

# Citizens' Guide 3



## Zoning Bylaws

May 2018

# Introduction

Land use planning affects almost every aspect of life in Ontario. It helps to shape our communities and decide things such as where homes and factories should be built, where parks and schools should be located and where roads, sewers and other essential services should be provided.

Land use planning means managing our land and resources. It helps each community to set goals about how it will develop and change and to work out ways of reaching those goals while keeping important social, economic and environmental concerns in mind. It balances the interests of individual property owners with the wider interests and objectives of the whole community.

Good planning leads to orderly change and the efficient provision of services. It touches all of us and helps us to have the kind of community we want.

A series of Citizens' Guides has been prepared to help you understand how the land use planning process works in Ontario. They are intended to give general information only and are not an interpretation of the Planning Act or any other act. You should refer to the legislation for specific requirements and procedures. The following guides are available:

1. [The Planning Act](#)
2. [Official Plans](#)
3. [Zoning Bylaws](#)
4. [Subdivisions](#)
5. [Land Severances](#)
6. [Local Planning Appeal Tribunal](#)
7. [Northern Ontario](#)
8. [Building Permits](#)
9. [The Plan Review and Approval Process](#)

## Disclaimer

These guides have been prepared as a resource to help citizens understand how the land use planning system works in Ontario. They summarize complex matters and reflect legislation, policies and practices that are subject to change. The Citizens' Guides should not be relied upon as a substitute for specialized legal or professional advice in connection with activities and decisions pertaining to land use planning. The Citizens' Guides were last updated May, 2018.



# What is a zoning bylaw?

A zoning bylaw controls the use of land in your community. It states exactly:

- how land may be used
- where buildings and other structures can be located
- the types of buildings that are permitted and how they may be used
- the lot sizes and dimensions, parking requirements, building heights and setbacks from the street.

An official plan sets out your municipality's general policies for future land use. Zoning bylaws put the plan into effect and provide for its day-to-day administration. They contain specific requirements that are legally enforceable. Construction or new development that doesn't comply with a zoning bylaw is not allowed, and the municipality will refuse to issue a building permit.

Many municipalities have a comprehensive zoning bylaw that divides the municipality into different land use zones, with detailed maps. The bylaw specifies the permitted uses (e.g. commercial or residential) and the required standards (e.g. building size and location) in each zone.

Some rural municipalities may have a free-standing zoning bylaw that covers only a specific property that an owner proposes to develop.

# Why do you need a zoning bylaw?

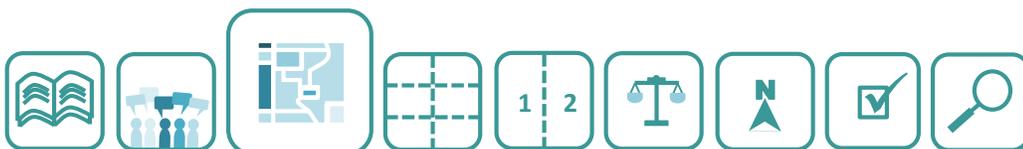
A zoning bylaw:

- implements the objectives and policies of a municipality's official plan (See [Guide No. 2](#), Official Plans)
- provides a legal way of managing land use and future development
- in addition to the official plan, protects you from conflicting and possibly dangerous land uses in your community.

# What is a zoning bylaw amendment?

If you want to use or develop your property in a way that is not allowed by the zoning bylaw, you may apply for a zoning change, also known as a zoning bylaw amendment or a rezoning. Council can consider a change only if the new use is allowed by the official plan.

You may not be able to apply for a rezoning if your municipality passed a new comprehensive zoning bylaw within the past two years. Similarly, you may not be able to apply for a change to a community planning permit bylaw within five years of it being passed. However, your application would be allowed if council passes a resolution to allow the application.



Before you set out to apply for rezoning, you should talk to your municipal planning staff to determine if your application can be made and for advice and information.

