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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 15

THE PLANNING ACT, 1977

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Third Reading

THE PLANNING ACT, 1977

TABLE OF CONTENTS

	Section No.
Definitions	1
PART 1	
APPLICATION AND ADMINISTRATION	
Division 1	
Application	
Purpose	2
Application	3
Compensation	4
Division 2	
Administration	
Staff	5
Delegation	6
Time extension	7
Population figures	8
Alberta Planning Fund	9-11
PART 2	
ESTABLISHMENT AND FUNCTIONS OF PROVINCIAL, REGIONAL AND MUNICIPAL PLANNING AUTHORITIES	
Division 1	
Alberta Planning Board	
Establishment, membership and meetings	12-15
Jurisdiction	16
Proceedings and powers	17-18
Report	19

Division 2

Regional Planning Commissions

Establishment, membership and meetings	20-24
Jurisdiction	25
Reports	26

Division 3

Municipal Planning Commissions

Establishment and operation	27-30
Delegation of subdivision approving authority	31

Division 4

Development Appeal Boards

Establishment and operation	32-36
-----------------------------	-------

Division 5

General

Termination of appointment of members of council	37
Procedural matters	38-40
Right of entry	41

PART 3

REGIONAL PLANS AND STATUTORY PLANS

Contents of plans	42
-------------------	----

Division 1

Regional Plans

Preparation and contents	43-44
Public participation	45-46
Changes to regional plan	47
Adoption and ratification	48-50
Effect	51
Amendments and appeals	52-55
Repeal	56

Division 2

Statutory Plans

General Municipal Plans	57-59
Area Structure Plans	60
Area Redevelopment Plans	61-63

PART 4

IMPLEMENTATION OF PLANS

Division 1

Land Use By-law

When mandatory	64
Contents of land use by-law	65
Direct control districts	66
Permitted and discretionary uses	67
Acquisition of land compulsory	68
Non-conforming uses and buildings	69

Division 2

**Redevelopment and Off-site
Levies and Development Conditions**

Redevelopment levy	70
Off-site levy	71
Construction and installation of facilities	72

Division 3

Development Control

Dwelling units on a parcel	73
Compulsory subdivision	74-75
Stop orders	76-77

Division 4

Development Appeals

Development permit	78
Appeal from decision or order of development officer	79
Hearing and decision	80

PART 5

SUBDIVISION OF LAND

Division 1

Control over Subdivisions

Restriction on registration of certain instruments	81
--	----

Division 2

Application for Subdivision Approval

Subdivision approving authorities	82
Application	83-84
Hearing and decision	85,87
Conditions on subdivision approval	86
Subsequent applications prohibited for 6 months	88

Division 3

**Land Provided to the Crown,
Municipal Corporations, School Authorities and
Money Taken in Place of Certain Reserve Land**

General	89
Land for public roadways and public utilities	90
Exemptions from reserves	91
Environmental reserve	92
Basic school and municipal reserve and money in place thereof	93-94
Additional municipal and school reserve	95
Allocation of municipal and school reserve	96
Use of environmental and municipal reserve	97
Registration of subdivision instrument	98

Division 4

Subdivision Appeals

Appeal	99
Hearing and decision	100-101
Endorsement of plan	102

Division 5

Cancellation of Subdivisions

Cancellation and effect	103-105
-------------------------	---------

Division 6

Replotting Schemes

Authorization	106
Memorandum endorsed on titles	107
Duties of council	108
Appraisals	109
Contents of replotting scheme	110
Entitlement of registered owners	111
Hearing and adoption of scheme	112-114
Registration of scheme	115
Costs of preparing scheme and replot compensation	116-117
Councils powers	118

Division 7

Replot Compensation

Application	119
Land Compensation Board	120-121

PART 6

GENERAL

Division 1

Public Participation in By-laws

Notice and hearing	122-123
Ministerial exemption	124
Technical amendments	125
Validity of by-laws	126

Division 2

Regulations

Ministerial regulations	127
Land use regulations	128
Subdivision regulations	129
Other regulations	130
Innovative residential development area	131
Special planning area	132-133

Division 3

Appeals to the Supreme Court

Appeal	134-135
--------	---------

Division 4

Offences and Penalties

Offences and penalties	136-137
------------------------	---------

PART 7

**TRANSITIONAL, CONSEQUENTIAL PROVISIONS
AND COMMENCEMENT**

Transitional provisions	138-148
Consequential provisions	149-155
Commencement	156

BILL 15

1977

THE PLANNING ACT, 1977

(Assented to , 1977)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. In this Act,

1. “area redevelopment plan” means a plan adopted by a council as an area redevelopment plan pursuant to this Act;
2. “Board” means the Alberta Planning Board established pursuant to this Act;
3. “building” includes any thing constructed or placed on, in, over or under land but does not include a highway or a bridge;
4. “cost of preparing the replotting scheme” means the following costs payable with respect to a replotting scheme:
 - (i) appraisal costs,
 - (ii) survey costs,
 - (iii) costs paid to prepare a plan of subdivision,
 - (iv) subdivision approving authority costs, and
 - (v) land titles costs;
5. “council” means
 - (i) the council of a municipality, or
 - (ii) the board of administrators of a new town;

Explanatory Notes

GENERAL: The proposed Planning Act, 1977 is divided into seven parts, each part dealing with a separate aspect of the planning and development process.

Part 1 of the Act contains provisions reflecting the purpose and application of the Act and deals with such other matters as the appointment of staff and the continuation of the Alberta Planning Fund.

Part 2 of the Act deals with the establishment of the various provincial, regional and municipal planning authorities and outlines their responsibilities and jurisdiction.

Part 3 provides a mechanism for the establishment of regional plans, general municipal plans, area structure plans and area redevelopment plans.

Part 4 requires every council of a municipality having a population of 1000 persons or more to pass a land use by-law and describes the matters that are to be contained in the by-law. Other sections of the Part deal with direct control of parts of the municipality by a council, permitted and discretionary uses and conforming and non-conforming uses of land and control over unauthorized development.

Provisions governing the imposition of redevelopment and off-site levies are dealt with in Part 4, Division 2.

Methods of enforcing development control and appeals from a development officer's decision are provided for in Part 4, Divisions 3 and 4.

Part 5 of the Act deals with the subdivision of land, first detailing the circumstances under which subdivision approval is required and then prescribing the method of applying for approval.

Division 3 of Part 5 spells out in some detail the land that must be given up for public roadways and public utilities and the land that may be taken as environmental reserve, municipal reserve and school reserve or the money that may be taken in place of municipal and school reserve.

Replotting schemes and cancellation of plans of subdivision are also dealt with in Part 5.

Part 6 of the Act details the extent to which the general public will be involved in the planning process. Division 2 of Part 6 deals with the various types of regulations that may be made by the Minister and the Lieutenant Governor in Council.

Part 6, Divisions 3 and 4 deal with appeals to the Supreme Court and the various offences and penalties under the Act.

Part 7 is confined to transitional provisions, amendments to other Acts and the commencement of the Act on Proclamation.

1. Definitions.

6. “development” means
- (i) an excavation or stockpile and the creation of either of them, or
 - (ii) a building or an addition to, or replacement or repair of a building and the construction or placing in, on, over or under land of any of them, or
 - (iii) a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building, or
 - (iv) a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building;
7. “development appeal board” means the development appeal board appointed pursuant to section 32 or a council where it is the development appeal board by virtue of section 32, subsection (2);
8. “development officer” means
- (i) a person appointed as a development officer pursuant to a land use by-law or the land use regulations, or
 - (ii) where a municipal planning commission is authorized to act as a development officer, the municipal planning commission;
9. “development permit” means a document authorizing a development issued pursuant to a land use by-law or the land use regulations;
10. “environmental reserve” means the land specified to be environmental reserve by a subdivision approving authority pursuant to section 92;
11. “general municipal plan” means a plan adopted by a council as a general municipal plan pursuant to this Act;
12. “highway” means
- (i) a highway or proposed highway that is designated as a primary highway,

- (ii) any other road designated as a controlled highway, and
 - (iii) a highway designated as a secondary road,
- pursuant to *The Public Highways Development Act* and a public roadway;
13. “instrument” means an instrument as defined in *The Land Titles Act*;
 14. “land use by-law” means a by-law of a council passed as a land use by-law in accordance with this Act;
 15. “land use regulations” means regulations made by the Lieutenant Governor in Council pursuant to section 128;
 16. “local authority” means
 - (i) a council, or
 - (ii) a school authority, or
 - (iii) a district board under *The Alberta Hospitals Act*, or
 - (iv) the board of directors of an irrigation district, or
 - (v) the board of trustees of a drainage district;
 17. “Minister” means the Minister of Municipal Affairs;
 18. “municipal corporation” means
 - (i) the corporation of a city, town, new town, village, summer village, municipal district or county, or
 - (ii) in the case of an improvement district or special area, the Minister;
 19. “municipal planning commission” means a municipal planning commission established by a council pursuant to this Act;
 20. “municipal reserve” means the land specified to be municipal reserve by a subdivision approving authority pursuant to sections 93 and 95;
 21. “municipality” means the area of a city, town, new town, village, summer village, county, municipal district, improvement district or special area;

22. “non-conforming building” means a building
- (i) that is lawfully constructed or lawfully under construction at the date a land use by-law or any amendment thereof affecting the building or land on which the building is situated becomes effective, and
 - (ii) that on the date the land use by-law or any amendment thereof becomes effective does not, or when constructed will not, comply with the land use by-law;
23. “non-conforming use” means a lawful specific use
- (i) being made of land or a building or intended to be made of a building lawfully under construction, at the date a land use by-law or any amendment thereof affecting the land or building becomes effective, and
 - (ii) that on the date the land use by-law or any amendment thereof becomes effective does not, or in the case of a building under construction will not, comply with the land use by-law;
24. “parcel” means the aggregate of the one or more areas of land described in a certificate of title or described in a certificate of title by reference to a plan filed or registered in a land titles office;
25. “planning region” means that area of land in respect of which a regional planning commission has jurisdiction;
26. “plan of subdivision” means a plan of survey prepared in accordance with section 75 or 82 of *The Land Titles Act* for the purpose of effecting a subdivision;
27. “public roadway” means
- (i) in a city, town, new town, village or summer village, a local road, service road, street, avenue or lane intended for public use, or
 - (ii) in a county, municipal district, improvement district or special area, a controlled street or rural road as defined in *The Public Highways Development Act* and a service road or a lane intended for public use;

28. “public utility” means a public utility as defined in *The Municipal Government Act*;
29. “redevelopment area” means an area of land that is the subject of an area redevelopment plan;
30. “regional plan” means
- (i) a plan approved by the Board and ratified by the Minister as a regional plan, or
 - (ii) a plan made by the Minister pursuant to section 43, subsection (4);
31. “regional planning commission” means a regional planning commission established by the Lieutenant Governor in Council pursuant to this Act;
32. “registered owner” means
- (i) in the case of land owned by the Crown in right of Alberta or the Crown in right of Canada, the Minister of the Crown having the administration of the land, or
 - (ii) in the case of any other land,
 - (A) the purchaser of the fee simple estate in the land under an agreement for sale that is the subject of a caveat registered against the certificate of title in the land and any assignee of the purchaser’s interest that is the subject of a caveat registered against the certificate of title, or
 - (B) in the absence of a person described in paragraph (A), the person registered under *The Land Titles Act* as the owner of the fee simple estate in the land;
33. “Registrar” has the same meaning as it has in *The Land Titles Act*;
34. “replot compensation” means the compensation that may be awarded by the Land Compensation Board pursuant to section 120;
35. “reserve land” means environmental reserve, municipal reserve or school reserve or a combination of municipal and school reserve;

36. “school authority” means the board of trustees of a school district or school division or the council of a county;
37. “school reserve” means the land specified to be school reserve by a subdivision approving authority pursuant to sections 93 and 95;
38. “statutory plan” means a general municipal plan, an area structure plan referred to in section 60 and an area redevelopment plan or any one or more of them;
39. “subdivision” means the division of a parcel by an instrument and “subdivide” has a corresponding meaning;
40. “subdivision approval” means the approval of a subdivision by a subdivision approving authority;
41. “subdivision approving authority” means the person or authority empowered to approve a subdivision;
42. “subdivision regulations” means regulations made by the Lieutenant Governor in Council pursuant to section 129.

PART 1

APPLICATION AND ADMINISTRATION

Division 1

Application

2. The purpose of this Act and the regulations is to provide means whereby plans and related measures may be prepared and adopted to

- (a) achieve the orderly, economical and beneficial development and use of land and patterns of human settlement, and
- (b) maintain and improve the quality of the physical environment within which patterns of human settlement are situated in Alberta,

without infringing on the rights of individuals except to the extent that is necessary for the greater public interest.

3. This Act and the regulations do not apply when a development or a subdivision is effected solely for the purpose of

- (a) a highway, or
- (b) a well or battery within the meaning of *The Oil and Gas Conservation Act*, or
- (c) a pipeline, or
- (d) any other thing specified by the Lieutenant Governor in Council by regulation.

4. Except as provided in this Act, nothing in this Act or the regulations or in any regional plan, statutory plan, replotting scheme or land use by-law gives a person a right to compensation.

Division 2

Administration

5. In accordance with *The Public Service Act*, there may be appointed such persons and employees as may be required for the administration of this Act and the regulations.

2. Purpose of the Act.

3. Application of the Act.

4. Compensation.

5. Staff.

6. Where the Minister is given any power or duty under this Act or the regulations, he may authorize one or more employees of the Crown in right of Alberta under his administration to exercise or perform that power or duty generally or with respect to any particular case upon such conditions or in such circumstances as the Minister prescribes and thereupon that power or duty may be exercised or performed by the employees so authorized in addition to the Minister.

7. (1) If anything to be done by a council, person or body of persons, within a number of days or at a time fixed by or under this Act or the regulations, cannot be or is not so done, the Minister may by regulation from time to time appoint a further or other time for doing it, whether the time at or within which it ought to have been done has or has not arrived or expired, as the case may be.

(2) Anything done at or within the time specified in the regulation is as valid as if it had been done at or within the time fixed by or under this Act.

8. Where the population of a municipality has to be determined for any purpose under this Act or the regulations, it shall be determined in the same way as it is determined under section 28 of *The Alberta Property Tax Reduction Act*.

Alberta Planning Fund

9. (1) There is hereby established a fund called the "Alberta Planning Fund" which shall be held and administered by the Minister and in respect of which a separate accounting record shall be kept.

