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# Alberta Planning Act Review '94 - Proposals

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October 1994

**Alberta**  
MUNICIPAL AFFAIRS

# Alberta Planning Act Review 94 - Proposals

**ALBERTA PLANNING ACT  
REVIEW '94 - PROPOSALS**

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COMMISSIONER OF THE  
REVENUE DEPARTMENT

FOR THE YEAR 1911

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## 1.0 INTRODUCTION

This paper outlines the key features of a proposed municipal-based planning system for Alberta. The proposed legislation and associated mechanisms will provide:

- a defined relationship between municipal and provincial approvals;
- a provincial policy framework as a reference for municipal actions;
- methods, entrusted to municipalities, for achieving consensus, cooperation, and conflict resolution with respect to defining a desired settlement pattern;
- a flexible system of municipal statutory plans, planning tools and agencies;
- a basis for municipal decisions to be made in a timely fashion within a well-defined framework of due process; and
- regulations and guidelines to assist municipal decision-making.

Municipal autonomy and authority will be enhanced with responsibility for subdivision approval as well as development control. Regional plans and regional planning commissions will not be part of the new legislation. In recognition of this focus on decision-making at the local level, the provisions of the planning legislation will be included in an expanded *Municipal Government Act*.

With increased autonomy comes added responsibility. Municipalities are challenged to recognize consequences that extend beyond municipal borders. Workable planning relationships must be established with neighbours. In addition, the planning system must continue to balance the rights of the individual with the greater public interest.

Your views on the proposed general direction, and any specific points you wish to emphasize, are welcomed. Comments should be directed to:

Honourable Stephen C. West  
Minister of Municipal Affairs  
c/o Local Government Services Division  
15th Floor, Commerce Place  
10155-102 Street  
Edmonton, Alberta T5J 4L4

Responses should be received by December 15, 1994.

## 2.0 STAKEHOLDER RESPONSE

Following the release of the Discussion Paper on the *Planning Act*, one hundred and twenty three submissions from various stakeholder groups were received. Approximately 60 percent of the responses were from municipalities (including cities, towns, villages, counties, municipal districts and improvement districts). The remainder included regional planning commissions, associations, government departments, and the public. Three principal issues are outlined from the responses received to-date: provincial interests, regional planning, and subdivision approval/appeal.

### 1. Provincial Interests

Stakeholders indicated overall support for a clearly articulated statement(s) of provincial interests that may be reflected in local planning documents. Varied opinions were expressed whether the provincial interests needed to be recognized in legislation, regulation, or guidelines.

### 2. Regional Planning

All stakeholders were generally supportive of the concept of an intermunicipal service agency although opinions were mixed on whether membership to the agency should be mandatory or voluntary. Similar mixed views were expressed on the topic of regional plans (i.e., should they remain and if so in what form, or should they be abolished?)

### 3. Subdivision Approval/Appeals

Qualified support was voiced for granting municipalities subdivision approval status provided some consistent practice in processing and developing planning documents is in place. Some concern was also expressed about some municipalities having the necessary resources to take on the task. On the matter of local subdivision appeals, concerns were expressed regarding the appropriateness of an approving authority also being its own appeal authority.

### 4. Other Matters

Varying opinions were expressed on a wide variety of topic areas. Generally speaking the existing provisions of the *Planning Act* were viewed by the majority of respondents as being valid and workable. The primary thrust of placing greater responsibility at the municipal level was supported by the vast majority of stakeholders who replied.

## 3.0 APPLICATION

This section affirms the purpose of planning legislation. The relationship between provincial and municipal development authority is addressed and draft provincial land use policies are articulated.

### **3.1 Purpose of Enabling Legislation**

The purpose of the legislation, with a few minor alterations, still reflects current and future needs. However the mechanisms to achieve the purpose of the planning legislation will be different.

The purpose of the legislation and the associated regulations is to provide mechanisms to

- a. facilitate orderly, economical, beneficial and sustainable patterns of human settlement, and
- b. maintain and improve the quality, health and safety of the physical environment within which patterns of human settlement occur in Alberta,

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

The statement of purpose establishes general goals for all affected municipalities, individuals and stakeholders.

### **3.2 Integrating Provincial and Municipal Approvals**

The provincial government will retain its responsibilities for the management and allocation of provincial land and resources, development of broad economic strategies and other provincial initiatives which facilitate private effort. Municipalities will continue to facilitate human settlement patterns that result from these initiatives. Where provincial and municipal responsibilities interface, every attempt will be made to avoid duplication and streamline approval processes.

Concerns arise where some approval processes provided under the *Planning Act* result in duplication. Amendments will clearly establish the priority of provincial approvals in these situations resulting in an efficient and effective response by municipalities to achieve certainty in decision-making.

