act*,

any contravention of this section or a predecessor thereof or of a by-law passed under a predecessor of this section or of an order made under clause 27 (1) (b), as it existed on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof, does not and shall be deemed never to have had the effect of preventing the conveyance of any interest in the land, but this subsection does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day the deed or transfer is registered. R.S.O. 1990, c. P.13, s. 50 (22).

Search period re *Planning Act*

(23) For the purposes of the statement referred to in subclause (22) (c) (ii), a solicitor is not required to investigate the registered title to the land except with respect to the time since the registration of the most recent deed or transfer affecting the same land and containing the statements referred to in clauses (22) (a), (b) and (c). R.S.O. 1990, c. P.13, s. 50 (23).

Exempting orders

(24) The Minister may by order designate any part of Ontario as land to which subsection (22) shall not apply after the day a certified copy or duplicate of the order is registered in the proper land registry office in a manner approved by the Director of Land Registration appointed under the *Registry Act*. R.S.O. 1990, c. P.13, s. 50 (24).

Offence

(25) Every person who knowingly makes a false statement under subsection (22) is guilty of an offence and on conviction is liable to a fine not exceeding the aggregate of the value of,

- (a) the land in respect of which the statement is made; and
- (b) the relevant abutting land,

determined as of the day of registration of the deed or transfer containing the false statement. R.S.O. 1990, c. P.13, s. 50 (25).

Copy of by-law to be lodged with approval authority

(26) A certified copy or duplicate of every by-law passed under subsection (4) shall be lodged by the clerk of the municipality in the office of the approval authority. 2006, c. 23, s. 21 (3).

When by-law effective

(27) A by-law passed under subsection (4) is not effective until the requirements of subsection (28) have been complied with. R.S.O. 1990, c. P.13, s. 50 (27).

Registration of by-law

(28) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper land registry office. R.S.O. 1990, c. P.13, s. 50 (28).

Notice

(29) No notice or hearing is required prior to the passing of a by-law under subsection (4), but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person. R.S.O. 1990, c. P.13, s. 50 (29).

Hearing by council

(30) The council shall hear in person or by an agent any person to whom a notice was sent under subsection (29), who within twenty days of the mailing of the notice gives notice to the clerk of the municipality that the person desires to make representations respecting the amendment or repeal of the by-law. R.S.O. 1990, c. P.13, s. 50 (30).

Division of land by will

50.1 (1) No provision in a will that purports to subdivide land is of any effect to subdivide that land unless, irrespective of that provision, each part of the land divided could be conveyed without contravening section 50.

Retroactive effect

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

Tenants in common

(3) If a provision in a will is of no effect to subdivide land under subsection (1), the beneficiaries that would have been entitled to the land if the provision had been effective shall hold the undivided land as tenants in common. 1991, c. 9, s. 1.

- (4) REPEALED: 1991, c. 9, s. 1.
- (5) REPEALED: 1991, c. 9, s. 1.
- (6) REPEALED: 1991, c. 9, s. 1.

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).

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 (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).

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 applies. 1994, c. 23, s. 30.

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;
- (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).

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 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).

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 Municipal Board determine,

- (a) whether the information and material have in fact been provided; or
- (b) whether a requirement made under subsection (18) is reasonable. 2006, c. 23, s. 22 (2).

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).

Notice of particulars and public access

(19.4) Within 15 days after the approval authority gives an affirmative notice under subsection (19.1), or within 15 days after the Municipal Board advises the approval authority and the clerk or secretary-treasurer of its affirmative decision under subsection (19.2), as the case may be, the council or planning board shall,

- (a) give the prescribed persons and public bodies, in the prescribed manner, notice of the application, accompanied by the prescribed information; and
- (b) make the information and material provided under subsections (17) and (18) available to the public. 2006, c. 23, s. 22 (2).

Final determination

(19.5) The Municipal Board's determination under subsection (19.2) is not subject to appeal or review. 2006, c. 23, s. 22 (2).

Notice

(20) At least 14 days before a decision is made by an approval authority under subsection (31), the approval authority shall ensure that,

- (a) notice of the application is given, if required by regulation, in the manner and to the persons and public bodies and containing the information prescribed; and
- (b) a public meeting is held, if required by regulation, notice of which shall be given in the manner and to the persons and public bodies and containing the information prescribed. 1996, c. 4, s. 28 (4).

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 give notice of the application or hold the public meeting referred to in subsection (20) or do both. 1996, c. 4, s. 28 (4).

Responsibilities

(21.1) A local municipality or planning board that is requested to give the notice referred to in clause (20) (a) shall ensure that,

- (a) the notice is given in accordance with the regulation made under clause (20) (a); and
- (b) the prescribed information and material are submitted to the approval authority within 15 days after the notice is given. 1996, c. 4, s. 28 (4).

Same

(21.2) A local municipality or planning board that is requested to hold the public meeting referred to in clause (20) (b) shall ensure that,

- (a) notice of the meeting is given in accordance with the regulation made under clause (20) (b);
- (b) the public meeting is held; and
- (c) the prescribed information and material are submitted to the approval authority within 15 days after the meeting is held. 1996, c. 4, s. 28 (4).

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;
- (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).

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; and
- (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. 1994, c. 23, s. 30; 2005, c. 26, Sched. B, s. 1; 2006, c. 23, s. 22 (5).

Note: On a day to be named by proclamation of the Lieutenant Governor, section 51 is amended by the Statutes of Ontario, 1997, chapter 31, section 164 by adding the following subsection:

Same

(25.1) The approval authority shall impose as a condition to the approval of a plan of subdivision that land that is planned as a school site for any school board that has jurisdiction in the area in which the land is situated be offered to the school board at a price that does not exceed the value of the land determined as of the day before the day of the approval of the draft plan of subdivision.

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 Municipal Board's decision is issued in respect of the appeal or from the date of a notice issued by the Board under subsection (51). 1994, c. 23, s. 30; 2006, c. 23, s. 22 (6).

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.

Appeal to O.M.B.

(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 180 days after the day the application is received by the approval authority, the applicant may appeal to the Municipal Board with respect to the proposed subdivision by filing a notice with the approval authority, accompanied by the fee prescribed under the *Ontario Municipal Board Act*. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (6); 2004, c. 18, s. 8.

Consolidated Hearings Act

(34.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act 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. 2006, c. 23, s. 22 (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; and
- (b) the record, the notice of appeal and the fee are forwarded to the Municipal Board within 15 days after the notice is filed. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (7).

Exception

(35.1) Despite clause (35) (b), if all appeals under subsection (34) are withdrawn within 15 days after the last day for filing a notice of appeal, the approval authority is not required to forward the materials described under clause (35) (b) to the Municipal Board. 1999, c. 12, Sched. M, s. 28 (3).

Where all appeals withdrawn

(35.2) If all appeals under subsection (34) are withdrawn within 15 days after the last day for filing a notice of appeal, the approval authority may proceed to make a decision under subsection (31). 1999, c. 12, Sched. M, s. 28 (3).

Withdrawal

(36) If an appeal under subsection (34) is withdrawn, the Municipal Board shall notify the approval authority and the approval authority may proceed to make a decision under subsection (31). 1994, c. 23, s. 30.

