

Amendments to *The Planning Act* and *The City of Winnipeg Charter Act* (Bill 37)

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Presented to the Manitoba Bar Association,
Municipal Law Section

Nov 18, 2021

Manitoba Municipal Relations



Background

- *The Planning Act and City of Winnipeg Charter Act* amendments (Bill 37) are part of a government initiative to deliver on key recommendations from the June 2019 Treasury Board Secretariat report entitled *Planning Zoning and Permitting (PZP) in Manitoba*.
- The intent is to streamline planning & approval processes to ensure timely & transparent decisions on private sector capital investment opportunities in Manitoba.

Key Dates of the Legislation

- Treasury Board Secretariat report: *Planning Zoning and Permitting (PZP) in Manitoba* issued in June 2019.
- Based primarily on June TB report, legislation was drafted in the winter of 2019-20.
- The resulting legislation, Bill 48, was introduced into the legislature in March of 2020.

Key Dates of the Legislation, cont'd...

- The legislation was revised & reintroduced as Bill 37 on Nov 2, 2020 (1st Reading).
- Bill 37 was given 2nd Reading on Mar 25, 2021.
- Public hearings were held by a Legislative Standing Committee on April 19. Amendments to Bill 37 were passed at Committee - Apr 20, 2021.

Key Dates of the Legislation, cont'd...

- Bill 37 received Concurrence, 3rd Reading by the Legislative Assembly and Royal Assent on May 20, 2021.
- Key parts of the bill were Proclaimed on Oct 29, 2021.
- It is anticipated that the remainder of the Bill may be proclaimed once the Capital Planning Region and Major Developments regulations are ready to adopt – goal is Spring of 2022.

Proclamation of Act

- On October 29, 2021, key parts of *The Planning Amendment and City of Winnipeg Charter Amendment Act (Bill 37)* were proclaimed, including:
 - service standards for planning decisions,
 - expanded appeals to Manitoba Municipal Board,
 - written reasons must be given for rejection,
 - expanded timelines for conditional use and variance approvals,
 - City of Winnipeg may now attach development agreements to variance and conditional use approvals, and
 - mandatory 3 year review of the legislation.

Proclamation of Act, Cont'd...

- Remaining sections of the bill are expected to be proclaimed once regulations are developed to:
 - create the Capital Planning Region; and
 - allow municipalities to attach development agreements to permits (to support redevelopment of older sites).

Consultation

- The department held **extensive consultations** - over 60 meetings with key stakeholders, including:
 - advisory groups
 - AMM (Association of Manitoba Municipalities)
 - individual municipalities including the City of Winnipeg
 - representatives from planning districts
 - Winnipeg Metropolitan Region
 - development and building industries
 - planning consultants
 - MPPI (Manitoba Professional Planners Institute), and others

Consultation, cont'd...

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

Consultation, cont'd...

- Since January of 2021, Municipal Relations has been meeting with a group called the '**Bill 37 Working Group**' which includes representatives from all of the groups mentioned in Slide 8.
- The purpose of the WG is to discuss and suggest solutions to outstanding concerns & support successful implementation.

Summary of Bill 37

- Bill 37 amends *The Planning Act* and *The City of Winnipeg Charter Act* and repeals *The Capital Region Partnership Act*.
- *The Planning Amendment and City of Winnipeg Charter Amendment Act* (Bill 37) addresses key recommendations of the PZP Report to make Manitoba's development climate more competitive, predictable & attractive to investors. It will:
 - Empower landowners/applicants to **appeal** certain planning decisions to the Manitoba Municipal Board and extends limited appeals to citizens of Winnipeg to match elsewhere in province - proclaimed,

Summary of Bill 37, Cont'd...

- Introduce **mandatory service standards (timelines)** for councils, planning districts and the Municipal Board to reduce delays in the processing of development approval applications - proclaimed,
- Make other changes, such as, allowing the City of Winnipeg to attach development agreements on to the approval of conditional uses and variances – proclaimed and extending the time by 1 additional year on the approval period for CUs and variances - proclaimed.
- Create a regional planning authority in the Winnipeg area, called the **Capital Planning Region** (and allows for planning regions elsewhere) – not proclaimed yet, and
- Allow for permits to be attached to permits on major developments – not proclaimed yet.

Appeals

- **Rejections may be appealed** - If a planning authority refuses to accept, rejects, resolves not to proceed or fails to come to terms on a:
 - secondary plan amendment;
 - zoning by-law;
 - subdivision applications (council rejections may now be appealed);
 - permit application; or
 - development agreement;the applicant may appeal the decision to the Municipal Board.
- **Some conditions may also be appealed** – Conditions of approval (if not in *The Planning Act* or a local by-law) may be appealed to the Municipal Board.