Specifically, the wording of Section 2.1(1) of the *Planning Act* is proposed to be changed as follows:

2.1(1) A license, permit, approval or other authorization granted by the Lieutenant Governor in Council, a Minister of the Crown or a government agency pursuant to an enactment (e.g., NRCB, ERCB, development on Crown lands pursuant to the *Public Lands Act*), where public and municipal representation has been heard, prevails over any statutory plan, land use bylaw, subdivision decision or development permit that conflicts with it.

This change effectively removes certain types of decisions from the normal *Planning Act* process. It is important however that the municipal role in integrating development into the existing municipal fabric be retained. It is proposed that provincial agencies and decisions have the jurisdiction to clearly address municipal concerns and requirements.

The following is also proposed:

Where the Lieutenant Governor in Council, a Minister of the Crown or a government agency notifies a municipality that a decision has been made pursuant to this section, the municipality shall, within 40 days of a written request from the applicant:

amend, if required, any statutory plans or land use bylaw to comply with the decision; and issue to the applicant a decision or subdivision approval as required, consistent with the provincial decision, attaching any conditions, such as provision for a development agreement, as would normally be attached to a subdivision decision or development permits in the municipality.

Such amendments and decision shall be made without further public notice or hearing and without appeal. In these cases, bylaw amendments may be given three readings at the same meeting.

### **3.3 Provincial Land Use Policies**

In the absence of a regional planning system and regional plans, there is a need for a clear articulation of provincial interests to guide the new municipally-based planning system. The proposed legislation will enable the Lieutenant Governor in Council to adopt a provincial policy framework to complement this legislation and regulations or guidelines which may be prepared by this or other relevant departments.

Although local statutory plans and bylaws will not require provincial approval, these municipal documents will be expected to reflect provincial interests. The Minister will be empowered to direct that these documents be consistent with provincial policies.



The following sections address the principles to be contained in a future provincial land use policy statement.

### 3.3.1 Coordination with Provincial Initiatives

Municipalities must ensure that statutory plans are coordinated with provincial community and economic development initiatives, including but not limited to:

- **Housing:** The need for affordable housing requires municipalities to re-examine development standards, explore innovative approaches to housing design, be more enabling of secondary suites and eliminate barriers to development based on method of construction.
- **Institutional reform:** The movement from an institutional environment for special needs to community-based solutions will require additional flexibility in local bylaws.
- **Tourism:** The economic expansion of the tourism industry requires municipalities to accommodate a wide variety of associated tourism activities.
- **Workplace:** Changing work habits and arrangements will require a flexible response to home-based industries.

### 3.3.2 Settlement Patterns

Settlement patterns must reflect choice and flexibility for all municipalities.

- **Flexibility and Choice:** Urban and rural municipalities will continue to facilitate a wide variety of settlement patterns and activities. As a result, urban and rural municipalities will need to accommodate a variety of residential environments and employment generating activities that offer reasonable choice of standards, costs and locations. These developments must be suitably serviced to meet the needs of existing and future development.
- **Orderly Development:** Urban and rural municipalities will continue to accommodate diverse human activities by ensuring patterns of settlement are compatible, orderly, economical and sustainable. Although some activities will occur in isolated locations or in a dispersed pattern due to specific locational requirements, wherever possible, the patterns of human settlement will be concentrated to ensure economical servicing, resource conservation, minimal impact on the environment, and preservation of the integrity of the provincial transportation network.

### 3.3.3 Compatible Development

As Alberta grows and diversifies its economy within a global context, the competition for residential, non-residential sites and open space will intensify. In order to facilitate this growth in an orderly fashion, municipal planning processes will be challenged to achieve compatibility between various activities.

Municipalities will need to utilize a wide variety of mechanisms to assist in defining compatible land use patterns, building community consensus and reducing conflict with respect to a broad range of activities, including but not limited to the following:

- **Industrial Sites:** Municipalities will need to create acceptable areas for industrial activities and protect existing industrial sites from encroachment of land uses that are either incompatible or inappropriate. A reciprocal process would also apply to residential sites. Public health and safety will be of prime concern when considering the relationship of various industrial uses adjacent to residential development. Regulations will be retained and updated to ensure public safety and minimize risk between sour gas and residential developments.
- **Waste Treatment and Disposal Facilities:** Settlement patterns need to allow for the location and continued operation of waste treatment and disposal facilities. Setbacks will be provided to ensure the health and safety of adjoining activities. The setbacks required in the subdivision and development regulations will be coordinated and consistent with health regulations.
- **Agriculture:** The future of Alberta's agricultural industry is also dependent on certainty of use and compatibility with surrounding activities. Municipalities should make every attempt to create a settlement pattern which minimizes the conflict between agriculture and non-agricultural activities.

