

## Planning Act

### ONTARIO REGULATION 173/16 COMMUNITY PLANNING PERMITS

**Consolidation Period:** From June 8, 2016 to the [e-Laws currency date](#).

**Note: THIS REGULATION IS NOT YET IN FORCE. It comes into force on July 1, 2016.**

No amendments.

*This is the English version of a bilingual regulation.*

#### Definition

1. (1) In this Regulation, “development” means,
- (a) the construction, erection or placing of one or more buildings or structures on land,
  - (b) the making of an addition or alteration to a building or structure that has the effect of substantially increasing its size or usability,
  - (c) the laying out and establishment of,
    - (i) a commercial parking lot,
    - (ii) sites for the location of three or more mobile homes as defined in subsection 46 (1) of the Act,
    - (iii) sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46 (1) of the Act, or
    - (iv) sites for the location of three or more trailers as defined in subsection 164 (4) of the *Municipal Act, 2001*,
  - (d) site alteration, including but not limited to,
    - (i) alteration of the grade of land, and
    - (ii) placing or dumping fill, or
  - (e) the removal of vegetation.
- (2) Subsection (1) applies instead of the definition of “development” in subsection 41 (1) of the Act or subsection 114 (1) of the *City of Toronto Act, 2006*.

#### Community planning permit system

2. The council of a local municipality may by by-law establish a community planning permit system within the municipality for any area or areas set out in the by-law.

#### Conditions re official plan

3. (1) The council shall not pass a community planning permit by-law for any area in the municipality unless, before the passing of the by-law, the official plan in effect in the municipality,
- (a) identifies the area as a proposed community planning permit area;
  - (b) sets out the scope of the authority that may be delegated and any limitations on the delegation, if the council intends to delegate any authority under the community planning permit by-law; and
  - (c) for each proposed community planning permit area identified under clause (a),
    - (i) contains a statement of the municipality’s goals, objectives and policies in proposing a community planning permit system for the area,
    - (ii) sets out the types of criteria that may be included in the community planning permit by-law for determining whether any class of development or any use of land may be permitted by community planning permit, and
    - (iii) sets out the types of conditions that may be included in the community planning permit by-law in accordance with clause 4 (2) (i) and subsections 4 (4), (5) and (6).

(2) The types of criteria described in subclause (1) (c) (ii) and the types of conditions described in subclause (1) (c) (iii) shall be in accordance with the goals, objectives and policies described in subclause (1) (c) (i).

(3) For greater certainty, subsection (1) is subject to subsection 24 (2) of the Act.

(4) The official plan may,

(a) set out information and materials that are required, in addition to those set out in Schedule 1, in an application for a community planning permit; and

(b) exempt any class of development or any use of land from any of the requirements of Schedule 1, but only if the official plan sets out what information and materials are to be provided in an application that falls within that class or use.

(5) The official plan may contain policies relating to the application of paragraph 5 of subsection 4 (5), respecting conditions requiring the provision of specified facilities, services and matters in exchange for a specified height or density of development, which may be within the ranges set out under clause 4 (2) (c) or outside those ranges as set out under clause 4 (3) (f).

#### **Community planning permit by-law**

4. (1) Section 34 of the Act, section 113 of the *City of Toronto Act, 2006* and the regulations made under those sections apply, with necessary modifications, to the making of a community planning permit by-law, and the by-law is deemed to be a by-law passed under section 34 of the Act, except as set out in this Regulation.

(2) A community planning permit by-law shall,

(a) contain a description of the area to which the by-law applies, which shall be within the boundaries of an area identified in the official plan as a proposed community planning permit area;

(b) set out and define the permitted uses of land;

(c) set out a list of minimum and maximum standards for development;

(d) set out any internal review procedures regarding decisions made under subsection 10 (9);

(e) set out the manner in which notice shall be given, under subsection 10 (13), of decisions made under subsection 10 (9);

(f) provide that a community planning permit may be amended as described in the by-law;

(g) provide that an agreement referred to in paragraph 7 of subsection (5) may be amended as described in the by-law;

(h) provide that an agreement referred to in section 6 may be amended in the same way as an agreement referred to in paragraph 7 of subsection (5);

(i) if the council wishes to impose conditions in making decisions under subsection 10 (9), outline the conditions;

(j) if the council is delegating any authority under the by-law, set out the scope of the authority that is delegated and any limitations on the delegation; and

(k) state that the placement of a portable classroom on a school site of a district school board is exempt from the requirement for a community planning permit if the school site was in existence on January 1, 2007, in accordance with section 16.

