

TABLE OF CONTENTS

	Page
<i>The Authors</i>	iii
<i>Acknowledgments</i>	v
<i>Preface</i>	vi
<i>Table of Cases</i>	TC-1
<i>Table of Statutes</i>	TS-1
<i>Table of Regulations</i>	TR-1
<i>Books</i>	BKS-1
<i>Publications</i>	PUB-1
<i>Index</i>	IND-1
<i>Appendices</i>	Alberta Regulations
CHAPTER 1 THEORETICAL AND HISTORICAL BASES OF PLANNING LEGISLATION IN ALBERTA	
§1.1. Introduction	1-1
§1.2. Evolution of Local Government in Alberta	1-5
§1.2(1) Northwest Territorial Government	1-6
§1.2(2) 1905 - 1945	1-10
§1.2(3) 1946 - 1970	1-12
§1.2(4) The 1994 Municipal Government Act	1-15
§1.2(4)(a) Updating the Municipal Government Act	1-17
§1.2(5) Current Forms of Municipal Government.....	1-18
§1.3. History of Alberta Planning Legislation	1-19
§1.3(1) Northwest Territories Period to 1912	1-19
§1.3(2) The 1913 Town Planning Act	1-22
§1.3(3) The 1928 Town Planning and Preservation of Natural Beauty Act	1-25
§1.3(4) The 1929 Town Planning Act	1-26
§1.3(5) 1948 Amendments to the 1929 Act	1-31
§1.3(6) 1950 Amendments	1-32
§1.3(7) The 1953 Town and Rural Planning Act	1-36
§1.3(8) 1957 - 1960 Amendments	1-37
§1.3(9) The 1963 Planning Act	1-40
§1.3(10) The 1977 Planning Act	1-43
§1.3(10)(a) Background	1-43
§1.3(10)(b) Provincial Planning	1-46
§1.3(10)(c) Regional Planning	1-47
§1.3(10)(d) Regional Planning Returns	1-49
§1.3(10)(e) Municipal Planning	1-50

TABLE OF CONTENTS

	Page
CHAPTER 2 MUNICIPAL GOVERNMENT ACT: PART 17 — AN OVERVIEW	
§2.1 Background to Part 17	2-1
§2.2 Content of Part 17	2-3
§2.2(1) Planning Agencies	2-4
§2.2(1)(a) The Lieutenant Governor in Council.....	2-4
§2.2(1)(b) The Minister of Municipal Affairs	2-6
§2.2(1)(c) The Municipal Government Board	2-7
§2.2(1)(d) Municipal Councils	2-8
§2.2(1)(e) Municipal Planning Commissions.....	2-10
§2.2(1)(f) Subdivision and Development Authorities	2-10
§2.2(1)(g) Subdivision and Development Appeal Boards.....	2-11
§2.2(1)(h) Growth Management Boards	2-12
§2.2(2) Planning Instruments.....	2-12
§2.2(2)(a) Land Use Policies	2-15
§2.2(2)(b) Alberta Land Stewardship Act Regional Plans.....	2-18
§2.2(2)(c) Airport Vicinity Protection Area Regulations .	2-19
§2.2(2)(c)(i) International Airport Vicinity Protection Area Regulations	2-20
§2.2(2)(c)(ii) General Airport Vicinity Protection Area Regulations	2-21
§2.2(2)(c)(iii) Agreements under Aeronautics Act (Canada).....	2-21
§2.2(2)(d) The Subdivision and Development Regulation	2-22
§2.2(2)(e) Intermunicipal Development Plans	2-22
§2.2(2)(e)(i) Intermunicipal Collaboration Frameworks	2-23
§2.2(2)(f) Municipal Development Plans	2-24
§2.2(2)(g) Area Structure Plans	2-25
§2.2(2)(h) Area Redevelopment Plans	2-26
§2.2(2)(i) Land Use Bylaws	2-26
§2.2(2)(j) City Charters	2-27
§2.2(3) The Approval Processes	2-28
§2.2(3)(a) Subdivision Approvals	2-28
§2.2(3)(b) Development Approvals	2-30
§2.2(4) Servicing Subdivisions and Developments	2-32
§2.2(5) Enforcement of Planning Rules	2-33