(2) The Minister may, by regulation,

(a) establish one or more rates expressed in mills, and

(b) specify the municipality or class or type of municipality to which each rate is applicable,

and in each case may specify the one or more years in respect of which the rate or rates are to apply.

(3) Each council shall pay into the Alberta Planning Fund annually a sum of money equal to the amount which results

6. Delegation.

7. Time extension.

8. Population figures.

9. Alberta Planning Fund.

from applying the applicable mill rate established pursuant to subsection (2) to the equalized assessment of the municipality as established for the year under *The Municipalities Assessment and Equalization Act*.

10. (1) The Board shall notify each council by May 1 of each year, or as soon thereafter as possible, of the amount the council is required to pay into the Alberta Planning Fund.

(2) Each council shall pay the amount required of it on or before June 1 of each year or within 30 days of the Board's notification under subsection (1), whichever last occurs.

11. (1) At the request of the Minister, there shall be transferred into the Alberta Planning Fund such moneys as are appropriated for that purpose by the Legislature.

(2) There shall be paid from the Alberta Planning Fund such sums as may be authorized by the Board and to such persons as may be specified by it for any or all of the following purposes:

- (a) the operation and administration of a regional planning commission;
- (b) enabling any plan referred to in this Act to be prepared;
- (c) enabling any special planning studies to be carried out.

(3) Any money in the Alberta Planning Fund at the end of the fiscal year remains in the Fund for use in any fiscal year thereafter.

10. Payment to the Fund.

11. Payments into and out of the Fund.

PART 2

ESTABLISHMENT AND FUNCTIONS OF PROVINCIAL, REGIONAL AND MUNICIPAL PLANNING AUTHORITIES

Division 1

Alberta Planning Board

12. (1) The Alberta Planning Board is hereby established.

(2) The Board shall be composed of those persons appointed by the Lieutenant Governor in Council as members of the Board.

(3) The Lieutenant Governor in Council shall designate one member of the Board as chairman and may designate one or more other members as vice-chairmen.

(4) In the event of the absence or inability to act of the chairman of the Board, a vice-chairman shall act as chairman and if no vice-chairman is designated or in the event of his or their absence or inability to act, the members of the Board present at the meeting shall elect a member to act as chairman.

13. (1) Each member of the Board holds office during pleasure.

(2) The chairman and other members of the Board shall receive such remuneration, travelling and living expenses for their services as the Lieutenant Governor in Council determines.

14. (1) The members of the Board shall meet at the times and places specified by the chairman.

(2) At the direction of the chairman of the Board, a vice-chairman shall

(a) act as chairman of the Board, or

12. Alberta Planning Board established.

13. Holding office and remuneration.

14. Meetings of the Board and the quorum.

(b) act as chairman of a committee of the Board.

(3) A quorum of the Board or of a committee of the Board is three members.

(4) The Board may meet in two or more committees simultaneously.

15. (1) A decision of a committee of the Board is a decision of the Board.

(2) A decision of a majority of the members of the Board or a committee of the Board present and constituting a quorum is a decision of the Board, but if there is a tie vote, the member who is chairman of the meeting may cast a second vote.

(3) Notwithstanding a vacancy in the membership of the Board, the remaining members thereof, if at least three members remain in office, have and may exercise and perform the powers and duties of the Board.

16. (1) The Board may

(a) make its orders, decisions and approvals and issue notices with or without conditions, and

(b) make such rules of procedure for the conduct of its business, for hearings before it and conducting inquiries and for any other matter as it considers necessary.

(2) The Board may

(a) rehear any matter in respect of which it has not made a decision, or

(b) review, rescind or vary any order, decision, approval or notice or any condition attached thereto if no development has commenced as a result of the original order, decision, approval or notice and rehear or hear new evidence or argument related thereto.

15. Decisions of the Board.

16. Jurisdiction of the Board.

(3) The Lieutenant Governor in Council may confer or impose upon the Board such duties or functions as he considers necessary.

17. (1) For the purposes of this Act and the regulations, the Board may

- (a) summon and enforce the attendance of witnesses in the same manner as a court of record in civil cases;
- (b) require a person to attend and produce such plans, documents or other things as it considers necessary for the purpose of any inquiry, hearing, appeal or other matter coming within its jurisdiction.

(2) Any member of the Board may administer an oath to a person appearing before it.

18. (1) Where in the opinion of the Board

- (a) the attendance of a person is required, or
- (b) the attendance of a person to produce a document or other thing is necessary,

the Board may cause to be served on the person concerned a notice to attend or a notice to attend and produce, as the case may be, signed by the chairman or a vice-chairman of the Board.

(2) Where a person fails or refuses to comply with

- (a) a notice to attend, or
- (b) a notice to attend and produce a document or other thing,

issued by the Board, a judge of the Supreme Court, on application of the Board, may issue a bench warrant requiring the attendance of the person or the attendance of the person to produce the document or other thing, as the case may be, before the Board.

17. Proceedings before the Board.

18. Attendance of witnesses and production of documents.

19. (1) The Board shall after the end of each Government fiscal year make a report to the Minister of its activities in the preceding fiscal year which shall contain a copy of a financial statement audited by the Provincial Auditor relating to the Alberta Planning Fund.

(2) Upon the receipt of the report referred to in subsection (1) by the Minister, he shall lay a copy of it before the Legislative Assembly if it is then sitting and if not, within 15 days after the commencement of the next sitting.

Division 2

Regional Planning Commissions

20. (1) The Lieutenant Governor in Council may by regulation establish one or more regional planning commissions.

(2) The Lieutenant Governor in Council may make regulations

- (a) specifying the name by which each regional planning commission is to be known;
- (b) describing the area within which each regional planning commission is to exercise its jurisdiction;
- (c) after the establishment of a planning region, changing the area of the planning region.

(3) A regional planning commission established by regulation is a corporation.

(4) The fiscal year of each regional planning commission is the 12-month period commencing April 1 each year or such other period as the Lieutenant Governor in Council may specify.

21. A regional planning commission shall

- (a) upon its establishment hold an organizational meeting after giving notice of its intention to do so to the council

19. Annual report.

20. Establishment of regional planning commissions. The effect of establishing regional planning commissions as corporations is to vest in them the powers provided by section 14 of The Interpretation Act which reads:

14. Words in an enactment establishing a corporation

- (a) vest in the corporation power to sue and be sued, to contract and be contracted with by its corporate name, to have a common seal and to alter or change it at pleasure, to have perpetual succession, to acquire and hold personal property or movables for the purposes for which the corporation is constituted and to alienate the same at pleasure,*
- (b) vest in a majority of the members of the corporation the power to bind the others by their acts, and*
- (c) exempt from personal liability for its debts, obligations or acts such individual members of the corporation as do not contravene the provisions of the enactment incorporating them.*

21. Compulsory meetings.

of each municipality within its planning region, at which meeting the members shall elect a chairman and one or more vice-chairmen, and

- (b) each year, hold an annual general meeting upon giving notice of its intention to do so to the council of each municipality within its planning region.

22. (1) Where a regional planning commission has been established, the Minister shall

- (a) designate the councils that are to be represented on the commission, and
- (b) specify the number of members of council that are to be appointed by the council as members of the commission.

(2) Where a council is designated under subsection (1), it shall forthwith appoint the number of members of council required to be appointed by it and may specify the term of office of each person so appointed.

(3) In addition to the one or more persons appointed pursuant to subsection (2), the council may appoint one alternate member for each member appointed, to act in the place of the member if the member is absent or unable to attend a meeting of the regional planning commission or any committee thereof.

(4) Where an alternate member acts in place of a member of a regional planning commission, the alternate member is a member of the commission for all purposes.

23. (1) The council of each municipality situated in a planning region that is not represented on a regional planning commission may appoint a member of its council to attend

- (a) the organizational meeting of the commission, and
- (b) each annual general meeting of the commission.

22. Members and alternate members of a regional planning commission.

23. Special rights to attend regional planning commission meetings.

(2) Where a regional planning commission deals with an item of business affecting a council that is not represented on the commission, a member of the council affected or a person on its behalf may speak to and vote on the matter as if he were a member of the commission.

24. (1) A regional planning commission may

- (a) appoint such committees as it considers necessary consisting of its members or a combination of its members and such other persons as it considers necessary;
- (b) delegate to any committee such of its powers and duties as it considers necessary except the power to adopt a regional plan or any amendment thereto.

(2) A decision of a committee of a regional planning commission is a decision of the commission.

(3) Notwithstanding a vacancy in the membership of a regional planning commission, the remaining members thereof, if at least a majority remain in office, have and may exercise and perform the powers and duties of the commission.

25. (1) A regional planning commission may

- (a) make its orders, decisions and approvals and issue notices with or without conditions, and
- (b) make such rules of procedure for the conduct of its business, the calling of meetings and the quorum thereat, the holding of hearings and the procedure at the hearing and for any other matter it considers necessary.

(2) A regional planning commission may

- (a) employ a person as director of the commission and may delegate to him or to a person acting in the capacity of director, the power to act as a subdivision approving authority with or without conditions;
- (b) employ or engage the services of such other persons as it considers necessary and prescribe such rules of conduct for persons employed or engaged by it as it considers necessary;

24. Regional planning commission committees and decisions.

25. Jurisdiction of regional planning commission.

- (c) fix the remuneration, travelling and living expenses of members of the commission and of persons employed or engaged by it;
- (d) prescribe fees charged for any other thing or service provided to the public.

(3) A regional planning commission may

- (a) upon the request of a council of a municipality situated in its planning region, prepare or assist in the preparation of
 - (i) a statutory plan, or
 - (ii) a land use by-law,or both of them;
- (b) provide such advice and assistance to a council or a municipal planning commission as is agreed upon by the regional planning commission and the municipal planning commission or a council, as the case may be;
- (c) upon request to do so by the Minister, a council or the Local Authorities Board,
 - (i) submit suggestions with respect to any proposed annexation, and
 - (ii) attend a hearing of the Local Authorities Board and speak to any matter before it;
- (d) encourage, by whatever means it considers appropriate, participation by the general public in planning matters.

26. (1) On or before July 1 each year each regional planning commission shall send to the Board and each council of every municipality in its planning region, in such form and detail as the Board may prescribe,

- (a) a report of its activities in the preceding fiscal year, and
- (b) an audited financial statement relating to the preceding fiscal year.

26. Annual reports.

(2) On or before a date fixed each year by the Board, each regional planning commission shall send to the Board

- (a) a report of the activities it proposes to undertake in the forthcoming fiscal year, and
- (b) an estimate of its anticipated revenues and expenditures required as a result of its proposed activities.

Division 3

Municipal Planning Commissions

27. (1) A council may by by-law establish a municipal planning commission.

(2) A municipal planning commission shall be composed of not less than three persons.

28. (1) Subject to section 27, where a council establishes a municipal planning commission, it may by by-law

- (a) provide for
 - (i) the manner in which persons are to be appointed as members of the commission,
 - (ii) the manner in which vacancies on the commission are to be filled,
 - (iii) the manner in which a chairman and any vice-chairmen are to be designated from the members of the commission, and
 - (iv) the remuneration, travelling and living expenses of the chairman and other members of the commission;
- (b) specify the terms of office of the chairman and other members of the commission either generally or with respect to specific appointments;

27. Establishment of municipal planning commissions.

28. Contents of by-law establishing municipal planning commission.

(c) provide for the operation of and the conduct of the business of the commission including the setting of fees for any matter coming before it, the holding of meetings and the quorum thereat, the keeping of records and such other matters relating to the operation and the conduct of the business of the commission as it considers necessary.

(2) A council may by by-law delegate, with or without conditions, to a municipal planning commission appointed by it the power to issue development permits.

(3) A by-law made pursuant to subsection (2) may authorize a municipal planning commission to act as a development officer in addition to or in place of a development officer appointed by the council.

29. A municipal planning commission may make its orders, decisions, development permits and approvals and issue notices with or without conditions.

30. Notwithstanding a vacancy in the membership of a municipal planning commission, the remaining members thereof, if at least three remain in office, have and may exercise and perform the powers and duties of the commission.

31. (1) The Minister may authorize a council with or without conditions to act as a subdivision approving authority.

(2) Where a council is authorized to act as a subdivision approving authority, the council may by resolution with or without conditions delegate to a municipal planning commission appointed by it the power to act as a subdivision approving authority for the municipality.

(3) A municipal planning commission to whom the power to act as a subdivision approving authority has been delegated may, with the consent of the council, delegate its power with or without conditions to one or more of its members and thereupon the power may be exercised or performed by the one or more members in addition to the commission.

29. Decisions of a municipal planning commission.

30. Procedural.

31. Delegation of subdivision approving authority to municipal planning commissions.

Division 4

Development Appeal Boards

32. (1) A council of a municipality having a population of 1000 or more shall by by-law establish a development appeal board.

(2) Where a municipality has a population of less than 1000, the council is the development appeal board unless the council by by-law establishes a development appeal board.

33. (1) A development appeal board established under section 32, subsection (1) shall be composed of not less than three persons appointed by the council.

(2) Each member of the development appeal board shall be appointed for a term of not more than three years but a person may be reappointed upon the expiry of his term.

(3) No person who is a development officer or a member of a municipal planning commission shall be appointed to or act as a member of a development appeal board.

34. Subject to section 33, where a council establishes a development appeal board, it may by by-law

(a) provide for

(i) the manner in which persons are to be appointed as members of the board,

(ii) the manner in which vacancies on the board are to be filled,

(iii) the manner in which a chairman and any vice-chairmen are to be designated from members of the board, and

(iv) the remuneration, travelling and living expenses of the members of the board;

(b) specify the terms of office of the chairman and other members of the board either generally or with respect to specific appointments;

32. Establishment of development appeal boards.

33. Members of development appeal boards.

34. Appointments and records.

- (c) provide for the operation of and the conduct of the business of the board including the setting of fees for any matter coming before it, the holding of meetings and the quorum thereat, the keeping of records and such other matters relating to the operation and the conduct of the business of the board as it considers necessary.

35. A development appeal board may make its orders, decisions and approvals and issue notices with or without conditions.

36. Notwithstanding a vacancy in the membership of the development appeal board, the remaining members thereof, if at least three remain in office, have and may exercise and perform the powers and duties of the board.

Division 5

General

37. (1) Where a member of a council is appointed as a member of

- (a) a regional planning commission, or
- (b) a municipal planning commission, or
- (c) a development appeal board,

his appointment terminates upon his ceasing to be a member of the council.'