(3) A community planning permit by-law may, in addition to the matters set out in subsection 34 (1) of the Act,

(a) prohibit any development or change of use of land unless a community planning permit is obtained;

(b) set out and define classes of development;

(c) exempt any defined class of development or use of land from the requirement for a community planning permit;

(d) set out a list of classes of development or uses of land that may be permitted if the criteria set out in the official plan and in the by-law have been met;

(e) set out criteria that the council shall use in making decisions under subsection 10 (9); and

(f) set out a range of possible variations from the standards referred to in clause (2) (c) that may be authorized in connection with the issuing of a community planning permit.

(4) A condition that is outlined for the purposes of clause (2) (i) shall,

(a) be of a type that is permitted by the official plan;

(b) be reasonable for and related to the appropriate use of the land; and

(c) not conflict with federal and provincial statutes and regulations.

(5) Some examples of conditions that may be outlined for the purposes of clause (2) (i) are:

1. A condition that is permitted by section 34, 40, 41 or 42 of the Act or by section 113 or 114 of the *City of Toronto Act, 2006*.
2. A condition that is related to the removal or restoration of vegetation.
3. A condition that is related to site alteration, including but not limited to,
  - i. alteration or restoration of the grade of land, and
  - ii. placing or dumping fill.
4. A condition that is related to ongoing monitoring requirements that are considered necessary for the protection of,
  - i. public health and safety, or
  - ii. the natural environment.
5. A condition that requires the provision of specified facilities, services and matters in exchange for a specified height or density of development, which may be within the ranges set out under clause (2) (c) or outside those ranges as set out under clause (3) (f).
6. With respect to land described in paragraph 3, 3.1 or 3.2 of subsection 34 (1) of the Act, a condition that is related to the matters that would otherwise be prohibited under those paragraphs.
7. A condition requiring the owner of the land to enter into one or more agreements with the municipality respecting one or more other conditions imposed under clause 10 (9) (c), (d) or (e).  
 A condition described in paragraph 5 of subsection (5) may be imposed only if,
  - he official plan sets out policies relating to the application of that paragraph;
  - the by-law specifically identifies the area of the municipality in respect of which a condition described in the paragraph may be imposed; and
  - the by-law establishes a proportional relationship between the quantity or monetary value of the facilities, services and matters that may be required and the height or density of development that may be allowed.

**Agreement between municipality and owner**

5. (1) An agreement referred to in paragraph 7 of subsection 4 (5) may be registered against the land to which it applies, and the municipality is entitled to enforce it against the owner and, subject to the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners of the land.

(2) The ability to impose a condition referred to in paragraph 7 of subsection 4 (5) is in addition to the powers set out in clauses 41 (7) (c) and (c.1) of the Act and in clauses 114 (11) (c) and (d) of the *City of Toronto Act, 2006*.

**Pre-existing agreements under s. 41 of Act or s. 114 of City of Toronto Act, 2006**

6. When an agreement has been entered into by a municipality under section 41 of the Act or section 114 of the *City of Toronto Act, 2006*, and afterwards a community planning permit by-law that applies to the same land as the agreement comes into force under this Regulation,

- (a) the agreement continues to be valid and binding; and
- (b) the agreement may be amended as if it were an agreement referred to in paragraph 7 of subsection 4 (5).

**Notice in respect of community planning permit by-law**

7. In addition to the items required to be included in a notice under subsection 5 (11) or 6 (9) of Ontario Regulation 545/06 (Zoning By-laws, Holding By-laws and Interim Control By-laws) made under the Act, written notice in respect of a community planning permit by-law shall include the following:

1. A description of the purpose and effect of the community planning permit system in the municipality.
2. A description of the proposed community planning permit area or areas.
3. A statement that an appeal to the Municipal Board against a decision on a community planning permit application may be made only by the owner of the land to which the application relates.
4. A description of any internal review procedures contained in the by-law.

**Non-application of certain provisions of Act and City of Toronto Act, 2006**

8. (1) Subsection 34 (21) and section 45 of the Act do not apply to a community planning permit by-law.

(2) Section 37 and subsections 41 (2), (3) and (13) of the Act and subsections 114 (2), (3) and (17) of the *City of Toronto Act, 2006* do not apply to land subject to a community planning permit by-law.

