

Municipal Government Act

progressive powers for municipalities

INFORMATION BULLETIN #21

MINISTERIAL APPROVAL OF PLANNING DOCUMENTS

- Summary:** All planning documents must be submitted for review to the Provincial Director of Planning (Director) to determine if they require the approval of the Minister of Municipal Affairs.
- Legislation:** *Municipal Government Act (MGA)* - s.208 and s.271(9)
Halifax Regional Municipality Charter (HRMC) – s.223 and s.281(9)
- Discussion:** Approval of planning documents has been simplified for municipalities. Planning documents include municipal planning strategies and land use bylaws adopted to implement the strategy, amendments to planning strategies and land use bylaw amendments necessary to carry out the strategy and subdivision bylaws and amendments (MGA s.191(n), HRMC s.209(m)). Development agreements and amendments to land use bylaws that do not implement a change in a municipal planning strategy are not subject to provincial review.
- Once adopted by council four certified copies of planning documents must be submitted to the Director for review. No other documentation or information is required. The Director will review the documents to decide if they:
- appear to affect a provincial interest
 - may not be reasonably consistent with an applicable statement of provincial interest
 - appear to conflict with the law
 - in the case of the subdivision bylaw, may conflict with the provincial subdivision regulations.
- If unsure whether the planning documents may conflict with any of the above, they should be submitted to the Planning Services Section of the Department of Municipal Affairs for a preliminary review.*

Within 30 days of receipt of the planning documents the Director must take one of two courses of action. If it is determined the planning documents do not require Ministerial approval two of the certified copies are returned to the clerk with a letter attached to them, stating that they were not subject to Ministerial approval.

If the Director determines the planning documents require Ministerial approval, a letter explaining the reason for the requirement is sent to the clerk (30-day letter). The Minister must then approve, approve with amendments, or refuse to approve the documents within 60 days of the date of the 30-day letter. Again, two copies of the planning documents are returned to the clerk, together with reasons for the Minister's decision. If the Minister takes no action, the planning documents are deemed to be approved on the sixty-first day.

In all cases (except for refusal) the planning documents are effective on the date a notice is published in a newspaper circulating in the area saying that the planning documents are in effect.

Municipal compliance with the adoption procedures (such as notice requirements) found in MGA Sections 205 and 206 and HRMC Section 220 and 221 are not subject to review by the Director or Minister. Any person who feels planning documents were adopted illegally may apply to a judge of the Supreme Court of Nova Scotia to have the documents quashed (MGA s.189, HRMC s.207).

Planning documents required to be reviewed by the Director are not subject to appeal to the Utility and Review Board even if the Director determines Ministerial approval is not required.

Note: The reader is cautioned that preparation of this and subsequent Information Bulletins containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act* or *Halifax Regional Municipality Charter*, other relevant legislation and to legal advisors.