If you are able to apply for a rezoning, you must complete an application form which requires information identified by the Minister and the municipality. Most municipalities require that you pay an application fee.

The process for dealing with zoning bylaw amendments is the same as for a zoning bylaw. If local council refuses your zoning application, or if it does not make a decision within 150 days of the receipt of the complete application and fee, you may be able to appeal to the [Local Planning Appeal Tribunal](#) (LPAT). Note that council has 210, not 150, days to make a decision on a zoning application if it was submitted to the municipality on the same day as a request for a related official plan amendment.

The LPAT is an independent administrative tribunal that is responsible for hearing appeals and that decides on a variety of contentious municipal matters. (See [Guide No. 6](#), the Local Planning Appeal Tribunal)

## How is a zoning bylaw passed?

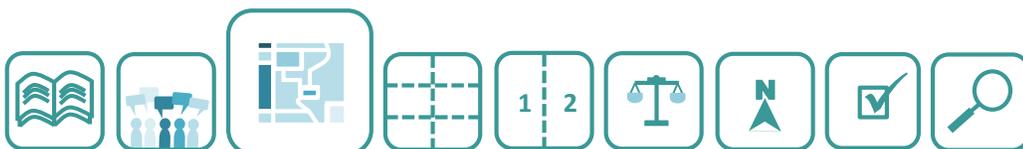
Before council passes a zoning bylaw, it must first give as much information as possible to the public. There must also be at least one public meeting before a bylaw is passed and everyone who attends the meeting must have a chance to speak. Notice of this meeting is given at least 20 days in advance, either through local newspapers or by mail and posted notice.

An open house information session is also required for a bylaw that is being brought into conformity with an official plan which has been updated as part of an official plan update and for a community planning permit bylaw. A municipality is required to update its zoning bylaws no less than three years after the approval of an official plan update.

The Planning Act encourages early involvement and the use of mediation techniques to resolve any conflicts. Share your views early in the planning process by making an oral submission at the public meeting or a written submission to council before it passes the bylaw. If you don't, you are not entitled to appeal the bylaw after it is passed.

Your local council may also consult with interested agencies before it makes a decision. After hearing everyone's concerns, council may decide to pass, change or reject the proposed bylaw. If it decides to make some changes, it may also decide to hold another public meeting.

Once council has passed the bylaw, it must give notice of the bylaw's passing within 15 days. Any person or public body that meets certain requirements may, not later than 20 days after the notice of the passing of the bylaw is given, appeal to the LPAT by filing a notice of appeal with the municipal clerk. The appeal must set out the reasons why the appellant believes the council's decision is inconsistent, does not conform or conflicts with provincial policy or plans, or does not conform with the official plan. The fee required by the LPAT must be paid at the same time.



# How are zoning bylaws evaluated?

When it considers a zoning bylaw, the council evaluates it against criteria such as:

- conformity with the official plan and compatibility with adjacent uses of land
- suitability of the land for the proposed purpose, including the size and shape of the lot(s) being created
- adequacy of vehicular access, water supply, sewage disposal
- the risk of flooding.

When council considers a zoning bylaw, its decision shall be consistent with the [Provincial Policy Statement](#) (PPS) issued under the [Planning Act](#). This means that a council must ensure that the policies of the PPS are applied as an essential part of the land use planning decision-making process. The PPS contains policy directions on matters of provincial interest related to land use planning and development. It is expected that the council will implement the PPS in the context of other planning objectives and local circumstances. (See [Guide No. 1](#), The Planning Act, and the [PPS, 2014](#))

Zoning bylaws must also conform with any applicable provincial plan. Provincial plans provide direction for specific geographic areas and address environmental, growth management and economic issues. More information on provincial plans can be found at: [ontario.ca/mma](http://ontario.ca/mma).

