

THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. DS-2018-0060

FOR THE CONSIDERATION OF

COUNCIL

June 20, 2018

**SUBJECT: LAKE DRIVE SHORELINE ACTION PLAN – APPROACHES FOR
ZONING THE LAKESIDE LOTS/LANDS
FILE NO. 05.257**

1. RECOMMENDATIONS:

- 1. That Council receive Report DS-2018-0060 prepared by the Director of Development Services respecting the Lake Drive Shoreline Action Plan – Approaches for Zoning the Lakeside Lots/Lands.**
- 2. That Council provide direction to staff in terms of undertaking more research and analysis with respect to possibly using the Development Permit System in relation to the Lakeside Lots/Lands, and that staff report back to Council.**

2. PURPOSE:

The purpose of this report is to provide Council with staff's preliminary comments with respect to approaches for zoning the lakeside lots/lands.

3. BACKGROUND

On January 10, 2018 Council passed Resolution No. C-2018-0005 which received Report No. CAO-2018-0001 respecting the Lake Drive Shoreline Jurisdiction Action Plan - Policy Step # 4. As part of this resolution, Council also directed that staff proceed to Next Steps as follows:

- i) That Town staff draft a policy based upon the transfer of the lots, examining cost recovery plus percentage, cost recovery only and fair market value.**
- ii) That Town staff draft a report addressing enforcement options including consideration for eligible property owners who cannot purchase land or choose not to purchase land.**

- iii) That Town staff draft a report to address the concept of zoning to be applied to the lakeside lots.
- iv) That Town staff submit a report indicating which lands may be required for future Town use along Lake Drive.
- v) That following receipt of all reports, staff establish a public consultation process to receive public input related to potential sale or lease of the lakeside lots.

In the Lake Drive Shoreline Jurisdiction Action Plan, the zoning of the Lakeside lots is specifically mentioned in Policy Steps 8, 9 and 10. Policy Step 8 speaks to possibly obtaining public input regarding Zoning By-law restrictions that may apply to all lakeside lots (whether Town-owned or currently existing and owned by a different entity). Policy Step 9 refers to the proposed zoning as one of the factors that would be considered in determining the value of the lots. While Policy Step 10 speaks to the passing of a zoning by-law to restrict the use of the “lakeside lands/lake side lots to uses deemed appropriate by the Town.”

At the outset, it is important to note that the terms “lakeside lots”, and “lakeside lands”, are used in different places in the Action Plan. In order to clarify the meaning of each for the purpose of this report, the term “lakeside lots” refers to the portions of the Lake Dr. road allowance that may be sold, while the term “lakeside lands” refers to the portions of the Lake Drive Road allowance that may be subject to a lease agreement.

Policy Step 8 also appears to contemplate rezoning the Lake Drive lakeside lots/lands, as well as all other lakeside lots/lands held in private ownership. When giving this some more thought, one can foresee the difficulties that might arise in taking such a broader approach. It would be the writer’s recommendation that the existing lakeshore properties that are in private ownership, not be included in terms of this zoning exercise. These properties are generally different in terms of their size and use, and would appear to adequately exist and function appropriately under the existing zoning regulations (i.e. predominantly within the Residential ‘R1’ and ‘R’ zones). As such, it makes sense to focus strictly on the zoning of the Lake Dr. lakeside lots/lands that the Town is considering either selling or leasing to the eligible property owners (EPO’s). To go beyond this, the rezoning process could become a lot more complicated than it otherwise needs to be.

General Location of Lakeside Lots/Lands:

The lakeside lots/lands (or "subject lands") that would potentially be rezoned are located in the following three areas:

- The portion of Lake Drive North commencing from Church Street in Keswick and extending northward to a point just south of Boyer's Road (herein referred to as "Area 1").
- the portion of Lake Drive East commencing from Varney Road and extending eastward to a point just east of Fairbank Avenue (herein referred to as "Area 2"); and,
- the portion of Lake Drive East commencing just east of Land's End to a point just east of Hardwood Drive (herein referred to as "Area 3")

Attachment 1 provides a map showing the approximate location of these three areas.

4. ANALYSIS:

OFFICIAL PLAN:

Under the Planning Act, a zoning by-law passed by a Council must conform with its municipal Official Plan. In the Georgina Official Plan, roads are shown symbolically by a line on the various maps and schedules, and are not subject to any specific land use designation. Rather, for the most part the roads are governed by a set of specific policies.

In the Official Plan there are Interpretation policies dealing with Land Use Boundaries and Roads. These policies state that it is intended that the boundaries of land use designations be considered as approximate, except where bounded by roads, railways, rivers or streams or other physical or geographical demarcations. Furthermore, amendments to the Official Plan are not required to permit minor adjustments to such approximate land use boundaries.

In consideration of the above, it is plausible that upon the creation of the lakeside lots (i.e. no longer forming part of the road allowance) that the abutting land use designation could be applied or "stretched" to cover these new lots. The task then would be to review the policies of the pertinent Official Plan land use designation(s) against the proposed zoning for the lakeside lots to ensure there is conformity.

This task becomes somewhat complicated in that the land use designation abutting the lakeside lots is different within the three Areas. Within Area 1 the abutting land use designation is "Neighborhood Residential", within Area 2 the abutting land use designation is "Serviced Lakeshore Residential Area", while in Area 3 the abutting land use designation is "Stable Residential". While each of these are residential land use designations, they are subject to somewhat differing land use and development policies.

In terms of lakeside lands (i.e. the portion of the road allowance that would be leased instead of sold), these lands would still remain in the Town's ownership and form part of the road allowance. As such, the "stretching" of the abutting land use designation would not be available.

Rather than utilize an approach of "stretching" the abutting land use designation(s) to the lakeside lots, and also dealing with the lakeside lands in a different manner, the more appropriate approach would be for the Town to initiate an area specific Official Plan Amendment, which would result in a specific set of policies that would apply to the lakeside lots/lands within the three areas.

In preparing these Official Plan policies, there is the challenge of balancing both the public and private interests, as well as ensuring conformity with Provincial and Regional Plans and policies. Generally speaking, one might foresee a policy framework that would allow for the use of the lakeside lots/lands for accessory/ancillary waterfront residential recreational activities, that at the same time would be sensitive to the broader public interest, particularly with respect to maintaining, protecting or possibly enhancing the scenic/visual views of the lake from the roadway, and ensuring that the travelled portion of the road allowance along with any other municipal infrastructure (i.e. sewer and water services) can be properly maintained for current and future use.

ZONING BY-LAW:

As set out in various schedules of the Town's comprehensive Zoning By-law No. 500, as amended, the Lake Drive North road allowance within Area 1 is predominantly zoned Low Density Urban Residential (R1) and Residential (R), while the Lake Drive East road allowance within Areas 2 and 3 is predominantly zoned Residential (R). For the most part, these zones also exist on the residential lots fronting onto Lake Drive on the lake and non-lake sides as the case may be.

Both the (R1) and (R) zones permit a single family dwelling, along with a number of non-residential uses including: a bed and breakfast residence; private home day

care; home occupation; kennel pursuant to certain provisions, and accessory buildings, structures and uses to any permitted use. These uses have associated zoning requirements dealing with such matters as minimum lot frontage and area; minimum lot line setback; maximum lot coverage; maximum building height; etc. which must be complies with.

To leave the existing (R1) or (R) zoning in place on the lakeside lots is not advisable, notwithstanding the fact that it would be highly unlikely that these lots would have suitable building envelopes for a single family dwelling or the other permitted non-residential uses, that would meet all of the minimum zone requirements needed to obtain a building permit. However, it should also be noted that Section 5.41 - Undersized Lots of the Zoning By-law, recognizes lots that have a lesser area and/or frontage, and that such smaller lots may be used and a building or structure may be erected or used on such lot, provided that such lot was created in certain specific ways, including being created by the Town. As the lakeside lots would be created by the Town, Section 5.41 would need to be addressed.

In terms of a zoning approach, the most appropriate way to proceed is that an area specific zoning by-law that would be developed and applied to the lakeside lots/lands, which clearly sets out the types of permitted land uses, building and structures, along with corresponding provisions that would deal with matters such as maximum building/structure height, minimum lot line setbacks, maximum lot coverage, maximum numbers of buildings or structures per lot, etc. It is important to note that a Zoning By-law cannot deal with such matters as lot grading or the adding or removal of fill; tree cutting or vegetation removal; or the requiring of architectural/urban design elements with respect to buildings or structures.

Matters to Consider in the Zoning of Lakeside Lots/Lands

As noted in a staff report from September, 2008 (refer to Attachment 2), over the years certain policies were put in place that allowed landowners to make reasonable use of the road allowance between the travelled road and the lake. What was considered "reasonable", included the construction of fences, stairs, decks, docks, patios, retaining walls and grading, all in a prescribed manner; along with the removal of trees and brush to make the land more useable and to provide a view of the lake, provided the ground does not become susceptible to erosion.

It is reasonable to suggest that the above noted uses, structures and activities that the Town historically has allowed on the road allowance between the travelled portion and the lake, also be considered within the proposed zoning of the lakeside

lots/lands. What is not clear, however, is what development standards should be applied to these uses, structures and activities. Should they reflect the rules of the past which are presented in the aforementioned 2008 staff report, or should the development standards be something different?

Another key question that will need to be addressed is: What approach is to be taken with respect to existing structures that would not meet the requirements of the new zoning provisions? Should existing non-complying structures have to be altered or moved and/or repaired to comply with the new requirements, or would these be grandfathered as is? Furthermore, currently there are fences of various styles, materials and quality of construction within the Lake Drive North and East road allowances. Should there be a set of architectural design standards for fences, for example, given the close proximity and high visibility of these fences from the road and from the lake in places? If the answer is yes, then some mechanism for the implementation of such design standards would need to be considered. From a customer service perspective, any implementation mechanism should be able to be delivered in an expeditious manner, with one approach being a focused or short-form site plan approval process delegated to staff. Another relatively new land use planning tool that could be considered is the establishment of a Development Permit System pursuant to Section 70.2 of the Planning Act and Ontario Regulation 608/06 (Development Permits Regulation). The Development Permit System will be discussed in more detail later in this report.

Boathouses, Cabins, Sheds, other accessory buildings:

In comparison to the types of structures discussed above (decks, patios, docks, retaining walls, stairs and steps), the potential impact of relatively larger buildings such as boathouses, storage sheds and cabins is greater, particularly in terms of affecting the view of the lake. As noted in the 2008 staff report, a number of boathouses and cabins have been constructed on the road allowance without municipal approval. Furthermore, the report states that in 1992 Council gave informal direction that new structures of this sort would not be permitted, but that existing buildings could be rehabilitated. A complication, however, with this direction was that the Town Solicitor subsequently provided legal advice that building permits could not be issued to owners for structures on the road allowance. This situation changes once the lakeside lots are created and transferred into private ownership. Hence, the owner of a lakeside lot could, in theory, be able to obtain a building permit to renovate an existing building or construct a new one, provided all applicable law including zoning was in compliance.

Perhaps the most difficult issue in terms of balancing the public and private interests, is what to do with respect to permitting or not permitting new buildings such as boathouses and storage sheds. Furthermore, what should be done with respect to all of the existing buildings that were constructed without municipal approval?

In terms of existing buildings, there would be a number of factors to consider including whether an existing building poses a safety risk (i.e. not located an appropriate distance from the travelled road). Previous Council's direction was that owners should be allowed to maintain and repair or renovate existing building(s). Where an owner wanted to expand or replace an existing building, should that be allowed? If so, then should such activity be required to comply with the new zoning requirements?

In terms of allowing new buildings such as boathouses, an existing zoning provision that applies where private lands extend to the shoreline is instructive. In this regard, Section 5.22 LAND ABUTTING A NAVIGABLE WATERWAY states:

"Notwithstanding the permitted uses, yard, height, and lot coverage provisions of this By-law where land abuts a navigable waterway and is zoned Residential, Open Space, or Rural, a boat house, dock or wharf shall be permitted provided such buildings or structures are used for non-commercial recreational purposes only. Such uses, buildings or structures shall be subject to the following requirements:

(a) **MINIMUM YARDS:**

1 metre, except that where the lot line abuts a navigable body of water the yard may be reduced to nil.

(b) **HEIGHT (MAXIMUM):**

5 metres, except that within 30 metres of the centre line of a public road the maximum height shall be 1 metre above the said centre line of the road.

Notwithstanding the above, where the subject lot contains a dwelling or where the subject lot is of sufficient size that a dwelling can be erected thereon as set forth below, the maximum height for a boat house, dock or wharf shall be 5 metres in all cases."

Currently, in the case of privately owned land that is zoned Residential, Open Space or Rural and abut a navigable watercourse (i.e. Lake Simcoe), and where such land is too small to accommodate a dwelling thereon, a boathouse, dock or wharf is permitted to a maximum height of 5 metres, except that within 30 metres of the centre line of a public road, the maximum height shall be 1 metre above this said centre line of the road (emphasis by the writer). This zoning provision was included in the Zoning By-law a number of years ago to specifically help protect the view of Lake Simcoe. It would seem reasonable that this provision also be considered with respect to the zoning of the lakeside lots/lands.

Not only is the maximum height of buildings an important consideration, but the size and number of buildings also needs to be carefully considered so as to not create a proliferation of new buildings and structures spread along Lake Drive, which cumulatively may have a significant impact on the view of the lake, as well as detracting from the aesthetic/scenic quality of roadway as a whole.

WATER AND SEWER SERVICES:

To date, the Town has not permitted the extension or connection of municipal sewer or water services to boat houses, cabins, bunkies, etc. that have been constructed on the road allowance. It is recommended that this restriction continue to apply to such buildings on lakeside lots/lands. To do so, may encourage the use of such buildings for overnight accommodation or residential occupancy, which is contrary to the Lake Simcoe Protection Plan.

DEVELOPMENT PERMIT SYSTEM (DPS):

The Province introduced the Development Permit System in 2007 as a voluntary land use planning tool for Ontario municipalities. The intent was to provide an alternative application process that implements the long term vision for the designated DPS area, while streamlining the overall process for development projects within that boundary. The DPS:

- combines the process of Zoning, Minor Variances and Site Plan Control into one application under the Planning Act.
- is regulated by a By-law that integrates all aspects of development for properties within a defined area, including but not limited to: permitted uses, site standards, urban design and site-specific enhancements.
- requires a review timeline of 45 days for each application. The reduced timeframe is intended to make a DPS application more efficient and provide

the applicant/owner with flexible development opportunities that reflect the Municipalities' vision for the surrounding community.

An overview of the Development Permit System is provided in a Provincial document entitled; "Development Permit System: A Handbook for Municipal Implementation", which is provided as Attachment 3.

It is interesting to note that very few municipalities have implemented a DPS to date. While appearing to be a quite useful tool, one can speculate that the low municipal uptake is likely due to its significant departure from the conventional zoning/development approval processes, and perhaps the perception of it being complicated to implement. However, one can see the potential merit of a DPS.

If Council is desirous in having more control over the erection of fences in terms of ensuring that the height, design, location and type/quality of materials meet certain standards, then the DPS should be considered. It may also be appropriate to deal with the erection of new, or the replacement of larger structures, such as boathouses. The removal of vegetation or grading activity or retaining walls of a certain scale, would also seem to be activities that could be better managed through a development permit to ensure proper and orderly development.

The flexibility of the DPS allows for the exemption of any defined activities from having to obtain a development permit, and it would seem reasonable that such structures as decks, docks, stairs may be the types of construction activities that would be exempted.

In consideration of the above, staff are seeking direction from Council with respect to undertaking more research in terms of possibly applying a DPS to the lakeside lot/lands. It is proposed that staff would report back to Council with this additional research to help inform a decision as to whether to proceed with a conventional area specific Official Plan and rezoning approach or the implementation of a DPS.

PUBLIC CONSULTATION:

No matter what Official Plan amendment and rezoning approach is undertaken, a key component of this process is public consultation. Input from residents, agencies and other stakeholders is very important in terms of the formulation of land use policies and the specific zoning permissions and standards.

5. RELATIONSHIP TO CORPORATE STRATEGIC PLAN:

This report addresses the following strategic goal:

Goal 4: Provide Exceptional Municipal Services “Organizational and Operations Excellence”.

Action 4.15: Continue the collaborative efforts for resolution of Lake Drive shoreline jurisdiction issues.

6. FINANCIAL AND BUDGETARY IMPACT:

There are no financial or budgetary impacts stemming from this report.