Appeals, Cont'd...

- **Appeal of missed deadlines** - Besides appealing a rejection, an applicant can appeal a missed deadline to the Municipal Board.
- **Public appeals of zoning by-laws and secondary plan by-law amendments in Winnipeg** – To appeal, there must be second objections from 25 eligible voters or 50% of registered owners within 100m.

SERVICE STANDARDS (time limits)

- Bill 37 establishes time limits for various planning processes, in particular re-zoning applications.
- The time limits range from 20 days to 150 days, depending on the process.
- Missed time limits are appealable to the Municipal Board (must be made within 14 days).
- The following tables outline the time limits established in Bill 37.

The Planning Act – Service Standards (Timelines) With Bill 37 in Effect

Note: Only appealable service standards are included.



Application Type	Service Standard(s)	Provision
Regional Plan decision	None	N/A
Development Plan decision	None	N/A
Secondary Plan decision	<ul style="list-style-type: none"> 90 days from date application is made to hearing 60 days from hearing to council decision or referral to Municipal Board 	Planning Act s. 64; Bill 37 s. 82.1(2)
Zoning By-law decision	<ul style="list-style-type: none"> 90 days from date application is made to hearing 60 days from hearing to council decision or referral to Municipal Board 	Bill 37 s. 82.1(2)
Subdivision decision	<ul style="list-style-type: none"> 90 days from date application is received by council to resolution 60 days from date of council resolution to approving authority decision 	Bill 37 s. 125(4.1); Planning Act s. 126(5)
Minor subdivision decision	<ul style="list-style-type: none"> 60 days from date application is received by council to decision 	Bill 37 s. 125.3
Conditional Use decision by PD board or council not concerning large-scale livestock	None	N/A
Conditional Use decision by PD board, council or planning commission concerning large-scale livestock	<ul style="list-style-type: none"> 60 days from date Technical Review Committee report is received by council to hearing 30 days from hearing to decision 	Bill 37 s. 118.2(1.1)(b)
Variance decision	None	N/A
Development agreement	<ul style="list-style-type: none"> 90 days from date development agreement is required under section 150 to conclusion 	Bill 37 s. 151.0.1
Development agreement amendment	<ul style="list-style-type: none"> 90 days from date completed application is received by city 	Bill 37 s. 151.0.3(2)
Development permit	<ul style="list-style-type: none"> 20 days to determine whether application is complete from date application submitted (unless extended by agreement between applicant and planning district/municipality) 60 days to determine if the proposed development conforms with the applicable provisions of the development plan by-law, zoning by-law and any secondary plan by-law from the date the application is submitted (already exists in The Planning Act) 	Bill 37 s. 147(3); Planning Act s. 148(2)
Municipal Board	<ul style="list-style-type: none"> 120 days¹ from date appeal notice is received is received² to hearing 60 days³ from date hearing is concluded to order⁴ 60 days to refer zoning by-law or secondary plan if sufficient objections received 	Hearing and decision timelines: throughout Bill 37; Referral timeline: Bill 37 s. 82.1(2)(d)(iii)
PD board/council hearing on appeal of planning commission decision	None	N/A

¹ Except where otherwise stated in *The Planning Act* (eg. for subdivisions and conditional uses there is no timeline on when the Municipal Board must hold a hearing once an appeal notice has been received).

² When a secondary plan or zoning by-law amendment is referred to the Municipal Board, hearing must be held within 120 days after objection is received (Bill 37 s. 77.1(2)).

³ Except where otherwise stated in *The Planning Act* (eg. for subdivisions and conditional uses Municipal Board must make order within 30 days after the hearing is concluded).

⁴ Exception: For conditional use and subdivision appeals the Municipal Board must issue order within 30 days after hearing is concluded (Planning Act s. 118.4(2) and 131(2)).

The City of Winnipeg Charter Act – Service Standards (Timelines) With Bill 37 in Effect

Note: Only appealable service standards are included.