# How can you get involved?

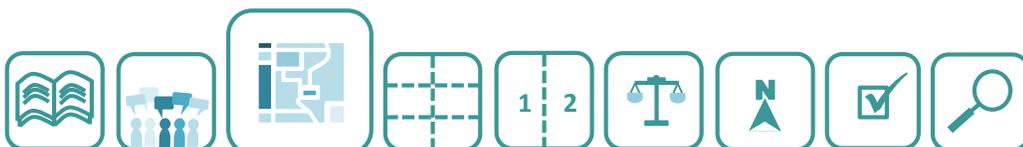
If you have concerns about a proposed zoning bylaw or amendment that may affect you, you should:

- find out as much as possible about the proposed bylaw and how it affects your property
- go to any information sessions, including open houses and public meetings, to give your opinions
- discuss the proposal with municipal staff and council members
- make a written submission to council.

If you have any concerns, you should make sure that you let council know about them early in the process. Council will then have time to consider your feedback and may make changes before the bylaw is passed.

# What rights of appeal do you have?

A person or a public body who makes oral submissions at a public meeting or submits written submissions prior to the passing of a zoning bylaw or amendment may appeal a council's decision, with some exceptions (see below).



Appeals to the LPAT can be made in two different ways:

1. The applicant, the Minister and any person or public body who made oral submissions at a public meeting or written submissions before the bylaw was passed, may appeal the council's passage of a zoning bylaw to the LPAT within 20 days from the date the notice of the passage of the bylaw is given. The notice of appeal should be filed with the municipal clerk.
2. The applicant and the Minister may appeal to the LPAT if the council refuses or fails to act on such a request within the timeframe set out in the Planning Act. The notice of appeal should be filed with the municipal clerk.

Your appeal must be accompanied by written reasons and the fee required by the LPAT.

## Limitations on Appeals

Generally, appeals are not permitted in the following circumstances:

- refusals or failure to make a decision within the timeframe set out in the Planning Act (also known as “non-decision”) on proposed amendments that would implement an alteration to the boundary of an "area of settlement" or the establishment of a new "area of settlement"
- refusals or “non-decisions on proposed amendments that would remove land from "an area of employment", if appropriate official plan policies are in place
- bylaws related to second residential units
- bylaws passed to implement inclusionary zoning, as well as proposed amendments that would change or repeal bylaws implementing inclusionary zoning
- bylaws passed to implement transit-supportive densities in protected major transit station areas if appropriate official plan policies are in place.

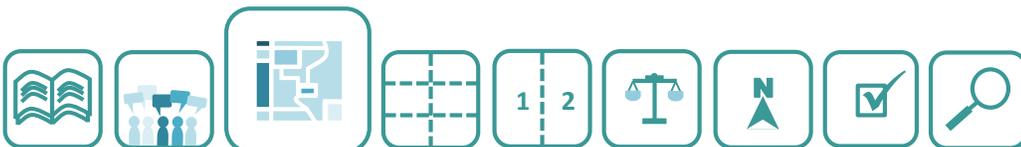
## What happens if an appeal is made?

In cases of appeal, the LPAT will hold a mandatory case management conference to discuss opportunities for settlement, such as mediation, and may hold a hearing. If a hearing is required, appellants and others permitted by the LPAT may be given the chance to provide a summary of their cases.

Appealing a local decision to the LPAT is a serious matter. It can take time, effort and in some cases, money, for everyone involved.

## Consistency/Conformity Standard of Review

For most appeals dealing with zoning bylaw matters, the LPAT must focus its assessment and decision on whether a municipal decision is aligned with provincial and/or local plans and policies.



Using an appeal of a municipal council’s decision to pass a zoning bylaw amendment as an example, if the LPAT finds that the municipal decision aligns with provincial and local policies, the appeal will be dismissed and the municipal decision will be final. However, if the LPAT determines that the municipal decision does not align, the matter will be returned to the municipality to make a new decision.

## Opportunity to Reconsider

If a matter is returned to a municipality by the LPAT, the municipality will be able to address any shortcomings, while continuing to have the opportunity to address local matters in making a new decision. When reconsidering a matter returned by the LPAT, a municipality will need to reassess the matter, hold a public meeting and issue a new decision.

