

1979 BILL 66

First Session, 19th Legislature, 28 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 66

THE PLANNING AMENDMENT ACT, 1979

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 66

1979

THE PLANNING AMENDMENT ACT, 1979

(Assented to _____, 1979)

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

1 *The Planning Act, 1977 is amended by this Act.*

2 *Section 1 is amended*

(a) *by repealing clause 17 and substituting the following:*

17 “lot” means

- (i) a quarter section,
- (ii) a river 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,
- (iii) a 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,
- (iv) a part of a parcel described in a certificate of title if the boundaries of the part are described in the certificate of title other than by reference to a legal subdivision, or
- (v) a part of a parcel described in a certificate of title if the boundaries of the part are described in the certificate of title by reference to a plan of subdivision;

(b) *by adding the following after clause 18:*

18.1 “ministerial regional plan” means a plan, as amended from time to time in accordance with this Act, prepared and adopted by the Minister pursuant to section 53.1;

Explanatory Notes

1 This Bill will amend chapter 89 of the Statutes of Alberta, 1977.

2 Section 1 presently reads in part:

1 In this Act,

17 “lot” means

(i) a quarter section, or

(ii) a 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

(iii) 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

(iv) a part of a parcel where the boundaries of the part are described in a certificate of title by reference to a plan of subdivision;

33 “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 45, subsection (4),

and includes an amendment to either of those plans made in accordance with this Act;

Clause 18.1 is a new definition. See section 11 of this Bill.

“utilities” is defined for the purposes of sections 75(b) and 89(b)(ii) of the Act.

(c) by repealing clause 33 and substituting the following:

33 “regional plan” means a plan, as amended from time to time in accordance with this Act, adopted by a regional planning commission, approved by the Board and ratified by the Minister as a regional plan;

(d) by adding the following after clause 44:

45 “utilities” means any one or more of the following:

(i) systems for the distribution of gas, whether artificial or natural;

(ii) facilities for the storage, transmission, treatment, distribution or supply of water;

(iii) facilities for the collection, treatment, movement or disposal of sanitary sewage;

(iv) storm sewer drainage facilities;

(v) any other things that may be prescribed by the Lieutenant Governor in Council by regulation,

but does not include those systems or facilities referred to in subclauses (i) to (iv) that are exempted by the Lieutenant Governor in Council by regulation.

3 Section 20(1) is amended by striking out “Provincial Auditor” and substituting “Auditor General”.

4 The following is added after section 21(2)(b):

(b.1) authorizing a regional planning commission to acquire real property and prescribing the purposes for which a regional planning commission may acquire real property;

(b.2) providing for the disposition of real property acquired pursuant to regulations made under clause (b.1);

5 Section 22 is amended by adding the following after subsection (1):

(1.1) The Minister may, with respect to an improvement district or special area situated in a planning region, appoint one or more residents of the improvement district or special area, as the case may be,

3 Section 20(1) presently reads:

20(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.

4 Section 21(2) presently reads in part:

(2) The Lieutenant Governor in Council may make regulations

5 This amendment authorizes the Minister of Municipal Affairs to appoint commission members to represent improvement districts and special areas which have no elected councils.

(a) as members of the regional planning commission, and

(b) as alternate members of the regional planning commission, and, if 2 or more alternate members are appointed in an improvement district or special area, the Minister shall rank them in the order in which they are permitted to act as alternate members.

6 *Section 24 is amended by adding the following after subsection (2):*

(3) If, with respect to an improvement district or special area situated in a planning region, the Minister does not appoint a person as a member of the regional planning commission, the Minister may appoint a resident of the improvement district or special area to attend

(a) the organizational meeting of the commission, and

(b) each annual general meeting of the commission.

(4) If a regional planning commission deals with an item of business affecting an improvement district or special area in respect of which the Minister has not appointed a person as a member of the regional planning commission, the person appointed under subsection (3) may speak to and vote on the matter as if he were a member of the commission.

7 *Section 29(3) is amended by striking out “appointed by the council”.*

8 *Section 35 is amended*

(a) *by renumbering it as section 35(1),*

(b) *in subsection (1)*

(i) *by adding the following after clause (b):*

(b.1) provide for the members of the development appeal board to meet in committees for the purposes of conducting its proceedings;

(ii) *in clause (c) by adding “or a committee” after “board” wherever it occurs, and*

6 This amendment provides that where the Minister does not appoint a person pursuant to the proposed section 22(1.1) as a member of the commission, the Minister may appoint a person to attend, speak at and vote at the organizational and annual general meetings of the commission.