7. CONCLUSION:

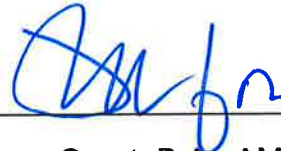
This report presents three approaches for amending the Official Plan and rezoning the lakeside lots/lands of which one is not recommended. In terms of the other two, the first is the traditional area specific Official Plan Amendment and area specific Zoning By-law Amendment. The second approach is to use a DPS. In many ways the scope of a traditional zoning by-law and a development permit by-law are the same. However, under a development permit by-law, supplementary powers are available. The types of issues and challenges that arise when considering the rezoning of the lakeside lots/lands may be better addressed through a DPS by-law, as opposed to a traditional zoning by-law.

Prepared by:



Harold Lenters, M.Sc., MCIP, RPP
Director of Development Services

Approved by:

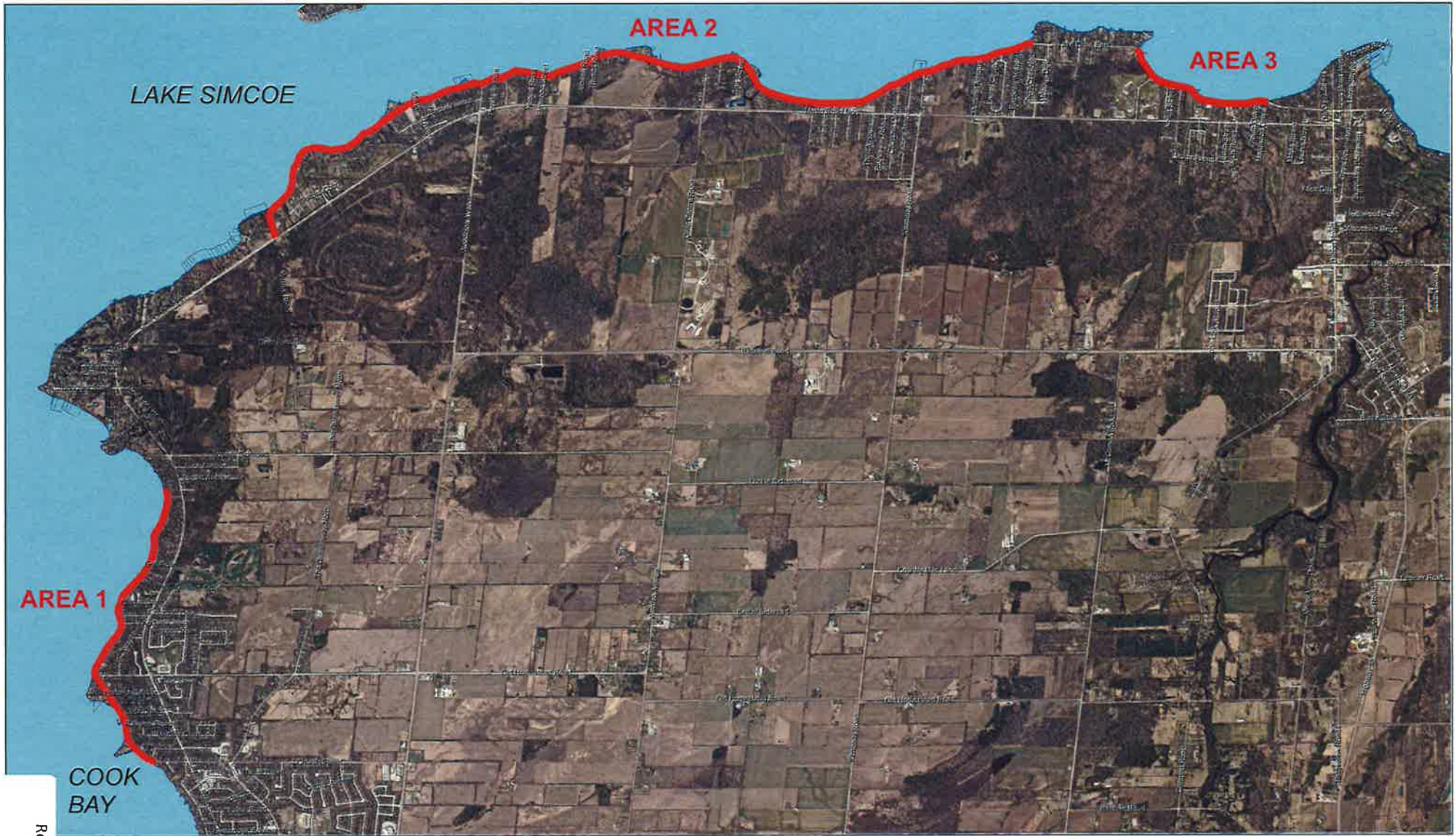


Winanne Grant, B.A., AMCT, CEMC
Chief Administrative Officer

Attachment 1 – Map defining Areas 1, 2 & 3.

Attachment 2 – 2008 Staff Report

Attachment 3 – Provincial Document “Development Permit System: A Handbook for Municipal Implementation”



LEGEND

- █ Town Lands Area 1
- █ Town Lands Area 2
- █ Town Lands Area 3

AREA BASE MAP OF TOWN PROPERTIES FOR POTENTIAL SALE



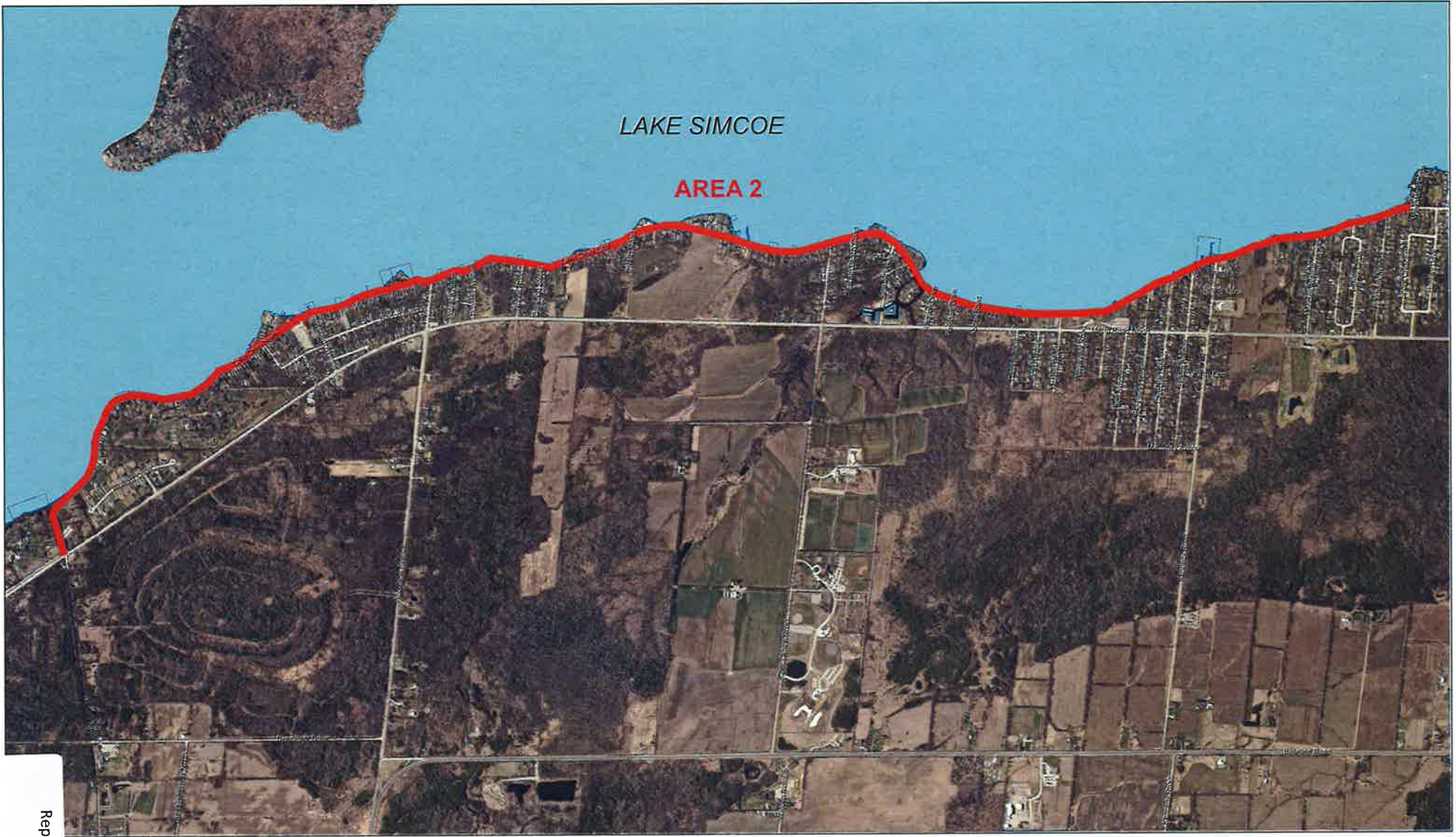


LEGEND

█ Town Lands Area 1

AREA BASE MAP OF TOWN PROPERTIES FOR POTENTIAL SA


N
/



LAKE SIMCOE

AREA 2

LEGEND

 Town Lands Area 2

AREA BASE MAP OF TOWN PROPERTIES FOR POTENTIAL SALE



THE CORPORATION OF THE TOWN OF GEORGINA

REPORT NO. EPW-2008-0036

**FOR THE CONSIDERATION OF
COUNCIL
SEPTEMBER 8, 2008**

SUBJECT: LAKE DRIVE – FENCES, BOATHOUSES, DECKS AND DOCKS

RECOMMENDATION:

- 1. THAT REPORT NO. EPW-2008-0036 BE RECEIVED FOR INFORMATION**
- 2. THAT THE POLICY ATTACHED TO REPORT EPW-2008-0036 IS HEREBY ADOPTED**

REPORT:

Much of Lake Drive from Church Street in Keswick to South Drive in Jackson's Point abuts the shoreline of Lake Simcoe and Cook Bay. In 1992 the Town retained Mr. Rusty Russell to examine ownership and limits of the Lake Drive road allowance between Eastborne and Jackson's Point and he concluded that a valid municipal road allowance was laid out by the Quarter Sessions in 1835 and having a width of 66' measured from the shoreline. There are a number of areas where the road moves away from the shore across points of land as shown on registered plan of subdivision such that the Town does not own to the waters edge in these particular locations.

The Town also retained Mr. Russell in 2006 to examine the ownership of Lake Drive in Orchard Beach from Church Street to Boyers Road. He concluded that the road began as a forced or trespass road but that the limits of the road allowance became determined when plans of subdivisions were registered along the road. Where there is no registered plan the road became a municipal road by virtue of use and the expenditure of funds over time.

The Town has been less than diligent since the time cottage development took place by allowing lot owners to use and make improvements to the portion of the road allowance lying between the travelled road and the shoreline. Buildings, retaining walls, boathouses, sheds, fences, decks, docks and landscaping are common along the lakeshore. The Town solicitor has advised that these items are not permitted to be placed without closing or licensing the portion of the road allowance. The solicitor has also advised that the Town cannot issue building permits, including plumbing permits for the installation of water and sewer service laterals, to the owners of the land abutting on the east and south sides of the road allowance to construct those works on the municipal road allowance.

Notwithstanding the fact the Town owns to the waters edge and the Town cannot issue permits to land owners abutting the east and south sides of the road allowance for structures and services, the Town does not object to these owners making reasonable use and maintaining the road allowance between the travelled road and the lake. Policies have been put in place over the years however it is recommended that these be updated taking into consideration the opinions provided by Mr. Russell regarding ownership and by Mr. Makuch regarding use and issuance of building permits. The various uses of the land by owners abutting the east and south sides of the road allowance are discussed separately.

1. Fences

Many residents want to install fences to prevent vehicles from parking on the grassed areas and to prevent children from running out when going back and forth across the road. The Town has not objected to these fences provided that they do not significantly obstruct the view of the lake nor interfere with snow plow operations. A policy was developed approximately 15 years ago to allow fences provided that fences:

- Are located a minimum of 1.5 metres from the edge of pavement
- Are a maximum height of 1 metre measured from the centerline of road. This would allow drivers, pedestrians, and cyclists to see over the fence and view the lake.
- The area of the fence material does not exceed 50% of the area of the overall length and height of the fence. This is to ensure that is truly a fence and not a wall.
- Fences may only be installed parallel to the road. Perpendicular fences suggesting that a lot line exists are not permitted.

The Town solicitor advised that fences should not be allowed however it is staff opinion that the fences do provide benefits and should be allowed. In some respects these fences are like guide rails.

2. Hedge and Landscaping

Left in its natural state the shoreline supports the growth of trees and brush that almost totally obstructs the view of the lake. Land owners abutting the east and south sides of the road allowance have cleared the lakefront for their own purposes but this also provides a view for all users of the road. It is recommended that lot owners be allowed to remove trees and brush to make this land useable and to provide a view of the lake provided the ground does not become susceptible to erosion. On the other hand trees are an asset and the Town should not be opposed to these owners planting trees and shrubs to landscape the area. An exception to this is planting of hedges as these are

essentially a fence and block the view completely. Hedges may only be 1 metre high when planted but will grow higher and act as a privacy fence. The Town does not want to start taking action to manage hedges that grow too high.

3. Retaining Walls and Grading

Over the years many land owners have re-graded the lakefront and constructed various types of retaining walls to provide more useable level ground. Many of these walls are failing and threaten the stability of the road. Newer owners are asking the Town to repair or replace these walls. Retaining walls of a height less than 0.5 metres do not pose a significant risk of instability and therefore it is recommended that such be permitted. Similarly, re-grading by sloping the bank should be allowed with specific Town approval provided the slope will be stable and will not erode - i.e.: a maximum slope of 3:1 horizontal to vertical.

4. Water and Sewer Service Laterals

Municipal services have been constructed along the subject road. Cabins, bunkies and boathouses have been constructed on the road allowance over the years and inquiries have been made about providing water and sewer services directly to these buildings or by a road crossing to the services for the lands on the east and south side of the road allowance. A plumbing permit is required to install these works and the Town solicitor has advised that the Town is not permitted to issue permits to owners for works on the town road allowance.

Although these existing structures may have some type of plumbing fixtures and perhaps some type of undesirable sewage system or holding tank, it is staff opinion that the adequacy of these facilities should be dealt with on their own and that allowing connections to the municipal system will encourage the continued use of the buildings and may allow interior upgrades to occur without Town approval. For that reason it is recommended that the provision of water and sewer services to buildings on the road allowance not be permitted.

5. Construction and Renovation of Boathouses, Cabins, Sheds, Cabanas, etc. on the Road Allowance

A number of boathouses and cabins have been constructed on the road allowance without approval but no action has been taken by the Town to remove them. Council gave informal direction in 1992 that new structures would not be permitted but that existing buildings could be rehabilitated. In addition, the Town solicitor has advised that the building permits cannot be issued to owners for structures on the road allowance. This would include building permits for renovation. It is recommended that this position be confirmed. This policy should also include the case of buildings less than 10m² where a building permit would not be required. Minor work such as reroofing, new siding and painting that does not require a building permit could be done.

There will no doubt be situations where the building will fall into disrepair and the owners will refuse to do anything. In that case the Town would have a responsibility to remove the structure and the liability that may exist. The Town should remove the owner's permission to use the lakefront if they refuse to remove dilapidated structures or keep them in reasonable condition.

6. Stairs, Decks and Docks

The Town does not object to abutting owners making use of the lakefront and has allowed stairs, decks and docks to be constructed on the road allowance. It is recommended that this practice be allowed to continue provided the structure does not require the issuance of a building permit. This would permit stairs and small decks/docks having an area of less than 10m² and less than 0.6 metres above grade. An alternative to a 10m² deck would be a larger on-grade patio area. Only a portion of docks are located on the Town road allowance with the majority being located on the lakebed. The Town has in the past, and it is recommended that it continue, advised the Ministry of Natural Resources that, as riparian owner, the Town has no objection to the issuance of a work permit to allow the dock to be constructed on Crown land.

7. Construction and Renovation of Boathouses totally on the Lakebed

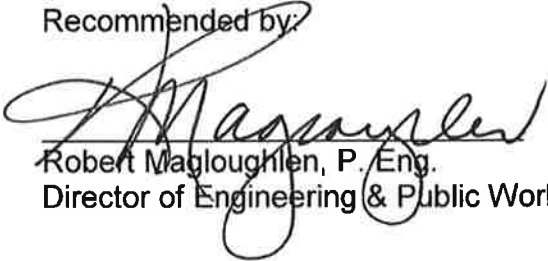
The Town is beginning to be asked by the Ministry of Natural Resources for our comments or objections to the Ministry issuing permits to authorize large boathouses totally on the lakebed. As the abutting riparian owner the Town must support approval being granted to the non-riparian abutting owner wishing to build such a structure.