### 3.3.4 Municipal Fringe

Development in the municipal fringe will be guided by the following:

- **Joint Cooperation:** Municipalities are encouraged to undertake joint municipal development plans and/or joint processes to manage development activities in the municipal fringe. This plan or process may involve more than two municipalities.
- **Joint Municipal Development Plan and/or Process:** A joint municipal development plan should provide for the orderly conversion of land to more intensive development, protect significant intermunicipal activities and features, protect the integrity of the highway system, provide for economical and compatible land use patterns, provide for long term utility service corridors, protect areas for long term future intensive development, discourage the premature conversion of agricultural land, facilitate appropriate interim land uses or development which can be adapted to more intensive development patterns in the future, develop policies with respect to the taking of money in lieu for public reserve, develop mechanisms for dispute resolution and public consultation, and other matters considered important to the participating municipalities.
- **Absence of Joint Municipal Development Plan and/or Process:** In the absence of a joint municipal development plan and/or process, municipal development plans will address the growth and land use patterns of adjoining municipalities. Municipalities will provide opportunities for input, consultation and negotiations with neighbouring municipalities.

- **Dispute Resolution:** If the council of a municipality is of the opinion that a statutory plan or land use bylaw adopted by a council in the municipal fringe or any other area of an adjacent municipality has or may have a detrimental effect within the boundaries of the first municipality, it may
  - a) refer the matter to the Municipal Government Board for a hearing and a decision, or
  - b) the parties may agree to another dispute resolution mechanism considered appropriate, having regard to the circumstances of the dispute.

Prior to referring an unresolved dispute, municipalities must demonstrate that the affected parties have undergone a significant negotiation process. Legislation will require that decisions be consistent with provincial policy. All negotiations must be undertaken in good faith and decisions reached in a timely fashion.

The intent of the above policies is to develop a mechanism through which local municipalities can solve their problems and develop their long term growth strategies at the local level in a cooperative fashion, wherever possible. Consequential to the above policies the following would apply:

- **Country Residential Development:** Current distance restrictions on country residential development in the municipal fringe would be eliminated.
- **Development Adjacent to Highways:** Development adjacent to a provincial highway in the municipal fringe will be subject to a Highway Access Agreement with the Minister of Alberta Transportation and Utilities.
- **Consistency With Provincial Policies:** Joint municipal development plans and/or processes must be consistent with provincial policies and regulations.

A municipal-based planning system will focus resolution of municipal fringe disputes with the affected municipal parties. Municipalities will be challenged to resolve disagreements in a short time period. Public expectations are high that municipalities will develop effective mechanisms to work with their neighboring municipalities.

Municipal boundary changes will be guided by the following:

- **Need for Land:** The amount of land required will be based on the need for land for a horizon period of 15 to 20 years or a period agreed to by participating municipalities through a joint municipal development plan.

The horizon period for the Cities of Edmonton and Calgary may be increased by the Lieutenant Governor in Council in order to accommodate long term infrastructure planning.

- **Logical Extensions, Concentrated and Compact Development:** The boundary change should be based on an efficient and compact land use pattern considering geographic and environmental features, resource conservation, transportation requirements, sufficient infrastructure capacities to meet projected needs, and other servicing requirements. The boundary should be based on the ability to provide logical servicing systems.
- **Financial Impacts:** Expansion plans should contain financial strategies to accommodate the expanded growth. Financial strategies should also address the impacts on the affected municipalities, institutions, and individual land owners. Solutions to the impacts should be presented.
- **Stakeholder Consultation:** Extensive consultations with affected stakeholders should precede requests for boundary changes. Annexation requests conforming with a joint municipal development plan should proceed more quickly than where a joint plan does not exist or where the request is inconsistent with the existing joint plan.

### 3.3.5 Environmental Integrity and Healthy and Safe Communities

Alberta's past high standard of municipal development, existing clean, healthy and safe municipal environments, and the availability of open space contribute to the Alberta advantage. To determine site suitability for development, municipalities may request environmental information assessing the impacts of development and identifying appropriate mitigative measures. Municipalities shall avoid duplication and overlap with other environmental review processes.

Within the context of provincial environmental standards, municipalities will continue to assist in the enhancement of Alberta's positive image by addressing the following issues in their statutory plans and bylaws. The purpose of the following policy direction is to complement the subdivision and development regulations.

- **Hazardous Lands:** Municipalities, in their statutory plans and bylaws, should identify and evaluate the suitability of developing human activities on sites which, because of their natural characteristics, may be hazardous and jeopardize public safety. These areas may include lands which are prone to flooding, land slides and other similar hazards. Municipalities may attach conditions to development which would minimize the risks and hazards to development.
- **Contaminated Sites:** Municipalities, in their statutory plans and bylaws, should develop procedures and policies (e.g. requirement for environmental audits) to deal with the identification and reclamation of contaminated sites in cooperation with Alberta Environmental Protection.
- **Environmentally Sensitive Lands:** Municipalities should encourage human settlement in such a manner that the integrity of significant ground water recharge areas, wildlife habitats, unique environmental features and significant wetlands are maintained or enhanced within the limitations outlined in the planning legislation.