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, containing the prescribed information, to,

- (a) the applicant;
 - (b) each person or public body that made a written request to be notified of the decision;
 - (c) REPEALED: 1996, c. 4, s. 28 (8).
 - (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 (8).
- (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 Municipal Board by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*:

1. The applicant.
2. A person or public body 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).

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;
 - (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.

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 Municipal Board by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*:

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.

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).

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 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).
- (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 Municipal Board by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*:

1. The applicant.
2. A person or public body 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).

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).

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; and
 - (b) the record, notice of appeal and the fee are forwarded to the Municipal Board 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. 1994, c. 23, s. 30.

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 Municipal Board. 1999, c. 12, Sched. M, s. 28 (3).

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 secretary of the Municipal Board 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.

Hearing

(52) On an appeal, the Municipal Board shall hold a hearing, notice of which shall be given to such persons or public bodies and in such manner as the Board may determine. 1994, c. 23, s. 30.

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 Municipal Board 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).

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 Municipal Board 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 Board determined 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. 2006, c. 23, s. 22 (11).

Notice to approval authority

(52.5) The Municipal Board 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 Board. 2006, c. 23, s. 22 (11).

Approval authority's recommendation

(52.6) The Municipal Board 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. 2006, c. 23, s. 22 (11).

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 Municipal Board may dismiss an appeal without holding a hearing on its own initiative or on the motion of any party, 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 Board 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 Board 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 prescribed under the *Ontario Municipal Board Act*; or
- (e) the appellant has not responded to a request by the Municipal Board for further information within the time specified by the Board. 1994, c. 23, s. 30; 1996, c. 4, s. 28 (14, 15); 2006, c. 23, s. 22 (12-14).

Same

(53.1) Despite the *Statutory Powers Procedure Act* and subsection (52), the Municipal Board 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 Board'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. 2006, c. 23, s. 22 (15).

Representation

(54) Before dismissing an appeal, the Municipal Board 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).

Dismissal

(54.1) Despite the *Statutory Powers Procedure Act*, the Municipal Board 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. 2006, c. 23, s. 22 (16).

Decision

(55) If all appeals under subsection (39), (43) or (48) are dismissed or withdrawn, the secretary of the Municipal Board 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.

Powers

(56) On an appeal under subsection (34) or (39), the Municipal Board 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. 1994, c. 23, s. 30.

Final approval

(56.1) If, on an appeal under subsection (34) or (39), the Municipal Board has given approval to a draft plan of subdivision, the Board 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. 1999, c. 12, Sched. M, s. 28 (3).

Change of conditions

(56.2) If the final approval of a plan of subdivision is to be given under subsection (56.1), the Municipal Board 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).

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.

Parkland

51.1 (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.

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.

Payment in lieu

(3) If the approval authority has imposed a condition under subsection (1) requiring land to be conveyed to the municipality, the municipality may, in lieu of accepting the conveyance, require the payment of money by the owner of the land,

- (a) to the value of the land otherwise required to be conveyed; or
- (b) where the municipality would be entitled to require a conveyance under subsection (2), to the value of the land that would otherwise be required to be so conveyed.

Determination of value

(4) For the purpose of determining the amount of any payment required under subsection (3), the value of the land shall be determined as of the day before the day of the approval of the draft plan of subdivision.

Application

(5) Subsections 42 (2), (5) and (12) to (16) apply with necessary modifications to a conveyance of land or a payment of money under this section. 1994, c. 23, s. 31.

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.

Sale of lands in accordance with unregistered plan prohibited

52. (1) No person shall subdivide and offer for sale, agree to sell or sell land by a description in accordance with an unregistered plan of subdivision, but this subsection does not prohibit any person from offering for sale or agreeing to sell land by a description in accordance with a plan of subdivision in respect of which draft approval has been given under section 51.

Definition

(2) In subsection (1),

“unregistered plan of subdivision” does not include a reference plan of survey under section 150 of the *Land Titles Act* that complies with the regulations under that Act or a plan deposited under Part II of the *Registry Act* in accordance with the regulations under that Act. R.S.O. 1990, c. P.13, s. 52.

Consents

53. (1) An owner of land or the owner's agent duly authorized in writing may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. 1994, c. 23, s. 32.

Prescribed information

(2) The applicant for a consent shall provide the council or the Minister with the prescribed information or material. 1996, c. 4, s. 29 (1).

Other information

(3) A council or the Minister may require that a person or public body that makes an application for a consent provide any other information or material that the council or the Minister considers it or he or she may need, but only if the official plan contains provisions relating to requirements under this subsection. 2006, c. 23, s. 23 (1).

Refusal and timing

(4) Until the council or the Minister has received the information and material required under subsections (2) and (3), if any, and any fee under section 69 or 69.1,

- (a) the council or the Minister may refuse to accept or further consider the application for a consent; and
- (b) the time period referred to in subsection (14) does not begin. 2006, c. 23, s. 23 (1).

Motion re dispute

(4.1) The applicant, the council or the Minister may make a motion for directions to have the Municipal Board determine,

- (a) whether the information and material required under subsections (2) and (3), if any, have in fact been provided; or
- (b) whether a requirement made under subsection (3) is reasonable. 2006, c. 23, s. 23 (1).

Final determination

(4.2) The Municipal Board's determination under subsection (4.1) is not subject to appeal or review. 2006, c. 23, s. 23 (1).

Notice

(5) At least 14 days before a decision is made by the council or the Minister, the council or the Minister shall ensure that,

- (a) notice of the application is given, if required by regulation, in the manner and to the persons and public bodies and containing the information prescribed; and
- (b) a public meeting is held, if required by regulation, notice of which shall be given in the manner and to the persons and public bodies and containing the information prescribed. 1996, c. 4, s. 29 (1).

Request by council

(6) A council may request that a local municipality having jurisdiction over the land that is the subject of the application for consent give notice of the application or hold the public meeting referred to in subsection (5) or do both. 1996, c. 4, s. 29 (1).

Request by Minister

(7) The Minister may request that a local municipality or planning board having jurisdiction over the land that is the subject of the application for consent give notice of the application or hold the public meeting referred to in subsection (5) or do both. 1996, c. 4, s. 29 (1).

Responsibilities

(7.1) A local municipality or planning board that is requested under subsection (6) or (7) to give notice shall ensure that,

- (a) the notice is given in accordance with the regulation made under clause (5) (a); and
- (b) the prescribed information and material are submitted to the council or the Minister, as the case may be, within 15 days after the notice is given. 1996, c. 4, s. 29 (1).

Same

(7.2) A local municipality or planning board that is requested under subsection (6) or (7) to hold a public meeting shall ensure that,

- (a) notice of the meeting is given in accordance with the regulation made under clause (5) (b);
- (b) the public meeting is held; and

(c) the prescribed information and material are submitted to the council or the Minister, as the case may be, within 15 days after the meeting is held. 1996, c. 4, s. 29 (1).

Written submissions

(8) Any person or public body may make written submissions to the council or the Minister before the council or the Minister gives or refuses to give a provisional consent. 1994, c. 23, s. 32.