The surface of the lake is zoned Open Space which permits boathouses no higher than 5 metres if there is a dwelling on the lot with a further restriction that the height cannot exceed 1 metre above the centerline of road if there is no dwelling on the lot and the lot is too small for a dwelling and if the boathouse is within 30 metres of a road.

Does the Town want to permit boathouses to be built in front of its road allowance where it is the riparian owner? For discussion purposes it is recommended that the Town not give its consent to the Ministry to issue permits to construct boathouses in front of the road allowance. It is not a question of the boathouse affecting the Town use of the road allowance but rather it is a question of development along the shoreline. While the Zoning By-law permits boathouses in the water where private lands run to the shoreline, Lake Drive has long been considered a scenic route and the construction of numerous boathouses, even if restricted to only 1 metre above the centerline of the road, does affect the view of the lake and the natural setting. The same can be said of decks and docks however to a much lesser degree. It is recommended that this position be formalized and be included in the proposed policy.

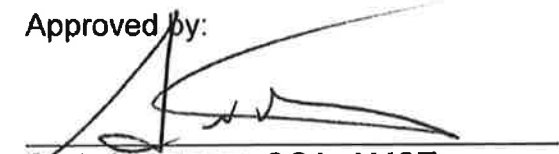
In summary, many activities have been allowed to take place on the Town road allowance since the time that cottage development took place however as the dwellings along the road become more substantial there appears to be more desire by the owners abutting the east and south sides of the road allowance to carry out more significant development of the shoreline. It is recommended that the attached policy be adopted to allow reasonable use of the shoreline but not to allow it to be intensely developed and the appearance that it is private land without any regard to the view that residents and visitors alike enjoy.

Recommended by:



Robert Magloughlen, P. Eng.
Director of Engineering & Public Works

Approved by:



S. N. Armstrong, CGA, AMCT
C.A.O./Director of Administrative Services
and Treasurer

RM/sl
Att.

SUBJECT: Structures on Lake Drive Road Allowance	AUTHORITY: Municipal Act			
DEPARTMENT: Engineering and Public Works	PAGE 1 of 2	DAY 08	MONTH 09	YEAR 2008
Approved By: Council Resolution C-2008-	Contact Position For Info: Director of Engineering and Public Works			

POLICY STATEMENT

That where Lake Drive North and East road allowances run to the shoreline of Lake Simcoe:

1. Abutting owners may construct fences on the lake side of the travelled road provided that:
 - The fence is located no closer than 1.5 metres to the edge of pavement
 - The maximum height is 1 metre above centreline of road
 - Not less than 50% of the fence area shall be open
 - Fences may only be constructed parallel to the road – fences running perpendicular to the road are not permitted
 - Hedges or similar linear plantings are not permitted
2. Trees and brush may be removed by owners abutting on the east and south sides of the road allowance provided that provisions are made to prevent erosion. Trees and shrubs may be planted on the road allowance with the approval of the Town except for the planting of hedges
3. Owners abutting the east and south sides of the road allowance may re-grade the lake side of the road allowance with Town approval provided that retaining walls are no higher than 0.6 metres and slopes shall not be steeper than 3:1 horizontal to vertical and shall be stabilized immediately with staked nursery sod
4. Municipal water and sewer services shall not be extended to any buildings located on the lake side of the road allowance
5. New boathouses, cabins, sheds, cabanas, walls or screens are not permitted on the road allowance. Existing buildings, regardless of size,

POLICY NO: RD 18	PAGE 1 OF 2
-------------------------	--------------------

may only be upgraded if the work does not require the issuance of a building permit for that type of work. Existing buildings severely damaged or destroyed may not be replaced. Owners of existing buildings are responsible to remove dilapidated or unsafe structures. Failure to do so will result in the Town removing same as well as all other facilities and structures on the lakeshore and the owner's right to have use of the road allowance.

6. Stairs, decks, patios and land portion of docks may be constructed on the road allowance with Town approval provided that such structures do not require the issuance of a building permit. The Town will also grant consent, as riparian owner, to the Ministry of Natural Resources to issue work permits to owners abutting the east and south sides of the road allowance to construct docks within the lake

7. The Town will not grant its consent, as riparian owner, to the Ministry of Natural Resources for the construction, replacement or renovation of boathouses located totally on the lakebed where a building permit would be required

BACKGROUND

Most of the road allowance of Lake Drive North and East runs to the shoreline of Lake Simcoe and Cook Bay with a substantial amount of land lying between the travelled road and the shoreline. The Town has allowed certain uses to occur on this land by the owners abutting the east and south side of the road allowance and other uses have occurred without Town approval. It is not the objective of the Town to turn this land into open public space and will continue to allow the abutting owners to use and maintain the land. The above policy sets out the activities that the Town will and will not allow on the untraveled portion of the road allowance.

POLICY NO: RD 18	PAGE 2 OF 2
------------------	-------------

You are here > [Home](#) > [Your Ministry](#) > [Land Use Planning](#) > [Municipal Planning & Development Tools](#) > [Development Permit System \(DPS\)](#) > [Support Materials for the Development Permit System](#) > Development Permit System: A Handbook for Municipal Implementation

Development Permit System: A Handbook for Municipal Implementation

[Email this page](#)

[Print-friendly PDF version](#)

Table of Contents

1.0 A New Planning Tool for Ontario

- [1.1 Introduction](#)
- [1.2 What is the DPS and Why is it Useful?](#)

2.0 Key Features

- [2.1 Flexible and Responsive Development System](#)
- [2.2 Tool to Address Local Planning Needs](#)
- [2.3 Streamlining, Expediting and Facilitating Development](#)
- [2.4 Key Features of the DPS](#)

3.0 Using the DPS to Address Current Planning Issues

- [3.1 Community Design Goals](#)
- [3.2 Sustainable Development](#)
- [3.3 Environmental Protection](#)
- [3.4 Efficient Use of Land](#)
- [3.5 Sustainable Redevelopment](#)
- [3.6 DPS Case Summary; Township of Lake of Bays](#)
- [3.7 Using the DPS - Scenario 1](#)
- [3.8 Using the DPS - Scenario 2](#)
- [3.9 Using the DPS - Scenario 3](#)

4.0 Community Consultation and the DPS

- [4.1 Lessons Learned, Ontario's Demonstration Communities](#)
- [4.2 Importance of Early Public Involvement](#)
- [4.3 Importance of Collaboration](#)
- [4.4 Tools for Public Outreach](#)

5.0 Establishing the DPS in a Municipality

- [5.1 Building the DPS Foundation - Official Plan](#)
- [5.2 Building the DPS Framework - Development Permit Bylaw](#)
- [5.3 Working Within a DPS](#)

6.0 Conclusion



- [6.1 For More Information](#)
- [6.2 Additional Resources](#)

Appendix

- [Appendix 1 - DPS Official Plan Process - Municipality Exempt from Approval](#)
- [Appendix 2 - DPS Official Plan Process - Municipality Not Exempt from Approval](#)
- [Appendix 3 - Development Permit Bylaw Process](#)
- [Appendix 4 - Development Permit Application Process](#)
- [Appendix 5 - Duties of Clerk on Receiving Notice of Appeal for a Development Permit Application](#)

This handbook provides information about the Development Permit System (DPS). It should not be relied upon as a substitute for specialized legal or professional advice in connection with any particular matter.

It is recommended that independent legal or professional advice be obtained in matters relating to the provisions of Ontario Regulation 608/06 under the Planning Act.

1.0 A New Planning Tool for Ontario

1.1 Introduction

The Development Permit System (DPS) is a new land use planning system available to all local municipalities in Ontario. It is a land use approval framework that provides more tools to municipalities to address local planning issues, promote community building and facilitate and streamline development. The DPS can be used to assist strategic, integrated and long-term planning and provides developers certainty, transparency and accountability on the requirements to develop in a DPS area.

Ontario Regulation 608/06 (Development Permits Regulation) came into effect January 1, 2007. Municipalities may choose to establish a DPS in all or part of their municipality.

This handbook has been developed to assist municipalities and others in establishing a DPS in their community. Section 1 of the handbook explains what a DPS is and identifies some of the reasons why a municipality may wish to use a DPS. Section 2 introduces some of the key features of the DPS including how it streamlines the development approval process and provides municipalities with new tools to achieve their local planning goals and objectives. Section 3 provides examples of how the DPS can be used to address current planning challenges and a case summary of the Township of Lake of Bays experience with the DPS. Section 4 recognizes the importance of community engagement and consultation in establishing a DPS and identifies best practices that municipalities may wish to consider when undertaking public consultation on the development of the DPS within their community. Section 5 outlines some of the minimum processes involved, including regulatory requirements, in establishing a DPS.



1.2 What is the DPS and Why is it Useful?

Innovative Planning Tool

Essentially, a DPS contains three components: a policy basis in the official plan (OP); implementing a development permit bylaw; and, a development permit that can be issued as a planning approval. Building on these basic components, the DPS contains a range of planning features that can be used to help develop and achieve a community's future land use vision, provide greater flexibility to meet today's land use planning challenges and at the same time, ensure certainty in the development process.

Ontario Regulation 608/06 revokes and replaces Ontario Regulation 246/01, which allowed the pilot testing of the DPS in five Ontario municipalities. The information obtained from the pilot testing was used to ensure that the DPS is an improved and flexible tool that can be used by all municipalities.

The unique features of the DPS distinguish it from other planning tools, empowering municipalities to achieve their local land use policy goals and key provincial policy objectives. Municipalities can use the DPS to build communities that are sustainable and desirable, and create places where people will want to live, work, play and invest. It supports key priorities of Ontarians such as creating vibrant communities, making more efficient use of land and resources, protecting natural and cultural heritage resources, and conserving energy.

Examples of Land Use Planning Priorities the DPS Can Help Achieve

- Urban design goals, including architectural design and heritage preservation
- Energy conservation and green infrastructure (e.g. green roofs)
- Efficient use of land through compact form, redevelopment and intensification
- Brownfields redevelopment
- Streetscape amenities such as benches, trees and public art
- Transit and pedestrian-oriented development

The DPS can be used in a variety of ways to achieve a number of land use planning goals and objectives. For example, a municipality may wish to establish a DPS in all or part of its community to:

- Facilitate and encourage responsible and appropriate development
- Promote sustainable development
- Protect important local and provincially significant natural heritage features
- Revitalize their downtown and/or waterfront
- Curb urban sprawl through the promotion of intensification and redevelopment of brownfield sites
- Reuse and preserve heritage buildings, conservation districts, landscapes or archaeological features
- Encourage exterior building design that is both innovative and respects neighbourhood character.

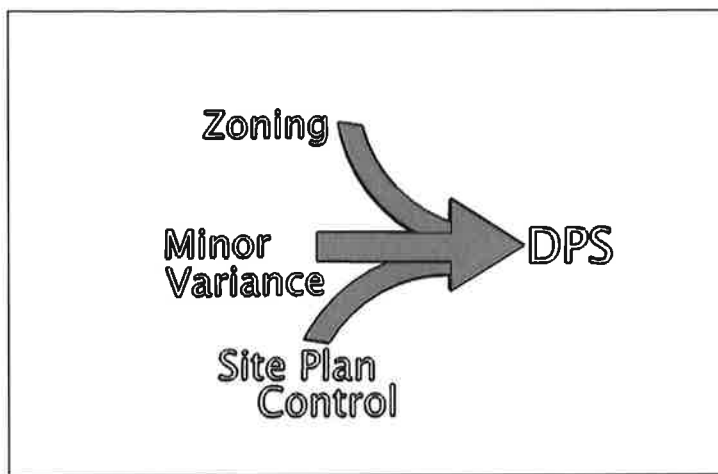
A New Efficient Planning Process

The DPS streamlines and expedites the planning process and *replaces* the underlying zoning and site plan bylaws and minor variance process in the areas in which it is applied. As a streamlined planning process, the DPS can facilitate appropriate development through:

- Providing a “one-stop” planning service by combining zoning, site plan and minor variance processes into one application and approval
- Providing more certainty upfront in the process about the requirements for development
- Establishing faster timelines for decision-making and eliminating potential duplication in approvals.

When a development permit is issued, it is a municipal approval that allows a particular use or development to proceed. At the same time, development permits are a development control tool. As is the case with certain other types of bylaws and approvals issued under the Planning Act, compliance with a development permit bylaw or the issuance of a development permit where development would otherwise be prohibited, are preconditions for obtaining a building permit under the Building Code Act, 1992. Similar to a site plan, development permits may include, for example, attached plans and drawings.

Diagram 1: Three Processes into One



While the DPS is a new innovative tool and provides an alternative planning process that helps to expedite appropriate development, the fundamental principles of planning in Ontario continue. The DPS continues to ensure the municipal and public role in developing the appropriate vision and policies for their community and neighbourhoods. Certainty in the requirements for development is also maintained and respected in the

development process, and the public's role is focused at the front-end of the process when the policies are being established. Once the system is implemented, any changes to the requirements for development require community input and participation, and are subject to appeals to the Ontario Municipal Board (OMB).

The DPS **is not**:

- **a lot creation process** (e.g. subdividing or severing land) - this continues to be a separate and distinct application and approval process
- **a building permit** - an applicant will still need to apply for a building permit before commencing construction.

Did you Know?

A development permit bylaw is deemed to be a bylaw passed under section 34 (zoning) of the Planning Act. The DPS builds upon the provisions in the Planning Act. This means that all of the provisions of the act including the provisions of section 34 and section 41 (site plan) apply, unless they are varied, supplemented or overridden in the Development Permits Regulation.

Generally, the new planning tools introduced through the Planning and Conservation Land Statute Law Amendment Act, 2006, and sections 113 and 114 of the City of Toronto Act, 2006 can be used as part of a DPS or in combination with it to achieve desired results. For example, the DPS can be used to take advantage of the changes made to site plan powers that provide, subject to meeting certain requirements, new authority to municipalities to promote development that is attractive, well-integrated and environmentally sustainable through:

- Enhanced municipal authority to consider exterior design details of buildings
- Broadened municipal authority to require sustainable streetscape improvements on public boulevards adjoining development sites
- Enhanced municipal ability to improve accessibility for persons with disabilities.

2.0 Key Features

The DPS has distinct features that can be used to address today's land use planning challenges and achieve local and provincial planning priorities. The DPS is:

- A flexible and responsive development system
- A tool to assist in the implementation of a community vision and address local planning challenges
- A streamlined system that expedites and facilitates appropriate development and provides certainty to developers on the requirements for development.



2.1 Flexible and Responsive Development System

Before a municipality can issue development permits, the framework for the DPS must first be established in the municipal OP. Council must undertake an official plan amendment (OPA) to identify the DPS area, outline the vision and goals for the area, and provide the policy requirements for how the system will work.

Council must also pass a development permit bylaw for the DPS area. Similar to zoning bylaws, a development permit bylaw outlines:

- How land may be used
- Where buildings and other structures can be located
- The types of buildings that are permitted and how they may be used
- The lot sizes and dimensions, parking requirements, building heights and setbacks from the street.

Permitted and Discretionary Uses

One of the requirements of the Development Permits Regulation is that a development permit bylaw *must* identify and define a list of permitted uses. These uses are permitted, subject to meeting the other provisions of the bylaw.

Unlike traditional zoning bylaws, a development permit bylaw can be used to set out discretionary uses. These are uses that *may* be permitted if the criteria outlined in the development permit bylaw are met. Discretionary uses often require further information to be provided in order to determine the potential impact of the use and its appropriateness in a given area.

Municipalities have the ability to control discretionary uses by setting out the criteria and conditions under which these uses would be appropriate. For example, a municipality may consider a discretionary use appropriate provided that there are no negative impacts on a sensitive environmental area that is adjacent to the site. A municipality may require that certain technical studies be completed to determine the impact of the use and that specified conditions, such as implementing the recommendations of any technical studies (e.g. adequate buffering is provided), be met as part of the approval of a development permit application.

The flexibility to identify discretionary uses is an important feature that can help municipalities address their planning priorities, while still providing certainty in the requirements for development.



Flexible Development Standards

A development permit bylaw *must* set out a list of minimum and maximum standards for development such as lot coverage and parking requirements. This requirement provides landowners with a similar level of certainty in the DPS as exists with traditional zoning.