7 Section 29(3) presently reads:

(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.

8 The amendment provides for the establishment of committees of development appeal boards.

(c) by adding the following after subsection (1):

(2) A committee established pursuant to subsection (1)(b.1) has the duties and may exercise the powers and jurisdiction of the development appeal board under this Act with respect to a proceeding it is conducting.

(3) A decision of a majority of the members of a committee established pursuant to subsection (1)(b.1), present and constituting a quorum, is a decision of the development appeal board.

(4) A development appeal board may meet in 2 or more committees simultaneously.

9 Section 40 is repealed and the following is substituted:

40 The Board and development appeal boards, in the exercise of any powers and duties imposed or conferred on them pursuant to this Act or the regulations, may accept any oral or written evidence that they, in their discretion, consider proper, whether admissible in a court of law or not, and they are not bound by the laws of evidence applicable to judicial proceedings.

10 Section 45(4) is repealed.

11 The following is added after section 53:

9 Section 40 presently reads:

40 The following persons or authorities, namely,

(a) the Board;

(b) a regional planning commission;

(c) a development appeal board;

(d) a council when acting pursuant to this Act or the regulations;

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

(e) 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

(f) are not bound by the laws of evidence applicable to judicial proceedings.

10 Section 45(4) presently reads:

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

Section 45(4) will become section 53.1(1). See section 11 of the Bill.

11 This section replaces the present section 45(4). See section 10 of this Bill.

Ministerial Regional Plans

53.1(1) The Minister may prepare and adopt a ministerial regional plan or amend a ministerial regional plan for any area of Alberta not included in a planning region.

(2) A ministerial regional plan, in respect of an area not included in a planning region,

(a) shall provide for the present and future land use and development, and

(b) may regulate and control the use and development of land.

(3) No local authority shall enact a by-law, take any action or authorize or undertake a development that is inconsistent with a ministerial regional plan.

(4) Every statutory plan, replotting scheme and land use by-law, every action or thing done by a local authority and every decision of a municipal planning commission, development appeal board or development officer shall conform with the ministerial regional plan.

(5) The Minister may repeal a ministerial regional plan.

12 Section 61 is repealed and the following is substituted:

61 A general municipal plan shall

(a) describe

(i) the land uses proposed for the municipality, and

(ii) the manner of and the proposals for future development in the municipality;

(b) designate or describe 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 any other matters that the council considers necessary.

12 Section 61 presently reads:

61 A general municipal plan shall

(a) describe

(i) the land uses proposed for the municipality, and

(ii) the manner of and the sequence proposed for the future development in 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.

13 Section 67 is amended

(a) in subsection (2)

(i) by repealing clause (d)(iv) and substituting the following:

(iv) the conditions that are to be attached, or that the development officer is empowered to attach, to a development permit either generally or with respect to a specific type of permit,

(ii) by repealing clause (e) and substituting the following:

(e) provide the manner in which notice of the issuance of a development permit is to be given.

(b) in subsection (3)

(i) in clause 6(i) and (ii) by striking out “areas” and substituting “facilities”,

(ii) in clause 10 by striking out “repair or” and substituting “repair,”, and

(iii) in clause 12(iii) by striking out “144” and substituting “142.1”, and

(c) in subsection (5)(b) by striking out “does not conflict with” and substituting “conforms with”.

13 Section 67 presently reads in part:

(2) A land use by-law shall

(d) establish a method of making decisions on applications for development permits and issuing development permits to persons for any development including provision for

(iv) the conditions and restrictions that may be attached to a development permit either generally or with respect to a specific type of permit,

(e) prescribe a procedure to notify owners of land likely to be affected

(i) by the issue of a development permit for a use prescribed pursuant to section 69, subsection (1), clause (b), or

(ii) by the issue of a development permit for a development if a development officer exercises discretion under subsection (5), or

(iii) by the issue of a development permit for a development in a direct control district designated pursuant to section 68.