(2) A person who is a member of a municipal planning commission or a development appeal board who ceases to be a member of a council and who is otherwise eligible to be appointed, may be reappointed as a member of the municipal planning commission or development appeal board, as the case may be.

38. In the event of the absence or inability to act of the chairman at a meeting of a regional planning commission, a municipal planning commission or a development appeal board, a vice-chairman shall act as chairman and if no vice-chairman is designated or in the event of the absence or inability to act of the vice-chairman, the members of the regional planning commission, municipal planning commission or development appeal board, as the case may be, present at the meeting shall elect a member to act as chairman at that meeting.

35. Decisions of development appeal board.

36. Procedural.

37. Automatic termination of appointment of council members in certain circumstances.

38. Absence or inability to act of chairman.

39. The following persons or authorities, namely,

- (a) the Board;
- (b) a regional planning commission;
- (c) a municipal planning commission;
- (d) a development appeal board;
- (e) a development officer;
- (f) a person empowered to approve applications for subdivision approval;
- (g) a council when acting pursuant to this Act or the regulations;
- (h) the Minister or any person authorized by him,

in the exercise of any powers and duties imposed or conferred on him or it pursuant to this Act or the regulations,

- (i) may accept such oral or written evidence as he or it in his or its discretion considers proper whether admissible in a court of law or not, and
- (j) are not bound by the laws of evidence applicable to judicial proceedings.

40. (1) An order, decision, approval, notice or other thing made, given or issued by

- (a) the Board, or
- (b) a regional planning commission, or
- (c) a municipal planning commission, or
- (d) a development appeal board,

may be signed on its behalf by its chairman, a vice-chairman or a member elected to act as chairman.

(2) An order, decision, approval, notice or other thing, purporting to be signed by the chairman, a vice-chairman or a member elected to act as chairman on behalf of an authority referred to in subsection (1), shall be admitted in evidence as prima facie proof

39. Proceedings before authorities.

40. Issue of decisions.

- (a) of the order, decision, approval, notice or other thing, and
- (b) that the person signing it was authorized to do so,

without proof of the appointment of the person signing as a member of the authority concerned or his appointment, election or designation as chairman or vice-chairman, as the case may be, or of his signature.

Right of Entry

- 41.** (1) Any of the following persons, namely,
- (a) an employee of the Crown in right of Alberta authorized by the Minister to do so, or
 - (b) a member of a council, or
 - (c) a member of
 - (i) the Board, or
 - (ii) a regional planning commission, or
 - (iii) a municipal planning commission, or
 - (iv) a development appeal board,or
 - (d) an employee of a council or a regional planning commission authorized by the council or the commission to do so,

may at any reasonable time, enter upon land or a building for the purpose of making an inspection or carrying out any power or duty required for the administration of this Act, the regulations or any land use by-law.

(2) If a person specified in subsection (1) is refused entry or obstructed or interfered with in any way, he may apply to the District Court by way of originating notice for an order restraining the person named in the order or any other person from preventing, interfering with or obstructing any person specified in subsection (1) from making an inspection or exercising any power or duty referred to in subsection (1).

(3) A copy of the originating notice and a copy of each affidavit in support shall be served not less than three days before the day named in the notice for hearing the application.

41. Right of entry.

PART 3

REGIONAL PLANS AND STATUTORY PLANS

- 42.** Any plan referred to in this Part may include
- (a) maps, diagrams and other graphic aids, and
 - (b) such written statements, policies, proposals and forecasts as are considered necessary and appropriate for the plan in which they appear.

Division 1

Regional Plans

43. (1) Each regional planning commission shall, on or before December 31, 1982, adopt a plan for the planning region under its jurisdiction in accordance with this Act which shall be known as the “(name of region) Regional Plan”.

(2) Pending completion of a regional plan a regional planning commission may prepare a plan for any one or more parts of the planning region.

(3) Any reference in this Act or the regulations to a regional plan includes a plan prepared for part of a planning region.

(4) The Minister may prepare a regional plan for any area of Alberta not included in a planning region.

44. A regional plan shall provide for the present and future land use and development of the planning region and amongst other things shall take into account such policies and other matters as the Minister may from time to time prescribe.

42. Contents of plans generally.

43. Preparation of regional plan. Preliminary regional plans passed under the former Act are deemed to be regional plans for the purposes of this Act until December 31, 1982. See section 141.

44. Contents of regional plan.

45. (1) A regional planning commission shall, during the preparation of a regional plan, provide an opportunity to the Board and the councils of those municipalities situated in the planning region and those local authorities and persons affected by it of making suggestions and representations with respect to the plan.

(2) The opportunity for making suggestions and representations referred to in subsection (1) shall include the publication of one or more notices in a newspaper circulating in the planning region of a statement to the following effect:

- (a) that a regional plan is proposed and its effect on the planning region;
- (b) where a draft has been prepared, an invitation to inspect the proposed plan and supporting material at the times and places specified in the notice;
- (c) an invitation to make suggestions and representations within such time as is specified in the notice.

(3) A copy of a proposed regional plan shall be sent to

- (a) the Minister,
- (b) the council of each municipality in the planning region,
- (c) any other local authority whose powers extend to the planning region, and
- (d) such other persons or organizations as the regional planning commission considers necessary,

inviting comments within such period of time as is specified by the commission.

46. (1) Before a regional planning commission adopts a regional plan it shall hold one or more public hearings and give notice thereof in accordance with this section.

(2) The regional planning commission shall publish in one or more notices in a newspaper circulating in the planning region a statement

45. Public participation in the regional plan.

46. Public hearing.

- (a) of the intention of the regional planning commission to hold a public hearing on the proposed regional plan;
- (b) of the date, place and time of the hearing;
- (c) that the public is invited to make suggestions and representations with respect to the plan;
- (d) in general terms, the procedure to be followed by anyone wishing to be heard at the hearing;
- (e) in general terms, the manner in which the hearing will be conducted.

(3) At the public hearing referred to in the notice, the regional planning commission shall hear

- (a) any person or group of persons, or person acting on his or their behalf, wishing to be heard and who has complied with the procedure specified by the commission, and
- (b) any other person who wishes to make representations and whom the commission agrees to hear.

47. (1) After the public hearing referred to in section 46, the regional planning commission shall consider the representations made to it and may make such changes to the proposed regional plan as it considers necessary.

(2) The regional planning commission shall give at least 30 days' notice in writing to each council of each municipality in the planning region of its intention to consider the adoption of the proposed regional plan as the regional plan.

48. A regional planning commission, at any meeting of which notice has been given pursuant to section 47, subsection (2), may adopt the proposed regional plan as the regional plan for the planning region upon the affirmative vote of at least two-thirds of those persons entitled to vote and who are present and vote.

47. Changes to regional plan and notice of intention to adopt.

48. Adoption of regional plan by regional planning commission. In addition to the members of the commission, the persons entitled to vote on the plan are described in section 23, subsection (2).

49. (1) Where a proposed regional plan is adopted by a regional planning commission, the commission shall send the plan to the Board.

(2) Upon receipt of a proposed regional plan adopted by a regional planning commission, the Board shall review it and may

- (a) return it to the regional planning commission with suggestions for changes, or
- (b) approve it and send the plan to the Minister with or without recommendations.

(3) Upon receipt of a regional plan pursuant to subsection (2), the Minister may

- (a) return the plan to the Board directing that it be referred back to the regional planning commission with suggestions for changes, or
- (b) ratify the plan.

50. (1) Where a proposed regional plan is referred back to a regional planning commission, the commission shall

- (a) reconsider it at a meeting called in the same manner as required under section 47, subsection (2), and
- (b) if it agrees to the changes suggested or other changes, vote affirmatively in the same way as required under section 48.

(2) Upon agreeing to the changes pursuant to subsection (1), the regional planning commission shall send the plan to the Board and thereupon the provisions of section 49 apply.

51. (1) Where a regional plan has been ratified by the Minister, no local authority shall enact any by-law, take any action or authorize or undertake any development that is inconsistent with the regional plan.

(2) Every statutory plan, replanning scheme and land use by-law, every action taken or thing done by a local authority,

49. Ratification of regional plan.

50. Plans referred back to the regional planning commission.

51. Effect of regional plan.

regional planning commission or a council and every decision of a municipal planning commission, development appeal board or development officer shall conform with the regional plan.

(3) The regional planning commission shall send the regional plan ratified by the Minister to every local authority affected by it.

(4) *The Regulations Act* does not apply to a regional plan.

Amendments to a Regional Plan and Appeals

52. (1) A local authority affected by a regional plan may apply to the regional planning commission to amend the regional plan.

(2) A member of a regional planning commission may make a motion to amend a regional plan.

(3) No amendment to a regional plan shall be sent to the Board unless

(a) notice of the vote proposed was given in accordance with section 47, subsection (2), and

(b) at least two thirds of the persons entitled to vote under section 48 and who were present and voted, voted in favour of the amendment.

(4) Where the Board approves an amendment, the amendment comes into effect in accordance with section 55, subsection (2).

53. (1) Where a regional planning commission refuses to approve the amendment, the applicant may appeal to the Board.

(2) An appeal under this section shall be in writing stating the reasons for the appeal and a copy thereof shall be served on any local authority affected by the appeal.

(3) An appeal shall be made within 60 days of the date of the decision appealed.

52. Amendments to regional plans.

53. Appeal to the Board.

54. (1) The Board shall hold a public hearing on the appeal after giving at least 10 days' notice to

- (a) the appellant,
- (b) the Minister,
- (c) the council of each municipality in the planning region,
- (d) every other local authority whose powers extend to the planning region, and
- (e) such other persons or organizations as the Board considers necessary.

(2) After hearing the parties and any other local authority or person it wishes to hear, the Board may approve the amendment and if it does so, shall submit it to the Minister for ratification with or without recommendations.

(3) Notwithstanding an order under subsection (2), the Minister may refuse to ratify the amendment to the regional plan.

55. (1) Where the Board approves an amendment to a regional plan but does not certify the amendment to be of a minor nature, the Board shall refer it to the Minister for ratification

- (2) An amendment to a regional plan takes effect
 - (a) where the Board certifies the amendment to be of a minor nature, upon the certification being made; or
 - (b) in any other case, upon ratification by the Minister.

Repeal of Regional Plan

56. (1) Upon the recommendation of a regional planning commission, the Minister may repeal a regional plan.

(2) A regional planning commission shall not make a recommendation to repeal a regional plan unless

- (a) notice of the vote proposed was given in accordance with section 47, subsection (2), and

54. Board decision.

55. Amendments to regional plan.

56. Repeal of regional plan.

- (b) at least two-thirds of the persons entitled to vote under section 48 and who were present and voted, voted in favour of the repeal.

Division 2

Statutory Plans

General Municipal Plans

- 57.** (1) Subject to subsection (3), a council of
- (a) a city, town, new town, village or summer village having a population of 1,000 or more, and
 - (b) a county or municipal district having a population of 10,000 or more

shall, by by-law passed in accordance with Part 6, adopt a plan for the municipality to be known as the “(name of municipality) General Municipal Plan”.

(2) A council to which subsection (1) does not apply may, by by-law passed in accordance with Part 6, adopt a plan for the municipality to be known as the “(name of municipality) General Municipal Plan”.

(3) The councils of two or more municipalities may, by each passing a by-law in accordance with Part 6, adopt a joint general municipal plan to include such areas of land lying within the boundaries of the municipalities as the councils consider necessary and upon its adoption the joint general municipal plan shall be considered to be a general municipal plan for all purposes.

58. A council shall, during the preparation of a general municipal plan, provide an opportunity to those persons affected by it of making suggestions and representations.

59. A general municipal plan shall

- (a) describe
 - (i) the manner in which future development will be carried out,

57. Preparation of general municipal plans.

58. Public participation in the preparation of a general municipal plan.

59. Contents of general municipal plan.

- (ii) the times within which development should be completed, and
 - (iii) the land uses proposed for the municipality;
- (b) designate the areas of the municipality that would, in the opinion of the council, be suitable for an area structure plan or an area redevelopment plan or both;
- (c) contain such other matters as the council considers necessary.

Area Structure Plans

60. (1) For the purpose of providing a framework for subsequent subdivision of an area of land in a municipality, a council may, by by-law passed in accordance with Part 6, adopt a plan to be known as the “(name) Area Structure Plan”.

- (2) An area structure plan shall
- (a) conform to any general municipal plan in existence and affecting the area that is the subject of the area structure plan;
 - (b) describe
 - (i) the sequence of development proposed for the area,
 - (ii) the land uses proposed for the area, either generally or with respect to specific parts of the area,
 - (iii) the density of population proposed for the area either generally or with respect to specific parts of the area, and
 - (iv) the proposed walkways, public roadways and public utilities;
 - (c) contain such other matters as the council considers necessary.

60. By-law adopting an area structure plan.

Area Redevelopment Plans

- 61.** A council may, by by-law passed in accordance with Part 6,
- (a) designate an area of the municipality as a redevelopment area for the purpose of
 - (i) improving the land in the area, or
 - (ii) improving or demolishing and constructing buildings in the area,
 - and
 - (b) adopt a plan for that area to be known as the “(name) Area Redevelopment Plan”.
- 62.** A by-law adopting an area redevelopment plan may,
- (a) in accordance with this section and section 70, provide for the imposition and collection of a levy to be known as a redevelopment levy, and
 - (b) authorize a development officer, with or without conditions, to perform any function with respect to the imposition and collection of the levy as is specified in the by-law.
- 63.** An area redevelopment plan shall
- (a) conform with any land use by-law and any other statutory plan affecting the area that is the subject of the plan;
 - (b) describe
 - (i) the type of development proposed for the area,
 - (ii) the sequence of development proposed for the area,
 - (iii) the manner in which the development will affect the residents of the area and the land and buildings thereon, and

61. By-law adopting an area redevelopment plan.

62. By-law adopting an area redevelopment plan.

63. Contents of an area redevelopment plan.

- (iv) the proposals for temporary or permanent relocation of persons disturbed by the development, if any;
- (c) where a redevelopment levy is to be imposed
 - (i) state the one or more purposes for which it is imposed, and
 - (ii) specify the proportion of the levy collected that will be paid to a school authority, if any;
- (d) describe proposals for the acquisition of land for any public municipal use, school facilities, parks and recreation facilities or such other purposes as the council considers necessary;
- (e) contain such other proposals as the council considers necessary.

PART 4

IMPLEMENTATION OF PLANS

Division 1

Land Use By-law

64. (1) A council of a municipality with a population of 1,000 or more shall pass a by-law in accordance with Part 6, to be known as the “(name of municipality) Land Use By-law”.

