

Holding Provision

The Planning and Development Act, 2007

2024

Introduction

Section 71 of *The Planning and Development Act, 2007* (the Act) authorizes a council to use a holding provision as a regulatory tool through their Zoning Bylaw. A holding overlay allows a municipality to specify the future use of lands, buildings, or structures in an area is on hold until conditions for removing the provision are met. The Holding Symbol indicates to owners, developers, and municipal staff that although the proposed future use of the land has been designated, there is a necessary procedure that must be adhered to before any development can take place.

Establishing a Holding Provision

A holding symbol may be applied alongside any zoning district designation to ensure orderly staging of development, adequate infrastructure, and community services within the municipality. It is denoted on a Zoning Bylaw map, where the symbol for a zoning district is followed by the holding symbol “H.”

High Density Residential
- HDR (H)

Denoting of Holding Provision

It may be applied for various reasons, including requiring further studies, additional infrastructure, or resolving potential negative impacts on the surrounding area. Essentially, it serves as a temporary suspension of development until specific requirements are met. A holding designation can be used as an effective tool for phasing developments.

As an example, an area may be a desirable location for higher-density development, but the existing stormwater management, sewer and water capacity or other services may not be adequate to service the proposed development. At the time of establishing the zoning for the area, a Council may designate the parcel or area as High Density with the “H” designation, providing them time to:

- Conduct any necessary studies regarding design standards that may be required to service the area.
- Evaluate and adequately budget the necessary funds to improve services.
- Periodically review the area to determine whether all or part of the land(s) should be zoned to a new district.
- Ensure any proposed developments within the district are compatible with local land uses.

Individuals applying to amend the zoning bylaw by removing a holding designation should consult with the municipality to gain an understanding under what conditions its removal may be considered.

Bylaw Amendment Exemptions

If a council proposes to amend a zoning bylaw to remove the holding symbol, the council is exempt from:

- Notwithstanding section 75, complying with the public participation requirements of Part X.
- Notwithstanding section 76, obtaining the minister’s approval of the amending bylaw.

A bylaw to remove the holding symbol must be submitted to the Director of Community Planning within 15 days from the date the bylaw was passed.

Right of Appeal

Unlike standard zoning bylaw amendments, if a council refuses an application amending the zoning bylaw to remove a holding symbol or does not issue a decision within the specified time frame, the applicant may appeal to the Development Appeals Board (DAB). The conditions for an appeal under subsection 71 (5) apply if:

- The council refuses the application.
- The council refuses or fails to come to a decision respecting the application within 60 days after the date on which the application is received.

It is important that a council, in refusing an application to remove a holding symbol, have a sound rationale for their decision, as an applicant has the right to appeal that decision.

If a council has been declared an approving authority, they may, subject to section 28, pass a bylaw to extend the period greater than 60 days to allow for further consideration of the application.

Upon hearing the appeal, the DAB may;

- Dismiss the appeal.
- Direct the council to amend the zoning bylaw in accordance with the board's decision.

Consequently, should the DAB dismiss the appeal, an applicant may further appeal the decision to the Saskatchewan Municipal Board (SMB) in accordance with section 226 of the Act.

For more information about the holding provision under the Act, please contact the Ministry of Government Relations, Community Planning branch.

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