Application Type	Service Standard(s)	Provision
Development Plan decision	None	N/A
Secondary Plan decision	<ul style="list-style-type: none"> 150 from date completed application is received by city to decision 	Bill 37 s. 282.2(1)(a)
Zoning by-law decision	<ul style="list-style-type: none"> 150 from date completed application is received by city to decision 	Bill 37 s. 282.2(1)(a)
Subdivision decision by council	<ul style="list-style-type: none"> 150 days from date completed application is received by city to decision 	Bill 37 s. 282.2(1)(b)(ii)
Subdivision decision by designated employee	<ul style="list-style-type: none"> 60 days from date completed application is received by city to decision 	Bill 37 s. 282.2(1)(b)(i)
Consent to registration or filling of conveyance	<ul style="list-style-type: none"> 90 days from date completed application is received by city to decision 	Bill 37 s. 282.2(1)(e)
Conditional Use decision	None	
Variance decision	None	
Development agreement executed under s 240(4) or ordered by The Municipal Board under s 282.1	<ul style="list-style-type: none"> 90 days from date applicable zoning by-law, plan of subdivision, conditional use or variance is approved by the city or ordered by The Municipal Board 	Bill 37 s. 282.2(1)(f)
Development agreement required as a condition on development permit	<ul style="list-style-type: none"> Within the longer of 90 days after the issuance of the permit or the expiry of the maximum time permitted (60 days) for a permit to be withheld by council 	Bill 37 s. 282.2(1)(g)
Development agreement amendment	<ul style="list-style-type: none"> 90 days from date completed application is received by city 	Bill 37 s. 282.2(1)(d)
Development permit	<ul style="list-style-type: none"> 20 days to determine whether application is complete from date application submitted (unless extended by an agreement in writing between the applicant and planning district or municipality) If a permit that is subject to section 246 is withheld for longer than 60 days, the owner of the land is entitled to compensation for damages resulting from the withholding of the permit—except as provided for in clauses 246(2)(b) and (c)—and subsections 245(2) and (3) (where permit cancelled) apply, with necessary changes, in respect of the withholding (already exists in The City of Winnipeg Charter Act). 	Bill 37 s. 246(1.1)(b); 246.1
Municipal Board decision	<ul style="list-style-type: none"> 120 days⁵ from date appeal notice is received⁶ to hearing 60 days⁷ from date hearing is concluded to order⁸ 	Bill 37 s.282.1(4)(b); 282.1(8)

⁵ When a secondary plan amendment or zoning by-law amendment is referred to the Municipal Board, hearing must be held 120 days after the referral is received (Bill 37 amendment to s. 230(1)(b)).

⁶ When a secondary plan amendment or zoning by-law amendment is referred to the Municipal Board, the Municipal Board must submit a report with recommendations to the minister within 60 days after completing the hearing (Bill 37 amendment to s. 230(1)(c)).

PLANNING REGIONS

Note: The Planning Region portion of the Bill has not yet been proclaimed

- **‘Planning Regions’ replace ‘Regional Strategies’** – The existing *Regional Strategies* division of *The Planning Act* is removed & replaced with a new *Division 2: Planning Regions*.
- **Winnipeg subject to *Planning Regions* sections** - The City of Winnipeg is subject to the new Planning Regions portions of *The Planning Act*.

Planning Regions...Cont'd...

- **Capital Planning Region created** – The Capital Planning Region (CPR) is established under Bill 37. When the bill takes effect, *The Partnership of The Manitoba Capital Region Act* will be repealed.
- **Municipalities in CPR** - The Bill specifically legislates 18 municipalities to be a part of the CPR. They are:
 - the City of Winnipeg & the City of Selkirk;
 - the Towns of Niverville and Stonewall;
 - the Village of Dunnottar; &
 - the Rural Municipalities of: Cartier, East St. Paul, Headingley, Macdonald, Ritchot, Rockwood, Rosser, Springfield, St. Andrews, St. Clements, St. Francois Xavier, Taché & West St. Paul.

- These are the **same 18 municipalities** that are members of the current Winnipeg Metropolitan Region (WMR).
- Most were officially placed in the capital region under *The Partnership of the Manitoba Capital Region Act* (2006).
- And, most were informally in the organization since 1999 (an even earlier, similar group was formed in 1990).
- The municipalities of the CPR may be varied by the minister by reg.

- **Other planning regions** - Minister may, by regulation, establish planning regions elsewhere in the province.
- **Administering local planning & building by-laws** – Regions may, by agreement with 1 or more municipalities, administer & enforce the planning & building by-laws of respective member municipalities.

- **Mandate** – to enhance economic & social development by improving & coordinating sustainable land use & development in the region through:
 - **adopting a regional plan** (including implementation, enforcement & amendments);
 - facilitating & promoting regional considerations in providing infrastructure & services;
 - leading the development of regional responses to the planning issues of member municipalities; and
 - identifying & promoting opportunities for member municipalities to cooperate in the cost-effective development of infrastructure & provision of services on a regional basis.