(2) A council of a municipality with a population of less than 1,000 may pass a by-law in accordance with Part 6, to be known as the “(name of municipality) Land Use By-law”.

65. (1) A land use by-law may prohibit or regulate and control the use and development of land and buildings within a municipality.

(2) A land use by-law shall

(a) divide the municipality into districts of such number and area as the council considers appropriate;

(b) unless the district is designated as a direct control district pursuant to section 66, prescribe with respect to each district, in accordance with section 67 and with or without conditions,

(i) the permitted uses of land or buildings, or

(ii) the discretionary uses of land or buildings,

or both;

(c) unless a municipal planning commission is authorized to issue development permits in place of a development officer pursuant to section 28, subsection (2), establish the office of one or more development officers and provide for the manner in which development officers are to be appointed;

(d) establish a method of issuing development permits to persons for any development including provision for

(i) the types of development permit that may be issued,

64. Land use by-law mandatory unless municipality has a population of less than 1,000.

65. Land use by-law.

- (ii) the procedure for applying for a development permit,
 - (iii) the procedure for processing an application for, or issuing, cancelling, suspending or refusing to issue, a development permit,
 - (iv) the conditions and restrictions that may be attached to a development permit either generally or with respect to a specific type of permit,
 - (v) the period of time that any type of development permit remains in effect,
 - (vi) the discretion that a development officer is permitted to exercise with respect to development permits, and
 - (vii) such other matters as may be necessary to regulate and control the issue of development permits as to the council appears necessary;
- (e) prescribe a procedure to notify registered owners of land likely to be affected by the issue of a development permit for a use prescribed pursuant to section 67, subsection (1), clause (b).

(3) Without restricting the generality of subsection (1), a land use by-law may provide for any or all of the following matters, either generally or with respect to any district or part of a district established pursuant to subsection (2), clause (a):

1. subject to the subdivision regulations, the minimum and maximum area of parcels;
2. the ground area, floor area, height, size and location of buildings;
3. the amount of land to be provided around or between buildings;
4. the landscaping of land or buildings;
5. the location, height and maintenance of fences and walls;
6. the establishment and maintenance of
 - (i) off-street or other parking areas, and
 - (ii) loading and unloading areas,
 and such other areas as in the opinion of the council may be necessary;

7. the design, character and appearance of buildings;
 8. the location and amount of access to parcels from public roadways and ensuring that there is at least one means of access from each parcel to a public roadway;
 9. the lighting of land and buildings or other things;
 10. the storage or screening of any building or other thing;
 11. the enlargement, alteration, repair or removal or relocation of buildings;
 12. the excavation or filling in of land or the removal of top soil from land;
 13. the trimming or removal of trees and hedges;
 14. the development of buildings
 - (i) on land subject to flooding or subsidence or that is low lying, marshy or unstable, or
 - (ii) on land adjacent to or within a specified distance of the bed and shore of any lake, river, stream or other body of water, or
 - (iii) subject to regulations made under section 132, within a specified area around an airport;
 15. the density of population in any district or part thereof;
 16. the designation of a district as a direct control district subject to and in accordance with section 66;
 17. the establishment of such agreements, forms, fees and procedural matters as the council considers necessary;
 18. the issue of orders requiring an application for subdivision approval pursuant to section 74;
 19. the issue of orders pursuant to section 76.
- (4) A land use by-law may authorize the council or a development officer to approve an application for a development permit notwithstanding that the proposed development does not comply with the land use by-law where
- (a) compliance with the by-law would cause practical difficulties for the applicant, and
 - (b) the proposed development would not, in the opinion of the development officer or the council,

- (i) unduly interfere with the amenities of the neighbourhood, or
- (ii) materially interfere with or affect the use, enjoyment or value of neighbouring properties.

66. (1) A council that has adopted a general municipal plan, where it considers it desirable to exercise particular control over the use and development of land or buildings within an area of the municipality, may in its land use by-law designate that area as a direct control district.

(2) Where a direct control district is designated, the council may regulate and control the use or development of land or buildings in the district in such manner as it considers necessary.

67. (1) Except for a district designated as a direct control district, upon the establishment of districts under a land use by-law, the council shall prescribe in the by-law

- (a) those one or more uses of land or buildings that are permitted in each district, with or without conditions, or
- (b) those one or more uses of land or buildings that may be permitted in each district in the discretion of a development officer or the council, as the case may be, with or without conditions.

(2) Where a person applies for a development permit in respect of a development permitted by a land use by-law pursuant to subsection (1), clause (a), the development officer shall, where the application otherwise conforms to the land use by-law, issue a development permit.

(3) Where a person applies for a development permit in respect of a development that may, in the discretion of a development officer or the council be permitted pursuant to subsection (1), clause (b), the development officer or the council, as the case may be, may issue a development permit.

68. (1) Where land is designated under a land use by-law for use or intended use as a municipal public building, school facility, park or recreation facility and the municipal corporation does not own the land, the council shall, within six months from the date the land is so designated, acquire or commence proceedings to acquire the land.

(2) Notwithstanding subsection (1), where the Crown in right of Canada, the Crown in right of Alberta or another local authority acquires or commences proceedings to acquire the

66. Designation of direct control districts.

67. Permitted and discretionary uses.

68. Acquisition of land designated for public use.

land referred to in subsection (1), the council is not required to acquire the land.

Non-Conforming Uses and Non-Conforming Buildings

69. (1) Where

- (a) on or before the day on which a land use by-law or any by-law for the amendment thereof comes into force in a municipality, a development permit has been issued, and
- (b) the enactment of the by-law would render the development in respect of which the permit was issued, a non-conforming use or non-conforming building,

the development permit continues in effect notwithstanding anything to the contrary in the by-law.

(2) A non-conforming use of land or a non-conforming use of a building may be continued but if that use is discontinued for a period of six consecutive months or more, any future use of the land or building shall conform with the provisions of the land use by-law then in effect.

(3) A non-conforming use of part of a building may be extended throughout the building but the building, whether or not it is a non-conforming building, shall not be enlarged or added to and no structural alterations shall be made thereto or therein.

(4) A non-conforming use of part of a parcel shall not be extended or transferred in whole or in part to any other part of the parcel and no additional buildings shall be erected upon the parcel while the non-conforming use continues.

(5) A non-conforming building may continue to be used but the building shall not be enlarged, added to, rebuilt or structurally altered except

- (a) as may be necessary to make it a conforming building, or
- (b) as the development officer considers necessary for the routine maintenance of the building.

(6) If a non-conforming building is damaged or destroyed to the extent of more than 75 per cent of the value of the building above its foundation, the building shall not be repaired or rebuilt except in accordance with the land use by-law.

69. Non-conforming buildings and non-conforming uses.

(7) The use of land or the use of a building is not affected by reason only of a change of ownership, tenancy or occupancy of the land or building.

Division 2

Redevelopment and Off-site Levies and Development Conditions

70. (1) Where a person applies for a development permit in respect of development in a redevelopment area and the area redevelopment plan contains proposals for residential, commercial or industrial development, a redevelopment levy may be imposed on the applicant in accordance with the by-law adopting the area redevelopment plan.

(2) A redevelopment levy imposed and collected shall be used to provide for the residents of the redevelopment area

(a) land for a park or land for school buildings designed for the instruction or accommodation of students, or

(b) land for new or expanded recreation facilities,

or both.

(3) A redevelopment levy imposed and collected under this Act may be imposed and collected only once in respect of a development and only before a development permit is issued in respect thereof.

(4) A redevelopment levy imposed pursuant to this Act may vary between one class of development and another in a redevelopment area.

(5) Where a redevelopment levy is collected, the council shall pay that portion of the levy imposed to provide land for school buildings designed for the instruction or accommodation of students to the one or more school authorities in need thereof.

71. (1) A council may by by-law

(a) provide for the imposition of a levy to be known as an off-site levy in respect of development on previously undeveloped land for the purposes described in subsection (2), and

(b) authorize an agreement to be entered into in respect thereof.

70. Redevelopment levies.

71. Off-site levy.

(2) An off-site levy may be used only to pay for all or any part of the cost of new or expanded

- (a) water supply, treatment and storage facilities;
- (b) sanitary sewage treatment and disposal facilities;
- (c) storm drainage facilities;

or for land in connection with all or any of them.

(3) An off-site levy imposed under this Act may be imposed once only in respect of a development and only before a development permit is issued in respect thereof.

72. A council may require with respect to any development that, as a condition of issuing a development permit, the applicant construct a public roadway required to give access to the development and install utilities and other services that will be necessary as a result of the development.

Division 3

Development Control

Dwelling Units on a Parcel

73. (1) No person shall construct or locate or cause to be constructed or located more than one dwelling unit on a parcel.

(2) No development officer shall issue a development permit to a person which would permit the construction or location of more than one dwelling unit on a parcel.

(3) Subsections (1) and (2) do not apply where the second or any additional dwelling unit

(a) is to be occupied by a person who is employed full time for at least six months each year in an agricultural pursuit, or

(b) is a duplex or semi-detached residential building, or

72. Council may require facilities to be constructed or installed that are required as a result of the development.

73. Number of dwelling units on a parcel.

- (c) is a row house or town house, or
- (d) is an apartment building, or
- (e) is a mobile unit as defined in *The Municipal Government Act* forming part of a park for mobile units, or
- (f) is a building that is the subject of a condominium plan registered in a land titles office under *The Condominium Property Act*, or
- (g) is part of a motel or hotel.

(4) The Board may exempt from the operation of this section any person or land.

(5) Nothing in this section permits a development that is not permitted under the applicable land use by-law or land use regulations.

Orders of Compliance

74. (1) Except as permitted under section 73, where a single parcel contains two or more dwelling units, the council of the municipality in which the dwelling units are situated may cause to be served on the registered owner of the parcel a notice in writing requiring him to apply for subdivision approval within such period of time as may be specified in the notice.

(2) The council shall cause to be filed a certified copy of the notice referred to in subsection (1) in the appropriate land titles office, whereupon the Registrar shall endorse a memorandum thereof upon the certificate of title of the parcel to which the notice relates.

(3) Where a memorandum of a notice is endorsed on a certificate of title pursuant to subsection (2), the Registrar shall not register any instrument purporting to transfer or create an estate or interest in the parcel to which the notice relates until the plan of subdivision is registered or the notice is discharged.

(4) Upon the registration of the plan of subdivision, the endorsement of the memorandum upon the certificate of title has no further effect and the Registrar shall forthwith cancel the endorsement.

74. Notice requiring application for subdivision approval.

75. (1) If, upon the expiry of the period of time specified in a notice issued pursuant to section 74, the registered owner of the parcel described in the notice has failed to apply for subdivision approval, the council with or without his consent may apply for subdivision approval.

(2) A subdivision approval granted pursuant to this section need not be confined to those portions of the parcel that are occupied or unoccupied as separate buildings intended for use as a residence at the time the survey of the parcel is made but, if the council so requires, the proposed subdivision may include the whole of the parcel or such portion or portions thereof as may suitably be subdivided for future separate occupancy.

(3) The application fee and costs of applying for subdivision approval, making the survey and registering the plan of subdivision and any other costs incurred by the council pursuant to this section

- (a) are a debt due to the council by the registered owner of the parcel in respect of which the notice was issued, and
- (b) are a charge upon the land included in the plan of subdivision.

76. Where a development officer finds that a development or use of land or buildings is not in accordance with

- (a) this Act or the regulations, or
- (b) a development permit or subdivision approval, or
- (c) a land use by-law or the land use regulations,

the development officer may, by notice in writing, order the registered owner, the person in possession of the land or buildings or the person responsible for the contravention or all or any of them to

- (d) stop the development or use of the land or building in whole or part as directed by the notice, or
- (e) demolish, remove or replace the development, or
- (f) take such other measures as are specified in the notice so that the development or use of the land or building is in accordance with this Act, the regulations, a develop-

75. Compulsory subdivision.

76. Stop order.

ment permit, subdivision approval or land use by-law, as the case may be,

within the time specified by the notice.

77. (1) Where a person fails or refuses to comply with an order directed to him under section 76, or an order of a development appeal board under section 80, the council or a person appointed by it may, in accordance with section 41, enter upon the land or building and take such action as is necessary to carry out the order.

(2) Where the council or a person appointed by it carries out an order, the council shall cause the costs and expenses incurred in carrying out the order to be placed on the tax roll as an additional tax against the property concerned and that amount shall be collected in the same manner as taxes on land.

Division 4

Development Appeals

78. (1) Except as otherwise provided in a land use by-law or the land use regulations, no person shall commence any development unless he has been issued a development permit in respect thereof.

(2) An application for a development permit shall, at the option of the applicant, be deemed to be refused when the decision of a development officer is not made within 40 days of receipt of the application.

(3) Where a development officer

(a) refuses or fails to issue a development permit to a person, or

(b) issues a development permit subject to conditions, or

(c) issues an order under section 76,

the person applying for the permit or affected by the order, as the case may be, may appeal to a development appeal board in accordance with this Division.

77. Enforcement of stop order.

78. Development prohibited without permit.

79. (1) A person referred to in section 78, subsection (3) or any other person affected by an order, decision or development permit of a development officer may appeal to a development appeal board by serving a written notice of the appeal on the development appeal board within 14 days after the date the order, decision or development permit was issued.

(2) Within 30 days of receipt of a notice of appeal, the development appeal board shall hold a public hearing respecting the appeal.

(3) The development appeal board shall give at least five days' notice in writing of the public hearing to

- (a) the appellant,
- (b) the development officer from whose order, decision or development permit the appeal is made,
- (c) the municipal planning commission of the municipality if it is not the development officer,
- (d) those registered owners of land in the municipality who, in the opinion of the development appeal board, are affected by the order, decision or permit, and
- (e) such other persons as the development appeal board specifies.

(4) The development appeal board shall make available for public inspection before the commencement of the public hearing all relevant documents and materials respecting the appeal including

- (a) the application for the development permit, its refusal and the appeal therefrom, or
- (b) the order of the development officer under section 76,

as the case may be.

