

The Building and Electrical Permitting Improvement Act (Bill 38)

Frequently Asked Questions

General

Q: Why is government proposing changes to *The Buildings and Mobile Homes Act*, *The Manitoba Hydro Act* and establishing a new *Permit Dispute Resolution Act*?

A: The government is acting on key recommendations of the Treasury Board Secretariat (TBS) report “*Planning Zoning and Permitting in Manitoba*” (June 2019) for improving permitting and code enforcement in Manitoba.

It found a significant magnitude of economic costs related to unnecessary permitting delays (up to \$17 million negative impact on Gross Domestic Product and over \$2M negative impact on provincial and municipal revenue per day).

The proposed legislation will enhance opportunities for economic growth and ensure Manitoba remains competitive and attractive for business and job growth.

Q: What does the proposed *Building and Electrical Permitting Improvement Act* address?

A: The proposed *Building and Electrical Permitting Improvement Act* (Bill 38) addresses key recommendations of the Treasury Board Secretariat report by adopting best practices to achieve better outcomes. Specifically it creates a process to hear appeals of permitting decisions and orders related to building and electrical codes by independent adjudicators who are technical professionals. It also creates authority to establish “service standards” for permitting authorities by regulation

Q: How would *The Building and Electrical Permitting Improvement Act* impact municipalities and planning districts?

A: The permitting bill provides a clear and consistent process for administering building and electrical codes across Manitoba. There will be common enforceable service standards and a level of oversight that does not currently exist through an appeal adjudicator function. The proposed legislation will mandate use of a common electrical code in Manitoba. It also requires the province to adopt new codes on a clear timeline and more guidance on interpreting the codes for building officials.

Q: How would *The Building and Electrical Permitting Improvement Act* impact developers and builders?

A: Builders and developers will have predictability that permitting decisions will be made within consistent and reasonable timeframes, regardless of the location in Manitoba they are building. They will be able to plan and schedule their development activities based on mandated timelines that are consistent across Manitoba and based on consistent interpretations of building and electrical codes.

In the event that a dispute arises, permit applicants will have a formalized appeal mechanism for cases where they believe a permitting authority is wrong in withholding a permit, or issuing an order on code matters. A standardized appeal process will provide transparency through published appeal decisions.

Appeal Adjudicator

Q: Why does the legislation propose using adjudicators instead of an appeal board?

A: The Manitoba government is committed to reducing the number of agencies, boards and commissions. Creating an independent adjudicator role provides a similarly effective third party technical appeal process while focussing on technical facts that don't require a full board to oversee. The adjudicator will also have the ability to seek independent technical advice on matters that may factor into decisions.

Q: Does the proposed *Building and Electrical Permitting Improvement Act* change the role of permitting authorities?

A: Elected officials would no longer be able to hear appeals to matters dealing with technical requirements under the building or electrical codes, including building or electrical permitting decisions, or orders related to enforcing the building and electrical codes.

Q: Can I appeal non-technical requirements for buildings to the new adjudicator?

A: No, the appeal has to be associated with enforcement of the Manitoba building or electrical codes. This is because the technical expert will do an analysis of conformance with the code for the matter being appealed. All other appeals may go to municipal councils.

Q: Who has to pay for the appeals made under the new *Permit Dispute Resolution Act*?

A: Costs of the adjudication process will be assigned to either the appellant or the approving authority (or possibly both) based on the outcome of the appeal. Costs of the adjudication will be calculated in accordance with procedures to be set out in regulation, and the adjudicator will have discretion to determine how the cost of the dispute resolution hearing is to be allocated between the parties. The adjudicator may consider the outcome of the dispute, the conduct of each party and any other factors the adjudicator considers relevant.

Service Standards

Q: What will be the required service standards (timelines) for building and electrical permits and inspections?

A: The timelines will be set out in regulation and have yet to be determined. Government will be consulting with industry and approving authorities in the coming months to determine appropriate timelines for decisions on permit applications and to conduct associated inspections.

Q: What happens if the permitting authority does not comply with mandated service standards?

A: The permit applicant will be able to apply under the proposed *Permit Dispute Resolution Act* for a determination of compliance with service standards. If the permitting authority did not comply, then they may be ordered to issue a permit or deny a permit with reason by a fixed date. They could also be billed for the services of the adjudicator.

Manitoba Building Code Adoption

Q: When will Manitoba update its Building Code?

A: Proposed legislative changes to *The Buildings and Mobile Homes Act* will require that Manitoba adopt the National Model Construction Codes (building, plumbing and energy for building) within 24 months of release of the 2020 edition, and within 18 months of release of subsequent editions. These timeframes align with harmonization initiatives driven by The Canadian Free Trade Agreement.

Manitoba will still be free to adopt the national code by regulation before these timeframes trigger automatic adoption.