## Second Decision

If a municipality makes a new decision after a matter has been returned to them by the LPAT, that second municipal decision will be final unless it is appealed.

If the second decision is appealed, the LPAT will hear the matter and make a determination on whether the municipality’s new decision aligns with provincial and local policies. If it does align, the municipal decision will be final. If the decision by the municipality again does not align with local or provincial policies, the Tribunal will make a final decision on the matter following a hearing.

## Declaration of Provincial Interest

Prior to a hearing, the Minister of Municipal Affairs can declare that a zoning matter before the LPAT may adversely affect a provincial interest. If this happens, after the hearing is held and the Tribunal renders a decision as usual, the Lieutenant Governor in Council (the Cabinet) may confirm, vary or rescind the Tribunal’s decision on the matter.

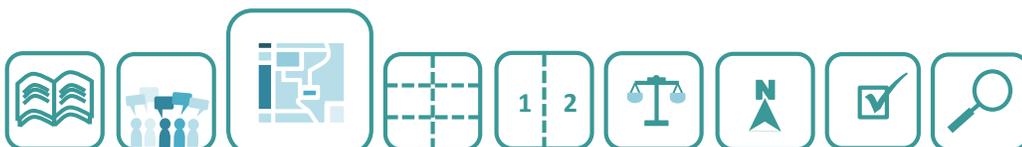
## Power to Dismiss

The LPAT shall dismiss an appeal in certain circumstances if the appeal constitutes an abuse of process, such as repeating the submission of an application that has recently been dealt with by the municipality. An appeal shall also be dismissed if the appeal letter does not explain how the bylaw is inconsistent or does not conform with provincial or local plans and policies.

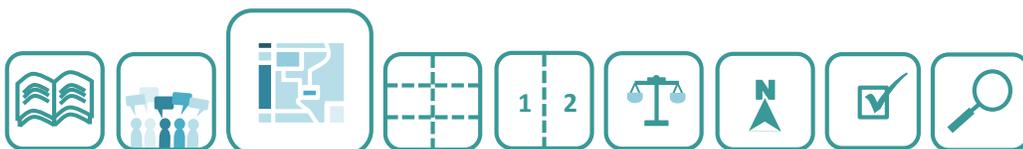
An appeal may also be dismissed by the LPAT if the application before it is substantially different from that which was before council at the time of council’s decision.

