

Municipal Government Act

CHAPTER 18 OF THE ACTS OF 1998

as amended by

2000, c. 9, ss. 32-37, 39, 41-60; 2000, c. 28, s. 85; 2001
c. 6, s. 119(1), (2), (4)-(8); 2001, c. 14, ss. 2, 3; 2001, c. 35, ss. 2-28;
2002, c. 6, s. 56; 2002, c. 10, s. 22; 2002, c. 36, ss. 1-3; 2003, c. 9,
ss. 49-95; 2004, c. 4, s. 116; 2004, c. 7, ss. 2-20; 2004, c. 38, s. 26;
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2008, c. 36, ss. 4, 5; 2008, c. 39, ss. 387-389; 2010, c. 22; 2010, c. 64,
ss. 1, 2; 2011, c. 4, ss. 6-9; 2011, c. 17, ss. 2, 3; 2011, c. 41, s. 142; 2011,
c. 68, s. 29; 2012, cc. 27, 28; 2012, c. 63, ss. 1-4; 2014, c. 16, ss. 12, 13;
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An Act Respecting Municipal Government

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Procedure for quashing by-law

189 (1) A person may, by notice of motion which shall be served at least seven days before the day on which the motion is to be made, apply to a judge of the Supreme Court of Nova Scotia to quash a by-law, order, policy or resolution of the council of a municipality, in whole or in part, for illegality.

(2) No by-law may be quashed for a matter of form only or for a procedural irregularity.

(3) The judge may quash the by-law, order, policy or resolution, in whole or in part, and may, according to the result of the application, award costs for or against the municipality and determine the scale of the costs.

(4) No application shall be entertained pursuant to this Section to quash a by-law, order, policy or resolution, in whole or in part, unless the application is made within three months of the publication of the by-law or the making of the order, policy or resolution, as the case may be. 1998, c. 18, s. 189.

PART VIII

PLANNING AND DEVELOPMENT

Purpose of Part

190 The purpose of this Part is to

(a) enable the Province to identify and protect its interests in the use and development of land;

(b) enable municipalities to assume the primary authority for planning within their respective jurisdictions, consistent with their urban or rural character, through the adoption of municipal planning strategies and land-use by-laws consistent with interests and regulations of the Province;

(c) establish a consultative process to ensure the right of the public to have access to information and to participate in the formulation of planning strategies and by-laws, including the right to be notified and heard before decisions are made pursuant to this Part; and

(d) provide for the fair, reasonable and efficient administration of this Part. 1998, c. 18, s. 190.

Interpretation

191 In this Part and Part IX, unless the context otherwise requires

(a) “aggrieved person” includes

(i) an individual who *bona fide* believes the decision of the council will adversely affect the value, or reasonable enjoyment, of the person’s property or the reasonable enjoyment of property occupied by the person,

- (ii) an incorporated organization, the objects of which include promoting or protecting the quality of life of persons residing in the neighbourhood affected by the council's decision, or features, structures or sites of the community affected by the council's decision, having significant cultural, architectural or recreational value, and
- (iii) an incorporated or unincorporated organization in which the majority of members are individuals referred to in subclause (i);
- (b) "commission" means a district planning commission continued pursuant to this Act;
- (c) "development" includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure and a change or alteration in the use made of land or structures;
- (d) "development officer" means the person or persons appointed by a council to administer a land-use or subdivision by-law;
- (e) "Director" means the Provincial Director of Planning appointed pursuant to this Part, and includes a person acting under the supervision and direction of the Director;
- (f) "former *Planning Act*" means Chapter 346 of the Revised Statutes, 1989, the *Planning Act* and any predecessor to that Act;
- (g) "incentive or bonus zoning" means requirements that permit the relaxation of certain requirements if an applicant exceeds other requirements or undertakes other action, in the public interest, as specified in the requirements;
- (h) "municipal planning strategy" means a municipal planning strategy, intermunicipal planning strategy or secondary planning strategy;
- (i) "nonconforming structure" means a structure that does not meet the applicable requirements of a land-use by-law;
- (j) "nonconforming use of land" means a use of land that is not permitted in the zone;
- (k) "nonconforming use in a structure" means a use in a structure that is not permitted in the zone in which the structure is located;
- (l) "participating municipality" means a municipality participating in a commission;
- (m) "planning area" means the area to which a municipal or ~~inter-~~
municipal [intermunicipal] planning strategy applies;
- (n) "planning documents" means
- (i) a municipal planning strategy and a land-use by-law adopted to carry out the municipal planning strategy,