TABLE OF CONTENTS

	Page
§2.3 Conflict Management	2-33
§2.3(1) Statutory Mechanisms	2-34
§2.3(2) Local Initiatives.....	2-35
Figure 1: Municipal Boundaries	2-38
Figure 2: Statutory Planning Instruments.....	2-39
Figure 3: Area Structure Plan in Urban Setting	2-40
Figure 4: Rural Land Use By-law Districting Map	2-41
Figure 5: Subdivision Approval Process - Flow Chart	2-42
Figure 6: Statutory Plan or Land Use By-Law Amendment Process - Flow Chart	2-43
Figure 7: Development Permit Approval Process Flow Chart	2-44
 CHAPTER 3 OTHER LEGISLATION AFFECTING LAND DEVELOPMENT AND ITS RELATIONSHIP TO PART 17	
 §3.1 Annexation Legislation	 3-2
§3.2 Building Standards Legislation	3-3
§3.3 Environment Legislation	3-4
§3.3(1) Environmental Protection and Enhancement Act	3-4
§3.3(2) Government Organization Act, Schedule 5.....	3-6
§3.3(3) Natural Resources Conservation Board Act.....	3-6
§3.3(4) Water Act	3-7
 §3.4 The Agricultural Operation Practices Act	 3-8
§3.5 Highways Development and Protection Act	3-8
§3.6 The Historical Resources Act	3-8
§3.7 Energy Resources Conservation Act	3-10

TABLE OF CONTENTS

	Page
§3.8 Special Area Preservation Designation Legislation	3-10
§3.8(1) Land Assembly Project Area Act	3-11
§3.8(2) Alberta Land Stewardship Act	3-12
§3.8(3) Regional Planning - The Alberta Land Stewardship Act	3-12
§3.9 Interface Between Planning and Other Legislation	3-14
§3.9(1) Concurrent Jurisdiction	3-15
§3.9(2) Resolving Inconsistencies and Conflicts Between Decisions	3-17
§3.9(3) The Legislative Response to Overlapping Jurisdiction	3-19
§3.9(3)(a) Section 620	3-20
§3.9(3)(b) Section 619	3-21
 CHAPTER 4 LIMITS ON THE OPERATION OF PART 17 OF THE MUNICIPAL GOVERNMENT ACT	
§4.1 Crown Immunity	4-2
§4.1(1) The Provincial Crown.....	4-2
§4.1(2) The Federal Crown	4-4
§4.1(3) Crown Agencies	4-6
§4.1(4) Municipal Corporations, Regional Health Authorities and School Boards	4-12
§4.1(5) Lessees From the Crown	4-13
§4.1(5)(a) The Federal Crown as Lessor	4-14
§4.1(5)(b) The Provincial Crown as Lessor	4-16
§4.1(5)(c) Summary	4-18
§4.2 Indian Lands	4-18
§4.2(1) The Scope of Provincial Planning Legislation.	4-18
§4.2(2) The Constitution and the Indian Act	4-19
§4.2(3) Removing An Indian Land Designation	4-23
§4.2(4) Involvement of Indian Bands in Municipal Plans	4-25
§4.3 National Parks and Military Bases	4-25
§4.4 Federal Works and Undertakings	4-27
§4.4(1) Airports.....	4-27
§4.4(1)(a) Land Within Airports.....	4-28
§4.4(1)(b) Land Surrounding Airports.....	4-32
§4.4(1)(c) Provincial Regulation of Surrounding Lands .	4-36
§4.4(2) Railway Lands.....	4-37
§4.4(3) Communications Undertakings	4-38

TABLE OF CONTENTS

	Page
§4.5 Section 618 and 618.1 Exemptions	4-40
§4.5(1) Highways and Public Roads.....	4-40
§4.5(2) Wells and Batteries	4-40
§4.5(3) Pipelines.....	4-42
§4.5(4) Metis Settlements	4-43
§4.5(5) Designated Crown Lands.....	4-43
§4.5(6) Exemption Regulations	4-44
§4.6 Exemptions Created Under Section 683	4-47
 CHAPTER 5 MUNICIPAL AND INTERMUNICIPAL PLANNING	
§5.1 Introduction	5-1
§5.2 Municipal Development Plans	5-2
§5.3 Area Structure Plans	5-6
§5.4 Area Redevelopment Plans	5-9
§5.5 Non-Statutory Plans	5-11
§5.6 Legal Status of Statutory Plans	5-12
§5.6(1) Relevant Statutory Provisions	5-12
§5.6(1)(a) Direct Control is Subject to Statutory Plans.....	5-13
§5.6(1)(b) Statutory Directives to Development and Subdivision Authorities	5-14
§5.6(1)(c) Statutory Directives to Appeal Boards	5-15
§5.6(2) Theoretical Framework.....	5-16
§5.6(3) Judicial Attitudes	5-17
§5.6(3)(a) Judicial Deference in Plan Interpretation.....	5-18
§5.6(3)(b) Plans State Goals and Do Not Regulate	5-20
§5.6(4) Conclusion.....	5-24
§5.7 Intermunicipal Planning	5-24
§5.7(1) The Need For Intermunicipal Cooperation	5-24
§5.7(2) Regional Planning of the Past	5-25
§5.7(3) Closing the Gaps After Regional Planning	5-26
§5.7(4) Intermunicipal Planning Agencies.....	5-27
§5.7(4)(a) Formation and Funding	5-28
§5.7(4)(b) Legal Status	5-29
§5.7(4)(c) Functions	5-29
§5.7(4)(d) Intermunicipal Cooperation Using the Private Sector	5-30