**Environmental Impacts and Land Use Compatibility:** Municipalities, in reviewing subdivision and development proposals, should examine the ability of a specific site to accommodate the proposed use with respect to the quantity and quality of water available to the site, the suitability of the site for the proposed sewage disposal system, the relationship of the site to other users in relation to air, noise or odor impacts, and other related site and nuisance factors.

- **Intermunicipal Impacts:** Many environmental features as well as human activities extend beyond the boundary of an individual municipality. It is the responsibility of each municipality to implement appropriate mitigative measures to minimize the environmental impacts on neighbouring municipalities. Municipalities are encouraged to work in voluntary intermunicipal groups to establish common objectives related to these intermunicipal features.

### 3.3.6 Settlement Servicing

- **Settlement Costs:** Municipalities should continue to examine the fiscal impact of settlement patterns, activities and development proposals to ensure the appropriate allocation of revenue and expenses.
- **Transportation:** Municipalities, in their statutory plans, bylaws, subdivision and development decisions, must protect the integrity of the provincial transportation network in order to facilitate economic activity. Municipalities should ensure that statutory plans are coordinated with local and provincial transportation plans.
- **Municipal Servicing and Infrastructure Capacity:** Servicing, infrastructure and municipal financial plans must be fully integrated with statutory plans. Major infrastructure must have sufficient capacity to accommodate future settlement activities.

Where feasible, full municipal servicing is encouraged to maintain and enhance the quality of the environment. Municipalities must develop servicing policies which promote economical and coordinated servicing systems.

- **Municipal Responsibility:** Municipalities will be required to hold the license or make arrangements for the assured delivery of water distribution and sewage treatment systems as required by Alberta Environmental Protection. (This does not prohibit the system from being owned and operated by other than the municipality.)
- **Soft Services:** Municipalities should continue to ensure that statutory plans are coordinated with the provision of a full range of community services. Municipalities must continue to establish those servicing standards acceptable and financially feasible within their community.

### 3.3.7 Resource Conservation

- **Gravel and Mineral Extraction:** Wherever possible, statutory plans should facilitate the protection of scarce gravel and mineral resources in order to ensure resource supply for provincial, intermunicipal and local needs. Reclamation of sites will be undertaken according to provincial standards. In the case of sites less than five acres, municipalities may develop reclamation procedures.
- **Lake and Shoreline Development:** In their statutory plans, municipalities should develop mechanisms to manage developments and ensure public access around water bodies. Updated guidelines will be provided to assist municipalities. Where a water body affects more than one municipality, intermunicipal cooperation is encouraged.
- **Agricultural Land:** Wherever feasible, municipalities in their statutory plans and bylaws will discourage the premature conversion of agricultural lands to non-agricultural uses. The definition and process for evaluating agricultural lands will be at the discretion of the local municipality.
- **Historic Resources:** Municipalities, in their statutory plans, bylaws and development approvals, should continue to protect historic resources within the province.

## **4.0 STATUTORY PLANS**

With the exception of regional plans, the system of plans currently in the *Planning Act* will be maintained and strengthened. The preparation and adoption of these plans will allow municipalities to establish their long term planning goals and to develop policies accordingly. Statutory plans should not contradict each other.

### **4.1 Municipal Development Plans**

The preparation and adoption of a general municipal plan is currently mandatory for every urban municipality with population over 1,000 and every rural municipality with population over 10,000. The long range plan is a key component of municipal management, allowing municipalities to address issues and responsibilities in a thought-out, comprehensive fashion providing greater certainty and predictability for all stakeholders.

- The long range plan for the entire municipality will now be known as the "municipal development plan". The preparation and adoption of this type of plan will be mandatory for all municipalities with population over 3,500 and optional, yet encouraged, for all other municipalities.
- The municipal development plan will be able to enunciate municipal goals, objectives, constraints, targets, policies and corporate strategies in a wide variety of topical areas. The plan will be based on a study and impact analysis of expected change, consistent with provincial planning policies, and will have to address:
  - a) future use of land within the municipality;
  - b) acquisition and allocation of municipal and school reserve; and,
  - c) where no joint municipal development plan has been adopted, the growth and land use patterns of adjacent municipalities.

Optional areas which may be addressed in a municipal development plan will include:

- the provision of the required transportation network and facilities
- the provision of municipal services and facilities
- proposals for the financing and programming of municipal infrastructure
- the coordination of municipal programs relating to the physical, social and economic development of the municipality
- environmental matters
- financial resources
- economic development
- any other matter relating to the physical, social or economic development of the municipality.