Procedure

(9) A council in dealing with applications for consent shall comply with such rules of procedure as are prescribed. 1994, c. 23, s. 32.

Council to confer

(10) A council, in determining whether a provisional consent is to be given, shall confer with the persons or public bodies prescribed. 1994, c. 23, s. 32.

Minister may confer

(11) The Minister in determining whether a provisional consent is to be given may confer with the persons or public bodies that the Minister considers may have an interest in the application. 1994, c. 23, s. 32.

Powers

(12) A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51 (24) and has the same powers as the approval authority has under subsection 51 (25) with respect to the approval of a plan of subdivision and subsections 51 (26) and (27) and section 51.1 apply with necessary modifications to the granting of a provisional consent. 1994, c. 23, s. 32.

Parks

(13) If, on the giving of a provisional consent, land is required to be conveyed to a municipality for park or other public recreational purposes and the council of the municipality requires the payment of money to the value of the land in lieu of the conveyance, for the purpose of determining the amount of the payment, the value of the land shall be determined as of the day before the day the provisional consent was given. 1994, c. 23, s. 32.

Appeal to O.M.B.

(14) If an application is made for a consent and the council or the Minister fails to make a decision under subsection (1) on the application within 90 days after the day the application is received by the clerk of the municipality or the Minister, the applicant may appeal to the Municipal Board with respect to the consent application by filing a notice with the clerk of the municipality or the Minister, accompanied by the fee prescribed under the *Ontario Municipal Board Act*. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (2); 2004, c. 18, s. 9.

Consolidated Hearings Act

(14.1) Despite the *Consolidated Hearings Act*, the proponent of an undertaking shall not give notice to the Hearings Registrar under subsection 3 (1) of that Act in respect of an application requested under subsection (1) unless the council or the Minister has given or refused to give a provisional consent or the time period referred to in subsection (14) has expired. 2006, c. 23, s. 23 (2).

Record

(15) If the clerk of the municipality or the Minister receives a notice of appeal under subsection (14), the clerk of the municipality or the Minister shall ensure that,

- (a) a record is compiled which includes the prescribed information and material; and
- (b) the record, the notice of appeal and the fee are forwarded to the Municipal Board within 15 days after the notice is filed. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (3).

Appeal withdrawn

(16) If an appeal under subsection (14) is withdrawn, the Municipal Board shall notify the council or Minister and the council or the Minister may proceed to make a decision under subsection (1). 1994, c. 23, s. 32.

Exception

(16.1) Despite clause (15) (b), if all appeals under subsection (14) are withdrawn within 15 days after the last day for filing a notice of appeal, the clerk of the municipality or the Minister is not required to forward the materials described under clause (15) (b) to the Municipal Board. 1999, c. 12, Sched. M, s. 29.

Where all appeals withdrawn

(16.2) If all appeals under subsection (14) are withdrawn within 15 days after the last day for filing a notice of appeal, the council or the Minister may proceed to make a decision under subsection (1). 1999, c. 12, Sched. M, s. 29.

Notice of decision

(17) If the council or the Minister gives or refuses to give a provisional consent, the council or the Minister shall ensure that written notice of it is given within 15 days, containing the information prescribed to,

- (a) the applicant;
 - (b) each person or public body that made a written request to be notified of the decision or conditions;
 - (c) REPEALED: 1996, c. 4, s. 29 (4).
 - (d) the Minister, with respect to a decision by a council to give a provisional consent, if the Minister has notified the council that he or she wishes to receive a copy of all decisions made to give a provisional consent; and
 - (e) any other person or public body prescribed. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (4).
- (18) REPEALED: 1996, c. 4, s. 29 (5).

Appeal

(19) Any person or public body may, not later than 20 days after the giving of notice under subsection (17) is completed, appeal the decision or any condition imposed by the council or the Minister or appeal both the decision and any condition to the Municipal Board by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (6).

Notice completed

- (20) For the purpose of subsections (19) and (27), 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;
 - (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. 32.

No appeal

(21) If no appeal is filed under subsection (19) or (27), subject to subsection (23), the decision of the council or the Minister, as the case may be, to give or refuse to give a provisional consent is final. 1994, c. 23, s. 32.

Declaration

(22) A sworn declaration by an employee of the municipality or the Ministry of Municipal Affairs and Housing that notice was given under subsection (17) or (24) or that no notice of appeal was filed under subsection (19) or (27) within the time allowed for appeal is conclusive evidence of the facts stated in it. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (7).

Change of conditions

(23) The council or the Minister, as the case may be, may change the conditions of a provisional consent at any time before a consent is given. 1994, c. 23, s. 32.

Notice

(24) If the council or the Minister changes conditions of a provisional consent under subsection (23) after notice has been given under subsection (17), the council or the Minister shall ensure that written notice of the changes containing the information prescribed is given within 15 days to,

- (a) the applicant;
 - (b) each person or public body that made a written request to be notified of changes to the conditions;
 - (c) the Minister, with respect to a change of conditions by council, if the Minister has notified the council that he or she wishes to receive a copy of the changes of conditions; and
 - (d) any other person or public body prescribed. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (8).
- (25) REPEALED: 1996, c. 4, s. 29 (9).

No notice required

(26) An approval authority is not required to give written notice under subsection (24) if, in the opinion of the approval authority, the change to conditions is minor. 1994, c. 23, s. 32.

Appeal

(27) Any person or public body may, not later than 20 days after the giving of notice under subsection (24) is completed, appeal any of the changed conditions imposed by the council or the Minister by filing with the clerk of the municipality or the Minister a notice of appeal setting out the reasons for the appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (10).

Record

(28) If the clerk or the Minister, as the case may be, receives a notice of appeal under subsection (19) or (27), the clerk or the Minister shall ensure that,

- (a) a record is compiled which includes the information and material prescribed; and
- (b) the record, the notice of appeal and the fee are forwarded to the Municipal Board within 15 days after the last day for filing a notice of appeal under subsection (19) or (27). 1994, c. 23, s. 32.

Appeals withdrawn

(29) If all appeals under subsection (19) or (27) are withdrawn and the time for appealing has expired, the Municipal Board shall notify the council or the Minister, as the case may be, and subject to subsection (23), the decision of the council or the Minister to give or refuse to give a provisional consent is final. 1994, c. 23, s. 32.

Exception

(29.1) Despite clause (28) (b), if all appeals under subsection (19) or (27) are withdrawn within 15 days after the last day for filing a notice of appeal, the clerk of the municipality or the Minister is not required to forward the materials described under clause (28) (b) to the Municipal Board. 1999, c. 12, Sched. M, s. 29.

Decision final

(29.2) If all appeals under subsection (19) or (27) are withdrawn within 15 days after the last day for filing a notice of appeal, the decision of the council or the Minister, subject to subsection (23), to give or refuse to give a provisional consent is final. 1999, c. 12, Sched. M, s. 29.

Hearing

(30) On an appeal, the Municipal Board shall hold a hearing, of which notice shall be given to such persons or public bodies and in such manner as the Board may determine. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (11).