(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):

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;

10 the enlargement, alteration, repair or removal or relocation of buildings;

12 the development of buildings

(iii) subject to regulations made under section 144, within a specified area around an airport;

(5) A land use by-law may authorize a development officer to decide upon an application for a development permit notwithstanding that the proposed development does not comply with the land use by-law if, in the opinion of the development officer,

(a) the proposed development would not

(i) unduly interfere with the amenities of the neighbourhood, or

(ii) materially interfere with or affect the use, enjoyment or value of neighbouring properties,

and

(b) the proposed development does not conflict with the use prescribed for that land or building in the land use by-law.

14 Section 73(2) is amended by striking out “for the residents of the redevelopment area” and substituting “, in respect of the redevelopment area,”.

15 Section 74 is amended

(a) in subsection (1)(a) by striking out “previously undeveloped”, and

(b) by repealing subsection (2) and substituting the following:

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

(a) new or expanded facilities for the storage, transmission, treatment or supplying of water;

(b) new or expanded facilities for the treatment, movement or disposal of sanitary sewage;

(c) new or expanded storm sewer drainage facilities;

(d) land required for or in connection with any facilities described in clauses (a) to (c).

16 Section 75 is amended

(a) by renumbering it as section 75(1),

(b) by adding the following after subsection (1)(a):

(a.1) to construct or pay for the construction of

(i) a pedestrian walkway system to serve the development, or

(ii) pedestrian walkways that will connect the pedestrian walkway system serving the develop-

14 Section 73(2) presently reads:

(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.

15 Section 74 presently reads:

74(1) For the one or more purposes referred to in subsection (2), a council may by by-law

(a) provide for the imposition and payment of a levy to be known as an off-site levy, in respect of previously undeveloped land that

(i) is to be developed or subdivided, and

(ii) was not previously the subject of an off-site levy under this Act or section 242.1 of The Municipal Government Act as it read immediately before its repeal by this Act;

(b) authorize an agreement to be entered into in respect of the payment of the 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 land that is the subject of a development or a subdivision.

16 Section 75 presently reads:

75 A council may require with respect to a development that, as a condition of issuing a development permit, the applicant enter into an agreement to do all or any of the following:

(a) to construct or pay for the construction of a public roadway required to give access to the development, or

(b) to install or pay for the installation of utilities that are necessary to serve the development, or

(c) to construct or pay for the construction of

ment with a pedestrian walkway system that serves or is proposed to serve an adjacent development,

or both,

(c) in subsection (1)(c)(i) and (ii) by striking out “areas” and substituting “facilities”, and

(d) by adding the following after subsection (1):

(2) A council may register a caveat under *The Land Titles Act* in respect of an agreement under this section against the certificate of title for the land that is the subject of the development.

(3) If a council registers a caveat under subsection (2), the council shall, when the agreement has been complied with, discharge the caveat.

17 Section 76 is repealed and the following is substituted:

76(1) Subject to subsections (2), (3) and (6), no person shall construct or locate or cause to be constructed or located more than one dwelling unit on a lot.

(2) A development officer may issue a development permit to a person that would permit the construction or location of more than one dwelling unit on a lot if the 2nd or additional dwelling unit

(a) is to be occupied by a person who is engaged on a full-time basis for at least 6 months each year in an agricultural pursuit, or

(b) is contained in a building that, or in buildings each of which, is designed for or divided into 2 or more dwelling units, or

(c) is a mobile unit as defined in *The Municipal Government Act* forming part of a park for mobile units, or

(d) is a building, as defined in *The Condominium Property Act*, that is the subject of a condominium plan to be registered in a land titles office under that Act.

(3) A development officer shall issue a development permit to a person that would permit the construction or location of a 2nd dwelling unit on a lot if the lot has an area of at least 80 acres.

(i) off-street or other parking areas, and

(ii) loading and unloading areas,

or

(d) to pay an off-site levy or redevelopment levy imposed by by-law.

17 Section 76 presently reads:

76(1) Subject to subsections (2), (3) and (4), no person shall construct or locate or cause to be constructed or located more than one dwelling unit on a lot.

(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 lot unless

(a) a second or additional dwelling unit is permitted under subsection (3) or pursuant to an order of the Board under subsection (4), or

(b) a second dwelling unit is proposed to be constructed or located on a lot of 80 acres or more.