80. (1) At the public hearing referred to in section 79, the development appeal board shall hear

- (a) the appellant or any person acting on his behalf,
- (b) the development officer from whose order, decision or development permit the appeal is made,

79. Appeals.

80. Hearing and decision.

- (c) any other person who was served with notice of the hearing and who wishes to be heard or a person acting on his behalf, and
 - (d) any other person who claims to be affected by the order, decision or permit and that the development appeal board agrees to hear or a person acting on his behalf.
- (2) The development appeal board shall
- (a) make and keep a written record of its proceedings, which may be in the form of a summary of the evidence presented to it at the hearing, and
 - (b) give its decision in writing together with reasons for the decision within 15 days of the conclusion of the hearing.
- (3) In determining an appeal, the development appeal board
- (a) shall comply with any regional plan, statutory plan and land use by-law in effect;
 - (b) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
 - (c) may exercise the same power as a council or development officer is permitted to exercise pursuant to this Act or the land use by-law or land use regulations.

PART 5

SUBDIVISION OF LAND

Division 1

Control Over Subdivisions

81. (1) Except as provided in subsection (2), a Registrar shall not accept for registration an instrument that has the effect or that may have the effect of subdividing a parcel unless the subdivision has been approved by the subdivision approving authority.

(2) A Registrar may accept for registration without subdivision approval an instrument that has the effect or that may have the effect of subdividing a parcel if the subdivision affects or otherwise deals with land that is

- (a) a quarter section, river lot or settlement lot shown on an official plan referred to in section 32 of *The Surveys Act* that is filed or lodged in a land titles office, or
- (b) a part of a parcel that is separated from the remainder of the parcel by a highway a plan of which has been registered in a land titles office, or
- (c) a part of a parcel where the boundaries of the part are separately described in a certificate of title other than by reference to a legal subdivision, or
- (d) a part of a parcel where the boundaries of the part are described on a certificate of title by reference to a plan of subdivision.

(3) A Registrar shall not accept a caveat for registration in a land titles office that relates to an instrument that has or may have the effect of subdividing a parcel unless

- (a) no subdivision approval is required in respect of that subdivision pursuant to subsection (2), or
- (b) subdivision approval has been granted in respect of that subdivision.

Division 2

Application for Subdivision Approval

82. A subdivision approving authority is

- (a) in those municipalities where the council is authorized by the Minister to act as a subdivision approving authority,

81. Restriction on registration of certain instruments.

82. Subdivision approving authorities.

- (i) the council, or
 - (ii) where the council delegates the power to act as the subdivision approving authority to a municipal planning commission, the commission or the one or more members of the commission to whom power is delegated pursuant to section 31;
- (b) in those municipalities in a planning region where the council is not authorized to act as subdivision approving authority,
- (i) the regional planning commission, or
 - (ii) where the commission delegates its power to act as a subdivision approving authority to a committee or the director, the committee or the director, as the case may be;
- (c) in municipalities other than those referred to in clauses (a) and (b),
- (i) the Minister, or
 - (ii) where the Minister delegates his power to act as a subdivision approving authority to another person, that person.

83. (1) In accordance with the subdivision regulations, a person may apply to a subdivision approving authority for subdivision approval.

(2) Upon receipt of an application for subdivision approval, the subdivision approving authority shall send a copy of the application to such persons and local authorities as may be specified in the subdivision regulations.

84. In accordance with the subdivision regulations, an applicant for subdivision approval shall submit with his application a proposed plan of subdivision or other instrument describing the subdivision, to the subdivision approving authority.

85. (1) A subdivision approving authority shall provide the applicant for subdivision approval with an opportunity of appearing before it and making representations with respect to the application.

(2) A subdivision approving authority shall not approve an application for subdivision approval unless

- (a) the land that is proposed to be subdivided is, in the opinion of the subdivision approving authority, suitable for the purpose for which the subdivision is intended;

83. Application.

84. Description of subdivision.

85. Hearing and decision.

- (b) the proposed subdivision conforms to the provisions of any regional plan, statutory plan and land use by-law that affects the land proposed to be subdivided;
 - (c) the proposed subdivision complies with this Act and the regulations;
 - (d) all outstanding property taxes on the land proposed to be subdivided have been paid to the council of the municipality in which the land is situated or arrangements satisfactory to the council have been made for the payment thereof.
- (3) A subdivision approving authority may approve or refuse an application for subdivision approval.

86. A subdivision approving authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision regulations on a subdivision approval issued by it:

- (a) such conditions as may be necessary to ensure that this Act and the regulations and any regional plan, statutory plan and land use by-law or land use regulations affecting the land proposed to be subdivided are complied with;
- (b) at the written request of a council, a condition that the applicant enter into an agreement with the council respecting
 - (i) the construction of a public roadway required to give access to the development resulting from the proposed subdivision, and
 - (ii) the installation of utilities and other services that will be necessary as a result of the subdivision.

87. (1) A decision of a subdivision approving authority shall be given in writing.

(2) Where a subdivision approving authority refuses an application for subdivision approval, the decision shall contain reasons for the refusal.

86. Conditions that may be attached to a subdivision approval.

87. Notice of decision.

- (3) Copies of the decision shall be sent to
- (a) the applicant,
 - (b) the council of the municipality in which the land proposed to be subdivided is situated, except where a municipal planning commission is the subdivision approving authority for that municipality,
 - (c) those registered owners of lands that are, in the opinion of the subdivision approving authority, affected by the subdivision,
 - (d) the one or more school authorities affected, and
 - (e) such other persons as are, in the opinion of the subdivision approving authority, affected by the decision.

88. Where an application for subdivision is refused, another application for approval of a proposed subdivision of the same land or part of the same land, may not be made by the same or any other person until the expiry of at least six months from the date of the refusal.

Division 3

Land Provided to the Crown, Municipal Corporations and School Authorities and Money in Place of Certain Reserve Land

- 89.** The registered owner of land that is the subject of a proposed subdivision shall provide
- (a) to the Crown in right of Alberta or to a municipal corporation, as the case may be, land for walkways, public roadways and public utilities, and
 - (b) to the Crown in right of Alberta, a municipal corporation or school authorities, as the case may be, except for the exemptions referred to in section 91, land for
 - (i) environmental reserve, and
 - (ii) municipal reserve and school reserve or a combination of municipal and school reserve or money in place of either or both of them or a combination of land and money,
- as may be required by a subdivision approving authority in accordance with this Division.

88. Self-explanatory.

89. General.

90. (1) A subdivision approving authority may require the registered owner of land that is the subject of a proposed subdivision to provide part of the land for the purposes of

- (a) public roadways,
- (b) walkways on which no vehicular traffic is permitted, and
- (c) public utilities,

or any one or more of them.

(2) The land to be provided under subsection (1) shall not exceed 25 per cent of the area remaining in the proposed subdivision after deducting the land taken as environmental reserve.

(3) If

- (a) the registered owner has provided sufficient land for the purposes referred to in subsection (1), but
- (b) the area of land so provided is less than the maximum amount authorized by subsection (2),

the subdivision approving authority shall not require the owner to provide any more land for those purposes.

Reserve Land

91. A subdivision approving authority shall not require the registered owner of land that is the subject of a proposed subdivision to provide reserve land or money in place of municipal reserve or school reserve or a combination of both where

- (a) one parcel is to be created from a quarter section of land, or
- (b) land is to be subdivided into parcels of 40 acres or more and is to be used solely for agricultural purposes, or
- (c) the land to be subdivided is two acres or less, or
- (d) reserve land or money in place thereof was provided in respect of the land that is the subject of the proposed subdivision under this Act or pursuant to any Act in effect before the coming into force of this section.

90. Land provided for public roadways, walkways and public utilities.

91. Subdivisions where no reserve land or money in place of municipal reserve or school reserve is to be provided.

92. Subject to section 91, a subdivision approving authority may require the registered owner of land that is the subject of a proposed subdivision to provide as environmental reserve all or any of the following:

- (a) a swamp, gully, ravine, coulee, natural drainage course or creekbed, or
- (b) land that is subject to flooding or is, in the opinion of the subdivision approving authority, unstable, or
- (c) land that is, in the opinion of the subdivision approving authority, unsuitable in its natural state for development, or
- (d) a strip of land, not less than 20 feet in width, abutting the bed and shore of any lake, river, stream or other body of water for the purpose of
 - (i) preventing pollution, or
 - (ii) providing public access to and beside the bed and shore.

93. (1) Subject to section 91, a subdivision approving authority may require the registered owner of land that is the subject of a proposed subdivision

- (a) to provide part of that land as municipal reserve and part as school reserve or as a combination of municipal and school reserve, or
- (b) to provide money in place of municipal reserve and school reserve or either of them, or
- (c) to provide any combination of land or money referred to in clauses (a) and (b).

(2) The aggregate amount of land that may be required to be provided under subsection (1) shall not exceed 10 per cent of the area remaining in the proposed subdivision after deducting the land required to be provided as environmental reserve.

(3) The total amount of money that may be required to be provided under subsection (1) shall not exceed 10 per cent of the appraised market value determined in accordance with sec-

92. Unsuitable land for development and land around water taken as environmental reserve.

93. Municipal reserve and school reserve or money in place thereof.

tion 94, of the land remaining in the proposed subdivision after deducting the land required to be provided as environmental reserve.

(4) Where a combination of land and money is required to be provided, the total of

- (a) the percentage of land required under subsection (2), and
- (b) the percentage of the appraised market value of the land required under subsection (3)

shall not exceed 10 per cent.

94. Where money in place of municipal reserve or school reserve or a combination of both is required to be provided, the appraised market value of the land shall be determined by appraising it

- (a) as if the use of the land that is the subject of the proposed subdivision conformed with any use prescribed in a regional plan, statutory plan or land use by-law or the land use regulations, and
- (b) on the basis of what might be expected to be realized if the land were sold in the open market by a willing seller to a willing buyer on the date the appraisal is made.

95. (1) In this section, “developable land” means that area of land that is the subject of a proposed subdivision less the total of

- (a) land required to be provided for public roadways, walkways and public utilities under section 90, and
- (b) land required to be provided as reserve land.

(2) Subject to section 91, where in the opinion of the subdivision approving authority all or any part of a proposed subdivision would result in

- (a) a population density of 23 persons or more per acre of developable land, or
- (b) a density of 6.5 dwelling units or more per acre of developable land,

the subdivision approving authority may require municipal reserve and school reserve in addition to that required to be provided under section 93.

94. Appraised market value of land determined for the purpose of calculating the amount of money that may be required to be provided in place of municipal reserve and school reserve.

95. Additional municipal and school reserve. This section does not permit an additional 5 per cent of money in place of municipal and school reserve, it permits only the taking of extra land.

(3) The additional land that may be required to be provided under subsection (2) shall not exceed the equivalent of 5 per cent of all of or each part of the developable land that would be the subject of the densities referred to in subsection (2).

96. (1) Where reserve land is required to be provided, the subdivision approving authority shall

- (a) specify the amount, type and location of reserve land that is to be provided, and
- (b) allocate the municipal reserve and school reserve between the municipal corporation and each school authority concerned as joint owners or as separate owners
 - (i) in accordance with an agreement made between the council and school authorities, or
 - (ii) in the absence of an agreement, in accordance with the needs of each of them as those needs are determined by the subdivision approving authority.

(2) Where money in place of municipal reserve and school reserve is required to be provided, the subdivision approving authority shall allocate the money between the municipal corporation and each school authority concerned either jointly or separately

- (a) in accordance with an agreement made between the council and the school authorities, or
- (b) in the absence of an agreement, in accordance with the needs of each of them as those needs are determined by the subdivision approving authority.

(3) Where a combination of land and money is required to be provided, the subdivision approving authority shall

- (a) specify the amount, type and location of reserve land that is to be provided, and
- (b) allocate the municipal reserve and school reserve or a combination of municipal and school reserve or money in place of either or both of them between the municipal corporation and each school authority concerned

in accordance with

96. Allocation of municipal reserve and money in place thereof between municipal corporation and school authorities. The allocation may involve a separate designation of school reserve and municipal reserve or it may involve a joint designation of municipal and school reserve.

- (c) an agreement made between the council and the school authorities, or
- (d) in the absence of an agreement, the needs of the municipal corporation and the school authorities as those needs are determined by the subdivision approving authority.

(4) The allocation of municipal reserve and school reserve and money in place thereof or either of them shall be completed before an application for subdivision approval is granted.

97. (1) A council may leave environmental reserve in its natural state or use it for any of the purposes referred to in subsection (2).

(2) A council may use municipal reserve for all or any of the following purposes:

- (a) a public park, or
- (b) a public recreation area, or
- (c) school purposes, or
- (d) to separate areas of land that are used for different purposes.

Registration of Subdivision Instruments

98. (1) Within two years of the date on which an application for subdivision approval is approved or such longer period as may be authorized by the Board, the applicant shall submit to the subdivision approving authority

- (a) a plan of subdivision, or
- (b) any other instrument,

together with a statutory declaration that all the conditions attached to the subdivision approval have been met or an undertaking that they will be met.

(2) Upon being satisfied that a plan of subdivision or other instrument complies with a subdivision approval and that any

97. Use of municipal reserve and environmental reserve. For disposal of reserve see section 153, clause (a).

98. Registerable plans of subdivision and other instruments.

conditions imposed have been met, the subdivision approving authority or an officer designated in writing by the subdivision approving authority, shall endorse the plan or other instrument in accordance with the regulations.

(3) Upon being satisfied that a plan of subdivision or other instrument complies with a subdivision approval but conditions to which the approval is subject have not been met, the subdivision approving authority or an officer designated in writing by the subdivision approving authority may endorse the plan or other instrument in accordance with the regulations if it or he is satisfied that the conditions will be met.

(4) If the plan of subdivision or other instrument is not submitted to the subdivision approving authority within the time prescribed by subsection (1) or such longer period as may be authorized by the Board, the subdivision approval is void.

Division 4

Subdivision Appeals

99. (1) An appeal from a subdivision approving authority or a condition imposed by it under this Act or the regulations may be commenced by

- (a) the applicant for subdivision approval, or
- (b) the council of the municipality within which the land is proposed to be subdivided, where the council is not the subdivision approving authority, or
- (c) a school authority with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place thereof, or
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place thereof,

by filing a written notice of the appeal with the Board within 30 days of the date of the receipt of the approval, order or decision of the subdivision approving authority.

99. Appeals.

(2) Where a subdivision approving authority fails or refuses to make a decision on an application for subdivision approval within the time prescribed by the regulations, the applicant may, within 20 days of the expiration of the time prescribed,

- (a) treat the application as refused and appeal to the Board by notice in writing, or
- (b) enter into an agreement with the subdivision approving authority to extend the time prescribed in the regulations.

(3) Where an agreement to extend is entered into pursuant to subsection (2), clause (b) and the subdivision approving authority fails or refuses to make a decision within the time prescribed in the agreement, the applicant may, within 20 days of the expiration of the extended period, treat the application as refused and appeal to the Board by notice in writing.