Dismissal without hearing

(31) Despite the *Statutory Powers Procedure Act* and subsection (30), the Municipal Board may dismiss an appeal without holding a hearing, on its own initiative or on the motion of any party, 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 Board could give or refuse to give the provisional consent or could 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 Board proceedings that constitute an abuse of process;
- (b) the appellant did not make oral submissions at a public meeting or did not make written submissions to the council or the Minister before a provisional consent was given or refused and, in the opinion of the Board, the appellant does not provide a reasonable explanation for having failed to make a submission;
- (c) the appellant has not provided written reasons for the appeal;
- (d) the appellant has not paid the fee prescribed under the *Ontario Municipal Board Act*; or
- (e) the appellant has not responded to a request by the Municipal Board for further information within the time specified by the Board. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (12); 2006, c. 23, s. 23 (3, 4).

Representation

(32) Before dismissing an appeal, the Municipal Board 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 (31) (e). 2000, c. 26, Sched. K, s. 5 (7).

Dismissal

(32.1) The Municipal Board may dismiss an appeal after holding a hearing or without holding a hearing on the motion under subsection (31), as it considers appropriate. 2000, c. 26, Sched. K, s. 5 (7).

Decision final

(33) If all appeals under subsection (19) or (27) are dismissed or withdrawn, the Municipal Board shall notify the council or the Minister and, subject to subsection (23), the decision of the council or the Minister to give or refuse to give a provisional consent is final. 1994, c. 23, s. 32.

Powers

(34) On an appeal under subsection (14) or (19), the Municipal Board may make any decision that the council or the Minister, as the case may be, could have made on the original application and on an appeal of the conditions under subsection (27), the Board shall determine the question as to the condition or conditions appealed to it. 1994, c. 23, s. 32.

Amended application

(35) On an appeal, the Municipal Board may make a decision on an application which has been amended from the original application if, at any time before issuing its order, written notice is given to the persons and public bodies prescribed under subsection (10) and to any person or public body conferred with under subsection (11) on the original application. 1994, c. 23, s. 32.

No written notice

(35.1) The Municipal Board is not required to give written notice under subsection (35) if, in the opinion of the Board, the amendment to the original application is minor. 1996, c. 4, s. 29 (13).

Notice

(36) Any person or public body that receives notice under subsection (35) may, not later than 30 days after the day that written notice was given, notify the Municipal Board of an intention to appear at the hearing or the resumption of the hearing, as the case may be. 1994, c. 23, s. 32.

Order

(37) If, after the expiry of the time period in subsection (36), no notice of intent has been received, the Municipal Board may issue its order. 1994, c. 23, s. 32.

Notice received

(38) If a notice of intent under subsection (36) is received, the Municipal Board may hold a hearing or resume the hearing on the amended application or issue its order without holding a hearing or resuming the hearing. 1994, c. 23, s. 32; 1996, c. 4, s. 29 (14).

Consent

(39) If the decision of the Municipal Board under subsection (34) is that a provisional consent be given, the council or the Minister shall give the consent, but if conditions have been imposed, the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled. 1994, c. 23, s. 32.

Same

(40) If the decision of the council or the Minister on an application is that provisional consent be given and there has been no appeal under subsection (19) or (27), subject to subsection (23), the consent shall be given, but if conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled. 1994, c. 23, s. 32.

Conditions not fulfilled

(41) If conditions have been imposed and the applicant has not, within a period of one year after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of one year from the date of the order of the Municipal Board issued in respect of the appeal or from the date of a notice issued by the Board under subsection (29) or (33). 1994, c. 23, s. 32.

Certificate

(42) When a consent has been given under this section, the clerk of the municipality or the Minister, as the case may be, shall give a certificate to the applicant stating that the consent has been given and the certificate is conclusive evidence that the consent was given and that the provisions of this Act leading to the consent have been complied with and that, despite any other provision of this Act, the council or the Minister had jurisdiction to grant the consent and after the certificate has been given no action may be maintained to question the validity of the consent. 1994, c. 23, s. 32.

Lapse of consent

(43) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent. 1994, c. 23, s. 32.

Where delegation

(44) If a land division committee or a committee of adjustment has had delegated to it the authority for the giving of consents, any reference in this section to the clerk of the municipality shall be deemed to be a reference to the secretary-treasurer of the land division committee or committee of adjustment. 1994, c. 23, s. 32.

Delegation of authority to give consents

54. (1) The council of an upper-tier municipality may by by-law delegate to the council of a lower-tier municipality the authority for the giving of consents under section 53 in respect of land situate in the lower-tier municipality. 2002, c. 17, Sched. B, s. 21 (1).

Delegation

(1.1) The council of a county may by by-law delegate to a municipal planning authority the authority for the giving of consents under section 53 in respect of land in a municipal planning area. 1994, c. 23, s. 33 (2).

Further delegation

(2) Where authority is delegated to a council under subsection (1), such council may, in turn, by by-law, delegate the authority or any part of such authority, to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment. R.S.O. 1990, c. P.13, s. 54 (2).

Included powers

(2.1) If council has delegated its authority to give consents under subsection (1), (1.1), (2), (2.3), (4) or (5), that delegation shall be deemed to include the authority to give approvals under subsection 50 (18) and to issue certificates of validation under section 57 in respect of land situate in the lower-tier municipality. 1993, c. 26, s. 61 (1); 1994, c. 23, s. 33 (3); 2002, c. 17, Sched. B, s. 21 (2).

Limitation

(2.2) Section 53 does not apply in the exercise of authority under subsection (2.1) to give approvals under subsection 50 (18) or to issue certificates of validation. 1994, c. 23, s. 33 (4).

Further delegation

(2.3) If authority is delegated to a municipal planning authority under subsection (1.1) or (5) or subsection 50 (1.4), the municipal planning authority may, in turn, by by-law delegate the authority 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. 33 (5).

(3) REPEALED: 1994, c. 23, s. 33 (6).

Delegation to committee of council, etc.

(4) Except as delegated under subsection (1) or (1.1), the authority or any part of such authority of the council of an upper-tier municipality may be delegated by the council to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a land division committee. R.S.O. 1990, c. P.13, s. 54 (4); 1994, c. 23, s. 33 (7); 2002, c. 17, Sched. B, s. 21 (3).

Delegation, single-tier municipalities

(5) The council of a single-tier municipality authorized to give a consent under section 53 may by by-law delegate the authority of the council under section 53 or any part of that authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied, to a municipal planning authority or to the committee of adjustment. 2002, c. 17, Sched. B, s. 21 (4).

Committee of adjustment

(6) Where, under subsection (2) or (5), a committee of adjustment has had delegated to it the authority to give a consent, section 53 applies with necessary modifications and subsections 45 (4) to (20) do not apply in the exercise of that authority. 1994, c. 23, s. 33 (9).

Same

(6.1) Where, under subsection (2) or (5), a committee of adjustment has the authority to give approvals under subsection 50 (18) and the authority to issue certificates of validation under section 57, subsection 45 (8) applies in the exercise of that authority, but subsections 45 (4) to (7) and (9) to (20) do not apply. 1993, c. 26, s. 61 (3).