- A new provision in the planning legislation will have the effect of not binding the municipality to carry out any specific projects mentioned in the plan at any certain time, yet preventing the municipality from taking a path which would be contrary to that mentioned in the plan.
- As previously noted, a provision which requires each municipal development plan to be consistent with provincial planning policies will be included. While municipal plans will not be the subject of a specific review by the Department, the Minister will retain the right to intervene if a municipal development plan (or any other planning document) is contrary to provincial policy.
- Those municipalities having a general municipal plan must review and adopt these in light of the new legislation and provincial policies within two years. Municipalities of over 3,500 in population and not having a general municipal plan will have two years to prepare and adopt a plan. Municipalities will be required to review and amend these plans at least every five years.

#### **4.2 Joint Municipal Development Plans**

Current planning legislation allows two or more municipalities to prepare a joint plan for any area which they consider appropriate. This planning tool has normally been used for parts of adjoining municipalities around lakes or along boundary interfaces, with a view to seeking common approaches to common issues.

- The ability of two or more municipalities to prepare and adopt a joint municipal development plan will remain in the planning legislation.
- This type of statutory plan will be available for municipalities to address issues along boundary areas, including areas where growth in one municipality has an impact on an adjacent municipality ( see section 3.3.4).
- In the absence of regional plans, this type of plan will be an extremely important tool for municipalities to address common issues with a degree of formality.

#### **4.3 Area Structure Plans**

Current legislation allows a municipality to prepare and adopt an area structure plan to "provide a framework for subsequent subdivision and development". It also sets out the required contents of an area structure plan. Area structure plans are generally used in planning vacant tracts of land which are intended for development in the near and medium term. While often used in residential development areas, these plans can also be used in industrial or mixed use areas. They can be utilized in urban and rural settings, and have served as long range plans for hamlets and for lake management areas.



Area structure plans are adopted by bylaw and give a level of development certainty which a landowner/developer may wish to obtain, as well as facilitate subdivision approval. Plan preparation provides owners/residents with an opportunity for input and a sense of what the future holds in terms of revenues, costs, expenditures and charges, as well as land use.

- Area structure plans have been a successful planning tool and no change is proposed to the basic legislation regarding this type of plan.

A number of Alberta municipalities appear to require more than one level of area structure plan in order to expedite land development within reasonable time frames.

- Where municipalities wish to employ a hierarchy of increasingly detailed area structure plans for the same geographic area, the system of plans to be used, manner of notification and public involvement would be established by bylaw and would be subject to public hearing prior to adoption.
- Within a given area, an initial overall area structure plan would have to be adopted in a conventional manner. This document would make provision for subsequent plans/agreements consistent with the bylaw adopting the area structure plan hierarchy. In this way a municipality might streamline the review, approval and adoption process for large tracts of undeveloped land.

#### **4.4 Area Redevelopment Plans**

Current planning legislation allows a municipality to prepare and adopt an area redevelopment plan for a designated area. These plans are utilized in developed areas where land use change is anticipated or is actually taking place. The legislation allows for the collection of redevelopment levies and sets out restrictions on the purposes to which such monies can be put.

- The area redevelopment plan and redevelopment levies provide the framework for municipalities to address older neighbourhood planning issues with input from landowners, developers and residents. The concept will be retained in the new planning legislation. A bylaw will no longer be required to initiate the preparation of an area redevelopment plan subject to the notification procedures outlined in section 6.2. Adoption will still be by bylaw and involve public hearings.

## **5.0 IMPLEMENTATION**

### **5.1 Land Use Bylaws**

With increasing municipal responsibility it will be necessary that each municipality adopt at least a basic land use planning tool. Land use bylaw adoption will be made mandatory for all municipalities, regardless of size. Minor changes to the existing provisions may be necessary to accommodate provincial policy integration. All land use bylaws must be reviewed in light of the proposed legislation and provincial policies within two years.

Clarification of the existing direct control district provisions will include making all council direct-control decisions subject to statutory plans, allowing for council to either make decisions or delegate that authority (e.g., to the development officer), and allowing an appeal from a decision of the development officer but not from a decision of council.

### **5.2 Levies**

Presently the *Planning Act* prescribes the types of charges that municipalities can assess against development. The legislation provides an acceptable balance between municipal and developer interests. It is therefore proposed that the current provisions remain unaltered.

### **5.3 Subdivision Approving Authority**

It is proposed that the subdivision process be treated like the current development process which is mainly an administrative process rather than a policy or law-making function.

In keeping with increasing local autonomy, it is proposed that all municipalities, regardless of size, be assigned responsibility for subdivision approval. Municipalities will have the option to pool their resources for subdivision decision-making or for the processing of subdivisions. Subdivision decisions must comply with any land use bylaw or statutory plan adopted by the municipality. As there is a desire to separate administrative from policy-making roles, council will not be permitted to be the subdivision approving authority. Councils will be given the option to delegate subdivision approving authority to a municipal planning commission, subdivision officer or intermunicipal service agency.