Similarly, municipalities can use the DPS to establish their minimum front, rear or side yard setbacks, as well as establish permitted height and other zoning standards. As depicted in the diagram, a distinct feature of a development permit bylaw is that municipalities may also establish a specified range of possible variations from the established minimum and maximum standards for development.

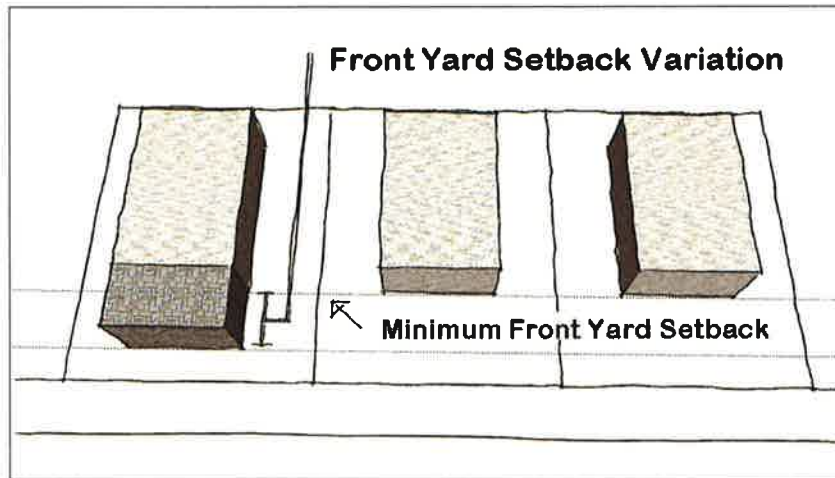


Diagram 2: A Flexible Development System

In this case, a variation of the front yard setback is identified, subject to certain conditions identified in the OP and development permit bylaw being fulfilled, such as appropriate buffering being in place to minimize impacts on abutting properties. Possible variations could be expressed in percentage terms or as an absolute number.

The ability to establish possible variation in standards for development reflects the incorporation of the minor variance process into the DPS. Under traditional zoning, site specific circumstances may require that an amendment or minor variance be sought to permit development on the site. The ability to vary standards for development in the DPS provides communities with the flexibility to deal with site specific circumstances and reduces the need for amendments to the bylaw. However, development applications that do not fall within the established range of possible variation would require an amendment to the development permit bylaw.



2.2 Tool to Address Local Planning Needs

The DPS supports the development of strong, healthy and sustainable communities by expanding the definition of “development” and enabling a broad range of conditions of approval to be imposed; for example, conditions related to the provision of community services and facilities or the preservation of vegetation and green space.

Definition of Development

The definition of “development” in the DPS includes such activities as site alteration and the removal of vegetation. This is a broader definition of development than what is established under section 41 (site plan) of the Planning Act. This broader definition enables municipalities to expand the type of activities that could require a development permit be issued before any such activities were undertaken.

This feature means that municipalities can use the DPS to regulate tree-cutting and site alteration processes, which are normally established under the authority of the Municipal Act, 2001 or the City of Toronto Act, 2006.

When Can Conditions Be Applied?

The Development Permits Regulation provides that a development permit application may be approved with conditions imposed *prior* to the issuance of a development permit. These conditions must be met or “cleared” before a development permit is issued. This type of approval establishes that the development proposal would be considered appropriate provided that the specified conditions are fulfilled. An example of this type of condition may include that any plans or drawings submitted must meet OP and development permit bylaw requirements for sustainable streetscape improvements (e.g. bicycle parking facilities) and the provision of lands for public transit and sidewalks.

Ongoing conditions can help achieve important priorities such as environmental protection, ground and surface water protection, and brownfield redevelopment.

The DPS also enables conditions to be *attached to the* issuance of a development permit (or to both be imposed prior to issuance *and* attached to a development permit). Often, these types of conditions cannot be fulfilled prior to the issuance of a development permit or even a building permit, but can only be undertaken or fulfilled over time, after the proposed development has been built. For example, this type of condition could include ongoing monitoring requirements that are considered necessary for the protection of public health and safety, or the natural environment.



Prescribed Limitations on the Use of Conditions

The DPS provides the authority for the municipality to impose a broad range of conditions provided that they are “reasonable for and related to the appropriate use of the land” and that the following criteria are met:

The conditions must:

- Be specified upfront in the OP and development permit bylaw
- Not conflict with federal and provincial statutes and regulations.

Conditions which are imposed must:

- Be clear, precise and quantifiable
- Include a clear statement of whether the condition must be complied with before construction, renovation or change of use of a building or structure
- Not deal with interior design, the layout of interior areas (other than walkways, stairs, elevators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings), or the manner of construction and construction standards.

Examples of Conditions Which Are Permitted

To assist users of the DPS, section 4 of the Development Permits Regulation provides examples of the types of conditions which are permitted. These include conditions:

- Permitted through section 34, 40, 41 and 42 of the Planning Act (zoning, parking, site plan and parkland dedication requirements)
- Related to the removal or restoration of vegetation
- Related to site alteration, including but not limited to alteration or restoration of the grade of land and the placing or dumping of fill
- Related to ongoing monitoring requirements for the purposes of protecting public health and safety and the natural environment
- Related to environmentally-sensitive land, such as marshy lands, contaminated lands or sensitive areas, and natural features and areas
- Related to the provision of specified facilities, services and matters which may be requested in exchange for specified density or height, or increases thereof, provided the exchange is quantified.

2.3 Streamlining, Expediting and Facilitating Development

Faster Review Timelines and One Approval and Application

The DPS establishes expedited timelines for the review of development permit applications. Review timelines for the consideration of development permit applications are 45 days compared to 120 days for a rezoning, 30 days for site plan approval and 30 days for minor variances. If a municipality fails to make a decision after the 45 days has elapsed, an applicant has the right to appeal their application to the OMB.

With one approval for one application that combines the zoning, minor variances and site plan processes, the DPS offers a more streamlined development process. This eliminates potential duplication in the process and promotes the convenience of a “one-window” approach for these planning matters.

Did You Know?

While providing for faster timelines than zoning applications, the DPS also facilitates the ability of municipalities to undertake a faster municipal review and helps facilitate appropriate development. For example:

- The clear and upfront identification of the requirements for development in the OP and development permit bylaw facilitates review of application
- The ability to require additional information as part of a development permit application means that municipalities have all the information they need to make informed and timely decisions
- The ability for decisions on development permit applications to be delegated from municipal council to a committee appointed by council or to a municipal employee means that applications do not need to be delayed due to busy council schedules
- Public input and appeals are focused at the front of the process, not at the development permit stage.

Front-end Appeals

As a *policy-led* system, the public participation and appeal process in the DPS is focused at the *front-end* of the process when the vision for the community is being established. Similarly, the public is involved if an application is made to change established OP policies or an established development permit bylaw. The community’s participation and input can help shape the policies of the DPS and how the system will work within the DPS area. Any interested party who has made a submission to council before council makes its decision on establishing a DPS or making changes to an established DPS, can appeal council’s decision or non-decision to the OMB.

Any interested party can appeal any of the conditions identified in the OP and/or development permit bylaw to the OMB at the time that the bylaw is being established. Once the DPS is in effect, only the development applicant can appeal any imposed conditions to the OMB.

Once the DPS is established and in effect, only the applicant has the right of appeal to the OMB in respect of development permit applications. This is similar to the appeal structure for site plan applications where only the applicant has the right to refer the matter to the OMB.



Enhanced Information Requirements

Information and material that must be provided in an application for a development permit is prescribed in Schedule 1 of the Development Permits Regulation. Through their OP policies, municipalities have the ability to require additional information and materials that must be submitted with development permit applications in order for the 45-day decision timeline to start. This allows municipalities to have all the information they need upfront and early in the process for them to make decisions within the prescribed timelines.

The ability to enhance the information requirements of a development permit application benefits municipalities, the broader community and landowners, providing certainty for all parties to know upfront what is required to make an application.

Recognizing that it may not be appropriate in every case (e.g. a development permit application for an extension of an existing deck) to require an applicant to provide all of the prescribed information, the DPS allows municipalities to exempt classes of development or uses of land from some or all of the application requirements. This offers municipalities and developers a flexible planning process and can facilitate appropriate development.



Delegation of Decisions

The DPS gives municipalities the authority to set up their own internal review process for development permit applications. Council may delegate to a committee, including a committee of council or an employee of the municipality, the authority to make decisions on development permit applications, including the ability to:

- Approve or refuse applications
- Issue development permits
- Impose conditions on a development permit application prior to the permit being issued
- Attach conditions upon the issuance of development permits
- Enter into agreements with respect to conditions imposed in relation to development permits.

To facilitate their review of development permit applications, municipalities may consider establishing a two-tiered system by which more complex applications will be reviewed by council while straightforward applications can be delegated to a municipal official or committee.

Delegated authority and any limitations thereto must be set out in the OP and development permit bylaw. The ability to delegate authority in respect of development permits helps expedite and facilitate development as decisions on applications do not have to depend on council schedules.



2.4 Key Features of the DPS

Streamlining

- Faster review timelines
- One application and approval process
- Front-end appeals
- Ability to enhance application requirements
- Ability to exempt specified classes of development/uses of land from application and information requirements
- Ability to delegate decisions on development permit applications from council to committee or designated employee

Flexibility

- Flexibility in uses: permitted and discretionary uses
- Flexibility in development standards: ability to vary standards within specified range of possible variation
- Broad range of conditions of approval can be imposed prior to a development permit being issued and/or attached to a development permit

Environmental Protection

- Broader definition of "development", which includes the removal of vegetation and site alteration
- Discretionary uses permitted provided criteria are met
- Broad range of conditions of approval can be imposed including conditions related to vegetation restoration, site alteration and ongoing monitoring requirements to protect natural environment and public health and safety

Community Involvement

- Key community role and input
- Involvement in establishing strategic land use vision and requirements for development which are incorporated into the OP and development permit bylaw
- Appeals at the front-end

Strong Communities

- Broad range of conditions of approval can be imposed including conditions related to sustainable streetscape improvements, provision of community facilities and services, heritage preservation and community design

3.0 Using the DPS to Address Current Planning Issues

This section builds on the key features identified in the previous section by providing examples of how the DPS could potentially be used to address multiple planning challenges that communities may have. This includes using the DPS to promote:

- Community design goals
- Sustainable development
- Environmental protection
- Efficient use of land
- Sustainable redevelopment (brownfield redevelopment).

A case summary of the application of the DPS in the Township of the Lake of Bays is also included in this section, along with scenarios of the potential application of the DPS.

3.1 Community Design Goals

Through the DPS, municipalities can ensure that new development fits within the surrounding built environment. In their DPS, municipalities can utilize the enabling provisions in the Planning Act that allow them to consider the exterior design details of buildings (such as architectural details, texture and window details) which influence a building's character, scale, appearance and environmental quality. This can improve a building's relationship with other buildings and landscapes on and surrounding a development site, and its interface with public spaces such as parks, walkways, plazas and streets. This ability strengthens a municipality's capacity to maintain and enhance the look and feel of main streets, town centres, neighbourhoods and heritage areas.



Protecting and Enhancing a Community's Built Heritage

Municipalities can use the DPS, together with the powers to protect heritage properties under the Ontario Heritage Act, to improve the quality and character of a community's built heritage resources and/or cultural heritage landscapes by:

- Establishing clear and upfront OP policies and development permit bylaw provisions to ensure that new development is designed to be sympathetic to any significant heritage features, attributes and characteristics of surrounding building and spaces
- Providing detailed criteria about how built heritage resources and/or cultural heritage landscapes can be assessed, improved and adaptively re-used
- Imposing conditions that complement bylaw provisions dealing with individual properties and heritage conservation districts designated under the Ontario Heritage Act, to ensure conservation of all identified heritage attributes associated with such properties.

The DPS also allows municipalities to identify discretionary uses which can facilitate the adaptive reuse of heritage properties. For instance, a built heritage property may be redeveloped for a discretionary use provided the development addresses the protection of the identified heritage attributes and features of that property. Technical studies may be required to assess the impacts of the proposed development and to identify any mitigation or conservation strategies if the discretionary use were to be permitted.

Opportunities to Support Community Design Goals

- Through the DPS, municipalities can utilize community design tools
- Qualified design professionals such as architects, landscape architects and planners can use their expertise to develop and interpret OP community design policies and development permit bylaw provisions
- To enhance the municipal design review process of the DPS, a municipality could establish a voluntary advisory design review panel to provide independent, professional and objective advice on design issues
- An advisory design review panel could consider a wide range of design issues such as exterior design details of buildings, massing, building scale, site layout, signage, landscaping and community character as

set out in the OP and development permit bylaw

- By establishing design review panels, municipalities could take advantage of the technical skills and aesthetic expertise of qualified people to achieve municipal design objectives
- Some Ontario municipalities including the City of Toronto, City of Ottawa and City of Niagara Falls have already established design review panels.

3.2 Sustainable Development

The DPS can help support environmentally sustainable development as municipalities can utilize provisions in the Planning Act to secure sustainable streetscape improvements such as landscaping, permeable paving materials, street furniture and bicycle parking facilities.

With the DPS, municipalities could impose conditions to promote environmentally sustainable development. For example, municipalities could impose conditions to address on-site stormwater management including conservation requirements, collection requirements and discharge conditions. Municipalities could also impose conditions to ensure that impermeable surface paving is used to prevent contamination in industrial use areas or that permeable surfaces would be provided to allow water recharge in other areas.



Municipalities can use the DPS to work with development proponents to secure sustainable design features on building exteriors such as green roofs and photovoltaic cells, where this is feasible. Sustainable design features such as these can bring many benefits to a community and contribute to reducing a development's ecological footprint and reduce its overall energy consumption. For example, among other benefits, green roofs can improve air quality and a building's aesthetics, provide more green space, reduce the urban heat island effect and improve stormwater management.

3.3 Environmental Protection

Protecting Environmentally Sensitive Areas

The DPS can also be used to help protect environmental features and at the same time provide flexibility to encourage appropriate development. Through the discretionary use provisions of the DPS, municipalities have a greater range of options in dealing with environmentally sensitive or hazardous areas, such as marshy or flood-prone lands, contaminated lands, sensitive lands, and natural features and areas.

Previously, municipalities have only had the option of prohibiting development in these areas in order to protect them, allowing development by rezoning to proceed only after technical studies have been completed. With the DPS, an environmentally sensitive area, where appropriate, may have discretionary uses permitted provided that development and site alteration are not prohibited and specified criteria and conditions are met.

Discretionary Use Example

A development could be permitted within an environmentally sensitive area, such as a groundwater recharge area, provided that:

- Development and site alteration are not prohibited
- A hydrogeological study is undertaken demonstrating that there will be no negative impact
- Any recommendations for mitigation and buffering are fully implemented.

Protecting and Enhancing Vegetation

One of the key features of the DPS is the definition of “development”, which includes site alteration and the removal of vegetation. This allows municipalities to better address matters that can only be partially addressed through site plan control such as the removal or restoration of vegetation, the protection and preservation of existing natural vegetation and the placement of fill. For example, the DPS could be used to maintain or enhance natural, self-sustaining vegetation on a site that provides connectivity between natural features.

Protecting the Natural Environment Through Monitoring

Municipalities can also facilitate environmental protection by using the DPS to impose a broad range of conditions. The DPS provides the ability to apply ongoing conditions such as those related to periodic monitoring requirements that are considered necessary for the protection of the natural environment, and public health and safety. For example, as part of a development permit a municipality could impose ongoing conditions to monitor the quality of ground water or the function of natural heritage features after a development has been built with the results having to be reported to the municipality for an established time period (e.g. three years). The results of the monitoring may necessitate mitigation to ensure that the ground water quality is maintained or enhanced to an appropriate standard.



3.4 Efficient Use of Land

The DPS can help municipalities promote the efficient use of land by enabling municipalities to facilitate redevelopment and intensification. Facilitating appropriate redevelopment and intensification helps to achieve the objectives of provincial policies (e.g. the Provincial Policy Statement, 2005) and provincial plans (e.g. Growth Plan for the Greater Golden Horseshoe), while helping to curb urban sprawl and preventing urban encroachment on Ontario's natural resources.

Communities can use land more efficiently by facilitating appropriately designed buildings at a higher density, promoting mixed land uses and increasing opportunities for compact form and redevelopment. Using land more efficiently reduces costs for municipalities and developers by taking advantage of existing servicing such as sewer, water, roads and other infrastructure. It can also help lead to more lively and vibrant communities with less traffic congestion by creating walkable neighbourhoods. Where densities are higher and there is a mix of land uses, people generally drive less and take fewer and shorter trips, helping to improve air quality and create healthy, active communities.



