



PLANNING LAW UPDATE

Miscellaneous Statutes Amendment Act (No. 2), 2010 (Bill 11)

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A number of minor and more notable amendments to the *Local Government Act* (LGA) have recently been proposed in *Miscellaneous Statutes Amendment Act (No. 2), 2010* (Bill 11), which received third reading on May 4, 2010 and is currently awaiting Royal Assent. A brief overview of the notable amendments is set out below.

Regional Growth Strategies (RGSs): Local governments affected by an RGS will now have only 60 days (*formerly 120 days*) to accept or reject the RGS and will be deemed to have accepted a provision of the RGS to which it does not object by resolution within the specified time period (see s. 857 of the LGA). Section 867 of the LGA has also been amended to mandate the establishment of an intergovernmental advisory committee when there is a proposed amendment to an RGS that is not a "minor" amendment (as determined under s. 857.1 of the LGA). These amendments will come into force upon Royal Assent.

Phased Development Agreements (PDAs): Section 905.1 of the LGA has been amended to authorize the use of a PDA to provide a phased development project with grandfathering protection against changes to specified subdivision and servicing provisions. Prior to this amendment, a PDA could only provide grandfathering protection in respect of specified zoning provisions. PDAs may now also include terms and conditions relating to the amount and location of parkland to be provided under section 941 of the LGA, in respect of land being subdivided. Amendments have also been made to require approving officers to take into account PDAs when considering subdivision applications and whether a subdivision is in the public interest (see s. 905.1(10)). Finally, notice of a PDA must now be filed in the Land Title Office pursuant to new section 905.6 of the LGA. These amendments will come into force upon Royal Assent.

Temporary Use Permits: Amendments have been made to the temporary use permit provisions in section 920 and 921 of the LGA to allow temporary use permits for all uses, not just commercial and industrial uses. As well, section 921(11) has been amended to allow the use authorized in the permit to continue until the date the permit expires or 3 years (*formerly 2 years*) after the permit was issued, whichever occurs first. These amendments will come into force upon Royal Assent.

Development Cost Charges (DCCs): Local governments may now use money in DCC reserve funds to pay a person subject to the DCC for capital costs incurred by that person in completing a project specified under section 935(3)(a), (b) or (b.1) of the LGA, provided that the project was contemplated under an agreement between the person and the local government and the project is included in the calculations used to determine the amount of the DCC. This amendment will come into force upon Royal Assent.

Most notably, section 937.001 has been added to the LGA to entitle building permit applications to receive the same grandfathering protection from new DCC rates as subdivision applications currently enjoy under section 943 of the LGA. Accordingly, a DCC bylaw will have no effect for one year, if that bylaw is adopted after an application for a building permit has been submitted in respect of the property to which the DCC bylaw applies. This amendment will come into force on January 1, 2011.