**Commencement of by-law**

9. (1) A community planning permit by-law comes into force on,
- (a) the day after the last day for filing a notice of appeal, if there are no appeals; or
  - (b) the day after the day on which all the appeals are disposed of by the Municipal Board, or such later date as the Board may otherwise order, subject to subsection (2).
- (2) If there are appeals that have not yet been disposed of, the Municipal Board may, on its own initiative or on the motion of any person or public body, make an order providing that any part of the community planning permit by-law that is not in issue in such an appeal is deemed to have come into force on,
- (a) the day after the last day for filing a notice of appeal; or
  - (b) such later date as the Board may otherwise order.
- (3) On the day the community planning permit by-law comes into force, all by-laws passed under section 34 of the Act are deemed to be repealed with respect to the area covered by the community planning permit by-law.
- (4) If subsection (2) applies, the relevant parts of by-laws passed under section 34 of the Act are deemed to be repealed with respect to the area covered by the part of the community planning permit by-law that is deemed to have come into force early.

**Application for community planning permit**

10. (1) An owner of land or the owner's authorized agent may apply to the council of the municipality for a community planning permit with respect to land subject to a community planning permit by-law.
- (2) An application for a community planning permit shall contain the information and material set out in Schedule 1, except as provided in subsection 3 (4).
- (3) Plans and drawings referred to in section 17 of Schedule 1 shall not include the following:
- 1. Interior design.
  - 2. The layout of interior areas, other than the interior walkways, stairs, elevators and escalators referred to in subparagraph 2 iii of section 17 of Schedule 1.
  - 3. The manner of construction and standards for construction.
- (4) The council may require that additional information and materials be included in an application for a community planning permit, as described in clause 3 (4) (a).
- (5) Until the council has received the information and material referred to in subsections (2) and (4), if any, and any fee under section 69 of the Act,
- (a) the council may refuse to accept or further consider the application; and
  - (b) the 45-day period referred to in subsection 12 (1) does not begin.
- (6) When an applicant applies for a community planning permit, the applicant or the municipality may make a motion for directions to have the Municipal Board determine,
- (a) whether the information and material required under subsections (2) and (4) have in fact been provided; or
  - (b) whether a requirement made under subsection (4) is reasonable.
- (7) The council shall consider the application for a community planning permit,
- (a) when the information, material and fee have been received as described in subsection (5); or
  - (b) when the Municipal Board makes a determination to that effect under subsection (6).
- (8) If the Municipal Board makes the determination described in clause (7) (b), the 45-day period referred to in subsection 12 (1) is counted from the day on which the information, material and fee referred to in subsection (5) have all been received.
- (9) On considering the application, the council may,
- (a) refuse the application;
  - (b) approve the application and issue a community planning permit with no conditions attached;
  - (c) approve the application and require that conditions be met before issuing a community planning permit;
  - (d) approve the application and issue a community planning permit with conditions attached; or
  - (e) approve the application, require that conditions be met before issuing a community planning permit and, when the conditions have been met, issue a community planning permit with conditions attached.
- (10) A condition that is imposed under clause (9) (c), (d) or (e) shall meet the following requirements:

1. The condition shall be clear, precise and quantifiable.
2. The condition shall include a clear statement of whether it must be complied with before construction, renovation or change of use of a building.
3. The condition shall not deal with the following aspects of buildings and structures:
  - i. Interior design.
  - ii. The layout of interior areas, other than interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings.
  - iii. The manner of construction and construction standards.

(11) When the council attaches a condition to a community planning permit under clause (9) (d) or (e), it may require that the fulfilment of the condition be secured in a way that is satisfactory to the council.

(12) The council, in considering an application for a community planning permit, may confer with any persons or public bodies that the council considers to have an interest in the application.

(13) Within 15 days after the council makes a decision under subsection (9), written notice of the decision, including reasons and any conditions imposed, shall be given to the applicant and to each person or public body that filed a written request to be informed of the decision with the clerk of the municipality.

(14) Section 41 of the Act or section 114 of the *City of Toronto Act, 2006* applies, with necessary modifications, to an application for a community planning permit, except as otherwise provided in this Regulation.

(15) Subsections 41 (6), (12) and (12.1) of the Act and subsections 114 (10), (15) and (16) of the *City of Toronto Act, 2006* do not apply to an application for a community planning permit.

#### **Motion for directions re fulfilment of condition**

11. In the case of a decision under clause 10 (9) (c), (d) or (e), the applicant may, at any time, make a motion for directions to have the Municipal Board determine whether a specified condition has been fulfilled.

#### **Appeal to O.M.B.**

12. (1) If the council fails to make a decision under subsection 10 (9) within 45 days after the date on which the information, material and fee are received as described in subsection 10 (5) or (8), the applicant may appeal to the Municipal Board against the failure to make a decision.

(2) The applicant may appeal any decision made under subsection 10 (9) to the Municipal Board no later than 20 days after the day notice of the decision is given.

(3) The appeal may be made by filing with the clerk of the municipality a notice of appeal setting out the reasons for the appeal, accompanied by the fee prescribed under the *Ontario Municipal Board Act*.