(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 contained in a building designed for or divided into two or more dwelling units, or

(c) is a mobile unit as defined in The Municipal Government Act forming part of a park for mobile units, or

(d) is a building that is the subject of a condominium plan registered in a land titles office under The Condominium Property Act.

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

(5) Except for subsection (2), clause (b), nothing in this section permits a development that is not permitted under the applicable land use by-law or land use regulations.

(4) Subject to subsection (5), nothing in this section authorizes a development that is not permitted under the applicable land use by-law or the land use regulations.

(5) The land use regulations or a land use by-law shall not abrogate or restrict the operation of subsection (3).

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

18 Section 81 is amended

(a) in subsection (3) by adding “under section 79” after “by the order”, and

(b) by adding the following after subsection (3):

(4) A person affected by an order, decision or development permit made or issued by a development officer, other than a person having a right of appeal under subsection (3), may appeal to a development appeal board in accordance with this Division.

19 Section 82(1) is repealed and the following is substituted:

82(1) An appeal to a development appeal board shall be commenced by serving a written notice of the appeal on the development appeal board within 14 days after,

(a) in the case of an appeal made by a person referred to in section 81(3), the date on which

(i) the person is notified of the order or decision or the issuance of the development permit, or

(ii) if no decision is made with respect to the application for a development permit, the 40-day period referred to in section 81(2) expired, or

(b) in the case of an appeal made by a person referred to in section 81(4), the date on which the notice of the issuance of the permit was given in accordance with the land use by-law or land use regulations.

20 Section 83(3)(c)(ii) is amended by striking out “does not conflict with” and substituting “conforms with”.

18 Section 81(3) presently reads:

(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 79,

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.

19 Section 82(1) presently reads:

82(1) A person referred to in section 81, 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.

20 Section 83(3) presently reads in part:

(3) In determining an appeal, the development appeal board

(c) may make an order or decision or issue or confirm the issue of a development permit notwithstanding that the proposed development does not comply with the land use by-law or land use regulations if, in its opinion,

21 Section 84(2) and (3) is repealed and the following is substituted:

(2) Subject to subsection (3), a Registrar may accept for registration without subdivision approval an instrument that has the effect or may have the effect of subdividing a parcel described in a certificate of title if registration of the instrument would result in the issuing of one or more certificates of title and the parcel described in each certificate of title so issued would consist only of one or more of the following:

(a) a quarter section;

(b) a river 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;

(c) a 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;

(d) a part of the parcel described in the existing title if the boundaries of the part are described in the existing title other than by reference to a legal subdivision;

(e) a part of the parcel described in the existing title if the boundaries of the part are described in the existing title by reference to a plan of subdivision.

(3) The Registrar shall not accept for registration an instrument that has the effect or may have the effect of subdividing a parcel

(a) if the parcel is described in a plan of subdivision that is registered in a land titles office before July 1, 1950, and,

(b) the parcel contains 2 or more lots one or more of which is less than 20 acres in area,

unless a subdivision of the parcel has been approved by a subdivision approving authority.

- (i) *the proposed development would not*
 - (A) *unduly interfere with the amenities of the neighbourhood, or*
 - (B) *materially interfere with or affect the use, enjoyment or value of neighbouring properties,*
- and*
- (ii) *the proposed development does not conflict with the use prescribed for that land or building in the land use by-law or land use regulations, as the case may be.*

21 Section 84 presently reads in part:

84(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 may have the effect of subdividing a parcel if

(a) the subdivision results or will result in the creation of a quarter section, or

(b) the subdivision affects or otherwise deals with land that is

(i) a 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

(ii) except for land referred to in subsection (3),

(A) a part of a parcel where the boundaries of the part are separately described in the certificate of title other than by reference to a legal subdivision, or

(B) a part of a parcel where the boundaries of the part are described in a certificate of title by reference to a plan of subdivision.

(3) If

(a) a certificate of title was issued before July 1, 1950, and

(b) the certificate of title describes, by reference to a plan or otherwise, two or more areas of land one or more of which is less than 20 acres in area,

a Registrar shall not accept for registration an instrument that has the effect or that may have the effect of subdividing the parcel that is the subject of the certificate of title unless the subdivision has been approved by the subdivision approving authority.