#### **5.3.1 First Parcel Out and Fragmented Parcel Subdivisions**

Full municipal autonomy will be provided to municipalities to set policies on the subdivision of the developed farmstead and first parcel out of a quarter section as well as subdivision of fragmented parcels.

#### **5.3.2 Subdivision Adjacent to Municipal Boundaries**

With full authority for subdivision approval comes a responsibility to inform adjacent municipalities of subdivision activity. This will be a requirement in the new Subdivision and Development Regulation.

## 5.4 Appeals

### Subdivision

It is proposed that the system of subdivision appeals include a combination of:

- municipal subdivision appeals involving local matters,
- limited provincial appeals to a provincial body where the subdivision falls within a defined provincial interest area as stated below:
  - a) within 0.8 km (0.5 miles) of a provincial highway
  - b) adjacent to a major water body
  - c.) within 0.8 km (0.5 miles) of a provincial historic resource
  - d) within the prescribed distances related to sour gas installations.
  - e) within the prescribed distances of waste treatment and disposal facilities

Appeals will be limited to the applicant or a provincial department on a matter of provincial interest. The majority of adjacent landowners' concerns relate to land use. As municipalities will address these concerns at the time of a land use bylaw change., appeals from adjacent landowners will not be permitted.

### Development

The system of development appeals is proposed to remain largely the same. Changes, however, are proposed to the development appeal board as discussed in section 7.3.

## 5.5 Reserves

While substantive changes to the reserve provisions of the *Planning Act* are not being contemplated, the amount and allocation must be based on policies established in the municipal development plan. As an alternative to a landowner giving up lands as environmental reserve, it is proposed that in some instances provision for conservation easements and/or restrictive covenants be made.

## 5.6 Replots

Replotting schemes provide a means of subdividing land where a minority of landowners object. It is proposed that the current provisions remain, but in the form of regulations.

## 5.7 Second Dwelling on a Parcel Greater Than Eighty Acres

Local municipalities will be given full authority to decide on the approval of a second residence on a parcel greater than eighty acres.

## **6.0 PUBLIC PARTICIPATION**

The "participation" section of the current planning legislation sets out the occasions when public hearings are required and the mandatory notification procedures associated with the hearings. There is no intention of altering these basic structures; only to propose some "fine tuning" and to add some provisions regarding the preparation of statutory plans.

### **6.1 Simultaneous Hearings**

A municipality may wish to amend at the same time one or more statutory plans and the land use bylaw related to a proposed development.

- It will be made explicit that a single public hearing would be appropriate when several bylaws are being amended related to the same subject land.

### **6.2 Public Participation in Statutory Plan Preparation**

It is recognized that municipalities normally provide for extensive participation opportunities in the preparation of all types of statutory plans and that the requirements in the legislation are minimal ones. Current planning legislation requires that during the preparation of a general municipal plan a council "shall provide an opportunity to those persons affected by it (the plan) of making suggestions and representations". No such requirements are mentioned regarding area structure plans or area redevelopment plans.

- A general provision will require that municipalities provide opportunities for participation during the preparation of all statutory plans. A streamlined approval process is facilitated when notice is provided earlier in the process.
- Municipalities, when embarking on the preparation of a statutory plan, will be required to advertise the program, including opportunities for involvement. Notices and direct notification to appropriate stakeholders will be required. The current requirements for a public hearing relating to plan adoption will be maintained.

### **6.3 Petitions**

Sections 231 to 235 of the new *Municipal Government Act* allows bylaws and resolutions to be repealed or proposed by petition of the electors.

- A section will be introduced into the planning legislation which exempts planning bylaws, resolutions or actions from these petition provisions. A council's actions under planning legislation are subject to various public participation requirements and hearings as well as appeals to boards and the courts. A council's planning actions often confer certain rights and create expectations regarding a parcel of land. The possibility of withdrawal of those rights as a result of a petition and vote would add much uncertainty and legal challenge to the land development process.

#### 3.4 Public Notice

The proposed legislation will facilitate a variety of means of giving notice on planning actions and decisions. Certain notification provisions will continue to be mandated in the planning legislation. These will include the following:

- In any situation where a mailed notice is required to a property owner that notice will be sent to the owner/address identified on the tax roll.
- In any reclassification type notification, a newspaper advertisement will be the basic requirement. The municipality will also be expected to set out and implement at least one additional method of notification. Municipalities will be expected to outline all notification procedures in their land use bylaw.
- Any planning notice will include the municipal and legal address of the subject property, the purpose of the amendment/proposal in plain language and a map if the proposal is site specific.
- In the case where land use bylaw amendments are not site specific and apply to properties throughout the municipality and/or large areas of a municipality, direct owner notification will not be mandatory. Other forms of notice will suffice.