(4) A subdivision approving authority shall not deal with an application for subdivision approval after the expiration of the period of time prescribed in the regulations for making the decision unless an agreement is entered into pursuant to subsection (2), clause (b).

100. The Board shall hold a hearing into the appeal and shall give at least 14 days' notice in writing of the hearing to

- (a) the appellant,
- (b) the subdivision approving authority concerned,
- (c) the council of the municipality in which the land proposed to be subdivided is situated except where a municipal planning commission is the subdivision approving authority,
- (d) where lands in a municipality adjoin or are adjacent to those of the municipality in which the subdivision is proposed, the council of that municipality,
- (e) any school authority affected by the proposed subdivision, and
- (f) such other persons as the Board considers may be affected by the proposed subdivision and should be notified.

100. Notice of hearing.

101. (1) At the hearing referred to in section 100, the Board shall hear

- (a) the appellant or any person acting on his behalf,
- (b) any other person served with notice of the hearing and who wishes to be heard or a person acting on his behalf, and
- (c) such persons as claim to be affected by the approval, order or decision and that the Board agrees to hear or a person acting on behalf of them or any of them.

(2) In determining an appeal the Board

- (a) shall comply with any regional plan, statutory plan and land use by-law or land use regulations in effect;
- (b) may confirm, revoke or vary the approval, order or decision or any condition imposed by the subdivision approving authority or make or substitute an approval, order, decision or condition of its own;
- (c) may, in addition to the other powers it has, exercise the same power as a subdivision approving authority is permitted to exercise pursuant to this Act or the regulations, but in doing so is not bound by the subdivision regulations.

102. (1) Where on appeal the Board approves an application for subdivision approval, the applicant shall submit the plan of subdivision or other instrument for endorsement by the subdivision approving authority from whom the appeal was made.

(2) Where a subdivision approving authority fails or refuses to endorse a plan of subdivision or other instrument submitted to it pursuant to subsection (1), the chairman of the Board may do so.

Division 5

Cancellation of Plans of Subdivision

103. (1) Upon the application of one or more registered owners of land in a plan of subdivision, the Board may order the plan cancelled, in whole or in part.

101. Hearing and decision.

102. Endorsement by the chairman of the Alberta Planning Board.

103. Application for cancellation of a plan of subdivision.

(2) The Board may only make an order under subsection (1) with the consent of the registered owners of land in the plan of subdivision and with the consent of every person shown on the title to the land as having an estate or interest in it.

104. Where a plan of subdivision or part thereof has been ordered to be cancelled, all taxes, assessments or rates in arrears or due upon the separate lots or blocks within the area of which the plan has been ordered to be cancelled, become taxes, assessments or rates upon or in respect of the area, and all the remedies for the enforcement and collection of taxes, assessments and rates formerly applicable for the recovery of the taxes, assessments or rates upon the separate lots or blocks, apply in the same manner as if the taxes, rates or assessments had been levied against the whole area of the plan ordered to be cancelled.

105. Upon receipt of an order under this Division and upon payment of the proper fees, the Registrar shall

- (a) cancel in whole or in part the plan of subdivision in accordance with the order,
- (b) cancel the certificate of title issued according to the original plan and issue such new certificates of title as are required by the order, and
- (c) make such other cancellations and registrations and do such things as are necessary to give effect to the order.

Division 6

Replotting Schemes

106. (1) Where a council proposes to consider a resolution authorizing the preparation of a replotting scheme, it shall cause notice of its intention to be served on the registered owners of land within the boundaries of the proposed replotting scheme stating

- (a) the land proposed to be included in the replotting scheme,
- (b) the nature of the proposed alteration in the boundaries of the parcels in the scheme,
- (c) the location and relocation of any easements or rights of way in the scheme, and

104. Collection of taxes.

105. Registrars' duties.

106. Preparation of replotting scheme authorized.

(d) the time and place at which the council intends to hold a hearing on the matter.

(2) At the hearing referred to in the notice, the council shall hear any registered owner to whom a notice of the hearing has been sent and who wishes to be heard or a person acting on his behalf.

(3) For the purpose of redistributing the ownership of land within a replotting scheme and after the hearing referred to in subsection (1), a council may pass a resolution authorizing the preparation of a replotting scheme and describing the land to be included within the scheme.

(4) During the preparation of a replotting scheme the council may by resolution include additional land in the scheme or exclude land from the scheme.

107. (1) Upon authorizing the preparation of a replotting scheme under section 106, the council shall cause to be filed in the appropriate land titles office

- (a) a certified copy of the resolution,
- (b) a list of all existing parcels included within the replotting scheme, and
- (c) a statutory declaration of the municipal secretary that the requirements of section 106 have been met,

whereupon the Registrar shall endorse upon the certificate of title of each parcel a memorandum of the resolution and shall notify the registered owners accordingly.

(2) A council shall cause a certified copy of a resolution including additional land in or excluding land from a proposed replotting scheme to be filed at the appropriate land titles office whereupon the Registrar shall

- (a) endorse a memorandum of the resolution on the certificate of title of each parcel added to the replotting scheme,
- (b) discharge the memorandum of the resolution affecting parcels excluded from the replotting scheme, and

107. Endorsement of memorandum of a resolution authorizing a replotting.

(c) notify the registered owners of the parcels accordingly.

(3) A person who acquires an interest in land in a replotting scheme after the endorsement of a memorandum of the resolution upon the certificate of title is not entitled to receive any notice of proceedings as to the replotting scheme unless he files in the office of the council written notice of his interest with evidence of the registration thereof and an address to which notices can be mailed.

108. Upon the endorsement of a memorandum of a resolution under section 107, the council shall

- (a) cause appraisals to be made in accordance with section 109, and
- (b) cause the scheme to be prepared in accordance with section 110.

109. (1) The council shall cause an appraisal to be made to establish the market value, as of the date of the endorsement of the memorandum of the resolution under section 107, of

- (a) each original parcel in the replotting scheme, excluding buildings and improvements thereon, and
- (b) each proposed new parcel in the replotting scheme, excluding buildings and improvements thereon.

(2) In this section “market value” means that sum of money that might be expected to be realized if the parcel were sold in the open market by a willing seller to a willing buyer.

110. A replotting scheme shall consist of

- (a) a plan showing the original parcels within the scheme, the dimensions and area of each parcel, the total area of all the parcels and all easements and rights of way registered against the land in the replotting scheme,
- (b) a schedule of the existing buildings and public utilities that are proposed to be demolished, reconstructed or moved,

108. Duties of council upon authorizing replotting scheme.

109. Market value appraisal.

110. Contents of replotting scheme.

- (c) a schedule of the names of the registered owners of the original parcels,
 - (d) a schedule showing the appraised market value of each original parcel made pursuant to section 109, subsection (1), clause (a),
 - (e) a schedule showing the appraised market value of each proposed new parcel made pursuant to section 109, subsection (1), clause (b),
 - (f) a schedule showing the proposed allotment of each new parcel to be created by the scheme and the proposed registered owner thereof,
 - (g) the share of the cost of preparing the replotting scheme, if any, to be paid by
 - (i) each registered owner of land in the scheme, and
 - (ii) the council,
- and
- (h) a proposed plan of subdivision relating to the land in the replotting scheme showing in addition to those things provided for in this Act and the regulations, the location of easements and rights of way over the land included in the replotting scheme.

111. (1) Each registered owner of land included in a replotting scheme is entitled to be allotted one or more new parcels in the replotting scheme having an appraised market value bearing the same proportion to the aggregate appraised market value of all the proposed new parcels in the replotting scheme as the appraised market value of his original one or more parcels bears to the aggregate appraised market value of all the original parcels in the replotting scheme.

(2) The appraised market values referred to in subsection (1) shall be those market values determined pursuant to section 109.

112. (1) Upon completion of the preparation of a replotting scheme, the council shall cause notice thereof to be served on each registered owner of land in the replotting scheme.

111. Entitlement of registered owners.

112. Notice of replotting scheme.

- (2) The notice referred to in subsection (1) shall
 - (a) outline the contents of the replotting scheme and explain the consequences thereof, if adopted,
 - (b) outline the rights of a registered owner of land to consent or to withhold consent to the scheme and the possible consequences in the event that consent is withheld, and
 - (c) state the date, time and place at which a public hearing will be held by council to consider approval thereof.

113. (1) As soon as practicable after serving notices under section 112, the council shall hold a hearing on the scheme in accordance with the notice and at the hearing shall hear any registered owner who wishes to be heard.

(2) After holding the hearing and upon being satisfied that consent to the replotting scheme has been given in writing by 60 per cent or more of the registered owners of the original parcels in the replotting scheme, having 60 per cent or more of the market value of all the parcels appraised under section 109, subsection (1), clause (a), the council may, by resolution, adopt the scheme.

(3) Where the council fails to obtain the consents required under this section, it shall by resolution discontinue the scheme and file a certified copy of the resolution in the appropriate land titles office, whereupon the Registrar shall cancel each memorandum endorsed pursuant to section 107 that relates to the scheme.

114. Upon passing a resolution adopting a replotting scheme, the council shall

- (a) cause notice to be served by registered mail on all registered owners of land in the replotting scheme stating that
 - (i) the council has adopted the scheme, and
 - (ii) the registered owner may apply for replot compensation,

and

113. Adoption of replotting scheme.

114. Notification of details of replotting scheme.

- (b) submit the following documents to the Land Compensation Board:
 - (i) a certified copy of each notice given pursuant to clause (a),
 - (ii) a certified copy of the resolution adopting the scheme, and
 - (iii) a certified copy of the scheme as adopted by the council.

115. (1) Upon the adoption of a replotting scheme, the council shall

- (a) apply for subdivision approval of the land included in the replotting scheme, and
- (b) file at the appropriate land titles office
 - (i) a certified copy of the resolution adopting the scheme,
 - (ii) a certified copy of the scheme, and
 - (iii) the plan of subdivision endorsed by the subdivision approving authority made in accordance with the scheme as adopted, sealed with the seal of the municipal corporation together with a statutory declaration signed by the municipal secretary in a form prescribed by the subdivision regulations.

(2) Upon the documents referred to in subsection (1), clause (b) being filed, the Registrar shall, upon satisfying himself that the requirements of this Act have been complied with,

- (a) register the plan of subdivision,
- (b) make such cancellations of certificates of title of the original parcels in the replotting scheme as are necessary,
- (c) issue such certificates of title to the new parcels established by the scheme as are necessary,
- (d) endorse on the certificates of title of the registered owners of the new parcels

115. Registration of replotting scheme.

- (i) those easements and rights of way that were not relocated, and
 - (ii) those encumbrances that were endorsed on the certificate of title of the registered owners of the original parcels unless those encumbrances are not transferred,
- (e) make such other endorsements of encumbrances as are necessary as a result of the replotting scheme, and
- (f) cancel the memorandum of the resolution endorsed pursuant to section 107.

(3) Section 82, subsection (6) of *The Land Titles Act* does not apply to a plan of subdivision registered pursuant to subsection (2).

116. Each registered owner of land in a replotting scheme is liable to pay to the council a portion of the cost of preparing the replotting scheme payable by all the registered owners of land in the scheme in the same proportion that the appraised market value of the proposed new parcel or parcels allotted to the registered owners bears to the appraised market value of all the new parcels in the scheme.

117. (1) The proportion of the cost of preparing a replotting scheme payable by a council and any replot compensation may be paid out of the general revenue of the council.

(2) The portion of the cost of preparing a replotting scheme payable by the registered owners of land included in the scheme may be raised by a special tax levied and collected upon and from the lands included in the scheme liable to assessment and taxation for general municipal purposes.

118. (1) A council may demolish, reconstruct or move any building or public utility, the demolition, reconstruction or removal of which is required by a replotting scheme.

(2) The council shall compensate the registered owner for any cost incurred or loss or damage sustained by him as a direct result of any action taken under subsection (1).

116. Registered owners to share cost of preparing the replotting scheme.

117. Cost of preparing replotting scheme and replot compensation.

118. Council to compensate for demolition, reconstruction or moving of buildings or public utilities.

Replot Compensation

119. (1) A registered owner of land included in a replotting scheme may, not later than one year after the date of registration of the plan of subdivision relating to the scheme by the council pursuant to section 115, apply to the Land Compensation Board to determine replot compensation.

(2) The Land Compensation Board shall

- (a) fix a date, time and place for the hearing of an application referred to in subsection (1), and
- (b) cause a notice in writing to be served on the applicant and the council not later than 30 days before the date fixed for the hearing.

(3) A person who fails to make an application within the time prescribed under subsection (1) ceases to be entitled to replot compensation.

120. (1) A registered owner of land in a replotting scheme is entitled to compensation determined by the Land Compensation Board for the following:

- (a) the cost incurred or any loss or damage sustained by him as the direct result of any action taken by a council pursuant to section 118;
- (b) the cost incurred or any loss or damage sustained by him as the direct result of moving and relocating buildings where it is necessary and feasible to move them;
- (c) the value of buildings which cannot be moved and which are not replaced by equivalent buildings and improvements located on the new parcel allotted to the registered owner;
- (d) any loss in value of buildings retained by the registered owner under the replotting scheme;
- (e) any loss resulting from the buildings located on the allotted parcel being of lesser value or use than the buildings located on the registered owner's original parcel;

119. Application for compensation.

120. Compensation.

- (f) the value to the registered owner of any element of special economic advantage to him arising out of or incidental to his occupation of the land to the extent that no other compensation has been awarded therefor;
- (g) business loss resulting from relocation of a business because of the replotting scheme;
- (h) the value of the goodwill of a business where that business can no longer be carried on as a result of the replotting scheme and in the opinion of the Land Compensation Board it is not feasible for the registered owner to relocate;
- (i) such other disturbance costs and expenses as are incurred by the registered owner as the natural and reasonable consequence of the implementation of the replotting scheme.

(2) Where as a result of the replotting scheme a registered owner loses his principal residence section 45 of *The Expropriation Act* applies as though the land on which the residence is located had been expropriated.

(3) The Land Compensation Board may defer determination of the business losses referred to in subsection (1), clause (g) until the business has moved and been in operation for six months or until a three-year period has elapsed, whichever first occurs.

(4) Replot compensation shall be paid by a council within three months after the registration of a plan of subdivision arising out of a replotting scheme or within three months after the decision of the Land Compensation Board, whichever is the later.

121. (1) No compensation is payable in respect of any development on land after the date of the endorsement of the memorandum of the resolution under section 107.