#### **Duties of clerk**

13. On receiving a notice of appeal under section 12, the clerk of the municipality shall ensure that, record is compiled that includes,

- (i) the original or a true copy of the application,
- (ii) a copy of the community planning permit by-law, certified by the clerk,
- (iii) a copy of any decision of council relating to the application, certified by the clerk, and
- (iv) an affidavit or sworn declaration by an employee of the municipality that the notice requirements of subsection 10 (13) have been complied with; and

the notice of appeal, the record and the fee are forwarded to the Municipal Board within 15 days after the notice of appeal is received under section 12.

#### **Decision of O.M.B.**

14. (1) On an appeal under section 12, the Municipal Board,

- (a) shall hold a hearing and determine the matter in issue; and
- (b) may make any decision that the council could have made under subsection 10 (9).

(2) The Municipal Board's decision is final.

(3) If the Municipal Board orders that a community planning permit be issued, the council shall issue it, except that if the Municipal Board imposes conditions, the community planning permit shall not be issued until,

- (a) in the case of conditions that are required to be met before the community planning permit is issued, the council is satisfied that the conditions have been met; and
  - (b) in the case of conditions that are attached to the community planning permit, their fulfilment has been secured in a way that is satisfactory to the council.
- (4) Subsection 10 (13) applies to orders of the Municipal Board, with necessary modifications.

**Delegation by council**

15. (1) If clauses 3 (1) (b) and 4 (2) (j) have been complied with, the council may delegate the authority described in subsection (2) to,

- (a) a committee appointed by the council, including a committee of the council; or
  - (b) an employee of the municipality, identified by name or position.
- (2) The authority that may be delegated is authority to,
- (a) make any decision that the council is authorized to make under subsection 10 (9); and
  - (b) enter into agreements referred to in paragraph 7 of subsection 4 (5).
- (3) The authority delegated as described in clause (2) (a) or (b) or as described in both clauses may be made subject to any limitations that are set out in the delegation.

**Exemption**

16. The placement of a portable classroom on a school site of a district school board is exempt from the requirement for a community planning permit if the school site was in existence on January 1, 2007.

**Five-year period**

17. (1) Subject to subsection 18 (1), when a by-law establishing a community planning permit system is passed, no person or public body shall request an amendment to the relevant official plan with respect to policies referred to in section 3 before the fifth anniversary of the day the by-law is passed.

(2) Subsection (1) does not apply if the request is with respect to policies that apply to an area that is broader than the area to which the by-law applies.

(3) Subject to subsection 18 (2), no person or public body shall apply to amend a by-law establishing a community planning permit system before the fifth anniversary of the day the by-law is passed.

(4) If a by-law establishing a community planning permit system is revoked and replaced, this section applies in respect of the replacement by-law.

(5) Subsections (1) to (4) do not apply in respect of a request or an application if the council has declared by resolution that such a request or application is permitted, which resolution may be made in respect of a specific request or application, a class of requests or applications or in respect of such requests or applications generally

**Five-year period, transition**

18. (1) A request for an amendment to official plan policies referred to in section 3 received before July 1, 2021 shall be continued and disposed of as if section 17 was not in force, unless it is a request to amend policies relating to a community planning permit system that was established by a by-law that was passed on or after July 1, 2016.

(2) An application for an amendment to a by-law establishing a community planning permit system received before July 1, 2021 shall be continued and disposed of as if section 17 was not in force, unless the by-law was passed on or after July 1, 2016.

**Township of Lake of Bays, transition**

19. (1) In this section,

“community planning permit by-law” means By-law 2004-180 of the Township of Lake of Bays, including any amendments made before January 1, 2007.

(2) Until the council of the Township of Lake of Bays revokes the community planning permit by-law and replaces it in accordance with this Regulation,

- (a) despite the revocation of Ontario Regulation 246/01 (Development Permits) made under the Act, the community planning permit by-law continues to be in force, shall be interpreted and may be amended as if that regulation were still in force; and
- (b) the council may amend the community planning permit by-law to extend its application to any area within the Township of Lake of Bays in addition to the land described in section 3 of Schedule 1 to Ontario Regulation 246/01.