- (ii) an amendment to a municipal planning strategy and a land-use by-law amendment to carry out the municipal planning strategy amendment, and
- (iii) a subdivision by-law and an amendment to it;
- (o) “regulate” does not include the power to prohibit;
- (p) “structure” includes a building;
- (q) “subdivision” means the division of an area of land into two or more parcels, and includes a resubdivision or a consolidation of two or more parcels;
- (r) “watercourse” means a lake, river, stream, ocean or other body of water. 1998, c. 18, s. 191.

Provincial Director of Planning

192 (1) The Minister shall appoint from the public service an officer in the Department of Housing and Municipal Affairs to be known as the Provincial Director of Planning.

(2) The Minister may, from time to time, authorize another person in the Department of Housing and Municipal Affairs to act in the Director’s stead.

(3) The Minister may appoint an Assistant Provincial Director of Planning to perform the duties of the Provincial Director subject to the Director’s supervision and direction. 1998, c. 18, s. 192; 2006, c. 40, s. 6.

Statement of provincial interest

193 The Governor in Council, on the recommendation of the Minister, may adopt or amend a statement of provincial interest necessary to protect the provincial interest in the use and development of land. 1998, c. 18, s. 193.

Requirements for statement of provincial interest

194 (1) When preparing or amending a statement of provincial interest, the Minister shall seek the views of councils affected by the proposed statement.

(2) The statements of provincial interest in Schedule B are deemed to be statements of provincial interest pursuant to this Part.

(3) The Minister may, at any time, review a statement of provincial interest.

(4) The Governor in Council may amend or repeal a statement of provincial interest, including a statement of provincial interest included in Schedule B.

(5) A statement of provincial interest is regulations within the meaning of the *Regulations Act*. 1998, c. 18, s. 194.

Copy and notice of adoption or amendment

195 Upon the adoption or amendment by the Governor in Council of a statement of provincial interest, the Minister shall send a copy of the statement to the clerk of each municipality affected by it and give notice of its adoption in a newspaper circulating in the affected area. 1998, c. 18, s. 195.

Provincial activities reasonably consistent

196 The activities of the Province shall be reasonably consistent with a statement of provincial interest. 1998, c. 18, s. 196.

Requirement to consider planning documents

197 A department of the Province, before carrying out or authorizing any development in a municipality, shall consider the planning documents of the municipality. 1998, c. 18, s. 197.

Planning documents reasonably consistent

198 (1) Planning documents adopted after the adoption of a statement of provincial interest shall be reasonably consistent with the statement.

(2) The Minister may request that a council, within a prescribed time, adopt or amend its planning documents so that they are reasonably consistent with a statement of provincial interest.

(3) Where

(a) a council does not comply with a request pursuant to subsection (2); or

(b) development that is inconsistent with a statement of provincial interest might occur and the Minister is satisfied that there are necessary and compelling reasons to establish an interim planning area to protect the provincial interest,

the Minister may, by order, establish an interim planning area for a prescribed area.

(4) Within an interim planning area subdivision, development, or certain classes of subdivision or development, may be regulated or limited or prohibited in whole or in part, as necessary, to protect the provincial interest.

(5) No permit or approval of any kind may be issued that is contrary to an order establishing an interim planning area or an order regulating or prohibiting development in the interim planning area.

(6) The Minister shall

(a) send a copy of an order establishing an interim planning area and any order regulating or prohibiting development in the interim planning area to the clerk of each municipality affected; and

(b) give notice that an order is in effect in a newspaper circulating in the area affected.