(2) The Land Compensation Board has no jurisdiction to consider any matter with respect to the appraised market value of parcels determined under section 109.

(3) In exercising any power or duty under this Act the Land Compensation Board may exercise and has all the powers it has under *The Expropriation Act*.

121. Jurisdiction of the Land Compensation Board.

PART 6

GENERAL

Division 1

Public Participation in By-laws

122. (1) Except where an exemption is given by the Minister under section 124, before giving second reading to

- (a) a proposed land use by-law, or
- (b) a proposed by-law adopting an area structure plan, or
- (c) a proposed by-law adopting an area redevelopment plan, or
- (d) a proposed by-law adopting a general municipal plan, or
- (e) a proposed by-law amending a by-law referred to in clauses (a) to (d), or
- (f) a proposed by-law repealing a by-law referred to in clauses (a) to (d),

a council shall hold a public hearing with respect to the proposed by-law in accordance with section 123 after giving notice thereof in accordance with subsections (2) and (3) of this section.

(2) A council shall give notice to each registered owner of land that is the subject of a proposed by-law adopting, amending or repealing

- (a) an area structure plan, or
- (b) an area redevelopment plan,

of the proposed by-law and summarize its effect.

(3) In addition to the notice to registered owners required under subsection (2), if any, the council shall by resolution

- (a) name the one or more dates, places and times it will hold a public hearing with respect to the proposed by-law and provide for the holding of such further public hearings as it considers necessary;

122. Public participation in by-laws.

- (b) outline the procedure to be followed by anyone wishing to be heard at the public hearing;
- (c) outline the procedure by which the public hearing will be conducted;
- (d) direct the publication in two issues of a newspaper circulating in the area to which the proposed by-law relates a notice containing
 - (i) a statement of the purpose of the proposed by-law;
 - (ii) the name of the one or more places, one of which shall be the office of the council, where
 - (A) a copy of the proposed by-law, and
 - (B) the documents that a person is entitled to inspect under section 149 of *The Municipal Government Act* and that relate to the proposed by-law,
 may be inspected by the public;
 - (iii) the one or more dates, places and times the council will hold a public hearing with respect to the proposed by-law;
 - (iv) an outline of the procedures referred to in clauses (b) and (c).

123. (1) At the public hearing referred to in section 122, the council shall hear

- (a) any person or group of persons, or person acting on his or their behalf, who
 - (i) has complied with the procedures outlined by the council, and
 - (ii) claims to be affected by the proposed by-law,
 and
- (b) any other person that wishes to make representations and that the council agrees to hear.

123. Public hearing on by-law.

(2) The council, after considering the representations made to it concerning the proposed by-law, may

- (a) make such amendments or changes as it considers necessary to the proposed by-law, if any, and proceed to pass the proposed by-law, or
- (b) defeat the proposed by-law.

124. The Minister may, upon the application of a council, exempt the council from all or any of the requirements of sections 122 and 123.

125. Notwithstanding sections 122 to 124, a by-law may be amended without giving notice or holding a hearing if the amendment does not materially affect the by-law in principle or in substance.

126. A by-law passed pursuant to this Act is valid and binding notwithstanding any lack of compliance with a provision of this Act or *The Municipal Government Act*

- (a) either in substance or in form, or
- (b) in the proceedings prior to the passing of the by-law, or
- (c) in the manner of passing the by-law,

unless an application to quash it is made within two months next after the final passing of the by-law.

Division 2

Regulations

127. The Minister may make regulations prescribing forms required for the administration of this Act and the regulations.

Land Use Regulations

128. (1) Any regulations made under this section apply only in respect of

- (a) the municipalities named in the regulation, or

124. Ministerial exemption.

125. Technical amendments.

126. Validity of by-laws.

127. Ministerial regulations

128. Land use regulations.

- (b) where no municipality is named in the regulation, those municipalities where no land use by-law is in effect.

(2) The Lieutenant Governor in Council may make regulations

- (a) prohibiting or regulating and controlling the same matters that a council may prohibit or regulate and control by a land use by-law;
- (b) on any subject matter with respect to which a council may make by-laws under this Act;
- (c) conferring or imposing on the Minister or a council any power or duty under the regulations.

(3) Where a council of a municipality in respect of which a regulation under this section is in effect passes a land use by-law, the regulation thereupon ceases to have effect with respect to that municipality.

Subdivision Regulations

129. (1) The Lieutenant Governor in Council may make regulations

- (a) prohibiting or controlling and regulating the subdivision of land;
- (b) governing the procedure to be followed by applicants for subdivision approval and the persons who may apply;
- (c) governing the contents and filing of plans and other documents in the course of an application for subdivision approval;
- (d) prescribing the fees to be paid by persons
 - (i) applying to the Minister or to a regional planning commission for subdivision approval or on appeal to the Board, or
 - (ii) making applications to the Board under this Act;

129. Subdivision regulations.

- (e) governing the location, size and shape of parcels and other areas of land to be created or proposed to be subdivided;
- (f) governing the location of public utilities, walkways and public roadways in a proposed subdivision and the minimum width and the maximum gradient of public roadways;
- (g) prescribing the times within which a subdivision approving authority shall make decisions with respect to applications for subdivision approval;
- (h) prescribing the conditions that a subdivision approving authority is permitted to impose when granting subdivision approval in addition to those conditions permitted to be imposed under this Act;
- (i) conferring or imposing, with or without conditions, any power or duty under the regulations to the Minister, the Board or a subdivision approving authority.

(2) Where a subdivision approving authority is of the opinion that compliance with a requirement of the subdivision regulations is impracticable or undesirable because of circumstances peculiar to an application for subdivision approval, the subdivision approving authority may report the circumstances to the Board and the Board in its discretion may by order relieve the applicant in whole or in part from compliance with the requirement.

(3) Unless the contrary is expressly declared in the subdivision regulations, the subdivision regulations operate notwithstanding any regional plan, statutory plan or land use by-law.

Other Regulations

130. (1) The Lieutenant Governor in Council may make regulations

- (a) prohibiting or regulating and controlling development in the vicinity of any thing which creates or may create a danger to the health and welfare of any person or property;

130. Other regulations.

- (b) prescribing for the purposes of clause (a) those things which create or may create a danger to the health and welfare of any person or property;
 - (c) authorizing any specified Minister of the Crown, a council or a development officer, with or without conditions, to exercise any power or duty under the regulations;
 - (d) directing a council to amend its land use by-law to include any prohibition or regulation and control of development.
- (2) A regulation under subsection (1)
- (a) may be specific or general in its application, and
 - (b) operates notwithstanding any regional plan, statutory plan or land use by-law.
- (3) The Lieutenant Governor in Council may make regulations governing the maximum amount that a council may establish or impose and collect as a redevelopment levy or an off-site levy, either generally or specifically.

Innovative Residential Development Area

131. (1) For the purpose of encouraging the development of lower cost housing on an innovative basis, a council may apply to the Minister for an order designating any area or areas of land within the municipality to be an Innovative Residential Development Area.

(2) The Minister upon the receipt of the application may by order designate any area or areas of land in the municipality as an Innovative Residential Development Area, with or without conditions.

(3) Within an Innovative Residential Development Area a council may, notwithstanding any provision of this Act or the regulations, approve a project for innovative kinds of lower cost residential development whether or not the project is in conformity with any land use by-law.

131. Innovative Residential Development Area.

(4) Notwithstanding any provision of this Act or the regulations, approval of a plan of subdivision within an Innovative Residential Development Area may be given by the Minister.

(5) In order to enable lower cost residential development within an Innovative Residential Development Area to be initiated and carried to completion with economy and dispatch, the Minister

- (a) may waive or authorize any person to waive, in whole or in part, any requirement, condition or procedure of this Act or the regulations or any land use by-law, and
- (b) may take or authorize or direct the taking of any other action or procedure,

as he considers desirable in the public interest.

Special Planning Areas

132. (1) The Lieutenant Governor in Council may by regulation establish any area of Alberta as a special planning area.

(2) Where the Lieutenant Governor in Council establishes a special planning area he may, with respect to the area, by regulation,

- (a) prohibit or regulate and control the use, development or occupation of land or buildings;
- (b) prohibit or regulate and control the exercise of any power specified in the regulations by
 - (i) a specified Minister of the Crown, or
 - (ii) a government agency;
- (c) prohibit or regulate and control the demolition, removal, repair, reconstruction or construction of buildings or other things;
- (d) authorize the acquisition by purchase or expropriation by a specified Minister of the Crown of any estate or interest in the land;

132. Special planning areas may be established.

- (e) authorize any specified Minister of the Crown, government agency or any other person to consent to or approve any particular kind of use, development or occupation of land or to exempt any particular kind or use, development or occupation from the operation of any provision of the regulations made under this section;
- (f) regulate and control the construction, height, location or size of buildings;
- (g) make any or all of the provisions of *The Surface Rights Act* inapplicable to lands of the Crown,
- (h) prohibit, with respect to any land of the Crown in the area, any expropriation to which *The Expropriation Act* applies;
- (i) confer on any specified Minister of the Crown, with or without conditions, any power or duty under the regulations.

(3) In this section, “government agency” means a corporation that is an agent of the Crown in right of Alberta, a government official or any corporation, commission, board or other body empowered to exercise quasi-judicial or governmental functions and whose members are appointed by an Act of the Legislature, the Lieutenant Governor in Council or a Minister of the Crown or any combination thereof.

(4) Unless the contrary is expressly declared in regulations made under this section, the regulations operate notwithstanding any regional plan, statutory plan or land use by-law.

133. (1) Where a special planning area is established pursuant to section 132, the Board shall file a notice to that effect together with a certified copy of the regulation with the Registrar for the land registration district in which the area is situated, and the Registrar shall thereupon endorse a memorandum of the notice upon each certificate of title pertaining to land within the area.

(2) Where a regulation made pursuant to section 132 is amended,

133. Registration of notice of special planning areas.

- (a) the Board shall file a further notice respecting the amending regulation together with a certified copy of the amending regulation;
- (b) the Registrar shall keep the further notice with the original notice and shall treat them as one document;
- (c) subject to subsections (3) and (4), the Registrar shall not make any further endorsement on any certificate of title in respect of the further notice.

(3) Where a regulation made pursuant to section 132 is amended and the effect of the amendment is to add land to the area, the Registrar shall, upon receiving the further notice under subsection (2), endorse upon each certificate of title for the additional land a memorandum of the original notice under subsection (1) and the further notice under subsection (2).

(4) Where a regulation made pursuant to section 132 is amended and the effect of the amendment is to remove any land from an area, the Registrar shall, upon receiving the further notice under subsection (2), cancel the memorandum of the original notice under this section on each certificate of title to the land so removed.

(5) Where a regulation made under section 132 is rescinded and not replaced, the Board shall file a notice to that effect and a copy of the rescinding regulation with the Registrar who shall thereupon cancel the memorandum of the original notice on each certificate of title to the land previously within the area.

(6) Where a regulation made pursuant to section 132 is rescinded and replaced by another regulation, the Board shall file with the Registrar a notice to that effect and a certified copy of the new regulation and the Registrar shall

- (a) with respect to land that was subject to the rescinded regulation and is also subject to the new regulation, cancel the memorandum on the certificate of title for the land of the notice pertaining to the rescinded regulation and endorse a memorandum thereon of the notice pertaining to the new regulation, which shall be then treated as a notice under subsection (1);
- (b) with respect to land that was subject to the rescinded regulation but is not subject to the new regulation;

cancel the memorandum of the notice on the certificate of title for the land;

- (c) with respect to land that was not subject to the rescinded regulation but is subject to the new regulation, treat the notice as a notice under subsection (1) and act accordingly.

(7) Upon filing with a Registrar of a notice under subsection (1), (2), (5) or (6), the Registrar shall send a notification respecting the filing of the notice, but without sending a copy of the regulation, amending regulation or rescinding regulation to which the notice relates, by mail or otherwise, to each registered owner upon whose title a memorandum of the notice is endorsed.

(8) The Board shall send, by mail or otherwise, to each person shown on a certificate of title as having a subsisting estate or interest in the lands affected by any regulation, amending regulation or rescinding regulation referred to in subsection (1), (2), (5) or (6), at the last reasonably ascertainable address of the person, a copy of the regulation, amending regulation or rescinding regulation, as the case may be, together with a notification relating thereto containing such information as the Board considers necessary.

(9) The validity or operation of a regulation made pursuant to section 132 is not dependant upon the filing of any notice by the Board with a Registrar under this section.

Division 3

Appeals to the Supreme Court

134. (1) Subject to subsection (2), upon a question of law or upon a question of jurisdiction, an appeal lies to the Appellate Division of the Supreme Court of Alberta from the Board or a development appeal board.

(2) An application for leave to appeal pursuant to subsection (1) shall be made

- (a) to a judge of the Appellate Division, and
- (b) within 20 days after the issue of the order, decision, permit or approval sought to be appealed,

134. Leave to appeal.

and notice of the application shall be given to the Board or the development appeal board, as the case may be, and such other persons as the judge may direct.

(3) Upon hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may

- (a) grant leave to appeal,
- (b) direct which persons or other bodies shall be named as respondents to the appeal,
- (c) specify the questions of law or the questions of jurisdiction to be appealed, and
- (d) make such order as to the costs of the application as he considers appropriate.

(4) Where an appeal is from a development appeal board, the municipal corporation shall be given notice of the application for leave to appeal and shall be a respondent to the application and, if leave is granted, a respondent to the appeal.

135. (1) On the hearing of the appeal

- (a) no evidence other than the evidence that was submitted to the Board or the development appeal board, as the case may be, shall be admitted, but the Court may draw such inferences
 - (i) as are not inconsistent with the facts expressly found by the Board or the development appeal board, as the case may be, and
 - (ii) as are necessary for determining the question of law or the question of jurisdiction,

and

- (b) the Court shall either confirm, vary, reverse or vacate the order, decision, permit or approval.

(2) In the event that the Court vacates an order, decision, permit or approval, the Court shall refer the matter back to the

135. Decision of the Supreme Court.



Board or the development appeal board, as the case may be, and the Board or the development appeal board, as the case may be, shall rehear the matter and deal with it in accordance with the opinion of the Court on the question of law or the question of jurisdiction.

(3) The Court may

- (a) fix the costs and fees to be taxed, allowed and paid upon the appeal, and
- (b) make rules of practice governing applications for leave to appeal and appeals under this Act, but until the rules are made the rules of practice applicable to appeals from a judge of the Supreme Court to the Appellate Division apply.