Conditions

(7) A delegation of authority made by a council or a municipal planning authority under this section may be subject to such conditions as the council or the municipal planning authority by by-law provides and the council or the municipal planning authority may by by-law withdraw the delegation of authority but, where authority delegated under subsection (1) or (1.1) is withdrawn, all applications for consent, for approval under subsection 50 (18) or for the issuance of a certificate of validation under section 57 made prior to the withdrawal shall continue to be dealt with as if the delegation had not been withdrawn. 1994, c. 23, s. 33 (10).

District land division committee, delegation

55. (1) The Minister by order may constitute and appoint one or more district land division committees composed of such persons as he or she considers advisable and may by order delegate thereto the authority of the Minister to give consents under section 53, the authority to give approvals under subsection 50 (18) or the authority to issue certificates of validation under section 57 in respect of such lands situate in a territorial district as are defined in the order. R.S.O. 1990, c. P.13, s. 55 (1); 1993, c. 26, s. 62 (1).

Conditions and withdrawal of delegation

(2) A delegation made by the Minister under subsection (1) may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation. R.S.O. 1990, c. P.13, s. 55 (2).

Body corporate

(2.1) A district land division committee is a body corporate. 1994, c. 23, s. 34 (1).

Application of s. 44

(3) Where the Minister has delegated his or her authority to a district land division committee under subsection (1), subsections 44 (5), (6), (7), (8), (10) and (11) apply with necessary modifications. R.S.O. 1990, c. P.13, s. 55 (3).

Agreements

(4) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situate in territory without municipal organization and subsection 51 (26) applies with necessary modifications to any such agreement. R.S.O. 1990, c. P.13, s. 55 (4); 1994, c. 23, s. 34 (2).

Remuneration

(5) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them. R.S.O. 1990, c. P.13, s. 55 (5).

Fees

(6) A district land division committee may prescribe a tariff of fees for the processing of applications, which shall be designed to meet only the anticipated cost to the committee in respect of the processing of applications. 1993, c. 26, s. 62 (2).

Land division committee

56. (1) The council of an upper-tier municipality may by by-law constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable. R.S.O. 1990, c. P.13, s. 56 (1); 2002, c. 17, Sched. B, s. 22.

Application of subs. 44 (2-11)

(2) Subsections 44 (2) to (11) apply, with necessary modifications, where a land division committee is constituted under subsection (1) of this section. R.S.O. 1990, c. P.13, s. 56 (2).

Validation certificate

57. (1) A council authorized to give a consent under section 53, other than a council authorized to give a consent pursuant to an order under section 4, may issue a certificate of validation in respect of land described in the certificate, providing that the contravention of section 50 or a predecessor of it or of a by-law passed under a predecessor of section 50 or of an order made under clause 27 (1) (b), as it read on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor of it does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land. 1993, c. 26, s. 63; 1996, c. 4, s. 30 (1).

Limitation

(2) A certificate of validation under subsection (1) or an order of the Minister under subsection (3) does not affect the rights acquired by any person from a judgment or order of any court given or made on or before the day on which the certificate is issued or order is made. 1993, c. 26, s. 63.

Territorial district

(3) If the Minister has authority to give consents under section 53, the Minister may by order exercise the powers conferred upon a council by subsection (1) in respect of land in a territorial district. 2002, c. 17, Sched. B, s. 23.

Proviso

(4) No order shall be made by the Minister under subsection (1) in respect of land situate in a local municipality unless the council of the local municipality in which the land is situate has by by-law requested the Minister to make such order, and the council has the power to pass that by-law. 1993, c. 26, s. 63.

Conditions

(5) A council may, as a condition to the passage of a by-law under subsection (4), impose such conditions in respect of any land described in the by-law as it considers appropriate. 1993, c. 26, s. 63.

Criteria for consideration

(6) In considering whether to issue a certificate under subsection (1), regard shall be had to the prescribed criteria. 1993, c. 26, s. 63.

Criteria for certificate

- (7) No certificate shall be issued by a council under subsection (1) unless,
- (a) the land described in the certificate conforms with the prescribed criteria; or
 - (b) the Minister, by order, has exempted that land from the criteria. 1993, c. 26, s. 63.

Conditions

(8) A council or the Minister may, as a condition to issuing a certificate of validation or order, impose such conditions in respect of any land described in the certificate or order as it considers appropriate. 1993, c. 26, s. 63.

Proviso

(9) Nothing in this section derogates from the power a council or the Minister has to grant consents referred to in section 53. 1993, c. 26, s. 63.

**PART VII
GENERAL**

Acquisition of land

58. The *Municipal Act, 2001* or the *City of Toronto Act, 2006*, as the case may be, applies to the acquisition of land under this Act. 2006, c. 32, Sched. C, s. 47 (12).

Power to clear, grade, etc., lands acquired

59. When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held. R.S.O. 1990, c. P.13, s. 59.

Exchange of lands

60. When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality. R.S.O. 1990, c. P.13, s. 60.

Fair hearing

61. Where, in passing a by-law under this Act, a council is required by this Act, by the provisions of an official plan or otherwise by law, to afford any person an opportunity to make representation in respect of the subject-matter of the by-law, the council shall afford such person a fair opportunity to make representation but throughout the course of passing the by-law the council shall be deemed to be performing a legislative and not a judicial function. R.S.O. 1990, c. P.13, s. 61.

Not subject to Act

62. (1) An undertaking of Hydro One Inc. (as defined in subsection 2 (1) of the *Electricity Act, 1998*) or Ontario Power Generation Inc. (as defined in subsection 2 (1) of that Act) that has been approved under the *Environmental Assessment Act* is not subject to this Act. 1998, c. 15, Sched. E, s. 27 (11); 2002, c. 1, Sched. C, s. 4.

Subsidiaries included

(2) For the purposes of subsection (1), a reference to a corporation is deemed to include a subsidiary of that corporation. 1998, c. 15, Sched. E, s. 27 (11).

Exempt undertakings

62.0.1 (1) An undertaking or class of undertakings within the meaning of the *Environmental Assessment Act* that relates to energy is not subject to this Act or to section 113 or 114 of the *City of Toronto Act, 2006* if,

(a) it has been approved under Part II or Part II.1 of the *Environmental Assessment Act* or is the subject of,

(i) an order under section 3.1 or a declaration under section 3.2 of that Act, or

(ii) an exempting regulation made under that Act; and

(b) a regulation under clause 70 (h) prescribing the undertaking or class of undertakings is in effect. 2006, c. 23, s. 24.

Same

(2) An undertaking referred to in subsection 62 (1) that has been approved under the *Environmental Assessment Act* is not subject to section 113 or 114 of the *City of Toronto Act, 2006*. 2006, c. 23, s. 24.

Variation of notice requirements

62.1 The Minister, the council of a municipality or a planning board may by agreement with a First Nation vary or waive the prescribed notice requirements to a band in respect of an official plan, a zoning by-law or any application under this Act. 1994, c. 23, s. 37.

Deemed compliance

63. If the Minister, the council of a municipality, a planning board or the Municipal Board exercises any authority under this Act, including giving an approval, an exemption from an approval or a consent, the provisions of this Act that relate to or are requirements for the exercise of the authority shall be deemed to have been complied with upon the decision becoming final. 1996, c. 4, s. 32; 1999, c. 12, Sched. M, s. 30.