## **7.0 PLANNING AGENCIES**

This section outlines the key agencies which will be involved in the planning process and highlights proposed changes. Planning agencies are charged with carrying out the planning process. This section must therefore be read in conjunction with those outlining the various planning tools.

The system of local decision making will be required to be restructured in order to fully achieve a municipally-based planning system. It will be necessary to develop a clear distinction between policy and law making, administration and the appeal function. Councils will focus on policy and law making and, thus, must not be involved in administration and appeals. This is a necessary step in ensuring due process.

### **7.1 Council**

The municipal council is the cornerstone of local government and will retain policy and law-making functions. This means that while councils will be able to seek advice from other bodies and input from the public, they will continue to set municipal planning policy and pass associated bylaws which put this policy into action.

- Municipal councils will focus on policy and law-making functions. Policy implementation tasks will still be delegated to boards, municipal planning commissions and staff.

### **7.2 Municipal Planning Commission (MPC)**

Municipal councils currently have the option of setting up a municipal planning commission to assume advisory and regulatory duties within the municipal planning process. These responsibilities often include providing advice to council on general planning matters or statutory plan amendments and on land use bylaw amendments, assisting with the preparation of statutory plans, and making decisions on discretionary use development permit applications. A municipal planning commission may also become the subdivision approving authority.

- Municipal planning commissions are an important and successful component of the municipal planning process. With the increasing authority and autonomy of municipal decision-making it is important that a separation of administrative and policy-making functions be maintained. Municipal planning commissions can thus no longer be composed solely or primarily of councillors.

### **7.3 Subdivision and Development Appeal Board**

The subdivision and development appeal processes are a key component of the municipal planning framework. Development appeals are currently heard by a development appeal board established by a municipal council. Subdivision appeals are currently heard by a provincial appeal body, the Alberta Planning Board.

- Municipal responsibilities will be expanded to include subdivision appeals, except for those appeals relating to provincial interests.
- The following details regarding subdivision and development appeal boards will be included in the legislation:
  - each municipality will be required to have a subdivision and development appeal board which will be responsible for subdivision and development appeal functions.
  - municipalities will be permitted to create two separate panels (i.e., one dealing with development, one with subdivision), if this is considered desirable.
  - each subdivision and development appeal board will be required to consist of non-elected appointees.
  - persons who are involved in making decisions on development permits or subdivision applications will not be entitled to sit on the subdivision and development appeal board.
  - staff will not be entitled to sit on the subdivision and development appeal board.
  - provisions will be made for two or more municipalities to form a common subdivision and development appeal board if they find it advantageous to do so.
- Subdivision and development appeal boards are bound by the uses prescribed in the statutory plans and land use bylaws.

#### **7.4 Municipal Government Board (MGB)**

The Municipal Government Board is constituted under Part 12 of the *Municipal Government Act*.

- The Alberta Planning Board will be eliminated.
- Subdivision appeals related to the provincial interest areas will be heard by the Municipal Government Board upon appeal from a subdivision applicant or a provincial department. Provincial appeals involve subdivisions affecting sour gas installations, major water bodies, provincial historic resources, a provincial highway or a waste treatment and disposal facility..
- The Municipal Government Board may hear intermunicipal disputes regarding statutory plans and bylaws submitted to it and will be empowered to issue board decisions regarding these disputes.

#### **7.5 Intermunicipal Service Agency (ISA)**

Regional planning commissions will not be part of the new planning legislation. Municipalities will still be encouraged to cooperate for planning and/or other purposes and to voluntarily form an organization. Such intermunicipal service agencies may:

- provide one or more planning and other services for one or more member municipalities;

- be delegated authority for subdivision and development processing and decisions and administrative support to the subdivision and development appeal board;
- establish common planning policies in an informal manner which may be adopted by individual members formally in statutory plans and bylaws; and
- perform such other duties as agreed to by the participating municipalities pursuant to the *Municipal Government Act* or other legislation.



## 8.0 REGULATIONS

### **8.1 Subdivision Regulation**

The purpose of this regulation is to provide guidelines to the subdivision approval process and ensure some consistency of process across the province. A number of the provisions have been amended or removed to streamline the subdivision process while others have been modified to reflect provincial policies.

The subdivision process will be streamlined by:

- reducing the number of required referrals to Alberta Environmental Protection;
- eliminating discretionary referrals such as Alberta Agriculture, Food and Rural Development and Alberta Labour. Other referrals may be made only where a specific issue is to be resolved with respect to an individual application;
- removing standards for roadways, access and lot sizes which can best be set in municipal land use bylaws;
- reducing referrals for development adjacent to a provincial highway where a Highway Management Access Agreement has been completed by Alberta Transportation and Utilities and the municipality; and,
- bringing standards in the regulation into conformity with other acts to add clarity.