22 *The following is added after section 87:*

87.1 A subdivision approving authority is not required to hear any representations with respect to an application for subdivision approval.

23 *Section 89 is amended*

(a) *by renumbering it as section 89(1),*

(b) *by adding the following after subsection (1)(b)(i):*

(i.1) to construct or pay for the construction of

(A) a pedestrian walkway system to serve the subdivision, or

(B) pedestrian walkways that will connect the pedestrian walkway system serving the subdivision with a pedestrian walkway system that serves or is proposed to serve an adjacent subdivision,

or both, or

(c) *in clause (b)(i) and (ii) by striking out “areas” and substituting “facilities”, and*

(d) *by adding the following after subsection (1):*

(2) A council may register a caveat under *The Land Titles Act* in respect of an agreement under subsection (1)(b) against the certificate of title for the parcel that is the subject of the subdivision.

(3) If a council registers a caveat under subsection (2), the council shall, when the agreement has been complied with, discharge the caveat.

24 *Section 90 is amended*

(a) *by adding the following after subsection (3)(a):*

(a.1) the owner of adjacent land,

(b) *by adding the following after subsection (3):*

(4) In this section, “adjacent land” means land or a portion of land that is contiguous to the parcel of land that is the subject of the application for subdivision approval and includes land or a portion of land that

22 This section provides that a subdivision approving authority does not have to hear representations respecting applications for subdivision approval.

23 Section 89 presently reads:

89 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 request of a council, a condition that the applicant enter into an agreement with the council respecting all or any of the following:

(i) to construct or pay for the construction of a public roadway required to give access to the subdivision, or

(ii) to install or pay for the installation of utilities that are necessary to serve the subdivision, or

(iii) to construct or pay for the construction of

(A) off-street or other parking areas, and

(B) loading and unloading areas,

or

(iv) to pay an off-site levy or redevelopment levy imposed by by-law.

24 Section 90(3) presently reads:

(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, and

(c) the one or more school authorities affected.

would be contiguous if not for a public roadway, river or stream.

25 Section 91 is repealed and the following is substituted:

91 If an application for subdivision approval is refused, the subdivision approving authority may refuse to accept for consideration, with respect to the same land or part of the same land, a further application for subdivision approval submitted to it within the 6-month period after the date of the subdivision approving authority's decision to refuse the application.

26 Section 93 is amended

(a) in subsection (1)

(i) by striking out "owner of land" and substituting "owner of a parcel", and

(ii) by striking out "part of that land" and substituting "part of that parcel", and

(b) in subsection (2) by striking out "remaining in the proposed subdivision after deducting" and substituting "of the parcel less".

27 Section 94 is amended by striking out "owner of land" and substituting "owner of a parcel".

28 Section 95 is amended

(a) by striking out "of land that is the subject of a proposed subdivision to provide as environmental reserve all or any of the following:" and substituting "of a parcel that is the subject of a proposed subdivision to provide part of that parcel as environmental reserve if it consists of",

25 Section 91 presently reads:

91 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.

26 Section 93(1) and (2) presently reads:

93(1) A subdivision approving authority may require the registered owner of land that is the subject of a proposed subdivision to provide part of that land for the purpose of public roadways or public utilities or both.

(2) The land to be provided under subsection (1) shall not exceed 30 per cent of the area remaining in the proposed subdivision after deducting the land taken as environmental reserve.

27 Section 94 presently reads:

94 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 municipal and school reserve if

(a) one lot is to be created from a quarter section of land, or

(b) land is to be subdivided into lots 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 the former Act.

28 Section 95 presently reads:

95 Subject to section 94, 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) in clause (a) by striking out “, natural drainage course or creekbed” and substituting “or natural drainage course”,

(c) by repealing clause (c) and substituting the following:

(c) land that, in the opinion of the subdivision approving authority, is unsuitable in its natural state for development, unless the applicant for subdivision approval can show to the authority’s satisfaction that that land can be made suitable for development, or

(d) in clause (d) by striking out “20 feet” and substituting “6 metres”.

29 Section 96 is amended

(a) in subsection (1) by striking out “owner of land” and substituting “owner of a parcel”,

(b) in subsection 1(a) by striking out “part of that land” and substituting “part of that parcel”,

(c) in subsection (2) by striking out “remaining in the proposed subdivision after deducting” and substituting “of the parcel less”, and

(d) in subsection (3) by striking out “land remaining in the proposed subdivision after deducting” and substituting “area of the parcel less”.

