

Backgrounder: Community Planning Act

In the 1960s, New Brunswick (“NB”) was a leader in municipal reform in Canada. Flowing from this was the creation of the current *Municipalities Act* (the “Act”), which has been in effect since the late 1960s.

The CPA, which is 127 pages long and has 14 associated Regulations, establishes minimum standards for development in areas without plans, and provides planning tools for local governments and planning authorities (e.g. municipal and regional planning departments).

While the CPA was forward thinking for its time, communities in New Brunswick and the nature of community planning have fundamentally changed in the last 40 years. Communities are facing new challenges such as aging and declining populations, and the effects of climate change. Compounding these problems is the prescriptive nature of the CPA which restricts flexibility and the ability of planning authorities to respond to these challenges. In contrast, modern planning legislation (planning laws) in jurisdictions across Canada has evolved to become more permissive and enabling.

In its 2014 Platform document, Government committed to modernizing the MA and the CPA to give municipalities the powers they need to promote development and become hubs of job creation.

To achieve this objective, Government has conducted extensive consultations and undertaken significant research, including:

- Engaged early and often with stakeholders
- Reached out to First Nations prior to and after developing recommended changes;
- Conducted cross-jurisdictional planning legislation research;
- Reviewed previous/historical input and reports related to the Act, such as the Commission on Land Use and the Rural Environment Report (“CLURE”);
- Identified, developed and moved forward with recommendations with respect to the areas requiring general modernization and substantive change;
- Consulted impacted government departments with respect to the recommendations;
- Consulted with a Working Group of Expert Users in respect of the recommendations; and
- Consulted with key stakeholder groups in a Workshop to review the recommendations.

The new *Community Planning Act* will respond to the needs of communities in New Brunswick by providing planning authorities with more flexibility, a wider array of planning tools and a restructured Act which is more user-friendly.

Areas of Substantive Change:	New Community Planning Act	Current Community Planning Act
<p>The new Act enables the creation of a Statements of Provincial Interest regulation (currently referred to in the CPA as a “provincial planning policy”) that will provide provincial direction with respect to the minimum standards that must be followed by all planning authorities, including the Province.</p> <p>This will ensure that areas of provincial interest are respected in provincial, regional and local land use planning and development decisions.</p> <ul style="list-style-type: none"> • Example: Statements of Provincial Interest could be developed with respect to issues such as flood risk reduction, drinking water protection and climate change. 	Sections 13-17	Section 4.1
<p>The new Act requires that the Province shall consider regional and local planning documents (e.g. regional plans, municipal and rural plans) before carrying out development in a community. This would help ensure that provincial development and land use decisions are made in a consistent and transparent manner, and would be a signal to communities and regions that their interests are valued.</p>	Sections 19;22; 41; 49; 52(12).	
<p>The new Act enables the creation of a regional planning regulation. Regional plans will be optional rather than mandatory.</p> <p>The regulation will stipulate that a regional plan may be prepared by Regional Service Commissions (“RSCs”), submitted to the Department of Environment and Local Government for review, and approved and adopted by the Lieutenant-Governor in Council. Each regional plan may incorporate elements outlined in the regional planning regulation, which will be developed with stakeholder input in 2017. The Minister of Environment and Local Government may provide input and shall ensure alignment with Provincial priorities, including any Statements of Provincial Interest.</p>	Sections 18-20; 124.	Sections 17-22
<p>The new Act provides planning authorities with a suite of modern planning tools.</p> <ul style="list-style-type: none"> • Examples: <ul style="list-style-type: none"> ✓ Development charges which are amounts levied on new developments to pay for growth-related on or off-site infrastructure; ✓ Bonus zoning which may include height and/or density increases provided to the developer in exchange for community benefits. 	Sections 91-98	N/A

<p>The new Act provides planning authorities with expanded by-law enforcement tools, such as increased and consecutive fines for offences and a warrant procedure to enter and inspect property.</p> <ul style="list-style-type: none"> • Example: The category of offences (and corresponding range of fines) under the <i>Provincial Offences Procedure Act</i> was reviewed and updated. In many cases, the range of fines available to a Court for offences under the <i>Community Planning Act</i> has increased. 	Sections 132-140.	N/A
<p>The new Act will implement, through regulation, a requirement that all necessary approvals and permits (environmental and other) be obtained prior to obtaining a building permit</p>	Subsections 124(h) and (i).	N/A

Other	New Community Planning Act	Current Community Planning Act
<p>General Modernization: The new Act, through general modernization, will “strictly modernize” some sections, remove some sections that are no longer useful and, where appropriate, provide for more comprehensive changes.</p> <p>The new Act is:</p> <ul style="list-style-type: none"> ➤ generally enabling and flexible in nature; ➤ organized so as to flow in a logical and user-friendly manner; ➤ updated to align with modern legislative approaches; and ➤ streamlined, with appropriate provisions contained in regulations. 	Various Sections throughout	N/A
<p>Consequential Amendments: The consequential amendments required as a result of the proposed new <i>Community Planning Act</i> and the repeal of the existing <i>Community Planning Act</i> are contained in a separate Act: “ <i>An Act Respecting Local Governance and Community Planning</i>” to be proclaimed at the same time as the new <i>Community Planning Act</i>.</p>	*All consequential amendments are housed in the <i>Act Respecting Local Governance and Planning</i>	N/A