

Land use planning reform in motion: Development Permit System

While Development Permit Systems have been permissible in Ontario municipalities since the passage of Ontario Regulation 608-06 in 2006, the City of Toronto is only now taking steps to implement them within its boundaries.

A DPS combines the zoning, site plan, and minor variance processes into one application and approval process.

Through area-wide studies and community consultation, new development standards and performance criteria are prepared and tailored to specific areas of the municipality and solidified through a new bylaw (a development permit bylaw). Development permits are only issued for applications that are compliant with the development permit bylaw, which has some prescribed flexibility. All interested parties may appeal the enactment of a development permit bylaw, however, once in force, third party appeals of a development permit application decision are not permitted and only the applicant has the right of appeal to the Ontario Municipal Board. Take the following quiz to help navigate the new system.



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- 1** The City of Toronto has approved an official plan amendment that enables development permit bylaws to be enacted in any area of the City. Once enacted, the development permit bylaw will effectively replace the zoning bylaw and the existing process through which development applications are made, in that area.

(A) True
(B) False
- 2** A development permit bylaw will set a proportional relationship between the provision of community benefits and the amount of increased height and density to be awarded in return, which replaces the process authorized by s. 37 of the Planning Act.

(A) True
(B) False
- 3** A development application cannot propose development standards beyond what is provided in the development permit bylaw.

(A) True
(B) False
- 4** An applicant cannot apply to amend a development permit bylaw on a site-specific basis.

(A) True
(B) False
(C) It depends
- 5** Community consultation for the selection of DPS areas and the preparation of a development permit bylaw is preliminary and attendance is not necessary to reserve your right of appeal to the OMB.

(A) True
(B) False
(C) It depends

1 True. Official Plan Amendment 258 (“OPA 258”) was approved by City Council on July 11, 2014. OPA 258 is applicable City-wide and enables the use of a DPS anywhere in Toronto. The DPS combines the current zoning, site plan, and minor variance processes into one application and approval process. It is a comprehensive, area-based planning exercise that will result in new development standards and performance criteria. These will be tailored to specific areas of the City and solidified through a new bylaw (a development permit bylaw). Where enacted, development permit bylaws will replace the zoning bylaw, as well as the entire regulatory framework through which development applications are made.

2 True. A development permit bylaw can prescribe variations or potential increases to height or density. The bylaw would also prescribe community benefits or monetary contributions that would be required in exchange for any increased height or density of development. A development permit bylaw can require the provision of community benefits only if they are proportional to the amount of variation in height or density awarded. In other words, the process permitted under s. 37 of the Planning Act is incorporated into the DPS, but with greater transparency around what is expected in order to achieve increased height and density. For example, a development permit bylaw would identify certain development standards, such as a maximum height of five storeys, as well as a possible variation to this standard, such as a height increase of three storeys. This variation would be tied to the provision of a specific community benefit, such as the rehabilitation of a dilapidated public park.

3 True. Within the DPS, a development permit cannot go beyond what is set out in the development permit bylaw. Similar to the existing site plan application process, plans will be assessed based on their compliance with the development criteria and standards found in the bylaw. If compliant, a permit will be issued without further assessment. The DPS removes the need for further evaluation of the appropriateness of development since the development permit bylaw standards are established after long-term planning studies and community consultation. Therefore, compliance with this bylaw is sufficient to issue a development permit. However, if a development proposal exceeds the prescribed standards the applicant

must apply for an amendment to the development permit bylaw.

4 False. Where an applicant wishes to go beyond the development standards prescribed in the development permit bylaw, an amendment to the bylaw is required. The goal of the DPS is to replace the site-by-site process of development where projects are approved by way of site-specific zoning amendments with comprehensive planning at the neighbourhood scale. Since the development criteria of development permit bylaw is based on a comprehensive concept plan for an area, amendments to the bylaw will be assessed in the context of the overall vision for the area. An applicant may propose to amend the development permit bylaw to allow greater height for a specific parcel, however, justification for the amendment must consider the entire DPS area. An amendment will have to be supported by technical reports, public consultation, and evidence that the area as a whole has changed since enactment of the development permit bylaw.

5 It depends. Council has suggested that further community consultation is required in order to identify areas where a DPS would be appropriate. Following the identification of DPS areas, additional community consultation will determine the community “vision” and translate that vision into development criteria and standards for the development permit bylaw. These exercises may prove influential on the final development permit bylaw and should be followed or attended, particularly in the early stages of the DPS. As for appeal rights, OPA 258 defers to the Planning Act requirements. A development permit bylaw is enacted under s. 34 of the Planning Act. As such, any interested party who has made a submission, either orally at a public meeting or a written submission to committee or council, on a proposed development permit bylaw may make an appeal to the Ontario Municipal Board.

YOUR RANKING?

- **One correct:** *might be time to brush up*
- **Two correct:** *not bad, but some further work needed*
- **Three correct:** *very well done, but not perfect*
- **Four correct:** *excellent*
- **Five correct:** *perfect*

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