The Subdivision Regulation will be modified to reflect provincial interest in health and safety matters. These changes will clarify expectations for subdivision applicants and approving authorities, resulting in a quicker decision process. These changes include:

- proposals for unserviced multi-lot subdivisions must document that the development can be provided with potable water and a suitable means of sewage disposal;
- specifying development as well as subdivision setbacks from waste treatment and sour gas facilities.

The Subdivision Regulation will continue to:

- set requirements for applicants submitting subdivision applications.
- set referral and processing requirements for subdivision approving authorities; and
- set standards concerning health and safety such as distances from sour gas facilities, waste management facilities and lagoons.

## **8.2 Airport Vicinity Protection Area Regulation**

This regulation makes special provisions for land use in the vicinity of airports. The current method of requiring a separate provincial regulation to be adopted for land around each airport will be replaced with a general provincial land use regulation.

- Land use in the vicinity of most airports will be managed at the local level through municipal plans and land use bylaws operating in compliance with the general provincial land use regulation.
- The opportunity for specific provincial regulations will be retained for international airports.

## **8.3 Other Regulations**

The Innovative Residential Area and Special Planning Area provisions of the legislation will be eliminated as these needs are being met through increased municipal flexibility and responsibility. The Minister will, however, retain the right to make general regulations.

## 2.0 OTHER DEREGULATORY INITIATIVES

The *Planning Act* review recognizes the need for decision making processes to be made more flexible and efficient. This will be accomplished through specific deregulation, delegation of authority to municipalities to increase flexibility and timeliness, and elimination of duplication.

Proposals for eliminating regulatory requirements include:

- Eliminating mandatory circulation requirements for subdivision applications involving multiple lots on a title from a plan registered prior to 1950.
- Repealing regulation 449/81 regarding Sherwood Park and St. Albert growth limits.

Proposals for delegating and increasing municipal authority include:

- Delegating authority to municipalities for plan cancellation and time extensions for endorsing and registering of subdivision instruments.
- Allowing the municipality, through provisions in the land use bylaw, to extend discretionary authority to the development officer to allow additions or enlargements to non-conforming buildings and uses.

Delays in decision-making will be reduced by streamlining the approval and appeal process. Proposals include:

- Requiring a decision on subdivisions involving pre-1950 plans (current section 86(3) of the *Planning Act*) within 14 days.
- Reducing the subdivision appeal period to 14 days as required for development appeals.

## 10.0 CONCLUSION

This paper provides the major thrusts of change for a new municipally-based planning system in Alberta. The proposed changes will challenge all affected parties to adjust to a new system and in some cases a new way of thinking about conflict resolution. Neighboring municipalities will be fully accountable to develop workable mechanisms to resolve intermunicipal and transboundary issues. Resolution of disagreements must be done in a short period of time yet provide sufficient due process for all affected parties in order that opportunities can be realized.

Although proposed changes are proposed to the Alberta planning system, the fundamental solid processes such as a system of local plans, public participation and notification, and the balancing of individual rights with the greater public interest remain to serve as a solid foundation for a future planning system. Existing Planning Act provisions not mentioned in this paper are expected to remain substantially unchanged. However, additional minor changes will occur as the planning legislation is amalgamated into an expanded new Municipal Government Act.

Continued input to the proposed changes to Alberta's planning system is encouraged. Such comments would be appreciated prior to December 15, 1994.

## PLANNING ACT SUBDIVISION GUIDELINES

In addition to the Act, the subdivision and development regulations a series of guidelines will be available to assist municipalities to undertake their planning activities.

### *Interim Guidelines for the Subdivision of Land Adjacent to Steep Valley Banks*

Land Use Branch, Alberta Environmental Protection  
April 27, 1994

### *Interim Guidelines for the Subdivision of Land in Areas Adversely Affected by River Flooding and Erosion*

Land Use Branch, Alberta Environmental Protection  
April 27, 1994

### *Interim Guidelines for the Evaluation of Water Table Conditions and Soil Percolation Rate for Unserved Residential Subdivisions*

Land Use Branch, Alberta Environmental Protection  
April 26, 1994

### *Interim Guidelines for the Evaluation of Groundwater Supply for Unserved Residential Subdivision Using Privately Owned Domestic Water Wells*

Land Use Branch, Alberta Environmental Protection  
June 27, 1994

### *Guidelines for Use in Preparing Lake Shoreland Management Plans*

Alberta Planning Board  
June, 1978

### *Proposed Action on Intensive Livestock Operations*

Alberta Agriculture, Food and Rural Development  
(under review)



In witness whereof, I have hereunto set my hand and the seal of the said Library at Edmonton, Alberta, this 24th day of January, 2007.

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