Exception

64. Despite section 95 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter referred or appealed to the Board under this Act. R.S.O. 1990, c. P.13, s. 64.

Discretionary dispute resolution techniques

65. The Minister, the council of a municipality, a local board, a planning board or the Municipal Board or their agents shall, if they consider it appropriate, at any time before a decision is made under this Act, use mediation, conciliation or other dispute resolution techniques to attempt to resolve concerns or disputes in respect of any planning application or matter. 1994, c. 23, s. 39.

Effect where authority delegated

66. If the Minister or the council delegates an authority under this Act, including the authority to give an approval, an exemption from an approval or a consent, the exercise of the authority and the decision of the delegate has the same force and effect as if it were the exercise of authority or the decision of the Minister or the council, as the case may be. 1996, c. 4, s. 33.

Penalty

67. (1) Every person who contravenes section 41, section 46, subsection 49 (4) or section 52 or who contravenes a by-law passed under section 34 or 38 or an order made under section 47 and, if the person is a corporation, every director or officer of the corporation who knowingly concurs in the contravention, is guilty of an offence and on conviction is liable,

- (a) on a first conviction to a fine of not more than \$25,000; and
- (b) on a subsequent conviction to a fine of not more than \$10,000 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted. 1994, c. 2, s. 48.

Corporation

- (2) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed is,
 - (a) on a first conviction a fine of not more than \$50,000; and
 - (b) on a subsequent conviction a fine of not more than \$25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted,

and not as provided in subsection (1).

Order of prohibition

(3) Where a conviction is entered under subsection (1), in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. R.S.O. 1990, c. P.13, s. 67 (2, 3).

Proceeds of fines

67.1 If an offence has been committed under section 41, 52 or 67 or under a by-law passed under section 34 or 38, and a proceeding in respect of the offence is undertaken by the municipality or planning board and a conviction has been entered, the proceeds of any fine in relation to the offence shall be paid to the treasurer of the municipality or secretary-treasurer of the planning board and section 2 of the *Administration of Justice Act* and section 4 of the *Fines and Forfeitures Act* do not apply in respect of the fine. 1996, c. 4, s. 34; 1997, c. 24, s. 226 (8).

Exception

68. (1) Despite section 53 of the *Assessment Act*, it is not an offence to disclose the information referred to therein to any employee of a municipality or of a planning board who declares that such information is required in the course of his or her planning duties. R.S.O. 1990, c. P.13, s. 68 (1); 1994, c. 23, s. 41 (1).

Offence

(2) An employee of a municipality or of a planning board who wilfully discloses or permits to be disclosed the information referred to in subsection (1) to any other person not likewise entitled in the course of his or her duties to acquire or have access to the information is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. R.S.O. 1990, c. P.13, s. 68 (2); 1994, c. 23, s. 41 (2).

Exception

(3) This section does not prevent disclosure of such information by any person when being examined as a witness in an action or other proceeding in a court or in an arbitration. R.S.O. 1990, c. P.13, s. 68 (3).

Tariff of fees

69. (1) The council of a municipality, by by-law, and a planning board, by resolution, may establish a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff. R.S.O. 1990, c. P.13, s. 69 (1); 1996, c. 4, s. 35 (1).

Reduction or waiver of fees

(2) Despite a tariff of fees established under subsection (1), the council of a municipality, a planning board, a committee of adjustment or a land division committee in processing an application may reduce the amount of or waive the requirement for the payment of a fee in respect of the application where the council, planning board or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff. R.S.O. 1990, c. P.13, s. 69 (2); 1996, c. 4, s. 35 (2).

Payment under protest: appeal to O.M.B.

(3) Any person who is required to pay a fee under subsection (1) for the processing of an application in respect of a planning matter may pay the amount of the fee under protest and thereafter appeal to the Municipal Board against the levying of the fee or the amount of the fee by giving written notice of appeal to the Municipal Board within thirty days of payment of the fee. R.S.O. 1990, c. P.13, s. 69 (3); 1996, c. 4, s. 35 (3).

Hearing

(4) The Municipal Board shall hear an appeal made under subsection (3) and shall dismiss the appeal or direct that a refund payment be made to the appellant in such amount as the Board determines. R.S.O. 1990, c. P.13, s. 69 (4).

Fees

69.1 (1) The Minister may charge fees for the processing of applications to the Minister in respect of planning matters including the approval of an official plan or official plan amendment. 1993, c. 26, s. 64 ; 1994, c. 23, s. 42.

Same

(2) The Minister may reduce the amount of or waive the payment of a fee described under subsection (1). 1993, c. 26, s. 64.

Fees

69.2 (1) If a prescribed municipality fails to adopt a plan and submit it for approval as an official plan, the Minister may charge fees to the municipality for the processing of planning applications by the Minister in respect of land situate in the municipality, including the approval of an official plan or official plan amendment. 1994, c. 23, s. 43; 2002, c. 17, Sched. B, s. 25.

Reduction

(2) The Minister may reduce the amount of or waive the payment of a fee described under subsection (1). 1994, c. 23, s. 43.

Proviso

(3) Nothing in this section prevents the Minister from charging a fee under section 69.1 in addition to a fee under this section. 1994, c. 23, s. 43.

Regulations

70. The Lieutenant Governor in Council may make regulations,

(a)-(f) REPEALED: 1996, c. 4, s. 36.

(g) prescribing the form of a warrant and the form in which the information on oath will be taken under section 49.1;

(h) for the purposes of section 62.0.1, prescribing an undertaking or class of undertakings that relates to energy. 1994, c. 23, s. 44; 1996, c. 4, s. 36; 2006, c. 23, s. 25.

Regulations

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) (b) and for the purpose of clause 16 (2) (c);
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);
24. prescribing conditions for the purpose of subsection 34 (16) and limitations for the purpose of subsection 34 (16.1);
25. prescribing rules of procedure for committees of adjustment;
26. prescribing criteria for the purposes of subsection 50 (18.1) and subsection 57 (6);
27. requiring that notice be given under subsections 51 (20) and 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;
31. prescribing any other matter that is referred to in this Act as prescribed, other than matters that are prescribed under sections 70, 70.2 and 70.3. 2006, c. 23, s. 26.

Same

- (2) A regulation made under this section or section 70 may be general or particular in its application. 1994, c. 23, s. 45.

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 or 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 Municipal Board in respect of a development permit or a condition in a permit, including prescribing persons or public bodies that may appeal to the Board 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.

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.

Regulations

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.

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* 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.

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* in respect of which draft approval was given before or after this subsection came into force. 1996, c. 4, s. 38.

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

- 70.4** (1) The Minister may make regulations,
- (a) providing for transitional matters respecting matters and proceedings that were commenced before or after the *Strong Communities (Planning Amendment) Act, 2004* came into force;
 - (b) modifying or replacing all or any part of the definition of “area of settlement” in subsection 1 (1). 2004, c. 18, s. 10.

Same

- (2) Without limiting clause (1) (a), a regulation under that clause may,
- (a) determine which matters and proceedings may be continued and disposed of under this Act, as it read on the day immediately before the *Strong Communities (Planning Amendment) Act, 2004* came into force and which matters and proceedings must be continued and disposed of under this Act as it read on the day the *Strong Communities (Planning Amendment) Act, 2004* came into force;
 - (b) for the purpose of clause (1) (a), deem a matter or proceeding to have been commenced on the date or in the circumstances prescribed in the regulation. 2004, c. 18, s. 10.