- **Powers** – Subject to any restrictions specified in the regs, a planning region:
 - has the powers of a ‘natural person,’ & is a non-share capital corporation;
 - may acquire, own, sell or lease land or personal property, & may acquire land by expropriation only for the purpose of implementing its regional plan;
 - may receive, spend, borrow, lend or invest money; &
 - may enter into agreements with any person or organization for the development of land in the region.
- **Regional plan to be adopted** within 2 years of formation.

- **Contents of plan** - Regional plan must include maps & statements of objectives & policies to assist in providing direction for the plan, including, among other things:
 - the physical, social, environmental, economic & fiscal objectives for the region over at least a 30 year time span;
 - Contents similar to a development plan
- **Regional Plan adoption** - The process for adopting & amending a regional plan must be generally consistent with the process for adopting or amending a development plan by-law, & in accordance with the regs & the procedures of the planning region.

- **Application of *PLUPs*** - A regional plan must be generally consistent with the *Provincial Land Use Policies*.
- **Minister approves plan** - A regional plan & any amendments to it must be approved by the Minister.
- **Amendments** - A regional plan amendment may only be initiated by:
 - the minister;
 - the planning region itself;
 - a member municipality; or
 - a planning district within the region.

- **Review process** – A regional planning board must review its regional planning by-law at the times and in the manner set out in reg.
- **Local planning by-laws cannot be inconsistent with plan** - The planning by-laws (dev plans, secondary plans & ZBLs) of a member municipality, or planning district in the region, cannot be inconsistent with the regional plan.
- **Consistency within 3 years** - Member municipalities & planning districts in the region, must review their planning by-laws within 3 years of the adoption of a regional plan to ensure they are consistent.

- **Development to be consistent with plan** - A member municipality or planning district in the region, must not approve a planning by-law or any developments (including subdivisions) that conflict with the regional plan.

Regional Planning Board

- **Municipal directors** - The regional board must include at least 1 representative from each member municipality.
- **Board make-up and operations** - Details of board composition, voting & operations to be determined in the regs.

OTHER ELEMENTS OF THE BILL

- **Hearings held before 1st reading** - Planning authorities outside of Winnipeg will now be able to hold a public hearing on a development plan, zoning by-law or secondary plan by-law prior to first reading. Winnipeg has had this authority for a number of years.
- **Conditional use & variance approvals may be extended for up to an additional 12 months** (for a total of 24 months beyond the 12 month original approval) making a conditional use order or variance approval potentially good for up to 3 years.

- **Written reason for rejection** - A planning authority must now give a written reason for rejecting a development application.
- **Winnipeg may require a development agreement for a conditional use or variance** - This is currently allowed under *The Planning Act*.

- **Agreement may be required for a permit (Not yet proclaimed)**
 - As a condition of approving a development permit, a planning authority may now require the applicant to enter into a dev agreement.
 - However, this is intended only for a '**prescribed major development**' or a dev which would require the expansion of a public service, such as: sewer, water, waste removal, drainage, public roads, connecting streets, street lighting, sidewalks, or traffic controls.
 - To be further detailed in regulation.

Next Steps

Capital Planning Region Regulation

Of the regulations resulting from Bill 37, this will likely be the largest and most complex. It is expected to cover:

- Board membership (who is on the board and how they are appointed), structure & organization,
- Board operating procedures, including voting (weighted or non-weighted vote), quorum, etc.
- Executive committee powers, other committees & advisory groups,
- Board administration & finance, and
- Detailed adoption procedures for the regional plan.

Next Steps, cont'd...

- Continue to engage AMM, Bill 37 Working Group, other key stakeholders and the public.
- Remaining sections of the bill to be proclaimed after further consultation to inform regulations.
- The legislation requires the Minister to undertake a comprehensive review of the amendments made by this Act that includes public representations (by October 2024).

Next Steps, cont'd...

- Drafting of a new Planning Handbook with detailed descriptions of how to use and interpret planning legislation.
- Continued review of the Municipal Board and its processes and resources.
- Consultants have been engaged to assist in undertaking these two processes.

Next Steps, cont'd...

- Drafting of new or revised Regulations:
 - the Capital Planning Region reg,
 - the Major Development reg,
 - revisions to the *Provincial Land Use Policies* reg, and
 - *possibly others*.

Other Departmental Activities related to Bill 37

- The Department is undertaking:
 - A review of the Municipal Board,
 - A re-write of the Planning Handbook,
 - Ongoing consultations with stakeholders,
 - Updating of materials and guides, and
 - Drafting of upcoming regulations and potential new legislation.

Thank You

Questions or Comments?