30 Section 97(1) is amended

(a) by striking out “as of a date within 35 days of the date” and substituting “as of a specified date occurring within the 35-day period following the date on which”, and

(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.

29 Section 96 presently reads:

96(1) Subject to section 94, 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 municipal and school reserve, or

(b) to provide money in place of municipal reserve and school reserve or municipal and school reserve or any 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 section 97, 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.

30 Section 97 presently reads:

97(1) If money in place of municipal reserve or school reserve or municipal and school reserve is required to be provided, the appraised market value of the land shall be determined by appraising it as of a date within 35 days of the date the application for subdivision approval is made

(b) in clause (b) by striking out “the appraisal is made” and substituting “as of which the appraisal is made”.

31 Section 99 is amended

(a) in subsection (1) by striking out “order” and substituting “direct”,

(b) by adding the following after subsection (1):

(1.1) A direction for a deferment under subsection (1) may relate to any one or more of the following:

(a) the remainder of the parcel that is the subject of the application for subdivision approval;

(b) other land of the person applying for subdivision approval that is within the same municipality as that parcel.

(c) by repealing subsection (2) and substituting the following:

(2) If a deferment is directed under subsection (1), the subdivision approving authority shall file a caveat in the appropriate land titles office against the title of the land to which the direction relates.

(d) in subsection (3) by striking out “order” and substituting “direction for a deferment”,

(e) in subsection (3)(c) by striking out “in respect of which the deferment is ordered” and substituting “to which the deferment relates”, and

(f) in subsection (3)(e) by striking out “ordered” and substituting “directed”.

32 Section 100(1) is repealed and the following is substituted:

100(1) When an application for subdivision approval is made in respect of land against the title of which is filed a deferred reserve caveat under subsection (1) or the former Act, the subdivision approving authority may, in addition to requiring municipal reserve, school reserve or municipal and

(a) as if the use proposed for the land that is the subject of the application conformed with any use prescribed in a regional plan, statutory plan or land use by-law or land use regulations for that land,

(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, and

(c) on the basis that the land is in an unsubdivided state.

31 Section 99 presently reads:

99(1) Instead of requiring municipal reserve or school reserve or municipal and school reserve or money in place of any of them to be provided, a subdivision approving authority may order that the requirement to provide all or part of the municipal reserve, school reserve or municipal and school reserve be deferred.

(2) If deferment is ordered under subsection (1), the subdivision approving authority shall file a caveat in the appropriate land titles office against the title of other land of the person applying for subdivision approval.

(3) The order under subsection (1) shall

(a) state the name of the person applying for subdivision approval,

(b) describe the land that is the subject of the application for subdivision approval,

(c) describe the land in respect of which the deferment is ordered,

(d) state the area of the land referred to in clause (b), and

(e) state whether the deferment is ordered in respect of

(i) municipal reserve, or

(ii) school reserve, or

(iii) municipal and school reserve.

32 Section 100(1) presently reads:

100(1) When an application for subdivision approval is made in respect of land against the title of which is filed a deferred reserve caveat, the subdivision approving authority may, in addition to requiring municipal reserve, school reserve or municipal and school reserve to be provided in accordance with this Division, require to be provided all or part of the reserve land in respect of which a deferment was ordered under section 99.

school reserve to be provided in accordance with this Division or the former Act, as the case may be, require to be provided all or part of the reserve land in respect of which a deferment was directed under section 99 or required under section 26(1)(a) of the former Act, as the case may be.

33 Section 102 is amended

(a) by repealing subsection (1) and substituting the following:

102(1) The applicant for subdivision approval shall submit to the subdivision approving authority the plan of subdivision or other instrument that effects or will effect the subdivision within one year after the latest of the following dates:

(a) the date on which the subdivision approval is given to the application;

(b) if there is an appeal to the Board in respect of the application, the date of the Board's decision unless the appeal is sooner discontinued;

(c) if there is an appeal to the Court of Appeal under section 146, the date on which the judgment of the Court is entered or the date on which the appeal was discontinued.

(1.1) The Board may from time to time extend the one-year period referred to in subsection (1).