TABLE OF CONTENTS

	Page
§5.7(5)	Intermunicipal Development Plans 5-30
§5.7(5)(a)	Content of Plan 5-31
§5.7(5)(b)	Procedures for Adopting Intermunicipal Plans 5-33
§5.7(5)(c)	Legal Status of an Intermunicipal Plan 5-34
§5.7(5)(d)	Amending or Repealing an Adopted Plan..... 5-36
§5.7(5)(e)	Provisions for Resolving Conflicts 5-38
§5.7(5)(f)	Plan Administration 5-39
§5.7(6)	Growth Management Boards 5-40
§5.7(7)	Intermunicipal Collaboration Frameworks 5-41
§5.8 Resolving Intermunicipal Disputes	5-43
§5.8(1)	Appeals to the Municipal Government Board 5-43
§5.8(1)(a)	Perfecting an Appeal..... 5-43
§5.8(1)(b)	Suspending the Impugned Bylaw..... 5-44
§5.8(1)(c)	The Board’s Obligations and Powers 5-45
§5.8(1)(d)	Effect of a Board Order 5-46
§5.8(1)(e)	When is the Board Likely to Find Detriment?. 5-46
§5.8(1)(e)(i)	Under the Former Legislation 5-47
§5.8(1)(e)(ii)	Under Section 690..... 5-48
 CHAPTER 6 LAND USE BYLAWS	
§6.1 Administration	6-2
§6.2 Land Use Districts	6-4
§6.2(1)	Conventional Districts 6-4
§6.2(1)(a)	Permitted Uses 6-5
§6.2(1)(b)	Discretionary Uses 6-8
§6.2(1)(b)(i)	Uses by Lottery 6-9
§6.2(1)(c)	Describing Uses 6-10
§6.2(1)(c)(i)	Generic or Specific Use Descriptions..... 6-10
§6.2(1)(c)(ii)	Similar Uses..... 6-12
§6.2(1)(d)	Categories of Districts..... 6-14
§6.2(1)(d)(i)	Residential Districts 6-14
§6.2(1)(d)(i)(A)	Single-Family Districting 6-16
§6.2(1)(d)(i)(B)	Judicial Attitudes Towards Single-Family Districts 6-17
§6.2(1)(d)(ii)	Commercial Districts 6-20
§6.2(1)(d)(iii)	Regulating Adult Entertainment Businesses... 6-22
§6.2(1)(d)(iv)	Regulating Cannabis Production and Consumption 6-26
§6.2(1)(d)(v)	Industrial Districts 6-28
§6.2(1)(d)(vi)	Agricultural Districts 6-29

TABLE OF CONTENTS

	Page
§6.2(1)(d)(vii)	Open Space and Holding Districts 6-31
§6.2(1)(d)(viii)	Miscellaneous Districts..... 6-35
§6.2(2)	Direct Control Districts..... 6-35
§6.2(2)(a)	Limitations of Conventional Districting 6-35
§6.2(2)(b)	Historical Antecedents to Direct Control..... 6-37
§6.2(2)(c)	Typical Direct Control Districts 6-38
§6.2(2)(c)(i)	Pure Direct Control 6-39
§6.2(2)(c)(ii)	Delegated Direct Control 6-40
§6.2(2)(c)(iii)	Contract Districting..... 6-42
§6.2(2)(c)(iv)	Site-Specific Direct Control Districting 6-45
§6.2(2)(c)(v)	Miscellaneous Direct Control Districting 6-49
§6.2(2)(d)	The Scope of Direct Control..... 6-50
§6.2(2)(e)	The Role of a Subdivision and Development Appeal Board in Direct Control 6-50
§6.3 Development Standards	6-54
§6.3(1)	Lot Size..... 6-55
§6.3(1)(a)	Densities 6-56
§6.3(2)	Yard Space 6-57
§6.3(3)	Building Bulk and Form 6-58
§6.3(4)	Off-Street Parking and Loading 6-59
§6.3(5)	Fences 6-59
§6.3(6)	Signs 6-60
§6.3(7)	Aesthetic Standards 6-63
§6.3(8)	Discretionary Development Standards 6-66
§6.4 Variance Powers	6-67
CHAPTER 7 PROCEDURES FOR ADOPTING AND AMENDING STATUTORY PLANS AND LAND USE BYLAWS	
§7.1 Initiating Bylaws and Amendments	7-1
§7.1(1)	Status to Apply 7-2
§7.1(2)	Duty to Process an Application..... 7-3
§7.1(3)	Contract Zoning..... 7-4
§7.2 Some Basic Principles of Procedure	7-5
§7.2(1)	Statute and Bylaw-Based Procedures 7-5
§7.2(2)	Common Law Procedures..... 7-6
§7.2(2)(a)	Procedures Depend on Nature of Function..... 7-7
§7.2(2)(b)	The Duty to Conduct a Fair Process 7-8
§7.2(2)(c)	Fair Process in Redistricting Hearings 7-9