Places to Grow

In June 2006, the Growth Plan for the Greater Golden Horseshoe was released under the authority of the Places to

Grow Act, 2005. The Growth Plan provides a comprehensive 25 year vision for the Greater Golden Horseshoe with policies designed to:

- Revitalize downtowns to become vibrant and convenient centres
- Create complete communities that offer more options for living, working, shopping and playing
- Provide greater choice in housing types to meet the needs of people at all stages of life
- Curb sprawl and protect farmland and green spaces
- Reduce traffic gridlock by improving access to a greater range of transportation choices.

The Growth Plan contains intensification policies and targets that direct growth to built-up areas in the Greater Golden Horseshoe and requires designated greenfield areas to be designed in a compact and attractive manner that is transit-supportive. Intensification will enable municipalities in the Greater Golden Horseshoe to accommodate future population and employment growth, while reducing pressures for the urbanization of important natural heritage and agricultural lands.

To promote a policy-led land use planning system and to encourage intensification, the DPS allows municipalities to have increased flexibility over matters such as land uses, density, setbacks, design and community services. A municipality could identify, upfront, the range of permitted uses, the scope of conditions and the range of possible variation in standards in the OP and development permit bylaw, and address site-specific development issues, such as urban design, land use compatibility, parking and sun shadowing, at the development permit stage.

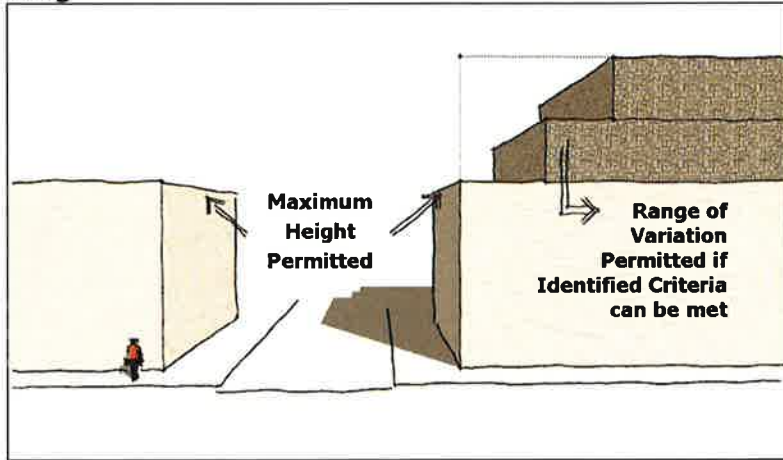
The DPS can be used to help achieve provincial policy direction to use land more efficiently and affordable housing objectives by promoting a range of housing types and densities, permitting garden suites and secondary units in different housing types and encouraging mixed use development by providing for a wide range of discretionary uses provided certain criteria are met.

The DPS can help municipalities incorporate flexible, alternative development standards to facilitate higher density, mixed use development that helps to promote affordable housing. For example, a municipal DPS can utilize provisions provided in the Planning Act and progressive development standards to require minimum height and density levels, smaller lots and narrower streets. Unique to the DPS, municipalities have added flexibility to facilitate alternative development standards by establishing a specified range of possible variation from identified standards for development. For instance, it can be used to reduce parking space requirements without the need for a minor variance application and promote increased height and densities, and reduced setbacks, to use existing infrastructure more efficiently.



As depicted in the drawing, permitted height could potentially be varied within a specified range by a certain amount (e.g. two storeys) subject to identified criteria being fulfilled, such as stepping back of additional height from the streetline to reduce shadowing and ensure a desirable relationship with the existing look and feel of the neighbourhood.

Diagram 3: Variation from Identified Standards for Development



Transit-supportive and Pedestrian-oriented Development

Through specifying minimum and maximum development standards and the use of conditions of approval, municipalities can use the DPS to require more transit-supportive and pedestrian-oriented development in close proximity to existing or planned transit routes.

The DPS allows for a broad range of discretionary uses that can be used to promote a mix of land uses within an area. This supports the principles of transit-supportive and pedestrian-oriented development to support lively, well-integrated communities. The DPS also provides opportunities for alternative transportation opportunities by allowing municipalities to secure streetscape improvements such as street furniture and bicycle parking facilities. Municipalities can also use the DPS to require the provision of land for a public transit right of way.

By facilitating intensification and supporting transit-supportive development patterns, the DPS also helps municipalities to limit urban sprawl and promote better use of existing infrastructure.

3.5 Sustainable Redevelopment

Brownfields are often strategically located, former industrial and commercial properties that may be contaminated due to legacy operations and have the potential for redevelopment. Utilizing brownfields can be an efficient and sustainable way for municipalities to meet their land use planning goals such as economic development, revitalization, intensification and source water protection.



To ensure a property is safe for redevelopment, the Environmental Protection Act sets out a process for identifying contamination and the provincial standards for remediation. Depending on the previous land use

activity a record of site condition (RSC) may be mandatory (e.g. when changing to a more sensitive use) and is “applicable law” under the Building Code. Property owners may also file a RSC to certify the condition of a property for a variety of other reasons including a condition of sale, to secure financing, to obtain development approval or to be eligible for financial incentives.

Municipalities must balance the economic benefits of brownfield redevelopment with long-term protection of the environment and human health. The flexibility of the DPS enables municipalities to meet local environmental and land use objectives while providing certainty and a faster decision-making process for property owners undertaking redevelopment.

Ultimately, at the end of the brownfield redevelopment process, the objective is to redevelop the property into something that is sustainable, breathes new life into the community, enhances environmental and human health and increases the value of the actual property and those surrounding it. If contamination is present, considerable time and financial resources may be required to file a RSC. Through the ability to approve development permit applications and impose conditions prior to issuing a development permit, the DPS may be a way to offer property owners greater upfront certainty regarding their ability to redevelop, while at the same time achieving the due diligence that the municipality requires.

In situations where the mandatory requirement for a RSC will be triggered prior to issuing a building permit, municipalities working within a DPS could alert the property owner to this requirement when a project is proposed and approval can be granted under the DPS without making a RSC a condition of approval. On the other hand, in situations where a RSC is not required by regulation, a municipality could use the DPS to approve a development permit application provided that a RSC is filed as a condition that must be met before a development permit is issued.

The following chart outlines examples of potentially permitted and discretionary uses under a DPS bylaw with examples of: associated criteria and studies that must be met for discretionary uses to be permitted; conditions to be met before a development permit is issued; and, conditions attached to a development permit. The chart is intended only to illustrate an example of a range of criteria and conditions that a municipality may require. The specific conditions used will depend on the local situation and the specific improvements, conveyances and agreements listed here may be appropriate in some circumstances but not in others. The types of criteria and conditions to be applied in a particular municipality will be stated in the OPA and bylaw establishing the DPS.

Chart 1: Brownfields Redevelopment and the DPS

Type of Uses	Use	Potential “Criteria” for Approval	Example of Study Required to Meet “Criteria”	Potential “Conditions” to be Met Before Issuing a Permit	Potential “Conditions” Attached to a Permit
--------------	-----	-----------------------------------	--	--	---

Type of Uses	Use	Potential "Criteria" for Approval	Example of Study Required to Meet "Criteria"	Potential "Conditions" to be Met Before Issuing a Permit	Potential "Conditions" Attached to a Permit
<p>Permitted Use</p> <p>As Defined by DPS By-law</p>	<p>Proposed Industrial Use on a Former Industrial Site</p>	<p>Not applicable for permitted uses</p>	<p>Not applicable for permitted uses</p>	<p>Proposal addresses requirements of OP and bylaw for:</p> <ul style="list-style-type: none"> • Collection and discharge measures for on-site stormwater • Permeable surface paving • Landscaping to minimize noise disruptions • Lighting to be directed away from residential areas 	<p>Monitoring and upkeep of on-site mitigation measures to meet performance standards</p> <p>Permeable pavement retained or an equivalent used in its place</p> <p>Ongoing presence of landscaping used for noise mitigation</p>

Type of Uses	Use	Potential "Criteria" for Approval	Example of Study Required to Meet "Criteria"	Potential "Conditions" to be Met Before Issuing a Permit	Potential "Conditions" Attached to a Permit
<p>Discretionary Uses</p> <p>As Defined by DPS By-law</p>	<p>Proposed Commercial Use on a Former Industrial Site</p>	<p>New development can be supported by the transportation network</p> <p>Parking facilities are adequate to accommodate the new development</p> <p>Site/soil conditions do not exceed provincial environmental standards for commercial use</p>	<p>Transportation impact study</p> <p>Parking impact study</p> <p>Phase I and II Environmental Site Assessments</p>	<p>construct multi-storey above ground parking facility (footprint X % of total site) with architectural design to limit visual impacts</p> <p>If contamination exceeds provincial environmental standards for commercial use, cleanup occurs and RSC is filed</p>	<p>Specified minimum number of parking spaces retained for public use*</p>

Type of Uses	Use	Potential "Criteria" for Approval	Example of Study Required to Meet "Criteria"	Potential "Conditions" to be Met Before Issuing a Permit	Potential "Conditions" Attached to a Permit
Discretionary Uses As Defined by DPS By-law	Proposed Residential Use on a Former Industrial Site	<p>Parkland linked to regional open space system to be provided on sites exceeding X hectares in area</p> <p>Access to local transit service is available on site</p> <p>Development design provides for energy conservation</p> <p>Meets municipal design criteria/ guidelines</p> <p>Site/soil conditions do not exceed provincial environmental standards for residential use</p>	<p>Conceptual plan showing that parkland can be integrated into regional system</p> <p>Report showing transit availability</p> <p>Energy conservation feasibility study</p> <p>Conceptual design plan</p> <p>Phase I and II Environmental Site Assessments</p>	<p>Parkland dedication shown in plans</p> <p>Plans show accessible transit shelter(s)</p> <p>Building oriented to maximize solar gain</p> <p>Exterior architectural design consistent with heritage buildings</p>	<p>Parkland conveyed to municipality</p> <p>Cash paid to municipality in lieu of any portion of parkland that cannot be provided**</p>

* This requirement for filing a RSC is a municipal requirement and not mandatory under O.Reg. 153/04.

** NOTE: When a property is changed to a more sensitive use as in this example, a RSC is required prior to the issuance of a building permit as per O.Reg. 153/04, therefore, it is not necessary to require a RSC as a condition of a municipal development permit.

3.6 DPS Case Summary: Township of Lake of Bays

The DPS can be used in greenfield and redevelopment situations and in both rural and urban municipalities. The following case summary provides an example of the DPS being used in a rural municipality.

DPS Pilot Testing Background

In 2001, Ontario Regulation 246/01 enabled the Township of Lake of Bays and four other pilot municipalities to establish a DPS in their municipalities. The intent of piloting the DPS was to test the effectiveness of the system and identify any unanticipated implementation issues with the legislative framework prior to making it available to all Ontario municipalities.

The five pilot municipalities and the DPS goals for which they were selected include:

- **Region of Waterloo:** to facilitate protection of groundwater from potential contamination from existing and approved uses in sensitive wellhead areas.
- **District of Muskoka / Township of Lake of Bays:** to enable better regulation of development and protect water quality in environmentally sensitive shoreline areas.
- **City of Toronto:** to facilitate development/redevelopment/brownfields redevelopment of the Central Waterfront and Port Lands.
- **City of Hamilton:** to ensure compatibility of new development/redevelopment with the form and character of historic Gore area in the city's downtown.
- **Town of Oakville:** to facilitate a comprehensive mixed use redevelopment planned by the town; to facilitate brownfields revitalization, to support integrated bus and rail transit terminals, and investment in infrastructure.

The Township of Lake of Bays: An Opportunity

Located in the northeast corner of the District of Muskoka, the Township of Lake of Bays offers a natural landscape of forests, rocks, lakes and wetlands. Because of its natural beauty, it is an important cottage, recreation and tourism destination in Ontario. The small communities of Baysville, Dorset, Dwight and Hillside as well as waterfront and rural areas provide various types of settlement and commercial opportunities. Currently, the economy of the Township is primarily based on tourism, recreation and the service sector with forestry and aggregate extraction contributing as well. The Township of Lake of Bays with its permanent population of 3,000 and seasonal population of 18,000 encompasses approximately 66,000 hectares (163,083 acres) of land.

The Township of Lake of Bays and its communities are committed to the protection of their shorelines, recognizing the importance these areas have in protecting the health of their lakes. Shorelines are essential to the lake and land ecosystems as they provide valued habitat, spawning and feeding areas for aquatic life and other animals. Shorelines also provide residents and visitors with scenic landscapes and vistas. The preservation of vegetation is critical as it provides a natural buffer against the visual impacts of development. The DPS helps protect shoreline areas through provisions that limit the amount of shoreline development and vegetation removal by landowners.

As noted in the Township of Lake of Bays Waterfront Area Information Brochure, some of the elements of their DPS include:

- Removal of any vegetation within 66 ft or 100 ft of the water's edge requires a development permit, depending on the lake the property is on
- Depending on the lake the property is on, the setback for structures from the water's edge may be either 66 feet or 100 feet
- A development permit may be required prior to site alteration or removing vegetation within wetlands, steep slopes or identified natural heritage areas.

For more information, please refer to the Township's bylaw itself, which is available along with other information related to the bylaw at: www.lakeofbays.on.ca.



Achievements and Benefits

The Township of Lake of Bays Development Permit Bylaw (Bylaw 04-180), came into effect on January 1, 2006 and established a DPS in the township. As identified in their DPS handbook, the Township of Lake of Bays decided to proceed with the development and design of their DPS because:

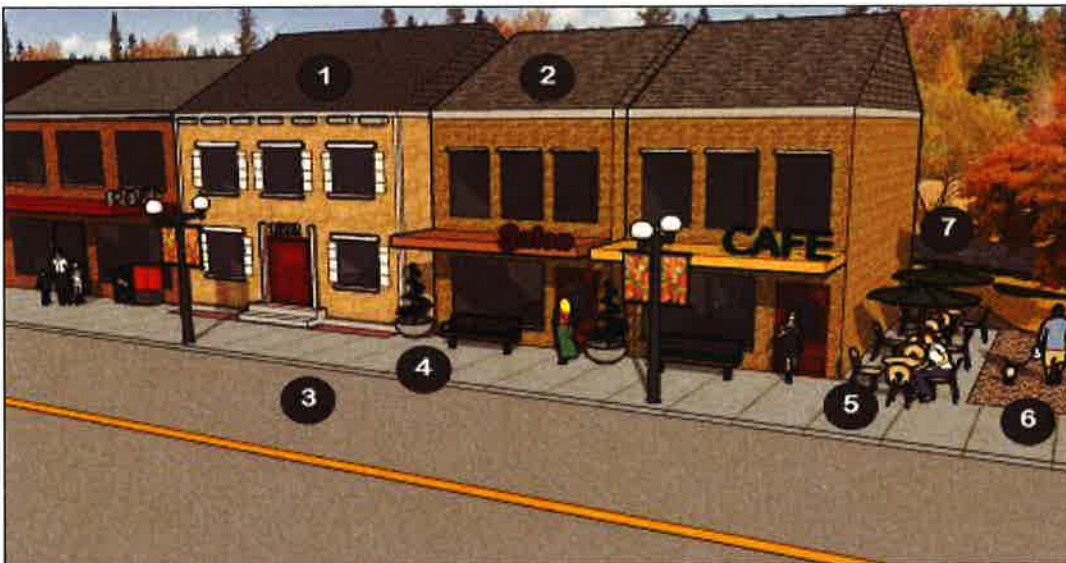
1. The new planning system, including the innovative tools it offers, was a logical extension of the innovative community-based planning that has already occurred in Lake of Bays through the visioning and OP processes.
2. The DPS offers the tools to implement the policies of the OP regarding environmental values and preservation of natural shorelines, primarily through the ability to address site alteration and vegetation removal. For example, a development permit may be required prior to site alteration or removing vegetation.
3. The DPS offers the potential to streamline the planning process for the public as well as council and staff by combining the zoning amendment, minor variance and site plan approval processes.
4. A development permit bylaw offers the opportunity for the municipality to clearly outline development requirements and conditions, and the rules by which applications will be reviewed.

