

September 2009

Addressing Transition Matters Under the Lake Simcoe Protection Act Ontario Regulation 219/09 (General)

A regulation under the Lake Simcoe Protection Act came into effect on June 2, 2009, the same date as the Lake Simcoe Protection Plan (the Plan). Ontario Regulation 219/09 addresses a number of items related to implementation of the Plan, including transition.

The transition rules specify the extent to which the Plan applies to proposals in progress when the Plan came into effect. The rules allow some of these development proposals to proceed according to the policies that were in place before June 2, 2009.

The transition rules ensure the Plan is applied to applications that have been started and may significantly affect the ecological health of the Lake Simcoe watershed. The rules also ensure the Plan is not applied to a proposed development if it received significant approvals before June 2, 2009, such as a draft subdivision plan approval.

GENERAL TRANSITION RULES

A schedule in the back of the Plan sets out which policies apply to decisions under various provincial statutes, including the Planning Act and the Condominium Act.

Section 7 of the regulation lists the types of applications affected by the transition provisions and establishes rules for when these applications are considered to have been started (e.g. an application for a site plan approval under the Planning Act). These rules are similar to those in the Growth Plan for the Greater Golden Horseshoe (Ontario Regulation 311/06).

Generally, the rules are:

- Applications started before the Plan came into effect are not subject to the policies of the Plan (ss. 8(1)).
- Applications started on or after the day the Plan came into effect are subject to the policies of the Plan (ss. 9(1)).

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Generally, the Plan does not apply to the following applications started before June 2, 2009:

- Applications for a minor variance or consent under the Planning Act
- Applications under the:
 - Conservation Authorities Act
 - Public Lands Act
 - Lakes and Rivers Improvement Act.
- Applications arising from approval of a draft plan of subdivision, a provisional consent or a draft condominium description, if the approval was given before June 2, 2009, and the approval has not lapsed. These subsequent applications include specified matters under the:
 - Planning Act
 - Conservation Authorities Act
 - Public Lands Act
 - Lakes and Rivers Improvement Act (Section10)
- If the matter is under consideration by the Ontario Municipal Board or a joint board and the board has completed its hearing but has not given its final decision (ss.8(6)).

EXCEPTIONS TO THE GENERAL TRANSITION RULES

A. Applications started before June 2, 2009

Applicable policies in the Plan apply to the following applications started before June 2, 2009:

- Applications for a sewage works approval under section 53 of the Ontario Water Resources Act (ss. 8(2)).
- Specified types of applications under the Planning Act and Condominium Act are subject to policy 4.15 (on-site sewage systems and sub-surface sewage works) if the proposal includes lands located within 100 metres of the Lake Simcoe shoreline, other lakes or a permanent stream (ss. 8(3) and 8(4)).
- Applications for expanding a settlement area boundary or establishing a new settlement area (cl. 8(4)1.).
- Other than policy 4.8 (stormwater management plans), applications under the Planning Act and Condominium Act are subject if the proposed lands are:

- Located within 120 metres of the Lake Simcoe shoreline (cl. 8(4)3. and ss. 8(5)), or
- Located outside of a settlement area and within 120 metres of:
 - a permanent or intermittent stream
 - a lake other than Lake Simcoe, or
 - a key natural heritage feature (cl. 8(4)2. and ss. 8(5)).

B. Applications started on or after June 2, 2009

If all associated approvals under the Planning Act and Condominium Act were given for a proposed development before June 2, 2009, the Plan does not apply to applications under the:

- Conservation Authorities Act
- Public Lands Act
- Lakes and Rivers Improvement Act (Sections 9 and 10).

DISCLAIMER

This fact sheet is a summary of O. Reg. 219/09 and is not legal advice. Read O. Reg. 219/09 for a complete and accurate understanding of the transition provisions. A copy of the regulation can be obtained from www.e-laws.gov.on.ca. Seek legal advice to clarify any provisions in O. Reg. 219/09.