# Summary of the Zoning Bylaw Process

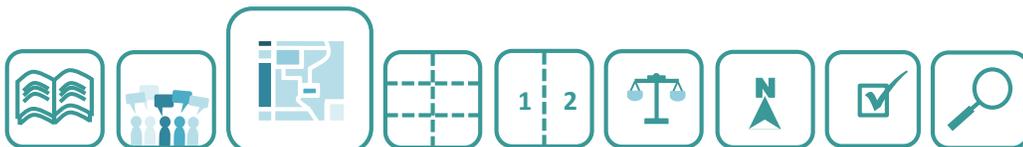
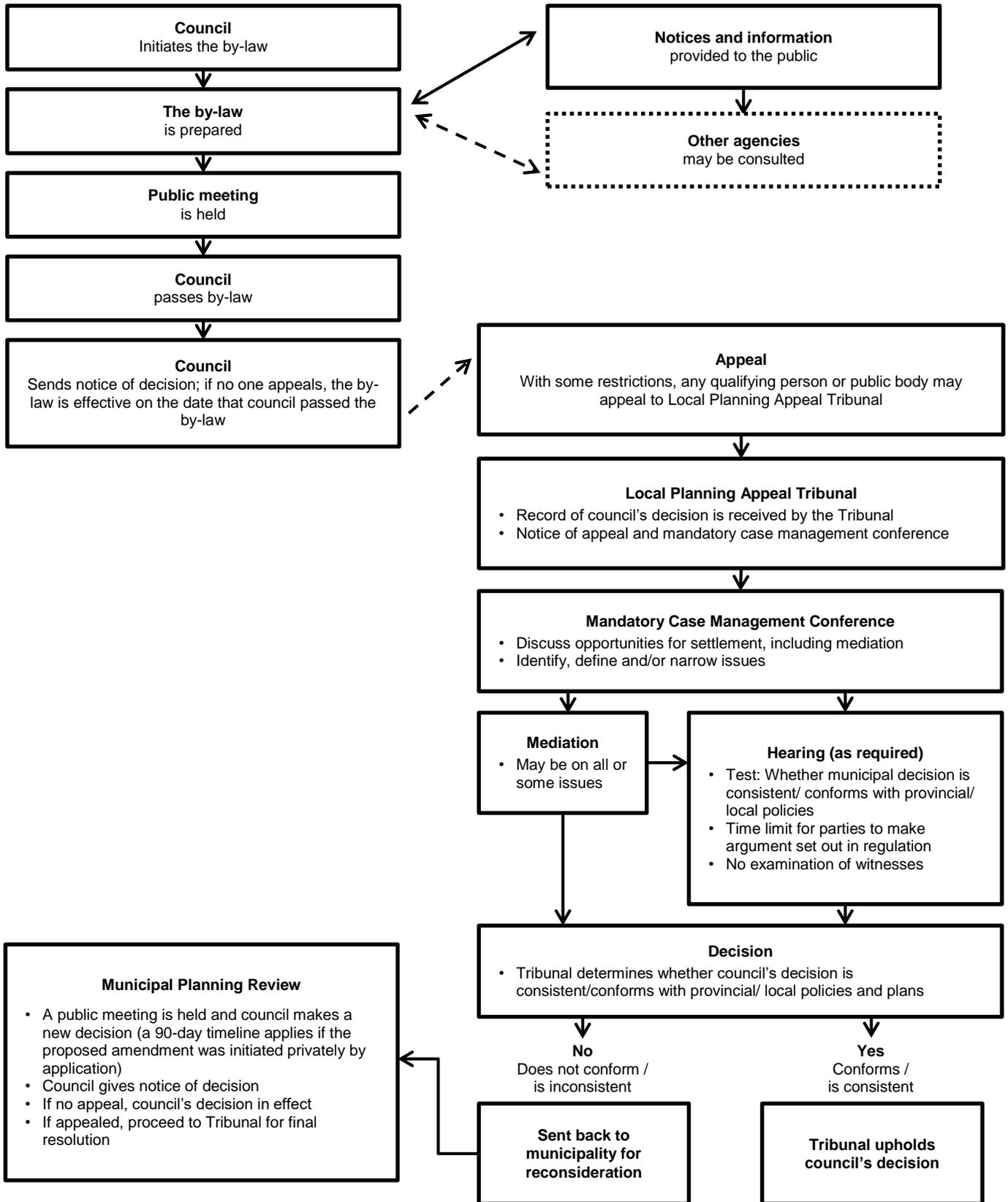
The following flowchart illustrates the process for a municipally-initiated zoning bylaw. The flowchart focuses on the basic process which includes these key steps:



1. Council initiates the process for the zoning bylaw.
2. The bylaw is prepared. Following this, notice and information is provided to the public. Other agencies may also be consulted.
3. A public meeting is held.
4. Council makes a decision to pass the bylaw.
5. Council gives notice of its decision.
6. Possible appeal to the LPAT: With some restrictions, any qualifying person or public body may appeal the decision to the LPAT.
7. If there are no appeals, the zoning bylaw is effective on the date council passes the bylaw.
8. If an appeal is made, the record of the municipal decision is sent to the LPAT. The LPAT will then give notice of appeal and mandatory case management conference.
9. A mandatory case management conference is held. At the case management conference, there is an opportunity to discuss possible settlements, including mediation and to identify, define and/or narrow issues.
10. Mediation can take place on all or some of the issues.
11. If a hearing is required, it will be focused on whether the municipal decision is consistent or conforms with provincial and local plans and policies.
12. If the LPAT determines the decision is not consistent or does not conform with provincial and local plans and policies, the LPAT will send the matter back to the municipality and ask them to reconsider their decision. Otherwise the LPAT would need to uphold the municipal decision.
13. If a matter is sent back to the municipality for reconsideration, the municipality will:
  - re-assess the proposed zoning bylaw, hold a public meeting, and make a new decision
  - Council gives notice of its decision to pass the zoning bylaw
  - If no appeal is made within the 20-day appeal period, council's decision is in effect
  - However, if the decision is appealed, it would proceed to the LPAT for final resolution.