While only the Township of Lake of Bays has implemented the DPS and is issuing development permits, each of the pilot municipalities supported the principles of the DPS as a new planning tool with tremendous potential to better address land use planning challenges. Information received from all of the pilot areas was important in determining the required amendments to create an improved DPS. The new Development Permits Regulation addresses the key challenges identified by the pilot municipalities and enables all of Ontario's local municipalities to establish a DPS in their community.

Besides the greater level of protection the DPS provides for the Township of Lake of Bays shoreline, waterfront and vegetation, the DPS has also been used for several planning applications in the Township including requests for new decks, docks and dwelling extensions, which streamline the planning process by reducing the various types of applications normally needed for these development proposals and thus expediting development.

3.7 Using the DPS - Scenario 1

Subsections 3.7-3.9 provide illustrations of the flexibility of the DPS as a tool that can be used to address key planning issues in different situations and contexts.



1. The DPS can facilitate cultural heritage protection from the impacts of development or redevelopment by requiring technical studies to determine whether a proposed use is appropriate and conserves the heritage attributes of a heritage property.
2. The DPS can help communities ensure the compatibility of new buildings with existing community design through conditions related to the exterior design of buildings. Minimum/maximum development standards can also be used to maintain the look and feel of Main Street.

3. With the DPS, a minor variance is not necessarily needed to permit a reduction in the number of parking spaces required for the new development. Local requirements could allow a proponent to contribute cash in lieu of parking.
4. With the DPS, municipalities have authority to secure sustainable streetscape improvements such as landscaping and street furniture, which can help build a pedestrian-friendly environment.
5. The flexibility of the DPS allows municipalities to deal with site-specific circumstances; for example, a patio could be permitted as a discretionary use. Compared to traditional planning processes the DPS can help avoid a zoning bylaw amendment or a minor variance and site plan application.
6. The DPS can be used to promote environmental sustainability through conditions requiring permeable paving materials to allow for water recharge.
7. As part of the approval of the new development, municipalities can impose conditions to monitor the quality of surface water and the function of natural heritage features to ensure the new development does not have negative impacts.



3.8 Using the DPS - Scenario 2



1. With the DPS, municipalities have the ability to maintain and enhance the look of town centres through enhanced authority to consider a wide range of design issues such as exterior design details of buildings, massing, building scale, site layout, signage and landscaping.
2. As part of the approval of new development, municipalities can impose conditions related to the provision of specified community services/facilities in exchange for specified density or height or increases thereof, if OP policies are in place. For example, the provision of public art could be required.
3. With the DPS municipalities can utilize enhanced authority to secure sustainable streetscape improvements such as bicycle parking facilities, which provide for alternative transportation opportunities.
4. The DPS allows municipalities to identify discretionary uses that may be permitted provided certain criteria are met. For instance, an old industrial building that is identified under the Ontario Heritage Act as a listed or designated built heritage property may be adaptively reused for a discretionary use (e.g. residential) provided that, among other criteria, the development addresses the protection of the identified heritage attributes and features of that property. Technical studies by heritage building specialists may be required and undertaken to assess the impacts of the proposed development and to identify any mitigation or conservation strategies if the discretionary use were to be permitted.



3.9 Using the DPS - Scenario 3

South West Facing View



1. Using the DPS, municipalities can work with development proponents to secure sustainable design features on building exteriors such as green roofs and photovoltaic cells, where this is feasible.
2. The DPS helps facilitate accessibility by allowing municipalities to consider and impose conditions having regard to the accessibility of a development proposal. For example, curb cuts, entrance ramps and amenity strips on sidewalks could be required.
3. The DPS provides for alternative transportation opportunities by allowing municipalities to secure streetscape improvements and to require the conveyance of land for a public transit right of way. For example, as part of the approval of new development the provision of a transit shelter and dedication for a transit cut-out could be required.



East Facing View



1. The DPS provides flexibility by allowing for a specified range of possible variation from established standards if certain conditions are met, such as stepping back of additional height from the streetline to reduce shadowing or ensuring compatibility with the existing neighbourhood look and feel.
2. With the DPS, municipalities can impose conditions as part of the approval of new development related to the provision of specified community services/facilities in exchange for specified density or height, or increases thereof, if OP policies are in place. For example, the provision of a cash in lieu contribution for community recreational facilities could be potentially required.
3. A minor variance or zoning bylaw amendment is not needed to permit a reduction in setbacks for applications that fall within the specified range of possible variation. For example, as part of the approval of new development and to facilitate intensification, front yard setbacks could potentially be reduced to zero depending on how a municipality designs their DPS requirements. This provides municipalities with the flexibility to address site specific circumstances while streamlining the application/approval process.



4.0 Community Consultation and the DPS

The DPS emphasizes upfront community consultation, focusing public input at the policy and development criteria formation stage, so that the community vision can be implemented and realised at the permit application stage.

4.1 Lessons Learned, Ontario Demonstration Communities

When the DPS was first being considered in Ontario, three demonstration municipalities, the City of Hamilton, Township of Lake of Bays and the Town of Oakville conducted community information/consultation sessions on a broad range of subjects related to the DPS. These sessions produced best practices for an effective delivery of the community consultation process.

Did you know?

As identified in the Planning Act, when establishing DPS OP policies and the development permit bylaw, or when making an amendment to an established system, council at a minimum must ensure:

- a) At least one *open house* is held for the purpose of giving the public an opportunity to review and ask questions about the information and material made available
- b) At least one *public meeting* is held for the purpose of giving the public an opportunity to make representations on the proposed plan and bylaw.

A best practice that emerged was the understanding that for the DPS to be successful, both the DPS OPA and development permit bylaw must be established through a comprehensive public participation process that develops a broad base of community support for the new system. Another lesson learned was that holding more than one open house and public meeting would help to explain the intent, objectives and differences of a DPS compared to traditional zoning, minor variance and site plan processes, and facilitates public input on a proposed OPA and development permit bylaw. Some further suggested practices included:

- Hold information sessions in more than one location to ensure public input, if the DPS area is proposed to capture a large geographic area
- Host a workshop session or series of sessions with various stakeholder groups to work through the details of the proposed OP policies and development permit bylaw, and receive a wide range of input
- Distribute an information pamphlet or other support materials outlining the highlights of the proposed new system to the public prior to meetings and workshops
- Provide the public with general information regarding the DPS system, how it works, its objectives, outcomes and process

- Use visual materials to help explain the impact of the new system and build support for a vision of an area; this is particularly important in an area with specific urban design objectives.

Did you know?

Like traditional OP and zoning bylaw amendments the right to appeal a DPS *OPA* or development permit *bylaw* remains so long as the person or public body wishing to do so has made an oral submission at a public meeting and/or made a written submission to council prior to council making its decision.

4.2 Importance of Early Public Involvement

When developing or amending an established DPS, a municipality has a statutory responsibility to engage the public by holding a public meeting as well as a public open house to receive and respond to community input. Participation in these development stages is crucial for the long-term success and credibility of a municipality's DPS.

When holding meaningful early engagement, municipalities can also benefit by looking beyond the traditional methods of community consultation to effectively involve its diverse populations (see examples in the following subsections). People in the community need to be involved from the beginning to ensure the greatest opportunity for the integration of ideas and feedback into the entire DPS process.



4.3 Importance of Collaboration

Another key element essential in achieving a community consultation that works is collaboration. This means ensuring interaction, encouraging group debate and decision-making among a range of participants who reflect the diversity of the community. Successful community participation means providing for effective participation at all levels of strategic planning and providing a clear framework for interaction between the public and local government.



Some principles for effective community consultation:

- Municipalities where appropriate, should strive to provide wide access to information and notification to ensure that the community is informed early in the process
- Where possible, municipalities should develop a consistent notification practice for community consultation meetings

- Planning reports should use clear language to describe the relevant planning issues, policies, guidelines and the response to public concerns.

To ensure that the DPS process is collaborative and community-focused, municipalities may also want to look at exploring various community consultation methods including:

- Varied meeting design
- The use of professional facilitators for community meetings
- Developing summaries of community meetings
- Delivering public education
- Attending community association meetings
- Establishing municipally appointed advisory committees; for example, a Municipal Heritage Advisory Committee, as established under the Ontario Heritage Act, could be consulted if the proposed DPS area contains listed or designated heritage properties or conservation districts
- Providing staff training on consultation skills and outreach services
- Holding town hall meetings on general planning issues such as "what is the DPS?"

4.4 Tools for Public Outreach

Increasingly, new approaches, strategies and technologies are expanding the tools available to practitioners in developing effective consultation techniques. Municipalities small and large, rural and urban can benefit from developing more engaging and visually stimulating consultation materials. Informative fact sheets, illustrations and presentation materials can help explain a complex process in a clear way. For larger urban centres and more complex DPSs, density and traffic modelling and 3D "fly-throughs" can allow a community to visualize the impact of a DPS on the ground. Although new technologies cannot substitute for representative community consultation, they can play an important role in reaching wide sectors of the community in an accessible, cost-effective and innovative way. Technology has the ability to visually improve the expression of ideas and provide for greater engagement and understanding at open houses and community meetings.

Municipalities with a website may also develop a web page to disseminate information including public hearing notices, reports, summaries of community consultation meetings and application status information. Municipalities may also choose to supplement statutory requirements by developing a protocol to provide notices of public/community meetings or open houses by e-mail to interested stakeholder groups. However, in communities where electronic communication may not be practical, a comprehensive paper version of the above types of information could be provided in an accessible location such as a local library or town/city centre building.



5.0 Establishing the DPS in Your Community

A Three Stage Process

The following three stage process is intended to guide municipalities through the development and implementation of a DPS in their community. This section provides an overview of the main steps required to develop DPS OP policies and a development permit bylaw, as well as the process for working within a DPS.

The steps within each stage should be adjusted to suit unique municipal goals, needs and context provided they meet the minimum legislative and prescribed requirements. It is expected that those wishing to establish a DPS in their community will look to the Planning Act and the Development Permits Regulation for detailed regulatory

requirements and will hold pre-consultation meetings with their regional Ministry of Municipal Affairs and Housing Municipal Services Office to discuss how a DPS might be used in their municipality.

The following steps provide a description of the key requirements for establishing a DPS in your community. However, where appropriate, municipalities may wish to go beyond these minimum requirements and use approaches that they feel would be useful to establish a DPS. For instance, although not a prescribed requirement, municipalities may wish to create a working group to generate ideas about how a DPS could work in their community, including holding information gathering workshops with interested community members.

Three Stage Process to Establishing a DPS

Stage 1 – Building the DPS Foundation – Official Plan

Stage 2 – Building the DPS Framework – Development Permit Bylaw

Stage 3 – Working Within a Development Permit System

5.1 Building the DPS Foundation – Official Plan

During the first stage, the foundation for the DPS framework is established in the municipal OP. The process for adopting the DPS OP policies is similar to that for other types of OPAs. The process that follows is for OPs where the Minister of Municipal Affairs and Housing has exempted the OP and all or some proposed amendments to it from the requirement for approval. The same process generally applies to OPs that are not exempt from approval, with some modifications. Please consult the Planning Act and the Development Permits Regulation for the complete approval process.

Creating a Vision:

Prior to using the DPS, a municipal council must amend its OP in accordance with the prescribed requirements to identify the DPS area and provide information on how the system is to be used. In drafting an OPA to establish a DPS, a municipality is proposing a vision for how the community will develop within the proposed DPS area. It is at this stage that municipalities must state the goals, objectives and policies in proposing a DPS and in doing so, municipalities are establishing the purpose of the DPS and identifying how it is to be used to achieve the community vision. Municipalities should consider the proposed DPS area including its size, character and features (e.g. natural heritage features, development constraints and opportunities, heritage buildings, etc.) as well as the intended scope of the DPS.

Generally, the DPS OP policies should provide direction on the key features of the DPS. The types of criteria and conditions identified in the OP must be in accordance with the OP's goals, objectives and policies for using the DPS.

The municipality prepares a proposed DPS OPA to create a vision for the DPS

The following boxes identify the prescribed content that a DPS OPA is required to contain, as well as processes and elements municipalities may wish to include in their DPS.

In order to establish a DPS, an OP is *required* to contain the following (in accordance with subsection 3(1) of the Development Permits Regulation):

- Identification of the proposed DPS area(s)
- Scope of authority that may be delegated
- The municipality's goals, objectives and policies for using the DPS
- The types of conditions that may be included in the development permit bylaw
- The types of criteria that may be included in the development permit bylaw by which applications would be evaluated.

In addition to the mandatory requirements, the OP *may* also contain the following (in accordance with subsections 3(4) and 3(5) of the Development Permits Regulation):

- Set out additional information requirements to be included in an application, over and above those requirements identified in Schedule 1 of the Development Permits Regulation
- Exempt any class of development or use of land from the requirements in Schedule 1 of the Development Permits Regulation
- Set out policies relating to the facilities, services and matters which may be requested in exchange for the height or density which is permitted, or for increases in these heights or densities.

Because of the focus on front-end community participation in the establishment of the long-term vision for the DPS area, applications for development permits that conform to the DPS OP policies and the bylaw are not required to undertake an additional public process.

As a best practice, municipalities should ensure through the public notice and at the open house and public meeting, that the public is informed of their appeal rights for all the stages of the DPS process.

Community Involvement:

During this stage the municipality will work with the public to refine the land use vision for the community. The municipality must hold at least one public open house to give the community an opportunity to review and ask questions on the proposed DPS OPA. At least one public meeting is also required in order to receive community input on the proposed DPS OPA. Any interested party may participate in the development of the DPS policies through this public consultation process. If there are any concerns, any party who has made a submission to council (either orally at a public meeting or a written submission) before council makes its decision, can appeal council's decision on the OP policies to the OMB.

- The municipality gives notice of a minimum of one public meeting and one open house for the DPS OPA. These notices may be given together or separately
- An open house is held giving the public an opportunity to review and ask questions on the proposed DPS OPA. The public open house must be held at least 7 days before the public meeting
- The proposed DPS OPA and adequate information and material must be made available at least 20 days prior to the public meeting
- A public meeting is held to receive comments on the proposed OPA

Adoption and Notice:

The DPS OPA can be processed and adopted by council under the normal process, similar to other types of OPAs. The Development Permits Regulation provides that the development permit bylaw can be developed in conjunction with the DPS OPA and passed by council immediately after the DPS OPA has been adopted. In the case of an appeal, they can also be considered together by the OMB.

- The municipality finalizes and adopts its OPA
- The municipal council must ensure notice of adoption is given within 15 days of adopting the OPA

Appeal Rights:

The DPS focuses public input and allows appeals at the front-end of the process when the OP policies establishing the DPS are put in place. At this stage, any party that has participated upfront in the planning process can appeal to the OMB, subject to the requirements of the Planning Act.

- Similar to other OPAs, there is a 20 day window to appeal the OPA from the date notice is given
 - If there are any concerns, any party who has made a submission to council (written, or orally at a public meeting) before council makes its decision, can appeal council's decision on the OP policies to the OMB. If an appeal is made, notice of appeal must be given to the clerk of the municipality
 - The clerk of the municipality must forward the appeal to the OMB within 15 days
 - The OMB receives the appeal and will schedule a hearing unless there is an attempt to dismiss the appeal without a hearing
 - The OMB can decide to approve the DPS OPA as is, refuse it or make changes to it
-

Effective Date:

As is the case with other OPAs, DPS OP policies come into effect:

- The day after the last day for filing a notice of appeal, if there are no appeals, or
- The day after the day on which all the appeals are disposed of by the OMB.

To begin issuing development permits in the DPS area, the municipality must also pass a development permit bylaw for the development permit area. The process for developing this bylaw can be done along with, or after, the development of the DPS OPA.

5.2 Building the DPS Framework Development Permit Bylaw

During the second stage, the implementation framework for the DPS must be established in a development permit bylaw. When establishing the development permit bylaw, municipalities must address a number of requirements to ensure certainty and clarity in the development process and provide the public with sufficient information to make informed decisions about the future vision for their community. The process for passing the development permit bylaw is similar to that for zoning bylaws, with the added requirement for a public open house to be held.

Development Permit Bylaw Contents:

Council will need to pass a development permit bylaw in accordance with prescribed requirements. This can be done concurrently with or after, the adoption of the DPS OPA. The development permit bylaw is the implementing document for the vision that is established in the OP. It puts the DPS OP policies into effect, provides for their day-to-day administration and gives specificity and certainty to the requirements for development. Like a zoning bylaw, the development permit bylaw sets out permitted uses and minimum and maximum standards for development. The development permit bylaw also identifies and develops the system requirements for implementing the DPS; for example, it describes the internal review process for development permit applications.