(7) Where a council adopts planning documents in a manner reasonably consistent with a statement of provincial interest and the documents are in effect, the Minister shall revoke an order establishing an interim planning area for the prescribed area. 1998, c. 18, s. 198; 2004, c. 44, s. 1.

Repeal of Regional Development Plan

199 The Halifax-Dartmouth Metropolitan Regional Development Plan and Regulations, adopted and amended pursuant to the former *Planning Act*, are repealed. 1998, c. 18, s. 199.

Planning advisory committee

200 (1) A municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the municipality.

(2) Two or more municipalities may, by policy, establish a joint planning advisory committee.

(3) A planning advisory committee or joint planning advisory committee shall include members of the public and may include a representative appointed by a village commission.

(4) The purpose of a planning advisory committee or a joint planning advisory committee is to advise respecting the preparation or amendment of planning documents and respecting planning matters generally.

(5) The duties assigned, pursuant to this Part, to a planning advisory committee or a joint planning advisory committee shall only be carried out by the committee.

(6) The council shall appoint members of a planning advisory committee or a joint planning advisory committee by resolution. 1998, c. 18, s. 200; 2014, c. 21, s. 3.

Area advisory committee

201 (1) A municipality may establish, by policy, one or more area planning advisory committees to advise the planning advisory committee or joint planning advisory committee on planning matters affecting a specific area.

(2) An area planning advisory committee shall include members of the public.

(3) An area planning advisory committee, with jurisdiction over an area that includes all or part of a village, shall include at least one member appointed by the village commission.

(4) The council shall appoint members of an area planning advisory committee by resolution. 1998, c. 18, s. 201.

Policy establishing committee

202 In the policy establishing a planning advisory committee, joint planning advisory committee or area planning advisory committee the council shall

- (a) fix the term of appointment and any provisions for reappointment;
- (b) fix the remuneration, if any, to be paid to the chair of the committee, if the chair is not a council member;
- (c) fix the remuneration, if any, to be paid to those members of the committee who are not council members;
- (d) establish the duties and procedures of the committee; and
- (e) provide for the appointment of the chair and other officers of the committee. 1998, c. 18, s. 202.

Open meetings and exceptions

203 (1) Meetings of a planning advisory committee, joint planning advisory committee or area planning advisory committee or a commission are open to the public, unless the committee or commission, by a majority vote, moves a meeting in private to discuss matters related to

- (a) personnel, labour relations, contract negotiations, litigation or potential litigation or legal advice eligible for solicitor-client privilege; or
- (b) a potential application for a development permit, land-use by-law amendment, development agreement or amendment to a development agreement before the applicant has applied to the municipality or development officer.

(2) The date, time and location of committee or commission meetings shall be posted in a conspicuous place in the municipal office or another conspicuous place, as determined by the committee or commission.

- (3) Any person may view
- (a) committee or commission minutes, other than for a meeting in private, after they are adopted; and
 - (b) committee or commission reports to council, after they are submitted to the council.

(4) A planning advisory committee, joint planning advisory committee or area planning advisory committee may hold meetings for public discussion when, and in the manner, it or the council decides. 1998, c. 18, s. 203.

Public participation program

204 (1) A council shall adopt, by policy, a public participation program concerning the preparation of planning documents.

(2) A council may adopt different public participation programs for different types of planning documents.

(3) The content of a public participation program is at the discretion of the council, but it shall identify opportunities and establish ways and means of seeking the opinions of the public concerning the proposed planning documents. 1998, c. 18, s. 204.

Requirements for adoption of planning documents

205 (1) A council shall adopt, by by-law, planning documents.

(2) A by-law adopting planning documents shall be read twice.

(3) Before planning documents are read for a second time the council shall hold a public hearing.

(4) A council shall complete the public participation program before placing the first notice for a public hearing in a newspaper circulating in the municipality.