# Flowchart: Zoning Bylaw Process



## What if you only need a minor change?

If your proposed change doesn't conform exactly to the zoning bylaw, but follows its general intent, you can apply for a minor variance. For example, you might want to locate something on your property but you are unable to meet the minimum setback requirements because of the shape of your lot. Your municipality may have a bylaw that sets out local criteria to further clarify what constitutes a minor variance in your community.

To obtain a minor variance, you will have to apply to your local committee of adjustment appointed by council to deal with minor problems in meeting bylaw standards. Your application should explain how your proposed variance is minor in nature and why it is needed.

The committee of adjustment will hold a hearing and decide on your application. Anyone who disagrees with the decision has 20 days to appeal to the LPAT or, if one is established by the municipality, a local appeal body. The appeal should be filed with the secretary-treasurer of the committee who will tell you who has the authority to hear such appeals in your area. You should set out the reasons supporting the objection and pay the fee required by the LPAT/local appeal body.

The LPAT or local appeal body has the power to dismiss your appeal without holding a hearing. (See [Guide No. 6](#), the Local Planning Appeal Tribunal)

The LPAT or local appeal body can allow or dismiss your appeal, or amend the application. A minor variance does not change a zoning bylaw. It simply excuses you from a specific requirement of the bylaw and allows you to obtain a building permit.

## What other types of zoning bylaws are there?

There are several types of special bylaws that can be used to control land use:

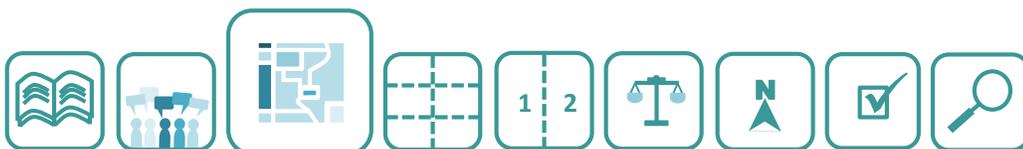
### Community planning permit bylaws

The community planning permit system (CPPS) is a discretionary land use planning tool that combines zoning, site plan and minor variance processes into one application and approval process. The CPPS has three components:

1. A policy basis in the official plan
2. An implementing community planning permit bylaw, and
3. A community planning permit that can be issued as a planning approval.

Community planning permit bylaws must identify and define a list of permitted uses. The bylaws can also set out discretionary uses that may be permitted if specified criteria outlined in the bylaw are met.

Any interested party can appeal a community planning permit bylaw to the LPAT when the bylaw is being established provided they have participated during its development. Once



the CPPS is established and in effect, only the development applicant has the right of appeal a decision on a community planning permit application to the LPAT.

## Holding bylaws

Holding bylaws allow future uses for land or buildings but delay development until, for example, local services, such as roads, are in place. Your municipality cannot use these bylaws unless it has holding policies in its official plan.

## Interim control bylaws

Interim control bylaws put a temporary freeze on some land uses while the municipality is studying or reviewing its policies. The freeze can be imposed for only a year, with a maximum extension of another year.

There is no ability to appeal an interim control bylaw when it is first passed, however, an extension to a bylaw may be appealed.

The Planning Act provides that an interim control bylaw remains in effect past the two-year period if the new zoning bylaw which replaces the interim control bylaw is appealed to the LPAT.