- The municipality prepares a development permit bylaw
-

In order to establish a DPS, municipalities must address the following prescribed minimum contents for the development permit bylaw:

In accordance with subsection 4(2) of the Development Permits Regulation, a development permit bylaw *must*:

- Describe the area to which the bylaw applies, which must be within the boundaries of the area identified in the OP
- Set out and define permitted uses
- Set out minimum and maximum standards for development
- Describe any internal review procedures for development permit decisions
- Describe notification procedures for decisions on development permit applications
- Describe process for amending development permits, development permit agreements and pre-existing site plan agreements

- Outline any conditions of approval that may be imposed
- Set out scope of delegated authority, including any limitations
- Include a statement exempting placement of a portable classroom on a school site existing on January 1, 2007 from the requirement for a development permit.

In addition to the mandatory requirements and in accordance with subsection 4(3) of the Development Permits Regulation, the development permit bylaw *may* also:

- Prohibit any development/change in use without a development permit
- Set out and define classes of development
- Set out possible ranges of variation from standards for development
- Set out a list of classes or uses that may be permitted if criteria in the OP and bylaw have been met (discretionary uses)
- Exempt any class of development/use of land from requirement for a development permit
- Set out criteria that shall be used in making decisions regarding development permits.

Community Involvement:

During this stage, front-end community participation remains important as the municipality will be developing the specific components needed to implement their vision for the community. The municipality must engage the public by holding at least one mandatory *public open house*, which gives the public an opportunity to review and ask questions about the proposed bylaw. At least one *public meeting* is also required to give the public an opportunity to make their views known before council makes a decision. If there are any concerns that cannot be resolved, any interested party who has made a submission to council (either orally at a public meeting or a written submission) before council makes its decision, can appeal council's decision on the development permit bylaw to the OMB.

- The municipality gives notice of a public meeting and open house for the development permit bylaw. These notices may be given together or separately
- An open house is held giving the public an opportunity to review and ask questions on the proposed bylaw. The public open house must be held at least 7 days before the public meeting
- Prescribed information and material relating to the development permit bylaw must be made available at least 20 days prior to the public meeting
- A public meeting is held to receive comments on the proposed bylaw

Passing and Notice:

Similar to zoning bylaws, the development permit bylaw can be processed and passed by council under the normal process. The Development Permits Regulation provides that the development permit bylaw can be developed concurrently with the DPS OPA and can be passed immediately after the DPS OPA is adopted. In the case of an appeal, they can also be considered together by the OMB.

- The municipality finalizes and passes its development permit bylaw
- The clerk of the municipality must give notice to the public within 15 days of passing the bylaw

Appeal Rights:

The DPS focuses public input and allows appeals of the establishment of the development permit bylaw, at the front-end of the process. As with the OP policies for the DPS, any party that has participated upfront in the planning process can appeal to the OMB, subject to the other requirements of the Planning Act.

- Similar to zoning bylaw amendments, there is a 20 day window to appeal the development permit bylaw from the date notice is given
- If there are any concerns, any party who has made a submission to council (written, or orally at a public meeting) before council makes its decision, can appeal council's decision on the development permit

- bylaw to the OMB. If an appeal is made, notice of appeal must be given to the clerk of the municipality
- The clerk of the municipality must forward the appeal to the OMB within 15 days after the last day for filing a notice of appeal
 - The OMB receives the appeal and will schedule a hearing unless there is an attempt to dismiss the appeal without a hearing
 - The OMB can decide to approve the development permit bylaw as is, refuse it, make changes to it or direct council to repeal the bylaw or make changes to it

Did You Know?

After a development permit bylaw has been passed by council, the Development Permits Regulation provides additional items that must be included when notice is given in accordance with section 6 (Notice of Passing of Zoning Bylaw) of Ontario Regulation 545/06 (Zoning Bylaws, Holding Bylaws and Interim Control Bylaws):

- a) A description of the purpose and effect of the development permit system in the municipality
- b) A description of the proposed development permit area or areas
- c) A statement that an appeal to the OMB against a decision on a development permit application may be made only by the owner of the land to which the application relates
- d) A description of any internal review procedures contained in the bylaw.

The notice requirements in both regulations are minimum requirements and municipalities could include more information in any notice if they so wished.

Effective Date:

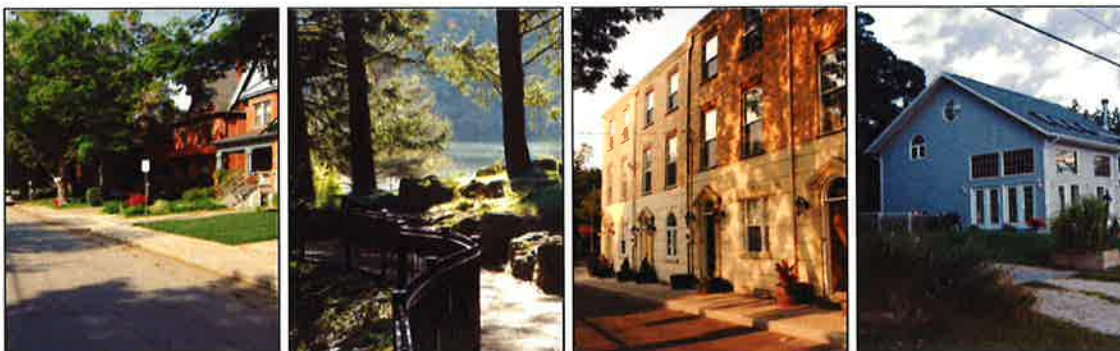
The development permit bylaw comes into effect:

- The day after the last day for filing a notice of appeal, if there are no appeals, or
- The day after the day on which all the appeals are disposed of by the OMB, or such later date as the Board may otherwise order.

The Development Permits Regulation allows for partial commencement of a development permit bylaw (see subsection 9(2) of the Development Permits Regulation). The OMB may order, on its own initiative or on the motion of any person or public body, any part of the bylaw that is not in issue in the appeal to be deemed to have come into force on the day after the last day for filing a notice of appeal.

On the day that the development permit bylaw comes into force, all bylaws passed under section 34 of the Planning Act are deemed to be repealed with respect to the area covered by the development permit bylaw.

Municipalities can begin issuing development permits in the DPS area once the OP policies and development permit bylaw are in effect.



5.3 Working Within a DPS

During the third and final stage, municipalities will be using the DPS and issuing development permits within the framework they have established (see [Appendix 4 - Development Permit Application Process](#)). Municipalities will implement the land use vision and goals for their community that were developed in the previous stages.

The Development Application

Developing an Application: In order to build a new structure, modify an existing structure or perform any improvement on land within a development permit area, an application for a development permit may be required. The regulatory information requirements to develop applications have been set out in Schedule 1 of the Development Permits Regulation. However, through identification in their OP, municipalities also have the ability to design application information requirements to suit their needs.

Where municipalities have identified additional information/material requirements, an applicant will have to meet these requirements before the application will be considered "complete". As previously discussed, the DPS also allows municipalities to exempt classes of development or uses of land from some or all of the application requirements, provided that the OP sets out what information and materials are to be provided in an application that fall within that class or use.

Not all Developments Will Require a Development Permit: A municipality may choose to exempt any class of development or use of land from the requirement for a development permit provided it is identified in their development permit bylaw. For example, a municipality may choose to exempt applications for projects such as tool sheds or development such as accessory structures and pool enclosures to facilitate and expedite minor proposals, provided they meet the requirements set out in the development permit bylaw.

Making a Decision and Moving Forward: Once a complete development permit application is submitted to the municipality, municipal council or the delegated authority has 45 days to make a decision on the application beyond which time the applicant could request the matter be referred to the OMB. In considering a development permit application, a council has a number of options. A municipality may make any of the following decisions:

- Refuse the application
- Approve the application and issue a development permit with no conditions attached
- Approve the application and require that conditions be met before issuing a development permit
- Approve the application and issue a development permit with conditions attached
- Approve the application, require that conditions be met before issuing a development permit and, when the conditions have been met, issue a development permit with conditions attached.

Approvals and Development Agreements

Conditions: Municipalities have a number of options in how they choose to apply conditions. A municipality can require conditions to be met before the issuance of a development permit or attach conditions to a development permit, or both. However, all conditions must be "reasonable for and related to the appropriate use of the land" and in accordance with other prescribed requirements. See Section 2 for a more detailed discussion on conditions and the DPS.

Development Agreements: Municipalities may require the owner of the land to enter into one or more agreements with them to ensure that development conditions are secured. For instance, development agreements could be required in cases where conditions would be ongoing for a certain time period such as in the case of monitoring the protection of the natural environment. Similar to site plan and subdivision agreements, development permit agreements can be registered against the land to which they apply, making them binding on all subsequent owners of the land.

Penalties: Similar to a person who contravenes a bylaw passed under section 34 (zoning) of the Planning Act, any person who contravenes a development permit bylaw or conditions of a development permit is guilty of an offence and on conviction is liable to the fines set out in section 67 (penalty) of the act.

Appeals and Motions on Development Permit Applications

Appealing a Decision: A key element of the DPS is that at the development permit stage, only the applicant has the right to appeal council's decision to the OMB. Development permit applicants can appeal decisions (including refusals and the imposition of conditions) no later than 20 days after notice of the decision is given. Applicants also have the right to appeal if no decision is made on an application within 45 days from the submission of a "complete" development permit application.

For information regarding the duties of a clerk on receiving a notice of appeal please refer to [Appendix 5 - Duties of Clerk on Receiving Notice of Appeal](#).

Motions to the OMB: The Development Permits Regulation provides that an applicant can make a motion to the OMB to determine whether all the information and materials submitted for an application are complete and/or reasonable, and whether any of the conditions imposed have been fulfilled.

Impact on the Construction of Buildings

In Ontario, the construction, renovation and certain changes of use of buildings are governed by the Building Code Act, 1992. The Building Code is a regulation under that act and sets out detailed technical and administrative requirements. Among other things, the Building Code sets out the “applicable law” that must be complied with before a municipal chief building official can issue a building permit.

Certain types of bylaws and approvals issued under the Planning Act are included on the list of applicable law. Zoning bylaws are considered applicable law, as are development permit bylaws. In the case of development that is prohibited unless a development permit is obtained, the issuance of the development permit is one of the approvals that the municipal chief building official would need to see before a building permit is to be issued.

Changing the DPS

Amending the DPS: Development permit applications that do not meet the policies or provisions of the OP and/or development permit bylaw would not be approved unless there was an amendment to one or both of these documents. Amendments to the DPS can be initiated by the municipality or any interested party. These applications would be subject to the planning process established in the Planning Act including full public notice, participation and appeal rights. If there are any concerns with the proposed amendments to the DPS OP policies or the development permit bylaw, any party who has made a submission to council (written, or orally at a public meeting) before council makes its decision, can appeal council’s decision to the OMB.

6.0 Conclusion

The Ministry of Municipal Affairs and Housing has developed this handbook to help interested municipalities and others understand and implement the DPS in their community.

This handbook provides examples of how the key features of a DPS can be used to address current planning challenges, outlines the importance of community engagement in establishing a DPS, and explains some of the minimum processes involved, including regulatory requirements, in establishing a DPS. It is intended for use as a guide. Municipalities are responsible for making local decisions, including compliance with any applicable statutes or regulations. If a municipality is interested in establishing a DPS in their community it is recommended that they look to the Planning Act and the Development Permits Regulation for more detailed requirements.



6.1 For More Information

[Ministry of Municipal Affairs and Housing](#)
Provincial Planning Policy Branch
 777 Bay Street, 14th Floor
 Toronto M5G 2E5
 (416) 585-6041

Municipal Services Offices

For information and assistance, contact one of the Ministry of Municipal Affairs and Housing’s five Municipal Services Offices or visit the [Ontario Regional Area Municipal Portal](#).

6.2 Additional Resources

Development Permit System

DPS information and resource materials.

Regulation 608/06

Provincial regulation enabling all local municipalities to use the DPS and setting minimum requirements for use of the system.

Township of Lake of Bays

The Township of Lake of Bays website, the first municipality in Ontario to implement and use the DPS.

Provincial Policy Statement

The Provincial Policy Statement is the complementary policy document to the Planning Act. It provides policy direction to decision makers on matters of provincial interest related to land use planning and development.

Places to Grow

Places to Grow is the Ontario government's program to manage growth and development in Ontario in a way that supports economic prosperity, protects the environment and helps communities achieve a high quality of life.

Community Improvement Planning Handbook

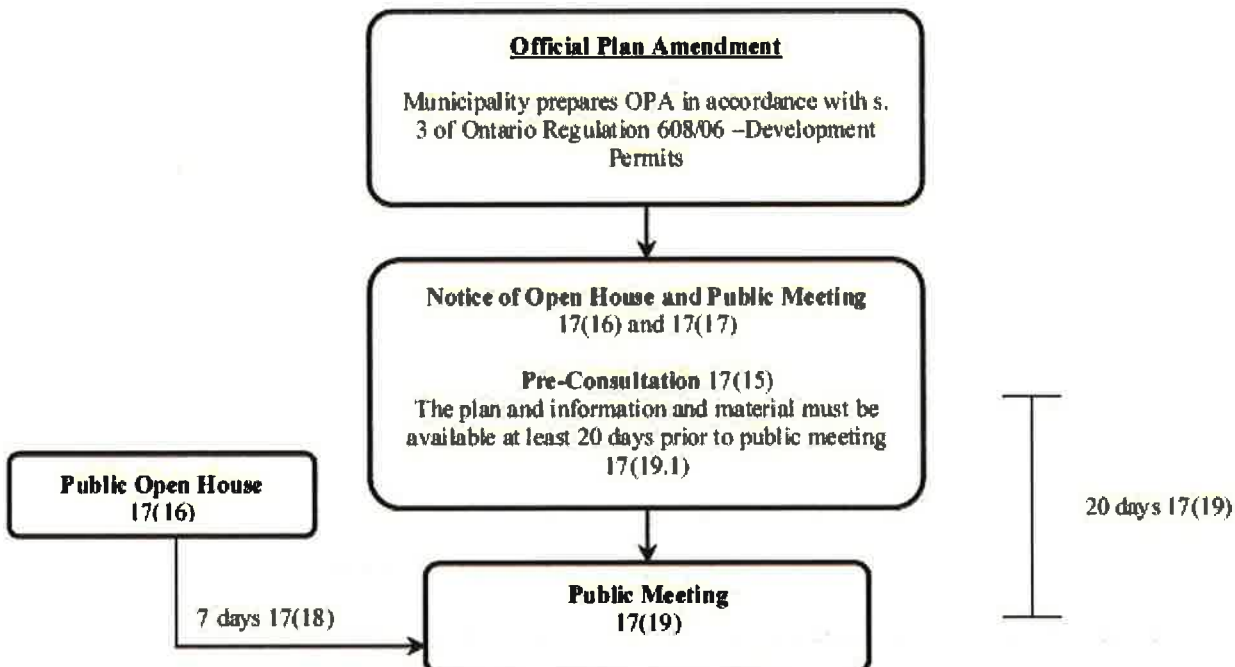
This handbook is intended to inform and assist municipalities and others interested in community improvement planning under section 28 of the Planning Act.

