

FREQUENTLY CITED LEGISLATION AND REGULATIONS IN SUBDIVISION APPEALS

SUBDIVISION APPEAL BULLETIN NO. 3 – 2012

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INTRODUCTION

The Alberta Municipal Government Board (MGB) was created under statute in 1995 to hear a number of different types of appeals, including subdivision appeals.¹ The laws governing the subdivision of land in Alberta were also created under statute.² The most frequently cited pieces of legislation in subdivision appeals are listed in this bulletin.

For more information on the specific legislative requirements that the MGB must consider in subdivision appeals, and on how that legislation has been applied in past MGB decisions, see [Preparing for an MGB Hearing – Legislative Requirements](#).

BACKGROUND & KEY LEGISLATION

There are three main pieces of legislation that are relevant in every MGB subdivision appeal:

The [Municipal Government Act](#) (Act)

Part 17 of the Act sets out the ground rules for land planning in Alberta. Divisions 7 and 8 of Part 17 set out the rules for subdivision of land. Division 10 of Part 17 sets out the rules for subdivision appeals.

The [Subdivision and Development Regulation](#)³ (Regulation)

The Subdivision and Development Regulations provide rules on subdivision applications (part 1), subdivision and development conditions (part 2), registration and enforcement (part 3), and distances that are used to determine if

¹ See section 488 of the Municipal Government Act, RSA 2000, c M-26 (the Act), for more information on the MGB's jurisdiction.

² See generally Part 17, Division 7 of the Act.

³ Alta Reg 43/2002.

an appeal is to be lodged with the MGB, or with a local Subdivision and Development Appeal Board (part 4).

The [Land Use Policies](#) ⁴ (LUP)

Decisions made by the MGB must be consistent with provincial Land Use Policies.⁵

ALBERTA LAND STEWARDSHIP ACT REGIONAL PLANS

The MGB's decisions must be made 'in accordance with any applicable [Alberta Land Stewardship Act \(ALSA\) Regional Plans](#)'.⁶ As of September 1, 2012, there is one such plan in force in Alberta. This plan is the [Lower Athabasca Regional Plan](#). For regions where there is an ALSA regional plan in effect, the regional plan supersedes the land use policies in that region of the province.⁷

MUNICIPAL BYLAWS AND PLANS

Contact your municipality for current bylaws and statutory plans. These documents set out specific requirements and policies affecting subdivision within your municipality.

There are 340 municipalities in the Province of Alberta.⁸ Each one must have a Land Use Bylaw – regulating land zoning (also called “districting”).

Statutory Plans:

- Municipal Development Plans: Each municipality with more than 3500 residents must have one, which establishes a growth plan.⁹
- Intermunicipal Development Plans: Co-operative growth plans between multiple municipalities.¹⁰
- Area Structure Plans and Area Redevelopment Plans: plans for the development or redevelopment of particular areas within a municipality.¹¹

⁴ These were adopted by Order in Council 522/96 under section 622 of the Act.

⁵ See section 622 of the Act.

⁶ Pursuant to section 680(2)(a) of the Act. See also the Alberta Land Stewardship Act, SA 2009, c A-26.8.

⁷ See section 622(4) of the Act.

⁸ There are 340 cities, specialized municipalities, municipal districts, towns, villages and summer villages in Alberta. Under section 1(1)(s) of the Act, these are all 'municipalities'. See *Municipal Codes, 2012*:

<http://www.municipalaffairs.alberta.ca/cfml/officials/2012-1gcode.pdf> for precise numbers of each. The Act applies to municipalities under section 2(1) of the Act.

⁹ See sections 639 and 632 of the Act, respectively.

¹⁰ See section 631 of the Act.

¹¹ See sections 633 and 634 of the Act, respectively.

LEGISLATION FOR SPECIFIC CIRCUMSTANCES

There are many other laws that may be relevant in subdivision appeals. Whether or not other legislation or regulation is relevant depends on the issues raised in a particular subdivision appeal.

Regional Planning	<i>Alberta Land Stewardship Act, SA 2009, c A-26.8.</i>
Boundaries	<i>Surveys Act, RSA 2000, c S-26.</i>
Capital Region Board	<i>Capital Region Board Regulation, Alta Reg 38/2012.</i>
Environment	<i>Canadian Environmental Assessment Act, SC 1992, c 37. [Federal]</i>
Environment	<i>Environmental Protection and Enhancement Act, RSA 2000, c E-12.</i>
Environment	<i>Species at Risk Act, SC 2002, c 29. [Federal]</i>
Environment	<i>Wastewater and Storm Drainage Regulation, Alta Reg 119/1993.</i>
Environment	<i>Wildlife Act, RSA 2000, c W-10.</i>
Highways	<i>Highways Development and Protection Act, SA 2004, c H-8.5.</i>
Highways	<i>Public Highways and Development Act, RSA 2000, c P-38.</i>
Landfills	<i>Nuisance and General Sanitation Regulation, Alta Reg 243/2003.</i>
Landfills	<i>Waste Control Regulation, Alta Reg 192/1996.</i>
Off Site Levies	<i>Principles and Criteria for Off Site Levies Regulation, Alta Reg 48/2004.</i>
Sewage Systems	<i>Private Sewage Disposal Systems Regulation, Alta Reg 229/1997.</i>
Water Bodies	<i>Public Lands Act, RSA 2000, c P-40.</i>
Water Bodies	<i>Water Act, RSA 2000, c W-3.</i>

NOTE: To obtain official copies of provincial legislation, consult [Alberta Queen's Printer](#).
For federal statutes, go to the [Justice Laws Website](#).
You may also find these statutes and regulations on [canlii.org](#).

 **NEXT BULLETIN** - [Common Acronyms in Subdivision Appeals](#)