## Temporary use bylaws

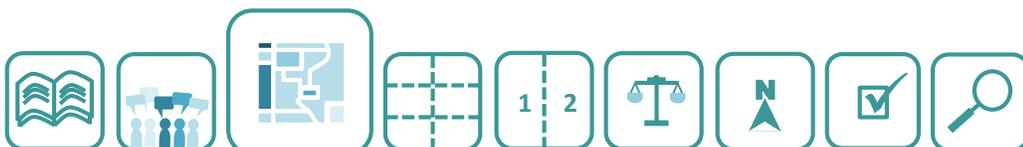
Temporary use bylaws zone land or buildings for specific uses for a maximum period of three years at a time, with more extensions possible. When the temporary use of a garden suite (i.e. a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing structure and that is designed to be portable) is authorized, the temporary bylaw may allow it for a period not exceeding 20 years, with more extensions possible.

## Increased height and density bylaws

Increased height and density bylaws allow buildings to exceed standards otherwise permitted, but only if the developer provides certain services to your community in return, such as parkland. Your municipality cannot use these bylaws unless its official plan includes policies allowing increases in height and density.

## Inclusionary zoning

[Inclusionary zoning](#) is an optional tool that municipalities may use to address their community's affordable housing needs. When inclusionary zoning related official plan policies and zoning bylaws are in place, municipalities can require affordable housing units to be included in residential developments. These units would need to be maintained as affordable over a period of time specified by the municipality.



# What are site plan control bylaws?

Site plan control bylaws are not zoning bylaws. They are used to establish areas where site plan control will be applied over and above those set out in the zoning bylaws. These areas must be described in the official plan.

Site plan control is used to ensure that:

- developments are built and maintained in the way that council approved
- new developments meet certain standards of quality and appearance
- there is safe and easy access for pedestrians and vehicles
- the appearance and design features of buildings, and their sustainable design, are satisfactory
- there is adequate landscaping and drainage
- nearby properties are protected from incompatible development.

As a condition of site plan approval, municipalities may require the owner to provide land for road widening and public transit rights-of-way. Before municipalities can exercise this power, the road widening and public transit rights-of-way must be shown or described in the official plan.

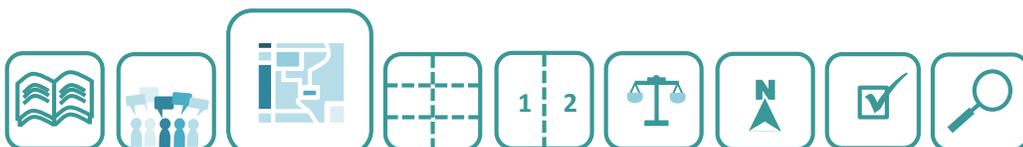
# What is a Minister's zoning order?

The Planning Act gives the Minister of Municipal Affairs the authority to zone any property in the province. Zoning orders are rarely used where municipalities have existing zoning bylaws, but can be used to protect a provincial interest. A Minister's Zoning Order prevails over a municipal zoning bylaw to the extent of a conflict. The municipal bylaw remains in effect in all other respects.

Zoning orders are used mostly in areas of Northern Ontario where there is no local municipality or local zoning bylaw. Once a Minister's zoning order is in place, the Minister can either delegate the administration of the order to the local planning board or deem it to be the local bylaw, in which case the planning board would have all the powers to pass bylaws to make any changes. (See [Guide No. 7](#), Northern Ontario)

# What other approvals may be required?

In addition to the planning approvals and building permit which are needed for a building project, there are other permits and approvals required in specific circumstances. For example, a septic tank permit is required for a new septic system. In cottage areas, a permit may be required from the Ministry of Natural Resources and Forestry before you can do any construction in the water (for example, a dock or boathouse with a solid foundation).



# How can you find out more?

For more information about land use planning in your community, contact your [municipality](#).

For more information about land use planning in Ontario, contact your nearest [Municipal Services Office](#).

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