20. OMITTED (REVOKES OTHER REGULATIONS).

21. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

SCHEDULE 1  
INFORMATION AND MATERIAL TO BE PROVIDED IN AN APPLICATION FOR APPROVAL OF A COMMUNITY  
PLANNING PERMIT

1. The name, address, telephone number and, if applicable, the e-mail address of the owner of the subject land, and of the agent if the applicant is an authorized agent.
2. The current designation of the subject land in the applicable official plan and the land uses that the designation authorizes.
3. Whether a variation is requested within the provisions set out in the community planning permit by-law.
4. Whether the proposed use is,
  - (a) a permitted use; or
  - (b) a use that may be permitted subject to criteria as set out in the community planning permit by-law.
5. If the answer to section 3 of this Schedule or clause 4 (b) of this Schedule is yes, a statement regarding how the applicable criteria have been addressed.
6. A description of the subject land, including such information as the municipality, concession and lot numbers, registered plan and lot numbers, reference plan and part numbers and street names and numbers.
7. The frontage, depth and area of the subject land, in metric units.
8. Whether access to the subject land is,
  - (a) by a provincial highway, a municipal road that is maintained all year or seasonally, another public road or a right of way; or
  - (b) by water.
9. If access to the subject land is by water only, the parking and docking facilities used or to be used and the approximate distance of these facilities from the subject land and the nearest public road.
10. The existing uses of the subject land.
11. Whether there are any buildings or structures on the subject land.
12. If the answer to section 11 of this Schedule is yes, the following information for each building or structure:
  1. The type of building or structure.
  2. In metric units, the setback from the front lot line, rear lot line and side lot lines, the height of the building or structure and its dimensions or floor area.
13. The proposed uses of the subject land.
14. Whether any buildings or structures are proposed to be built on the subject land.
15. If the answer to section 14 of this Schedule is yes, the following information for each proposed building or structure:
  1. The type of building or structure.
  2. In metric units, the setback from the front lot line, rear lot line and side lot lines, the height of the building or structure and its dimensions or floor area.
16. Whether the proposed building or structure is within an area described in the official plan and community planning permit by-law as an area within which plans and drawings under subsection 41 (4) or (5) of the Act or subsection 114 (5) or (9) of the *City of Toronto Act, 2006* may be required.
17. One or both of the following, as required by the community planning permit by-law:
  1. Plans that show the location of all buildings and structures to be erected, the location of all facilities and works to be provided in conjunction with the buildings and structures, and the location of all facilities and works required under clause 41 (7) (a) of the Act or clause 114 (11) (a) of the *City of Toronto Act, 2006*, including facilities designed to have regard for accessibility for persons with disabilities.
  2. Drawings that show plan, elevation and cross-section views for each building to be erected and are sufficient to display,
    - i. the massing and conceptual design of the proposed building,
    - ii. the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access,

- iii. the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings,
  - iv. matters relating to exterior design, including without limitation the character, scale, appearance and design features of the proposed building, and its sustainable design, but only to the extent that it is a matter of exterior design, if the official plan contains provisions relating to such matters,
  - v. the sustainable design elements on any adjoining highway under a municipality's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities, and
  - vi. facilities designed to have regard for accessibility for persons with disabilities.
18. If known,
- (a) the date the subject land was acquired by the current owner;
  - (b) the date any existing buildings or structures on the subject land were constructed; and
  - (c) the length of time that the existing uses of the subject land have continued.
19. Whether water is provided to the subject land by a publicly owned and operated piped water system, a privately owned and operated individual or communal well, a lake or other water body or other means.
20. Whether sewage disposal is provided to the subject land by a publicly owned and operated sanitary sewage system, a privately owned and operated individual or communal septic system, a privy or other means.
21. Whether storm drainage is provided by sewers, ditches, swales or other means.
22. If known,
- (a) whether the subject land has ever been the subject of an application under the Act for approval of a plan of subdivision or a consent;
  - (b) if the answer to clause (a) is yes, the file number and status of the application;
  - (c) whether the subject land has ever been the subject of an application under section 34, 41 or 45 of the Act; and
  - (d) if the answer to clause (c) is yes, the file number and status of the application.
23. A sketch showing, in metric units,
- (a) the boundaries and dimensions of the subject land;
  - (b) the location, size and type of all existing and proposed buildings and structures on the subject land, indicating their distance from the front yard lot line, rear yard lot line and side yard lot lines;
  - (c) the approximate location of all natural and artificial features (for example, buildings, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells and septic tanks) that,
    - (i) are located on the subject land and on land that is adjacent to it, and
    - (ii) in the applicant's opinion, may affect the application;
  - (d) the current uses of land that is adjacent to the subject land;
  - (e) the location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private road or a right of way;
  - (f) if access to the subject land is by water only, the location of the parking and docking facilities to be used; and
  - (g) the location and nature of any easement or restrictive covenant affecting the subject land.
24. An affidavit or sworn declaration by the applicant that the information required under this Schedule and provided by the applicant is accurate.

Français

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