TABLE OF CONTENTS

	Page
§7.3 Procedural Components	7-11
§7.3(1) Notice of Hearing	7-11
§7.3(1)(a) Manner of Giving Notice.....	7-12
§7.3(1)(b) Content of the Notice	7-14
§7.3(1)(c) Consequences of a Defective Notice.....	7-15
§7.3(2) Waiver of Notice and Hearing.....	7-18
§7.3(3) Adjournments of a Hearing	7-19
§7.3(4) The Hearing Process	7-20
§7.3(4)(a) No Court-Like Procedures Required.....	7-21
§7.3(4)(b) Adequate Time For Presentations.....	7-22
§7.3(4)(c) Receipt of Evidentiary Material from One Side Outside the Hearing	7-23
§7.3(4)(d) Receipt of Undisclosed Reports from Council’s Staff or Committees	7-25
§7.3(4)(e) Council Obtaining Information on its Own Initiative Outside of the Hearing	7-29
§7.3(4)(f) Taking a View.....	7-29
§7.3(4)(g) Lobbying of Council Members by Interested Parties.....	7-31
§7.3(4)(h) Members’ Attendance at Hearings.....	7-32
§7.3(5) Bias and Prejudgment of Council Members....	7-33
§7.4 Amending a Proposed Bylaw After the Hearing	7-38
§7.4.1 Reasons for Council Decision	7-39
§7.5 Effect of Sec. 537 on Challenges to Bylaws on Procedural Grounds	7-40
CHAPTER 8 DOWNSIZING AND COMPENSATION	
§8.1 Introduction	8-1
§8.2 American Jurisprudence	8-3
§8.3 Canadian Jurisprudence	8-10
§8.3(1) The Right to Compensation Generally	8-10
§8.3(2) Development Freezes.....	8-15
§8.3(2)(a) The <i>Hartel Holdings</i> Case	8-16
§8.3(2)(b) Ultra Vires Freezes	8-18
§8.3(3) Conclusions	8-22

TABLE OF CONTENTS

	Page
CHAPTER 9 DEVELOPMENT PERMITS	
§9.1 Introduction	9-1
§9.2 When is a Permit Required?.....	9-2
§9.2(1) Definitions	9-2
§9.2(2) For Work to Service a Subdivision.....	9-3
§9.2(3) Permits Run With the Land.....	9-5
§9.2(4) Intensification of a Use	9-6
§9.2(5) Exemptions.....	9-7
§9.3 Processing an Application	9-8
§9.3(1) Time Periods for Determining Completeness of Applications	9-8
§9.3(2) Application Referrals	9-9
§9.3(3) No Hearing Required	9-10
§9.4 Post-Decision Requirements	9-12
§9.4(1) Time Limits For Making a Decision	9-12
§9.4(2) Notice of Decision	9-12
§9.4(3) Form of Notice	9-14
§9.4(4) Effect of Failure to Give Notice	9-15
§9.4(5) Resubmission of an Application.....	9-16
§9.5 Duty to Issue or to Deny a Permit	9-17
§9.5.1 Allocation of Permits by Lottery	9-17
§9.5(1) Post-Application Bylaw Amendments.....	9-18
§9.5(2) Effect of Pending Bylaw Amendments.....	9-19
§9.5(3) Onus of Proof and Issues to be Addressed.....	9-21
§9.5(4) Application of Principles in Alberta	9-22
§9.6 Variance Powers of Development Authorities	9-23
§9.7 Attaching Conditions to a Permit.....	9-25
§9.7(1) Source of Power	9-25
§9.7(2) Conditions in a Discretionary Use Permit	9-27
§9.7(3) Conditions in a Permitted Use Permit.....	9-27
§9.7(4) Conditions Must Achieve Planning Objectives.....	9-28
§9.7(5) The Condition Must Not Subdelegate Power.....	9-29
§9.7(6) Severability of Conditions.....	9-30
§9.8 Effective Date of a Permit.....	9-31