Retroactive

(3) A regulation under this section may be retroactive to December 15, 2003. 2004, c. 18, s. 10.

Scope

(4) A regulation under this section may be general or particular in its application. 2004, c. 18, s. 10.

Conflict

(5) A regulation under clause (1) (a) prevails over any provision of this Act specifically mentioned in the regulation. 2004, c. 18, s. 10.

Regulations

- 70.5** (1) The Minister may make regulations,

- (a) providing for transitional matters respecting matters and proceedings that were commenced before or after the effective date;
- (b) modifying or replacing all or any part of the definition of “area of employment” in subsection 1 (1). 2006, c. 23, s. 28.

Same

- (2) A regulation under clause (1) (a) may, without limitation,
 - (a) determine which matters and proceedings may be continued and disposed of under this Act, as it read on the day before the effective date, and which matters and proceedings must be continued and disposed of under this Act as it read on the effective date;
 - (b) for the purpose of clause (1) (a), deem a matter or proceeding to have been commenced on the date or in the circumstances prescribed in the regulation. 2006, c. 23, s. 28.

Retroactive

- (3) A regulation under clause (1) (a) may be retroactive to December 12, 2005. 2006, c. 23, s. 28.

Scope

- (4) A regulation under this section may be general or particular in its application. 2006, c. 23, s. 28.

Conflict

(5) A regulation under clause (1) (a) prevails over any provision of this Act specifically mentioned in the regulation. 2006, c. 23, s. 28.

Definition

- (6) In this section,

“effective date” means the date on which section 28 of the *Planning and Conservation Land Statute Law Amendment Act, 2006* comes into force. 2006, c. 23, s. 28.

Conflict

71. In the event of conflict between the provisions of this and any other general or special Act, the provisions of this Act prevail. R.S.O. 1990, c. P.13, s. 71.

Repeal of joint official plans

- 72.** (1) REPEALED: 1994, c. 23, s. 48.

Repeal of joint official plans

(2) Unless continued in force by an order made by the Minister under subsection (3), every official plan of a joint planning area, other than an official plan that was adopted by the council of a county and other than an official plan of a joint planning area in a territorial district, that was in effect immediately before the 1st day of August, 1983, shall be deemed to have been repealed two years from that day, if not sooner repealed.

Continuation of joint official plans

(3) The Minister may by order provide for the remaining in force of any joint official plan or part or parts thereof that would otherwise be deemed to be repealed under subsection (2) and in such order may make such provision for the effectual continuation of such plan or the part or parts thereof as the Minister considers necessary, including provision for the allocation of the plan or part or parts thereof to any local municipality or county situate wholly or partly within the area to which the plan applies.

Amendment or repeal

(4) The Minister may approve any amendment or repeal of an official plan of a joint planning area that may be proposed by the council of any municipality affected by the official plan. R.S.O. 1990, c. P.13, s. 72 (2-4).

Continuation

72.1 Even though this Act may be amended after an official plan came into effect, the official plan remains in effect but may be amended or repealed in accordance with this Act as amended. 1996, c. 4, s. 39.

Planning areas and boards dissolved

73. (1) Except as provided in subsection (3), on the 1st day of August, 1983, all planning areas including joint planning areas and subsidiary planning areas together with the planning boards thereof were dissolved.

Assets and liabilities

(2) All the assets and liabilities of a planning board dissolved by this section are, in the case of a planning board of a planning area consisting of part or all of one municipality, assets and liabilities of such municipality and in the case of a planning board of a joint planning area, assets and liabilities of the municipalities that form part of the joint planning area and if such municipalities cannot agree as to the disposition of the assets and liabilities, the Municipal Board, upon the application of one or more of the municipalities, shall direct a final disposition thereof.

Planning areas that are continued

(3) Each planning area that immediately before the 1st day of August, 1983, consisted of the whole of two or more municipalities that are situate in a territorial district or consisted of the whole of one or more municipalities and territory without municipal organization or consisted solely of territory without municipal organization shall continue as a planning area under this Act without any change in name until altered or dissolved by the Minister.

Planning boards that are continued

(4) Each planning board of a planning area mentioned in subsection (3) shall continue as a planning board under this Act without any change in name or constitution until the planning area is dissolved or the name or constitution of the planning board is changed by the Minister. R.S.O. 1990, c. P.13, s. 73.

Transition

74. (1) In this section,

“former Act” means *The Planning Act*, being chapter 379 of the Revised Statutes of Ontario, 1980.

Matters, etc., continued

(2) Despite the repeal of the former Act by section 73 of the *Planning Act, 1983*, being chapter 1, any matter or proceeding mentioned in subsection (3) that was commenced under the former Act before the 1st day of August, 1983, shall be continued and finally disposed of under the former Act.

When matters, etc., deemed commenced

(3) For the purposes of subsection (2), a matter or proceeding shall be deemed to have been commenced, in the case of,

- (a) an official plan or an amendment thereto or a repeal thereof, on the day the by-law adopting the plan or adopting or proposing the amendment or repeal of the plan is passed;
- (b) redevelopment under section 22 of the former Act, on the day the by-law designating the redevelopment area is passed;
- (c) subdivision of land under section 36 of the former Act, on the day the application is made under subsection (1) of that section;
- (d) a zoning by-law or an amendment thereto, on the day the by-law is passed;
- (e) development in a site plan control area, on the day the application is made under subsection 40 (4) of the former Act;
- (f) an application made to a committee of adjustment, a land division committee or planning board for a planning area in a territorial district, on the day the application is made; and
- (g) an application to the Minister for a consent under section 29 of the former Act, on the day the application is made.

Request to amend official plan

(4) Despite clause (3) (a), where a request to initiate an amendment to an official plan was received by a council before the 1st day of August, 1983,

- (a) if the council refuses to propose the amendment or fails to propose it within thirty days from the receipt of the request and the person who made the request requests the Minister to refer the proposal to the Municipal Board, the matter shall be continued and finally disposed of under the former Act; or
- (b) if the council accedes to the request, the matter shall be continued and finally disposed of under either the former Act or under this Act as determined by the council but in either case, section 95 of the *Ontario Municipal Board Act* applies and section 64 of this Act does not apply in respect of the final disposition of the matter.

Report of planning board

(5) In the case of a request to initiate an amendment to an official plan that is continued and finally disposed of under the former Act as mentioned in subsection (4), section 17 of the former Act pertaining to the obtaining of a planning board report do not apply.

Request to amend zoning by-law

(6) Despite clause (3) (d), where an application to amend a zoning by-law was received by a council before the 1st day of August, 1983,

- (a) if the council refuses the application or refuses or neglects to make a decision thereon within one month after the receipt of the application and the applicant appeals to the Municipal Board, the matter shall be continued and finally disposed of under the former Act;
- (b) if the council accedes to the request, the matter shall be continued and finally disposed of under either the former Act or under this Act as determined by the council but in either case, section 95 of the *Ontario Municipal Board Act* applies and section 64 of this Act does not apply in respect of the final disposition of the matter. R.S.O. 1990, c. P.13, s. 74.

