

INFORMATION BULLETIN REGARDING OFF-GRID DEVELOPMENT IN UNINCORPORATED AREAS

November 30, 2022

Building and Development

- In most cases, for a lot to be legally conveyable, it must have been created via consent, plan of subdivision or plan of condominium, in accordance with the *Planning Act*. If you are considering purchasing a “site” in an off-grid community, you may wish to consult with a lawyer to better understand the ownership arrangement you would be entering into.
- In unincorporated areas outside of planning board jurisdiction, there are no official plans and/or zoning by-laws to guide development. In some areas, Minister’s Zoning Orders (MZOs) set development criteria and a related Letter of Conformity must be obtained prior to development taking place. Please contact your local Municipal Services Office for information about whether there are currently MZOs applicable to a specific property.
- Where a property is not currently regulated by an MZO nor an official plan and/or zoning by-law, this does not mean that there are no requirements or restrictions related to building or development. It is the responsibility of property owners, builders, and residents of these areas to ensure that any requirements are met.
 - You may wish to check Land Registry Office records to determine whether there are currently any restrictions registered for the property in question: <https://www.ontario.ca/page/search-land-property-records>.
 - Section 46 of the Planning Act authorizes the placement of one mobile home or one land lease community home per parcel of land only (<https://www.ontario.ca/laws/statute/90p13#BK71>). Please note that ‘parcel of land’ refers to those that are legally conveyable, as described above in the first bullet. Simply surveying a parcel of land into several ‘lots’ would not provide relief from the requirements of this section in the Act. (<https://www.ontario.ca/laws/statute/90p13#BK71>). You may wish to contact a lawyer to understand whether the off-grid community development would comply with the *Planning Act*.

- Building permits and building inspections are not available in unincorporated areas, but all buildings are required to comply with the provisions of the Ontario Building Code. Individuals are responsible for ensuring their buildings or structures meet the Ontario Building Code. The *Ontario Building Code Act* is available online here: <https://www.ontario.ca/laws/statute/92b23> and the Ontario Building Code Regulation here: <https://www.ontario.ca/laws/regulation/120332>.
- If you have any questions regarding the building code, please direct questions to the Building and Development Branch of the Ministry of Municipal Affairs and Housing, 16th Floor, 777 Bay Street, Toronto, Ontario M5G 2E5, at 416-585-6666, or at codeinfo@ontario.ca. Other provincial ministries or agencies may also have requirements related to building and development in unincorporated areas. Please see Additional Considerations section below for more information.
- According to the Provincial Policy Statement, 2020 ([Provincial Policy Statement, 2020 | ontario.ca](https://www.ontario.ca)), in unincorporated areas near municipalities, only development that is related to the sustainable management or use of resources and resource-based recreational uses (including recreational dwellings) is permitted. Development needs to be appropriate to the infrastructure that is available. The establishment of new permanent townsites is not permitted.
 - Although resource-based recreational uses are permitted in unincorporated areas, permanent residences are to be directed to municipalities that have the services and infrastructure to support them.
- If dwellings are built on multiple sites on one communal (conveyable) lot, and, in the future there is an interest in severing the dwellings into separately conveyable lots, related land division applications would need to be made to the Ministry of Municipal Affairs and Housing (MMAH).
 - Decisions on land division applications by MMAH are required to be consistent with the Provincial Policy Statement, 2020 (PPS) and to have regard for the matters articulated under section 2 and subsection 51(24) of the *Planning Act* (<https://www.ontario.ca/laws/statute/90p13>).
- Communal off-grid developments have not benefitted from planning review, which would occur upon submission of a land division application to MMAH. Without such a review and supporting studies, there are concerns with:
 - Impacts to the environment and other resources (e.g., water quality, habitat of threatened and endangered species, fish and wildlife habitat, archaeological resources).
 - Impacts to public health and safety (e.g., water quality, appropriate sewage disposal, consideration of natural hazards).
 - Strain placed on nearby municipal services and facilities and concerns that requirements of the off-grid community would exceed local emergency response capacity (see Additional Considerations section below).
 - There is also no guarantee that future development in the area will be compatible with that in the off-grid community (e.g. aggregate or mineral extraction).

Additional Considerations

- Most unincorporated areas do not benefit from provincial or municipal services. Additionally, the future or ongoing provision of services is not guaranteed in these areas. For example:
 - Are emergency services available in the area and can any building site be accessed by emergency services? To find out, you should contact:
 - the local OPP for information about how to appropriately describe the location in case of emergency, and to understand the availability of police services,
 - the closest fire department to understand whether any fire services are available in the area,
 - the District Social Services Administration Board to confirm local land ambulance is able to find and access sites.
 - Are services like the provision of water and wastewater services, garbage collection, and road maintenance available over the long term?
 - Please contact the appropriate local authority prior to the construction of any subsurface sewage disposal systems (septic, greywater, etc.) as permits/approvals may be required and may involve an inspection of the property and the system. Local authorities include the health unit and/or conservation authority.
 - Wastewater flows of greater than 10,000 litres per day on a single parcel of land (either through multiple small systems or one large private sewage system), and communal systems must be approved by the Ministry of Environment, Conservation and Parks (MECP).
 - To calculate wastewater flows on a property, see Part 8 of the Ontario Building Code. Tables 8.2.1.3.A and 8.2.1.3.B provide the minimum wastewater flow that must be attributed to each of the uses or structures listed in the tables (e.g. dwelling unit, assembly hall, campground park site, etc.).
 - Permits or approvals may still be required even if alternative methods of servicing are proposed (incinerating/composting toilets).
 - All domestic waste must be disposed of at a MECP approved waste disposal site. Please confirm that either a landfill site in the unincorporated areas or within an adjacent municipality is willing, able, and has the capacity to accept your domestic waste.
 - Is school bussing available and do nearby municipal schools have capacity to accept new students?
- You should also consider whether legal access to the subject property is available, and whether or how an access is maintained. You may wish to seek legal advice where there is uncertainty. Permits or approvals may be required with respect to accessing a property. For example, if the property is on or near a provincial highway please contact the Ministry of Transportation (MTO), if the property is accessed via Crown land please contact the Ministry of Natural Resources and Forestry (MNRF).
- The Ontario Electrical Safety Code applies to electrical work in the province. Please contact the Electrical Safety Authority to determine whether permits or approvals would be required for your project: <https://esasafe.com/>.

- All “owners” as defined in the Ontario Fire Code are responsible for complying with the Fire Code. Inspections are generally not available in areas where there is no local fire department. To understand your responsibilities, please see the Fire Code (O. Reg. 213/07 under the *Fire Protection and Prevention Act, 1997*) at: <https://www.ontario.ca/laws/regulation/070213>.
 - While some of the information may not be applicable to unincorporated areas, the Ontario Municipal Fire Prevention Officers Association offers Helpful Forms & Tips for Residents on their website at: <https://omfpoa.com/helpful-forms-and-tips>
- You may wish to consult with your insurance provider and/or lender to learn whether the cost or availability of insurance or loans may be affected by the lack permits or inspections (building, fire, etc.), they type and condition of road access, the type of emergency services available, etc.

This should not be considered an exhaustive list; other approvals related to building and development in unincorporated areas may be required from ministries or agencies.

MMAH does not provide legal advice. If you are interested in seeking legal advice, the Lawyer Referral Service of the Law Society of Ontario offers free initial early consultations. You can find information about the service on their website at the following link: <https://lso.ca/public-resources/finding-a-lawyer-or-paralegal/law-society-referral-service>.