TABLE OF CONTENTS

	Page
§9.9 Lapse of a Permit	9-32
§9.10 Revocation of a Permit	9-33
§9.11 Temporary Permits	9-35
 CHAPTER 10 DEVELOPMENT PERMIT APPEALS	
§10.1 Membership of An Appeal Board	10-2
§10.1(1) Quorum.....	10-3
§10.1(2) Attendance At Entire Hearing	10-4
§10.1(3) Council Members Serving on a Board.....	10-5
§10.1(4) Impartiality of Board Members.....	10-7
§10.1(5) Relevance of the Charter on Bias Issues.....	10-14
§10.1.1 Right of Appeal - Permitted and Discretionary Uses	10-15
§10.2 Status to Appeal	10-15
§10.2(1) Incorporated Societies.....	10-16
§10.2(2) “Affected” Persons.....	10-17
§10.2(3) Local Authorities.....	10-20
§10.3 Time for Filing an Appeal	10-20
§10.3(1) Appeals by Applicants.....	10-20
§10.3(2) Appeals by Other Affected Persons.....	10-22
§10.3(2)(a) Notification of Issuance of the Permit	10-22
§10.3(2)(a.1) Notification for Deemed Refusals under	
s. 638.1(8).....	10-26
§10.3(2)(b) Effect of Inadequate Notice.....	10-26
§10.3(2)(c) Notice of the Appeal	10-28
§10.3(3) Calculating the Time for Filing an Appeal	10-28
§10.4 Subdivision and Development Appeal Board Procedures	10-30
§10.4(1) Some General Principles - The Duty of	
Fairness	10-30
§10.4(2) The Hearing Date	10-31
§10.4(3) Notice of Hearing	10-32
§10.4(3)(a) Manner of Giving Notice.....	10-32
§10.4(3)(b) Who is Entitled to Notice?.....	10-33
§10.4(3)(c) Effect of Inadequate Notice.....	10-35
§10.4(4) Public Inspection of the Appeal File.....	10-36
§10.4(4)(a) FOIPP	10-37
§10.4(5) The Hearing.....	10-38
§10.4(5)(a) Who Is Entitled to Be Heard?	10-38
§10.4(5)(b) Hearing Procedure	10-39

TABLE OF CONTENTS

	Page
§10.4(5)(c)	Cross-Examination 10-40
§10.4(5)(d)	Adjournments 10-40
§10.4(5)(e)	Hearing in Public, Deliberation in Private..... 10-41
§10.5 The Evidence	10-42
§10.5(1)	Relevant Evidence – Proper Planning Considerations 10-42
§10.5(2)	Receiving Irrelevant Evidence 10-45
§10.5(3)	Sufficiency of Evidence..... 10-45
§10.6 Post-Hearing Procedures	10-46
§10.6(1)	Record of the Proceedings..... 10-46
§10.6(2)	Notice of Decision 10-48
§10.6(3)	Reasons for Decision 10-48
§10.6(3)(a)	Adequacy of Reasons..... 10-49
§10.6(3)(b)	Effect of Inadequate Reasons..... 10-51
§10.7 Powers of an Appeal Board in Rendering a Decision	10-53
§10.7(1)	In General 10-53
§10.7(1)(a)	Permitted Uses 10-54
§10.7(1)(b)	Discretionary Uses 10-56
§10.7(2)	The Variance Power 10-57
§10.7(2)(a)	Use Variances 10-58
§10.7(2)(b)	Development Standard Variances..... 10-59
§10.7(2)(c)	The Variance Power Applied to Non-Conforming Buildings 10-60
§10.7(2)(d)	Conforming With Plans 10-63
§10.7(2)(e)	Impact of a Variance on Neighbours 10-64
§10.7(3)	Power to Attach Conditions 10-65
§10.7(3)(a)	Scope of Power..... 10-66
§10.7(3)(a)(i)	Improper Subdelegation..... 10-67
§10.7(3)(b)	Judicial Review of Conditions - Some Grounds for Challenge 10-69
§10.7(4)	Power to Reconsider a Decision 10-72
§10.7(4).1	Issue Estoppel 10-73
§10.7(4)(a)	When is a Board Functus?..... 10-75
§10.7(4)(b)	Correcting Slips and Errors..... 10-75
§10.7(4)(c)	Power to Clarify a Decision 10-76
§10.7(4)(d)	Power to Resolve Disputes in Implementing a Decision 10-77
§10.7(4)(e)	Power to Police Compliance With Conditions 10-77