(b) in subsections (2) and (3) by striking out "an officer" and substituting "a person",

(c) in subsection (4) by striking out "by the subdivision approving authority" and substituting "by the Board", and

(d) by adding the following after subsection (4):

(5) If the plan of subdivision or other instrument is not registered in a land titles office within one year after the date on which it is endorsed pursuant to this section, the subdivision approval of the plan or instrument and the endorsement are void and the plan or instrument shall not be accepted by a Registrar for registration.

34 Section 103 is amended

(a) by adding "or" at the end of subsection (1)(c) and by adding the following after subsection (1)(c):

33 Section 102 presently reads:

102(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 subdivision approving authority, 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 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 subdivision approving authority, the subdivision approval is void.

34 Section 103 presently reads:

103(1) An appeal from a subdivision approving authority or a condition imposed by it under this Act or the regulations may be commenced by

(d) the owner of adjacent land,

(b) by adding the following after subsection (1):

(1.1) In this section, “adjacent land” means land or a portion of land that is contiguous to the parcel that is the subject of the application for subdivision approval and includes land or a portion of land that would be contiguous if not for a public roadway, river or stream.

(1.2) Where the appellant is within a class referred to in subsection (1)(b), (c) or (d), the appellant shall give notice of the appeal to the applicant for subdivision approval within the same period of time that the notice of appeal is to be filed with the Board.

(1.3) A notice of appeal under this section shall set out

(a) the name and address of the applicant for subdivision approval and any other information that is necessary to identify the approval or decision to which the notice of appeal relates,

(b) the name and address of the appellant, and

(c) the reason for the appeal.

35 Section 104 is amended

(a) by renumbering it as section 104(1),

(b) in subsection (1)

(i) by adding the following after clause (a):

(a.1) the applicant for subdivision approval,

(a.2) the owners of the adjacent land, as defined in section 103(1.1),

(ii) by adding the following after clause (d):

(d.1) the persons who make a request under subsection (4),

- (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.

(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 30 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 30 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).

35 Section 104 presently reads:

104 The Board shall hold a hearing into the appeal and shall give reasonable notice 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,*

(c) by adding the following after subsection (1):

(2) The Board shall publish a notice that an appeal has been received by the Board at least once in a newspaper having general circulation in the municipality in which the parcel that is the subject of the application for subdivision approval is located.

(3) The notice referred to in subsection (2) shall contain the name and address of the appellant and information necessary to identify the approval or decision to which the appeal relates.

(4) A person who wishes to be notified of a hearing to be held in respect of the appeal may make a written request to the Board to receive notice of the hearing.

36 Section 105 is amended

(a) in subsection (1)

(i) in clause (b) by adding “, other than a person referred to in section 104(1)(d.1),” after “other person”, and

(ii) in clause (c) by striking out “, order”, and

(b) in subsection (2)

(i) by repealing clause (a) and substituting the following:

(a) shall have regard to any regional plan, ministerial regional plan and statutory plan and shall conform with a land use by-law or the land use regulations;

(ii) in clause (b) by striking out “, order” wherever it occurs.

37 Section 141(2) is amended by striking out “relieve the applicant in whole or in part from compliance with the requirement” and substituting “direct that one or more provisions of the subdivision regulations do not apply with respect to the application concerned”.

38 The following is added after section 142:

142.1(1) The Lieutenant Governor in Council may make regulations

(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.

36 Section 105 presently reads:

105(1) At the hearing referred to in section 104, 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 conform with any regional plan, statutory plan and land use by-law or land use regulations in effect unless any of them conflict with the subdivision regulations, in which case the Board must take the plans, by-laws or land use regulations into account, but is not bound by them;

(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.

37 Section 141(2) presently reads:

(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.

38 The proposed section 142.1 will replace sections 93.1, 93.2 and 93.3 of the former Planning Act that are still unrepealed.

The proposed section 142.2 authorizes the making of regulations for the purposes of section 1, clause 45 of the Act.

(a) establishing any part of Alberta as an airport vicinity protection area;

(b) controlling, regulating or prohibiting any use and development of land within an airport vicinity protection area;

(c) prescribing, with respect to an airport vicinity protection area,

(i) land uses in any part of the area having regard to noise generated by aircraft, or

(ii) developments that are permitted, conditionally permitted or prohibited in any part of the area, or

(iii) the maximum heights, the bulk, material and orientation of buildings and any other development that may be permitted in any part of the area.