(5) The notice for the public hearing is sufficient compliance with the requirement to advertise second reading of a by-law.

(6) Second reading shall not occur until the council has considered any submissions made or received at the public hearing.

(7) Only those council members present at the public hearing may vote on second reading of the planning documents.

(8) A council shall adopt planning documents, at second reading, by majority vote of the maximum number of members that may be elected to council. 1998, c. 18, s. 205; 2004, c. 7, s. 12.

Public hearing

206 (1) Prior to holding a public hearing required pursuant to this Part, the clerk shall give notice of the public hearing in a newspaper, circulating in the municipality, inserted at least once a week, for two successive weeks.

(2) The first notice of the public hearing shall be published at least fourteen days before the date of the public hearing.

(3) The notice of the public hearing shall

(a) state the place where, and the hours during which, the proposed documents may be inspected by the public;

(b) state the date, time and place set for the public hearing;

(c) describe by metes and bounds, a plan, map, sketch or civic address or other description adequate to identify the area affected by the proposed documents;

(d) give a synopsis of the proposed documents, if the public hearing is with respect to an amendment to a municipal planning strategy or land-use by-law or the approval or amendment of a development agreement.

(4) Copies of the proposed documents or portions of the documents shall be provided to a person, on request, upon payment of a reasonable fee set by the council, by policy, sufficient to recover the cost of providing the copies.

(5) Upon the publication of the first notice of the public hearing, the clerk shall send a copy of the notice to the clerk of every municipality that immediately abuts an area affected by the proposed documents.

(6) Upon the publication of the first notice of the public hearing, the clerk shall send a copy of the notice to the village clerk of every village in which an affected property is situate. 1998, c. 18, s. 206; 2014, c. 21, s. 4.

Joint public hearing

207 (1) The councils of two or more municipalities, two or more community councils or the council of a regional municipality and one or more community councils may agree to hold a joint public hearing regarding the adoption or amendment of an ~~inter-municipal~~ [intermunicipal] planning strategy.

(2) When a proposed development is subject to a public hearing pursuant to another Act of the Legislature, the council may provide for a single hearing process for the proposed development, if this Act is complied with. 1998, c. 18, s. 207.

Requirement for review by Director

208 (1) Planning documents are subject to review by the Director.

(2) The clerk shall submit four certified copies of the planning documents to the Director.

(3) Where the Director determines that the planning documents

- (a) appear to affect a provincial interest;
- (b) may not be reasonably consistent with an applicable statement of provincial interest;
- (c) appear to conflict with the law; or
- (d) in the case of a subdivision by-law, may conflict with the provincial subdivision regulations,

the planning documents are subject to the Minister's approval.

(4) Within thirty days after receiving the planning documents, the Director shall

- (a) return two copies of the planning documents to the clerk, with a written notice affixed stating that they are not subject to the approval of the Minister; or
- (b) provide written notice to the clerk that the planning documents are subject to the approval of the Minister and include the reasons why they are so subject.

(5) Compliance with the procedural requirements for the adoption or amendment of planning documents is not subject to the review of the Director or the Minister.

(6) Within sixty days after the date of a written notice that planning documents are subject to the approval of the Minister, the Minister shall

- (a) approve all or part of the documents;
- (b) approve the documents with amendments; or
- (c) refuse to approve the documents,

and return to the clerk two copies of the planning documents as approved, amended or refused with written reasons for the decision.

(7) Where no decision is made in accordance with subsection (6), the planning documents are deemed to be approved on the sixty-first day and the clerk shall place a notice in a newspaper circulating in the municipality advising that the planning documents are in effect as of the date of the notice, stating where the documents may be inspected.

(8) Except where the Minister refuses to approve planning documents, upon receipt of the planning documents from the Director or the Minister, the clerk shall place a written notice in a newspaper circulating in the municipality advising that the planning documents, or planning documents as amended by the Minister, are in effect as of the date of that notice, stating where the documents may be inspected.

(9) A notice that planning documents are in effect is publication of a by-law for the purposes of this Act.