Q: Will this affect the current Manitoba Building Code?

A: Manitoba is intending to adopt the 2015 edition of the National Model Construction Codes by regulation in the near future and will be consulting with industry and other stakeholders to finalize any amendments to the national codes.

Other Proposed Changes to *The Buildings and Mobile Homes Act*

Q: Why does Bill 38 establish a “Director” under *The Buildings and Mobile Homes Act*?

A: Where the Department of Municipal Relations (formerly Office of the Fire Commissioner) continues to issue permits and enforce the building codes, permit applicants and building owners will now be able to apply to the Director to review permitting decisions and code requirements to minimize the number of appeals going to the new formal adjudication process.

Q: Why are references to “mobile homes” being removed from *The Buildings and Mobile Homes Act*?

A: The current terminology in the legislation is outdated. Modern standards do not use the term “mobile home” anymore, instead using a variety of terms such as manufactured or factory-built buildings, park model trailers and recreational vehicles. The Province intends to move recreational vehicle and trailer standards under different legislation such as *The Technical Safety Act* or *The Highway Traffic Act*. Removing the “mobile home” terminology from the Act will facilitate this transition. Other jurisdictions do not regulate recreational vehicles under their buildings acts. Note that manufactured buildings will continue to be regulated under the Manitoba Building Code.

Manitoba Electrical Code Adoption

Q: How does Bill 38 affect The Electrical Code?

A: The proposed bill will establish one provincial electrical code under *The Manitoba Hydro Act*. Authority for establishing this code will be moved to Lieutenant-Governor in Council, from Manitoba Hydro’s Board.

Note: currently, The Manitoba Electrical Code does not apply within the City of Winnipeg. Instead, the City of Winnipeg adopts the same CSA standard (CSA 22.1 Canadian Electrical Code, Part I Safety Standard for Electrical Installations) as the Manitoba Electrical Code but makes separate amendments.

Q: Why is the province creating a single electrical code?

A: The Planning, Zoning and Permitting in Manitoba Recommendations emphasize the need for consistency in code application, as well as harmonizing with other jurisdictions. Other Canadian jurisdictions only have one electrical code, so this change brings Manitoba more in line with the other Canadian jurisdictions.

Q: Will the City of Winnipeg continue to enforce the electrical code within Winnipeg?

A: Yes, the City of Winnipeg will have to adopt and enforce the Manitoba Electrical Code within its boundaries. Consultations are planned with Manitoba Hydro and the City of Winnipeg in developing

changes to the Manitoba Electrical Code to reconcile amendments to their codes and coordinate this change with any by-law changes that are required for the City of Winnipeg to transition to the Manitoba Electrical Code.

Q: Who provided input to these changes?

A: The Province of Manitoba formed the Provincial Working Group to advise the government on the proposed legislative changes.

Manitoba looks forward to ongoing dialogue with stakeholders on the regulations that will support the proposed changes.

On November 8, 2019, the Province announced the 14-member Provincial Working Group to serve in an advisory capacity. Members:

- Dr. Bob Murray – Consultant and President of Grande Prairie Regional College
- Susan A. Thompson – community leader, entrepreneur, politician, diplomat, philanthropic fundraiser Karl Loepf – chief operating officer, Private Pension Partner;
- Don Streuber – executive chair, Bison Transport Inc.;
- Martin McGarry – president and CEO, Cushman and Wakefield Stevenson;
- Michael Jack – chief corporate services officer, City of Winnipeg;
- Laren Bill – chair of treaty land entitlement, Implementation Monitoring Committee;
- Dr. Annette Trimbee – president, University of Winnipeg;
- John Wintrup – planner, Richard Wintrup and Associates;
- Dayna Spiring – president and CEO, Economic Development Winnipeg;
- Mike Scatliff – director, Scatliff and Miller and Murray;
- Christian Korell – owner and CEO, Barnes and Duncan;
- Ron Hambley – president, Winnipeg Construction Association; and
- Colleen Sklar – executive director, the Winnipeg Metropolitan Region

Previously, Treasury Board Secretariat consulted with approximately 50 individuals in developing their recommendations. These individuals represented: developers of all sizes (including residential, commercial and infill); subject matter experts; large corporations; construction, hospitality, manufacturing, food processing and agribusiness industries; the Winnipeg Metropolitan Region; Economic Development Winnipeg; engineering firms; trade and professional associations; construction and homebuilders associations; cottagers; project management consultants; current and former city of Winnipeg executives.

Q: When will the Bill take effect?

A: Changes would come into effect upon proclamation along with the publication of associated regulations. This legislation is a priority for Government. The Department of Municipal Relations will work with all municipalities including the City of Winnipeg, municipal officials and other key stakeholders to ensure they have the necessary supports to implement the proposed changes.