(2) Unless the contrary is expressed in regulations made under this section or under section 93.1, 93.2 or 93.3 of the former Act, those regulations operate notwithstanding any regional plan, ministerial regional plan, statutory plan, land use by-law or land use regulations.

(3) If a regulation made under this section relates to an airport vicinity protection area wholly or partly in a planning region, the regional planning commission shall amend its regional plan to conform with the regulation and for that purpose sections 54 to 57 do not apply to the amendment.

(4) The council of a municipality affected by a regulation relating to an airport vicinity protection area shall amend any statutory plan relating to that area and its land use by-law to conform with the regulation and for that purpose sections 135 to 137 do not apply to the amendment.

(5) A regulation or order relating to airport vicinity protection areas made under section 93.1, 93.2 or 93.3 of the former Act remains in force until it is repealed.

142.2 The Lieutenant Governor in Council may make regulations

(a) prescribing a thing as a utility for the purposes of section 1, clause 45;

(b) exempting any system or facility for the purposes of section 1, clause 45.

39 Section 144(2)(f) is amended by striking out “the authorize of” and substituting “authorize”.

39 Corrects a grammatical error.

40 Section 146 is amended by adding the following after subsection (4):

(5) The Board shall be a respondent on the application and, if leave is granted, a respondent to the appeal, and is entitled to be represented by counsel on the application and, if leave is granted, on the appeal.

41 Section 148 is amended

(a) by adding the following after clause (a):

(a.1) contravenes or fails to comply with an order under section 79, or

(b) in clause (c) by striking out “or the regulations” and substituting “, the regulations or a land use by-law”.

42 Section 149 is repealed and the following is substituted:

149 Where a person is found guilty of an offence under section 148, the court may, in addition to any other penalty imposed, order the person to comply with this Act, the regulations, a land use by-law, an order under section 79 or a development permit, subdivision approval or a condition attached to a subdivision approval, as the case may be.

43(1) In the following provisions, “, ministerial regional plan” is added after “regional plan”:

section 4;
section 83(3)(a);
section 88(1)(b);
section 89(a);
section 141(3);
section 142(2)(b);
section 144(4).

(2) In the following provisions, “or ministerial regional plan” is added after “regional plan”:

section 9(a);
section 32(1).

44 The Expropriation Act is amended in section 43(e) by striking out “zoning” and substituting “land use”.

40 Section 146 deals with procedure on appeals from Alberta Planning Board to the Court of Appeal of Alberta.

41 Section 148 presently reads:

148 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.

42 Section 149 presently reads:

149 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.

43 Consequential amendment.

44 This section will amend chapter 27 of the Statutes of Alberta, 1974.

45 *The Land Titles Act* is amended by repealing section 196(1) and substituting the following:

196(1) The registered owner of

(a) a quarter section,

(b) a river 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,

(c) a 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,

(d) a part of the parcel described in a certificate of title if the boundaries of the part are described in the certificate of title other than by reference to a legal subdivision,

(e) a part of the parcel described in a certificate of title if the boundaries of the part are described in the certificate of title by reference to a plan of subdivision,

(f) 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.

46 *The New Towns Act* is amended

(a) by striking out “Provincial Planning Board” in the following provisions and substituting “Alberta Planning Board”:

section 3(1) and (2);
section 4(1) and (2);
section 5(1);
section 12(1), (3) and (4)(a) and (b);
section 13;
section 14;
section 18(a).

(b) by repealing section 12(3)(c) and substituting the following:

(c) the Department of Municipal Affairs.

47 *The Universities Act* is amended in section 48(1)(a) by striking out “development scheme, general plan” and substituting “land use by-law, land use regulation, statutory plan as defined in *The Planning Act, 1977*, regional plan, ministerial regional plan”.

48 *This Act* comes into force on January 1, 1980.

45 This section will amend chapter 198 of the Revised Statutes of Alberta 1970.

46 This section will amend chapter 258 of the Revised Statutes of Alberta 1970 to correct references to the Provincial Planning Board and the Provincial Planning Director.

47 This section will amend chapter 378 of the Revised Statutes of Alberta 1970.