TABLE OF CONTENTS

	Page
CHAPTER 11 SUBDIVISION OF LAND	
§11.1 Introduction	11-1
§11.2 Definitions	11-2
§11.3 The Status of an Unapproved Subdivision	11-3
§11.4 When is Subdivision Approval Required?	11-6
§11.4(1) Section 618 Exceptions	11-6
§11.4(2) Section 652(2) Exceptions	11-7
§11.4(3) Fee Simple Transactions	11-9
§11.4(4) Condominiums	11-10
§11.4(5) Strata Titles	11-12
§11.4(6) Rights of Way and Easements	11-12
§11.4(7) Leases	11-14
§11.4(7)(a) Leases Not Exceeding Three Years	11-15
§11.4(7)(b) Leases Exceeding Three Years	11-15
§11.4(7)(b)(i) Land Leases	11-16
§11.4(7)(b)(ii) Residential Leases	11-23
§11.4(7)(b)(iii) Non-Residential Building Leases	11-24
§11.4(7)(b)(iv) When a Transaction Amounts to a Sale of Part of a Parcel	11-25
§11.4(7)(b)(v) Summary	11-27
 CHAPTER 12 THE SUBDIVISION APPROVAL PROCESS	
§12.1 The Subdivision Authority	12-2
§12.2 Forms of Subdivision	12-4
§12.2(1) By Instrument	12-4
§12.2(2) By Plan of Survey	12-5
§12.2(3) By Descriptive Plan	12-5
§12.3 The Subdivision Application and Its Processing	12-6
§12.3(1) Content of the Application	12-6
§12.3(2) Time Periods for Determining Completeness of Applications	12-7
§12.3(3) Referral of the Application	12-8
§12.3(3)(a) To Government Agencies and Utility Suppliers	12-8
§12.3(3)(b) To Other Planning Agencies	12-9
§12.3(3)(c) To Adjacent Land Owners	12-10
§12.3(3)(d) Status of Referees' Comments	12-10

TABLE OF CONTENTS

	Page
§12.3(4)	Pre-Decision Procedural Responsibilities of the Sub-Division Authority..... 12-11
§12.3(4)(a)	Time Limits For Making a Decision 12-11
§12.3(4)(b)	No Hearing Required 12-12
§12.4 Subdivision Standards.....	12-13
§12.4(1)	In the Land Use Policies 12-13
§12.4(2)	In the Growth Plans Under Part 17.1 12-13
§12.4(3)	In the Subdivision and Development Regulation..... 12-13
§12.4(4)	In Land Use Bylaws 12-15
§12.4(5)	In Adopted Plans 12-16
§12.4(6)	Informal Standards..... 12-16
§12.5 Powers and Duties of a Subdivision Authority	12-16
§12.5(1)	Conforming with Plans..... 12-17
§12.5(2)	Conforming with Land Use Bylaws 12-17
§12.5(2)(a)	The Variance Power 12-18
§12.5(2)(b)	The Difference Between Uses and Development Standards 12-18
§12.5(3)	Determining Suitability 12-20
§12.5(4)	Discretion to Refuse an Application 12-22
§12.5(5)	Attaching Conditions to Approvals..... 12-24
§12.5(5)(a)	Generally..... 12-24
§12.5(5)(b)	A Condition to Comply With Statutory Instruments 12-25
§12.5(5)(c)	Approval Conditional on Redistricting..... 12-26
§12.5(5)(d)	A Condition Must Serve a Planning Objective 12-27
§12.6 Post-Decision Processes.....	12-27
§12.6(1)	Notice of Decision 12-27
§12.6(2)	Resubmission Intervals..... 12-28
§12.6(2)(a)	Second Hearing for the Same Development..... 12-29
§12.6(3)	Endorsement and Registration of Instruments and Plans 12-29
§12.6(3)(a)	Endorsement by the Subdivision Authority .. 12-29
§12.6(3)(b)	Endorsement by an Appeal Board Member .. 12-30
§12.6(3)(c)	Time Limits and Extensions..... 12-30
§12.6(3)(d)	Endorsements by Encumbrancers 12-32
§12.7 Cancellation of Subdivisions	12-33

TABLE OF CONTENTS

	Page
§12.8 Compulsory Subdivisions.....	12-35
§12.9 Replots.....	12-36
CHAPTER 13 SUBDIVISION APPEALS	
§13.1 Introduction	13-1
§13.1(1) Local Appeal Boards	13-2
§13.1(2) The Municipal Government Board	13-2
§13.2 Status to Appeal	13-6
§13.2(1) Judicial Review of Subdivision Authority Decisions.....	13-8
§13.3 Time to Appeal	13-9
§13.3(1) Generally.....	13-9
§13.3(2) Extension Agreements	13-10
§13.4 The Notice of Appeal	13-11
§13.5 Appeal Board Procedures	13-12
§13.5(1) Pre-Hearing Requirements	13-12
§13.5(1)(a) Notice of Hearing	13-13
§13.5(2) The Hearing.....	13-15
§13.6 Powers of a Board in Determining an Appeal.....	13-17
§13.6(1) Appeal of Entire Decision	13-17
§13.6(2) Appeal of a “Condition”	13-18
§13.6(3) Appeal of Levies and Servicing Requirements	13-19
§13.6(3)(a) Changing the Terms of a Servicing Agreement	13-19
§13.6(3)(b) Changing Amounts of Levies	13-21
§13.6(4) Compliance with Use Provisions of the Land Use Bylaw.....	13-22
§13.6(5) Compliance With Plans and Non-Use Provisions of a Land Use Bylaw.....	13-23
§13.6(6) Compliance with the Act, Regional Plans and the Land Use Policies	13-25
§13.6(7) Imposing Conditions	13-25
§13.7 Post-Decision Requirements	13-26
§13.8 Appeal Board Review of Its Own Decisions	13-27