(4) No member of the Board or a development appeal board is liable to costs by reason or in respect of an application for leave to appeal or an appeal under this Act.

Division 4

Offences and Penalties

136. A person who

- (a) contravenes or fails to comply with any provision of this Act or the regulations, or
- (b) contravenes or fails to comply with a development permit or subdivision approval or a condition attached thereto, or
- (c) obstructs or hinders any person in the exercise or performance of his powers or duties under this Act or the regulations

is guilty of an offence and is liable on summary conviction to a fine of not more than \$5000 and in default of payment to imprisonment for a term not exceeding 12 months.

137. Where a person is found guilty of an offence under this Act or the regulations, the court may, in addition to any other penalty imposed, order the person to comply with this Act or the regulations or development permit, subdivision approval or a condition attached thereto.

136. Offences and penalties.

137. Order to comply.

PART 7

TRANSITIONAL, CONSEQUENTIAL PROVISIONS AND COMMENCEMENT

138. In this Part, “former Act” means *The Planning Act*, being chapter 276 of the Revised Statutes of Alberta 1970.

139. Where as a result of amalgamation, annexation or separation land is transferred from one municipal corporation to another, the land use by-law of the council of the municipal corporation from which the land is transferred continues to apply to the land and shall be administered by the council of the municipal corporation receiving the land until it enacts or amends its land use by-law to include the land transferred to it.

140. (1) Subject to subsection (2), an interim development order, interim development by-law, development control order, development control by-law, development regulation, zoning by-law or zoning regulation enacted by a council pursuant to the former Act ceases to have any effect at the end of a period two years after the coming into force of this section or at such earlier time as the council enacts a land use by-law under this Act.

(2) The Minister may by regulation extend the validity of the two-year period under subsection (1) with respect to any order, by-law or regulation referred to in subsection (1).

141. (1) A preliminary regional plan in effect under the former Act continues in effect until December 31, 1982.

(2) A preliminary regional plan referred to in subsection (1) shall, while it remains in effect, be deemed to be a regional plan in force pursuant to this Act.

142. A general plan adopted under the former Act shall be deemed to be a general municipal plan in force pursuant to this Act.

143. (1) Where an off-site cost levy was imposed and collected in respect of a development under a by-law passed pursuant to section 242.1 of *The Municipal Government Act*, no off-site levy shall be imposed or collected pursuant to this Act in respect of that development.

138. Definition.

139. Land transfer.

140. Former orders, by-laws and regulations may last up to two years.

141. Preliminary regional plans.

142. General plans deemed to be general municipal plans.

143. Off-site cost levy and development charges formerly imposed and collected under The Municipal Government Act.

(2) Where a development charge was levied and collected in respect of a development under a by-law passed pursuant to section 209.1 of *The Municipal Government Act*, no redevelopment levy shall be imposed or collected pursuant to this Act in respect of that development.

144. (1) A zoning caveat prepared and signed by the Director of Town and Rural Planning or the Provincial Planning Director and registered in a land titles office under the former Act or predecessor of the former Act shall continue in effect until

- (a) it is discharged, or
- (b) the council of the municipality in which the caveated land is situated passes a land use by-law.

(2) Where a land use by-law is in effect, the registered owner may apply to the Registrar to endorse the certificate of title with a memorandum cancelling the registration of the zoning caveat.

(3) The registered owner of a parcel against which is registered a deferred reserve caveat may apply to the Registrar to endorse the certificate of title with a memorandum cancelling the registration of the caveat.

(4) Upon receipt of an application under subsection (2) or (3) and upon being satisfied that the caveat is a zoning caveat or a deferred reserve caveat, the Registrar shall endorse a memorandum on the certificate of title cancelling the registration of the caveat.

145. (1) A development permit issued or a subdivision approval granted under the former Act shall be deemed for all purposes to have been issued or granted under this Act.

(2) An appeal commenced under the former Act shall be continued to its conclusion under the former Act as if this Act had not come into force and the former Act had remained in force.

146. Upon the coming into force of this section moneys in the Alberta Planning Fund constituted pursuant to the former Act shall be transferred to the Alberta Planning Fund established by this Act.

144. Deferred reserve caveats.

145. Former decisions.

146. Self-explanatory.

147. An application commenced under Division 5 of *The Local Authorities Board Act* shall be continued to its conclusion under that Act as if this Act had not come into force and sections 124 to 131 of *The Local Authorities Board Act* had remained in force.

Metric Conversion

148. (1) *Section 91 is amended*

(a) *as to clause (b), by striking out the words and figures “40 acres” and substituting the words and figures “16 hectares”;* and

(b) *as to clause (c), by striking out the words “two acres” and substituting the words “one hectare”.*

(2) *Section 92, clause (d) is amended by striking out the words and figures “20 feet” and substituting the words and figures “6 metres”.*

(3) *Section 95, subsection (2) is amended*

(a) *as to clause (a), by striking out the words and figures “23 persons or more per acre” and substituting the words and figures “60 persons or more per hectare”, and*

(b) *by striking out clause (b) and substituting the following:*

(b) a density of 16 dwelling units or more per hectare of developable land.

Consequential Amendments

149. *The Expropriation Act is amended as to Schedule 1 by striking out sections 3 and 4 and substituting the following:*

- 3.** The Planning Act, 1977
- (a) compulsory subdivisions
 - (b) replotting schemes
 - (c) cancellation of plans of subdivision.

147. Applications to the Local Authorities Board.

148. Metric conversion of those sections of the Act where imperial measurements are found.

149. Amends chapter 27 of the Statutes of Alberta, 1974.

150. *Section 18 of The Improvement Districts Act is amended by adding after the words “The Municipal Government Act” the words ‘or The Planning Act, 1977’.*

151. *The Land Titles Act is amended*

- (a) *as to section 2, clause 9 by striking out the words “or any other document in writing relating to or affecting the transfer of or other dealing with land or evidencing title thereto” and substituting the words “or any judgment or order of a court, an application under section 196 or any other document in writing relating to or affecting the transfer of or dealing with land or evidencing title thereto”,*
- (b) *as to section 52, subsection (3) by striking out the words “a zoning by-law, official plan or scheme of development under The Planning Act” and substituting the words “a land use by-law or statutory plan under The Planning Act, 1977”,*
- (c) *as to section 84 by striking out the words “The Planning Act and the regulations thereunder with respect to subdivisions,” and substituting the words “The Planning Act, 1977 and the regulations thereunder,”,*
- (d) *by striking out section 85 and substituting the following:*

85. Except for

- (a) an instrument granting a right pursuant to section 71, or
- (b) a plan of subdivision prepared pursuant to a replotting scheme under *The Planning Act, 1977*, or
- (c) a plan of subdivision signed by the Minister pursuant to section 131 of *The Planning Act, 1977* relating to an Innovative Residential Development Area,

no plan of subdivision of any encumbered land shall be registered unless it is approved and signed by the one or more encumbrancees.

- (e) *as to section 87 by striking out the words “The Planning Act and the regulations thereunder with respect to subdivisions” and substituting the words “The Planning Act, 1977 and the regulations thereunder”,*

150. Amends chapter 180 of the Revised Statutes of Alberta 1970.

151. Amends chapter 198 of the Revised Statutes of Alberta 1970.

(f) as to section 91

(i) by striking out subsections (1) and (2) and substituting the following:

91. (1) The registration under this Act of a plan of subdivision vests

- (a) in the municipality in which the land is situated or the Crown in right of Alberta in case of an improvement district or special area, title free of encumbrances to all lands that are provided to the Crown or the municipality, as the case may be,
 - (i) as environmental reserve or municipal reserve, or
 - (ii) public utility parcels

under *The Planning Act, 1977* and shown as such on the plan of subdivision;

- (b) in a school authority as defined in *The Planning Act, 1977*, title free of encumbrances to all lands that are provided to each school authority as school reserve under *The Planning Act, 1977* and shown as such on the plan of subdivision;
- (c) in a school authority (as defined in *The Planning Act, 1977*) and a municipality or the Crown in right of Alberta in the case of land in an improvement district or special area, title free of encumbrances to all lands that are provided to the school authority and municipality or the Crown as municipal and school reserve under *The Planning Act, 1977* and shown as such on the plan of subdivision.

(2) Upon the filing of an original, amended or substituted plan of subdivision of land, the Registrar, in accordance with the plan,

- (a) shall cancel from the original and duplicate certificates of title to the land those lands shown on the plan as public roadways, walkways, public utility parcels and reserve land,
- (b) shall issue a certificate of title for each public utility parcel to the municipality in which the land is situated or to the Crown in the case of land in an improvement district or special area,
- (c) shall issue a certificate of title for environmental reserve and municipal reserve to the municipality in which the land is situated or the Crown in the case of land in an improvement district or special area,
- (d) shall issue a certificate of title for school reserve to the appropriate school authority as defined in *The Planning Act, 1977*,
- (e) shall issue a certificate of title for municipal and school reserve to the appropriate school authority and the municipality or the Crown in right of Alberta in the case of an improvement district or special area,
- (f) shall issue a certificate of title for walkways to the municipality or the Crown in right of Alberta in the case of land in an improvement district or special area, and
- (e) shall not issue a certificate of title in respect of a public roadway.

(ii) as to subsection (4), clauses (a) and (b) by striking out the word "reserve" and substituting the words "environmental reserve or municipal reserve",

(g) as to section 196 by striking out subsection (1) and substituting the following:

- (a) shall cancel from the original and duplicate certificates of title to the land those lands shown on the plan as public roadways, walkways, public utility parcels and reserve land,
- (b) shall issue a certificate of title for each public utility parcel to the municipality in which the land is situated or to the Crown in the case of land in an improvement district or special area,
- (c) shall issue a certificate of title for environmental reserve and municipal reserve to the municipality in which the land is situated or the Crown in the case of land in an improvement district or special area,
- (d) shall issue a certificate of title for school reserve to the appropriate school authority as defined in *The Planning Act, 1977*,
- (e) shall issue a certificate of title for municipal and school reserve to the appropriate school authority and the municipality or the Crown in right of Alberta in the case of an improvement district or special area,
- (f) shall issue a certificate of title for walkways to the municipality or the Crown in right of Alberta in the case of land in an improvement district or special area, and
- (e) shall not issue a certificate of title in respect of a public roadway.

(ii) as to subsection (4), clauses (a) and (b) by striking out the word "reserve" and substituting the words "environmental reserve or municipal reserve",

(g) as to section 196 by striking out subsection (1) and substituting the following:

196. (1) The registered owner of

- (a) a quarter section, river lot or settlement lot shown on an official plan referred to in section 32 of *The Surveys Act* that is filed or lodged in a land titles office, or
- (b) a part of a parcel that is separated from the remainder of the parcel by a highway a plan of which has been registered in a land titles office, or
- (c) a part of a parcel where the boundaries of the part are separately described in a certificate of title other than by reference to a legal subdivision, or
- (d) a part of a parcel where the boundaries of the part are described on a certificate of title by reference to a plan of subdivision, or
- (e) two or more parcels of land held under one or more certificates of title,

may apply to the Registrar to cancel the existing certificate or certificates of title and issue one or more new certificates in accordance with this section.

(1.1) Upon an application under subsection (1) and upon the delivery of the one or more duplicate certificates of title relating to the land, the Registrar may

- (a) cancel the one or more certificates of title and duplicates thereof,
- (b) grant to the registered owner one or more certificates of title to the land that is the subject of the application,
- (c) enter on every certificate granted pursuant to clause (b) a memorandum of every encumbrance, lien, charge, mortgage or other instrument affecting the parcels stating
 - (i) the cancellation of the one or more certificates under clause (a), and
 - (ii) the issue of the one or more certificates of title under clause (b).

152. *The Local Authorities Board Act is amended*

- (a) *by striking out section 121;*
- (b) *by striking out sections 124 to 131.*

153. *The Municipal Government Act is amended*

- (a) *as to section 128*

- (i) *by striking out subsection (1) and substituting the following:*

128. (1) Where the council acquires or is empowered to acquire any land or any estate or interest therein by purchase, expropriation, gift or other manner other than pursuant to *The Tax Recovery Act*, the council may hold, convey or dispose of the land or estate or interest in the land in any manner that the council considers advisable or expedient.

- (ii) *in subsection (2) by striking out clause (a) and substituting the following:*

- (a) to dispose of land or any estate or interest in land that was acquired

- (i) for a public park, public recreation grounds or exhibition grounds, or

- (ii) as environmental reserve, municipal reserve or municipal and school reserve pursuant to *The Planning Act, 1977*, or

- (iii) *in subsection (5), clauses (a) and (b) by striking out the words “dedicated or set apart as a public park,” and substituting the words “provided as environmental reserve, municipal reserve or municipal and school reserve under *The Planning Act, 1977* or set apart as a public park,”,*

- (b) *as to section 130, subsection (2) by striking out the words “a development scheme pursuant to *The Planning Act*” and substituting the words “an area structure plan or an area redevelopment plan under *The Planning Act, 1977*”,*

- (c) *by striking out section 209.1,*

152. Amends chapter 218 of the Revised Statutes of Alberta 1970.

153. Amends chapter 246 of the Revised Statutes of Alberta 1970.

- (d) by striking out section 238,
- (e) as to section 239 by striking out subsection (7),
- (f) by striking out section 242.1.

154. *The enactments enumerated below are amended by striking out the words "The Planning Act" wherever they appear and in each case substituting the words "The Planning Act, 1977":*

The Alberta Housing Act, section 35, subsection (2);

The Calgary Canadian Pacific Agreement Act, section 8, subsection (2), clauses (a) and (b) and subsection (6);

The City Transportation Act, section 15, subsection (2);

The Condominium Property Act, section 8, subsection (3);

The Department of Housing and Public Works Act, section 19;

The Financial Administration Act, Schedule;

The Land Surface Conservation and Reclamation Act, section 15, subsection (6);

The Licensing of Trades and Businesses Act, section 12, clause (a);

The Local Authorities Pension Act, section 2, clause (b), subclause (iv);

The Municipal Taxation Act, section 9, subsections (4) and (5);

The New Towns Act, section 12, subsection (2);

The Northeast Alberta Regional Commission Act, section 8, subsection (1), clause (f).

155. *The Planning Act is repealed on a date or dates to be fixed by Proclamation.*

156. *This Act comes into force on a date or dates to be fixed by Proclamation.*

154. Consequential amendments.

155. Repeals chapter 276 of the Revised Statutes of Alberta 1970.