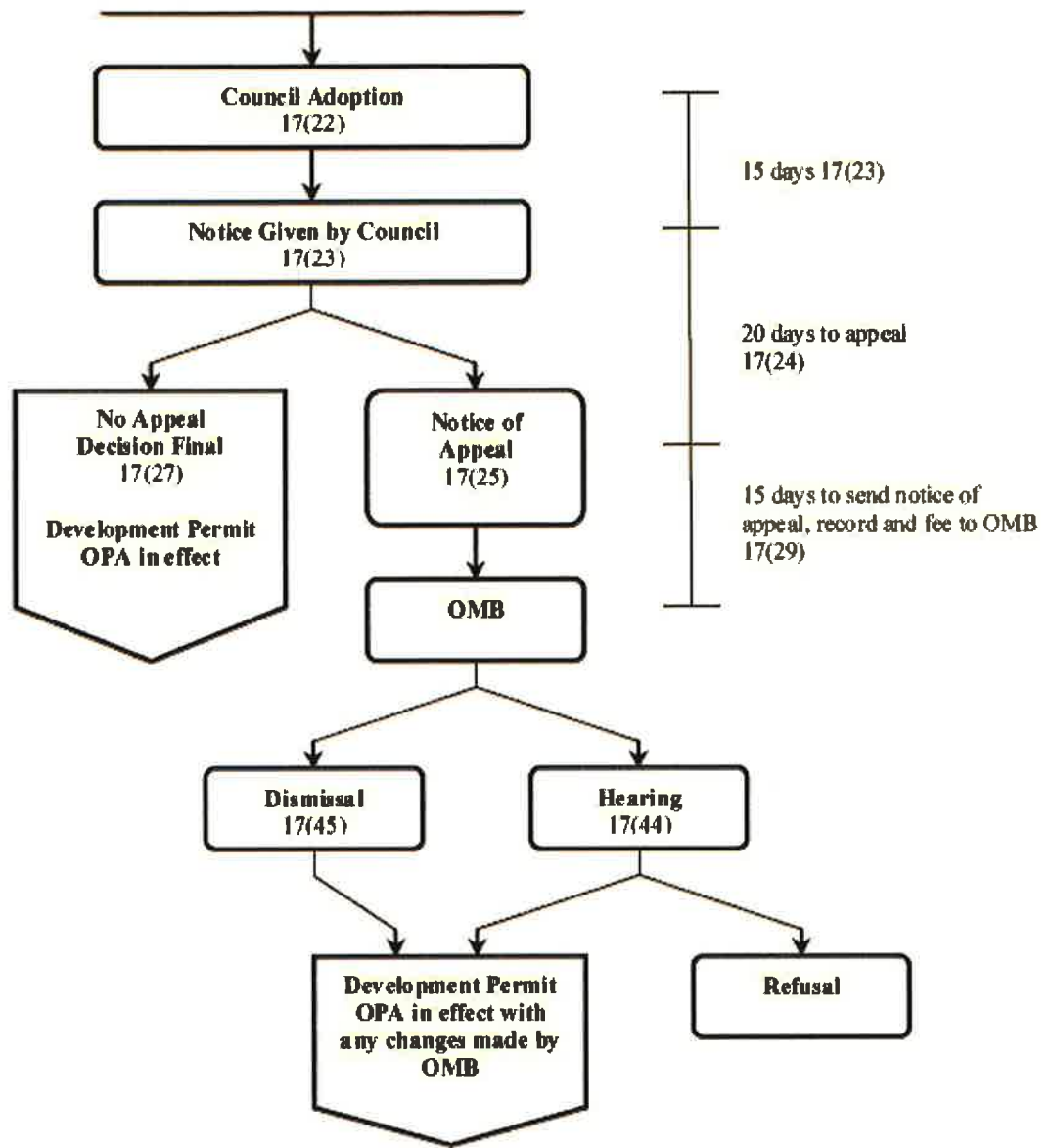
Brownfields Ontario

Brownfields redevelopment is a critical part of building strong, healthy communities. Redeveloping unused, former industrial or commercial sites will help revitalize neighbourhoods, create jobs and housing and boost development in areas with existing transit, infrastructure and community facilities.

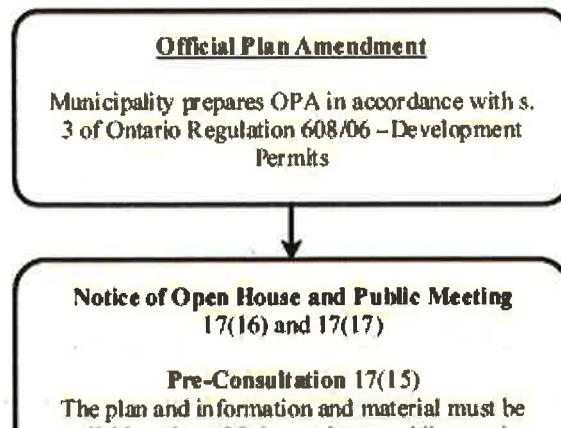
(The following flowcharts focus on the basic process – some steps are not shown)

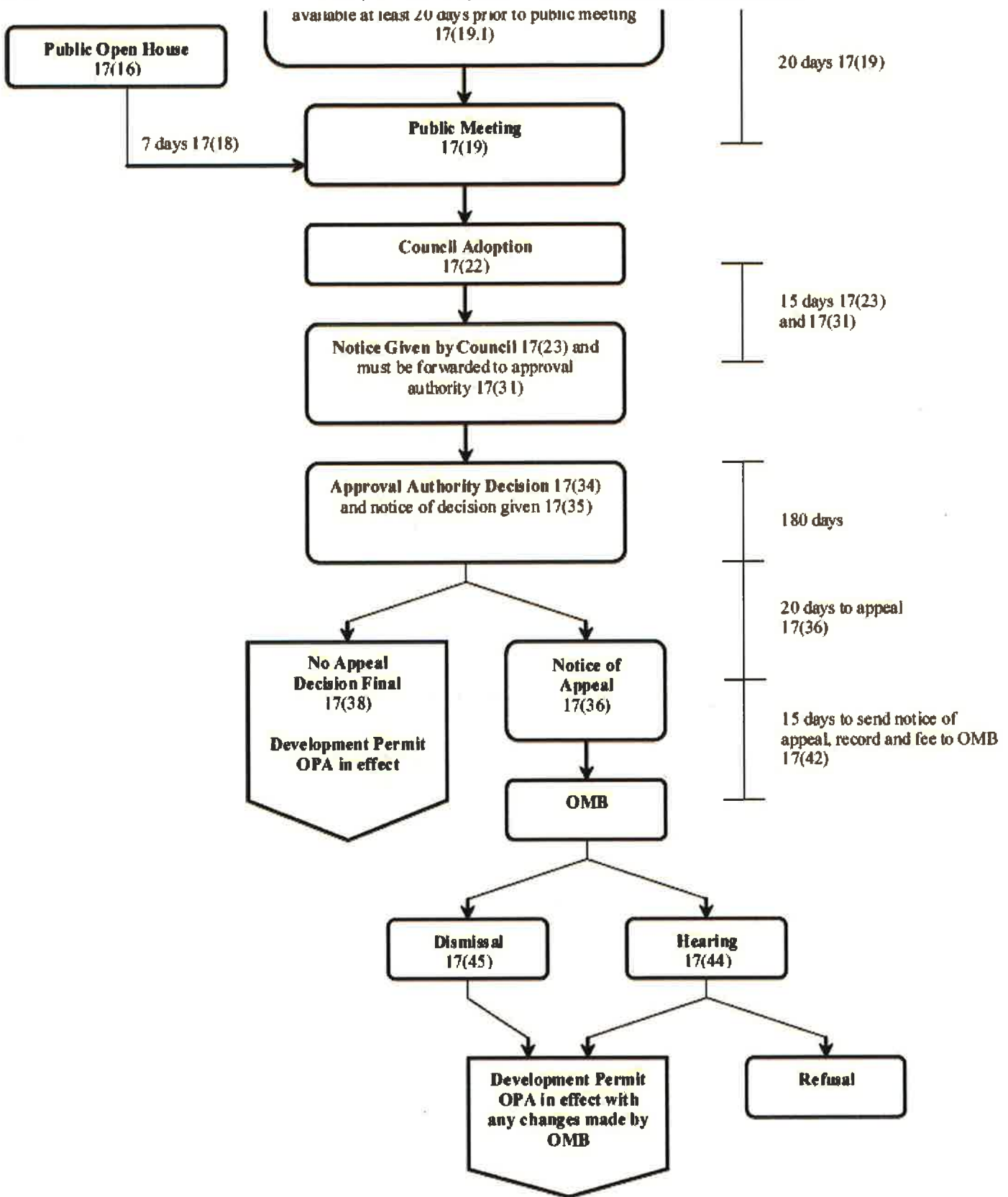
Appendix 1- DPS Official Plan Process - Municipality Exempt from Approval





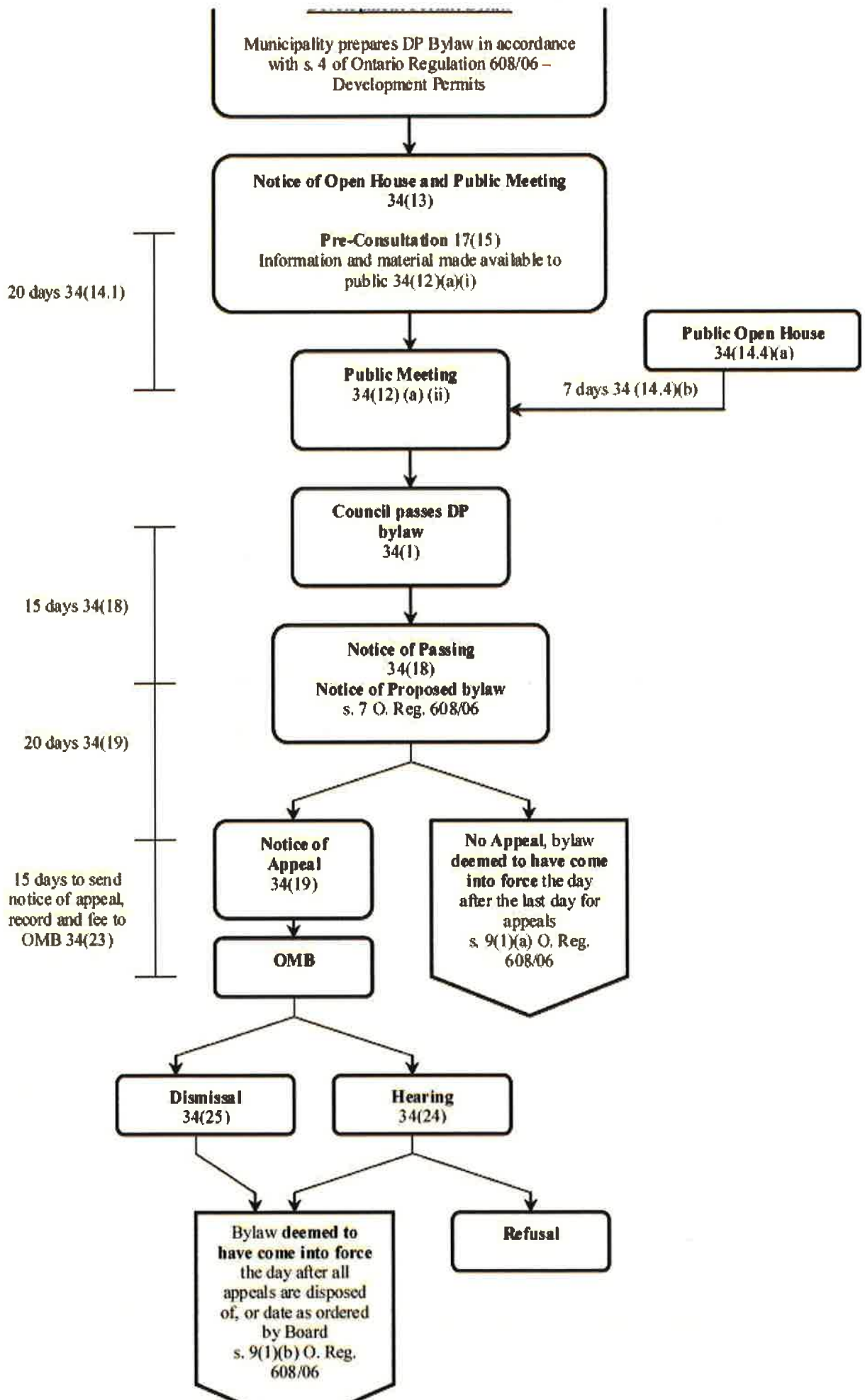
Appendix 2 - DPS Official Plan Process - Municipality not Exempt from Approval





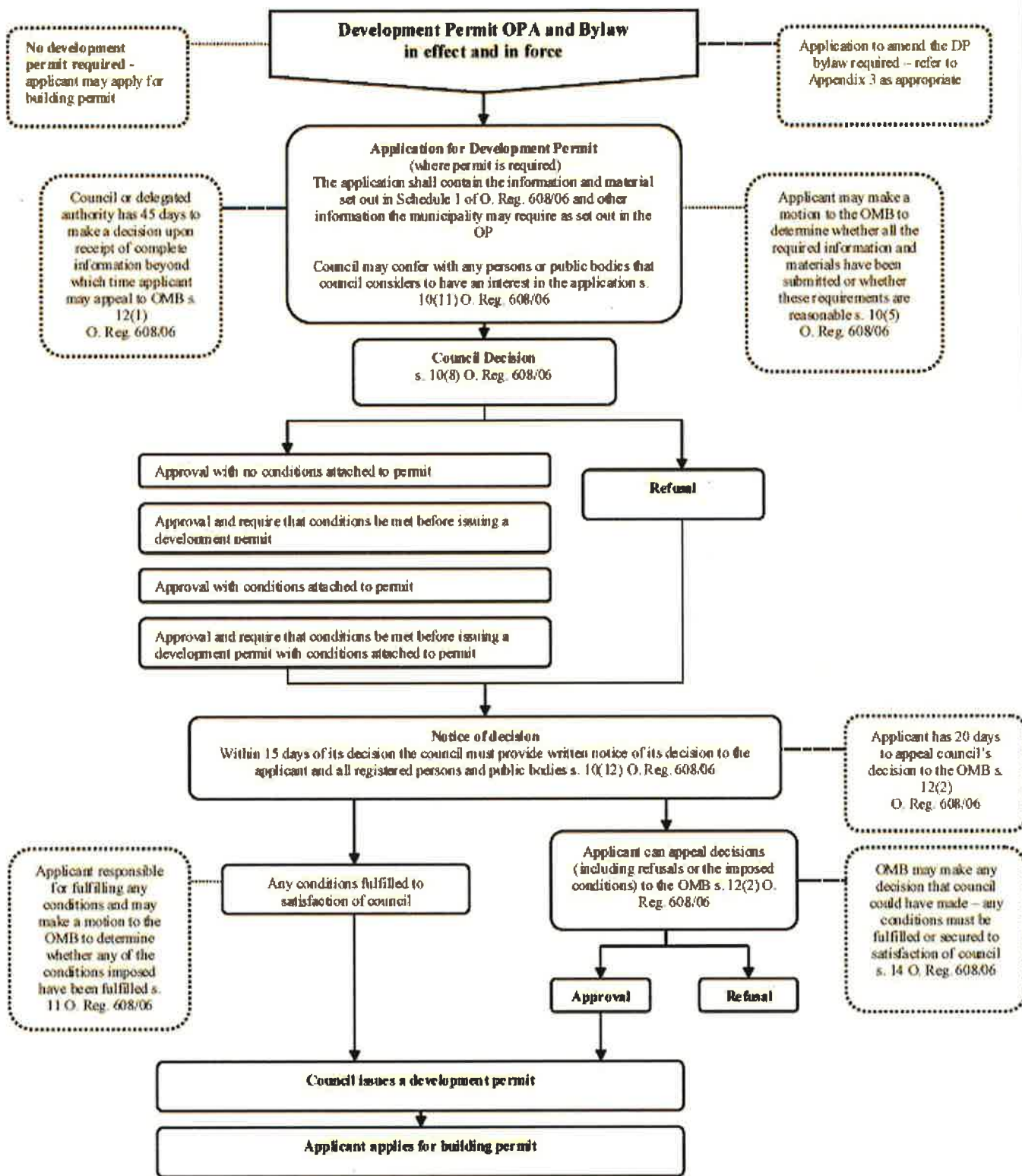
Appendix 3 Development Permit Bylaw Process

Development Permit Bylaw





Appendix 4 Development Permit Application Process



Appendix 5 - Duties of Clerk on Receiving Notice of Appeal for a Development Permit Application

On receiving a notice of appeal (see section 13 of the Development Permits Regulation), the clerk of the municipality must ensure that a record is compiled that includes:

- The original or a true copy of the application
- A copy of the development permit bylaw, certified by the clerk.
- A copy of any decision of council or the delegated decision-maker relating to the application, certified by the clerk
- An affidavit or sworn declaration by an employee of the municipality that the notice requirements have been complied with.

Within 15 days after the notice of appeal is received, the clerk must ensure that the Municipal Board is forwarded the notice of appeal, the record and the fee.

ISBN 978-1-4249-7787-1 (HTML)

ISBN 978-1-4249-7788-8 (PDF)

[CONTACT-US](#) | [ACCESSIBILITY](#) | [PRIVACY](#) | [TERMS OF USE](#) | [SITE MAP](#)

TO REQUEST AN ALTERNATE FORMAT OF THE CONTENT FOUND ON THIS PAGE, CONTACT: MININFO@ONTARIO.CA

COPYRIGHT © QUEEN'S PRINTER FOR ONTARIO, 2008-2017 - LAST MODIFIED: WEDNESDAY, FEBRUARY 17, 2016