TABLE OF CONTENTS

	Page
CHAPTER 14 LAND DEDICATIONS, LEVIES AND SERVICING OBLIGATIONS	
§14.1 Introduction	14-1
§14.2 Land Dedications	14-3
§14.2(1) Land for Roads and Utilities.....	14-4
§14.2(1)(a) Maximum Requirements.....	14-5
§14.2(1)(b) Recovery of Cost of Excess Dedications.....	14-8
§14.2(2) Environmental Reserves or Easements	14-8
§14.2(2)(a) General Requirements	14-8
§14.2(2)(b) Exceptions.....	14-9
§14.2(2)(c) Taking Environmental Reserve for Improper Reasons	14-10
§14.2(2)(d) Environmental Reserve Easements.....	14-11
§14.2(3) Conservation Reserves	14-12
§14.2(4) Community Services Reserves	14-13
§14.2(5) Municipal/School Reserves and Money in Lieu	14-14
§14.2(5)(a) Exceptions.....	14-14
§14.2(5)(b) Amount of Land to be Dedicated	14-17
§14.2(5)(b)(i) Phased Developments	14-17
§14.2(5)(b)(ii) Taking Less Than the Maximum.....	14-18
§14.2(5)(c) Deferring Reserves	14-20
§14.2(5)(c)(i) Filing a Deferred Reserve Caveat.....	14-21
§14.2(5)(c)(ii) Deferred Reserves Affecting Subsequent Owner Rights	14-22
§14.2(5)(d) Money in Lieu of Reserves.....	14-22
§14.2(5)(d)(i) Circumstances for Payment of Money in Lieu	14-23
§14.2(5)(d)(ii) Calculation of Amounts.....	14-24
§14.2(5)(e) Allocation of Reserves and Money in Lieu....	14-26
§14.2(5)(f) Use of Reserve Lands.....	14-28
§14.2(5)(g) Disposition of Reserve Land.....	14-30
§14.2(5)(h) Use of Monies in Lieu and Proceeds from Dispositions	14-34
§14.3 Reserve Land in Redevelopment Areas - Redevelopment Levies	14-35
§14.4 Servicing of Subdivisions and Developments	14-37
§14.4(1) On-Site Services	14-38
§14.4(1)(a) Payment by Means of Local Improvement Assessments	14-38
§14.4(1)(b) Payment Through Servicing Agreements.....	14-40

TABLE OF CONTENTS

	Page
§14.4(1)(b)(i)	Municipal Contracting Powers..... 14-40
§14.4(1)(b)(ii)	Content of an Agreement 14-41
§14.4(1)(b)(iii)	Posting Security and Other Incidental Requirements 14-43
§14.4(2)	Off-Site Services 14-44
§14.4(2)(a)	Off-Site Levy Bylaws..... 14-46
§14.4(2)(a)(i)	Content of an Off-Site Levy Bylaw 14-49
§14.4(2)(a)(ii)	Appeals from Off-Site Levies Imposed Under s. 648(2.1) 14-51
§14.4(2)(a)(iii)	Limitations of an Off-Site Levy Bylaw 14-52
§14.4(3)	Over-Sized Services..... 14-56
§14.4(3)(a)	Section 651 14-57
§14.4(3)(b)	Calculation of Charges Payable Under Agreements 14-59
§14.4(3)(c)	Interest Component 14-66
§14.4(3)(d)	Problems With Section 651..... 14-66
§14.4(4)	Enforcement of Servicing Agreements..... 14-68
§14.4(4)(a)	Non-Payment of Levies 14-69
§14.4(4)(b)	Breach of Covenant to Properly Construct Services 14-71
§14.4(4)(c)	Priority of Claims Through the Land Titles System 14-73
§14.4(4)(d)	Municipal Enforcement Against Third Parties Through the Municipal Government Act 14-73
CHAPTER 15 ENFORCEMENT OF PLANNING RULES	
§15.1 Introduction	15-1
§15.1(1)	Restrictive Covenants 15-2
§15.2 State Enforcement Mechanisms	15-3
§15.2(1)	Right of Entry and Inspection..... 15-3
§15.2(1)(a)	Court Orders 15-5
§15.2(2)	Prosecutions 15-5
§15.2(2)(a)	Statutory Offences 15-5
§15.2(2)(b)	Bylaw Offences 15-6
§15.2(3)	Revocation or Suspension of a Permit..... 15-7
§15.2(4)	Stop Orders..... 15-9
§15.2(4)(a)	Stop Order Appeals..... 15-11
§15.2(4)(a)(i)	The Appeal Board’s Powers Generally 15-11
§15.2(4)(a)(ii)	The Appeal Board’s Powers Where a Breach Exists 15-12
§15.2(4)(b)	Stop Orders Relating to Subdivisions 15-14
§15.2(4)(c)	Enforcement of Stop Orders 15-17