Transition

74.1 (1) Any matter or proceeding mentioned in subsection (2) that was commenced before March 28, 1995 shall be continued and finally disposed of under this Act as it read on March 27, 1995. 1996, c. 4, s. 40 (1).

Same

- (2) For the purposes of subsection (1), a matter or proceeding shall be deemed to have been commenced, in the case of,
- (a) an official plan or an amendment to it or a repeal of it, on the day the by-law adopting the plan or adopting the amendment or repeal of the plan is passed;
 - (b) a request for an official plan amendment by any person or public body, on the day the request was received, whether or not the official plan amendment is adopted;
 - (c) a zoning by-law or an amendment to it, on the day the by-law is passed;
 - (d) an application for an amendment to a zoning by-law that has been refused or has not been decided before the day this section comes into force, on the day the application is made;
 - (e) development in a site plan control area, on the day the application under subsection 41 (4) is made;
 - (f) an application for a minor variance under section 45, on the day the application is made;
 - (g) an application to amend or revoke an order under section 47, on the day the application is made;
 - (h) an application for the approval of a plan of subdivision under section 51, on the day the application is made; and
 - (i) an application for a consent under section 53, on the day the application is made. 1994, c. 23, s. 50; 1996, c. 4, s. 40 (2).

Transition

75. (1) Any matter or proceeding that was commenced on or after March 28, 1995 but before this section came into force shall be continued and finally disposed of under this Act as it read on the day before this section came into force.

Determination of date

(2) For the purposes of subsection (1), a matter or proceeding shall be deemed to have been commenced on the day determined under subsection 74.1 (2).

Exception

(3) Despite subsection (1), in exercising any authority in respect of a matter or proceeding referred to in subsection (5), the council of a municipality, a local board, a planning board, the Minister and the Municipal Board, shall have regard to the policy statements issued under subsection 3 (1) if,

- (a) the matter or proceeding was commenced on or after March 28, 1995; and
- (b) no decision has been made in respect of the matter or proceeding. 1996, c. 4, s. 41.

Exception, comments, etc.

(4) Despite subsection (1), in providing any comments, submissions or advice with respect to any matter or proceeding referred to in subsection (5), a minister or a ministry, board, commission or agency of the government shall have regard to the policy statements issued under subsection 3 (1), if,

- (a) the matter or proceeding was commenced on or after March 28, 1995; and
- (b) no decision has been made in respect of the matter or proceeding. 1996, c. 4, s. 41; 1998, c. 15, Sched. E, s. 27 (12).

Deemed commencement

- (5) For the purposes of clauses (3) (a) and (4) (a), a matter or proceeding shall be deemed to have been commenced,
- (a) in the case of a request for an official plan amendment by any person or public body, on the day the request was received, whether or not the official plan amendment is adopted;
 - (b) in the case of an application for an amendment to a zoning by-law under section 34 that has been refused or has not been decided before the day this section comes into force, on the day the application is made;
 - (c) in the case of an application for a minor variance under section 45, on the day the application is made;
 - (d) in the case of an application for the approval of a plan of subdivision under section 51, on the day the application is made; and
 - (e) in the case of an application for a consent under section 53, on the day the application is made.

Determination of date of decision

- (6) For the purposes of clauses (3) (b) and (4) (b), a decision shall be deemed to have been made,
- (a) in the case of a request for an amendment to an official plan by any person or public body, on the day that,
 - (i) the council or planning board adopts all or part of the amendment,
 - (ii) the council or planning board refuses to adopt all or part of the amendment, or
 - (iii) the approval authority proposes to approve, modifies and approves or refuses to approve all or part of the amendment;
 - (b) in the case of an application for an amendment to a zoning by-law under section 34, on the day that,
 - (i) the council passes the amending by-law, or
 - (ii) the council refuses the application to amend the by-law;
 - (c) in the case of an application for a minor variance under section 45, on the day a decision is made by the committee of adjustment;
 - (d) in the case of an application for the approval of a plan of subdivision under section 51, on the day that the approval authority decides to give or refuses to give approval to the draft plan under subsection 51 (31); and
 - (e) in the case of an application for a consent under section 53, on the day the council or the Minister gives or refuses to give a provisional consent.

Transition

(7) If subsection (3) applies to all or part of an official plan, subsection 3 (8) of this Act, as it read before the coming into force of section 3 of the *Land Use Planning and Protection Act, 1996*, does not apply to the plan. 1996, c. 4, s. 41.

Transition – residential units

76. (1) If on November 16, 1995, a detached house, semi-detached house or row house was used or occupied as two residential units, section 1, subsections 16 (2), (3) and (4), 31 (3.1) and (3.2), 35 (1), (3) and (4) and 51 (28), (29) and (30) of this Act and Ontario Regulation 384/94, as they read on November 15, 1995, continue to apply to that house.

Same

(2) Section 1, subsections 16 (2), (3) and (4), 31 (3.1) and (3.2), 35 (1), (3) and (4) and 51 (28), (29) and (30) of this Act and Ontario Regulation 384/94, as they read on November 15, 1995, continue to apply to a detached house, a semi-detached house or a row house if on or before the day on which subsection 20 (1) of the *Land Use Planning and Protection Act, 1996* comes into force,

- (a) a permit has been issued under section 8 or 10 of the *Building Code Act* permitting the erection, alteration, occupancy or use of the house for two residential units; and

(b) the building permit has not been revoked under section 8 of the *Building Code Act*. 1996, c. 4, s. 42.

County of Oxford

77. (1) The County of Oxford may exercise all the powers of a lower-tier municipality under this Act, and no lower-tier municipality in the County of Oxford shall, except as provided in this section, exercise any powers under this Act. 2002, c. 17, Sched. B, s. 28.

Committee of adjustment

(2) The council of each lower-tier municipality in the County of Oxford shall be deemed to be a committee of adjustment. 2002, c. 17, Sched. B, s. 28.

Powers of lower-tier municipality

(3) A lower-tier municipality in the County of Oxford may exercise the powers provided in section 28, except under subsection 28 (12), and in sections 29, 30, 32, 33, 34, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46 and 69. 2002, c. 17, Sched. B, s. 28; 2006, c. 23, s. 29 (1).

Non-application of subs. (2)

(3.1) If a lower-tier municipality passes a by-law constituting and appointing a committee of adjustment under subsection 44 (1), subsection (2) of this section ceases to apply to the council of the lower-tier municipality on the day the by-law comes into force, except with respect to matters that, on that day, are before the council and have not been finally disposed of. 2006, c. 23, s. 29 (2).

Conflicts

(4) Despite subsection (3), if there is a conflict between a by-law passed by the County of Oxford and a by-law passed by a lower-tier municipality in the exercise of a power under subsection (3), the by-law of the County of Oxford prevails. 2002, c. 17, Sched. B, s. 28.

Land division committee

(5) Subsection 54 (1) does not apply to the County of Oxford and the County of Oxford may be or may constitute and appoint a land division committee for the purpose of giving consents under this Act. 2002, c. 17, Sched. B, s. 28.

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