TABLE OF CONTENTS

	Page
§15.2(5)	Demolition and Other Compliance Orders ... 15-18
§15.2(6)	Injunctions 15-19
§15.2(6)(a)	Interim Relief..... 15-21
§15.2(6)(b)	Estoppel as a Defence 15-21
§15.2(6)(c)	Remedies..... 15-22
§15.2(7)	Private Enforcement of Planning Regulations..... 15-24
§15.2(7)(a)	Private Prosecutions..... 15-25
§15.2(7)(b)	Civil Actions Against the Wrongdoer 15-25
§15.2(7)(c)	Proceedings Against a Planning Authority to Compel Enforcement Action 15-26
§15.3 The Defence of Non-Conforming Use or Building.....	15-28
§15.3(1)	Burden of Proof..... 15-29
§15.3(2)	Requirements of Section 643..... 15-30
§15.3(2)(a)	Lawful Use or Building 15-30
§15.3(2)(b)	Where A New Permit Exists 15-31
§15.3(2)(c)	Meaning of the Word “Lawful” 15-32
§15.3(2)(d)	Continuous Use 15-32
§15.3(2)(e)	Change in Use 15-35
§15.3(2)(f)	Extension of a Use 15-37
§15.3(2)(g)	Enlargements and Structural Alterations 15-39
§15.3(3)	Waiver of the Prohibitions in Section 643 15-40
 CHAPTER 16 JUDICIAL REVIEW OF PLANNING DECISIONS AND DAMAGE CLAIMS	
§16.1 Introduction	16-1
§16.1(1)	Grounds for Judicial Review 16-2
§16.1(2)	Standards of Judicial Review - Judicial Deference 16-4
§16.1(3)	Vehicles for Judicial Review 16-10
§16.2 Collateral Attacks	16-10
§16.3 Statutory Appeals.....	16-11
§16.3(1)	Standing to Appeal..... 16-12
§16.3(2)	Time for Filing An Appeal 16-13
§16.3(3)	Considerations in Preparing the Application for Permission to Appeal..... 16-15
§16.3(4)	The Application for Permission to Appeal 16-16
§16.3(4)(a)	Questions of Law or Jurisdiction 16-19
§16.3(4)(b)	Collateral Challenge of Bylaws in Appeal Proceedings 16-21
§16.3(5)	Tests for Granting Leave..... 16-23

TABLE OF CONTENTS

	Page
§16.3(6)	Appealing a Leave Application Decision..... 16-27
§16.3(7)	Disposition of the Appeal..... 16-28
§16.3(7)(a)	The Remedies the Court May Grant..... 16-29
§16.4 Statutory Remedies.....	16-32
§16.4(1)	Introduction..... 16-32
§16.4(2)	Scope of the Remedy..... 16-32
§16.4(3)	Relationship to Rules of Court Remedies 16-33
§16.4(4)	Time Limits For Making an Application..... 16-34
§16.4(5)	Privative Clauses In The Act..... 16-37
§16.5 Applications for Judicial Review Under the Rules of Court.....	16-39
§16.5(1)	Scope of Review 16-40
§16.5(1)(a)	The Record..... 16-41
§16.5(2)	Standing to Apply or Respond 16-42
§16.5(3)	Time Limits For Bringing an Application..... 16-43
§16.5(4)	Judicial Discretion in an Application for Judicial Review 16-43
§16.5(4)(a)	Alternative Remedies..... 16-43
§16.5(4)(b)	Waiver and Acquiescence..... 16-48
§16.5(4)(c)	Delay in Launching Proceeding 16-48
§16.5(4)(d)	Misconduct of the Applicant 16-49
§16.5(4)(e)	Abuse of Process..... 16-49
§16.5(4)(f)	Futility of Remedy..... 16-50
§16.5(4)(g)	Defects in Form and Technical Irregularities..... 16-50
§16.6 Interim Remedies.....	16-51
§16.6(1)	Stays..... 16-51
§16.6(2)	Interim Injunctions..... 16-53
§16.7 Damage Claims Against Planning Agencies	16-55
§16.7(1)	Trespass to Land..... 16-55
§16.7(2)	Negligence..... 16-57
§16.7(2)(a)	Some Basic Principles 16-57
§16.7(2)(b)	Policy Decisions vs. Operational Decisions... 16-57
§16.7(2)(c)	Errors in the Development Approval Stage .. 16-59
§16.7(2)(d)	Errors in the Inspection Stage..... 16-64
§16.7(2)(e)	Errors During Information Dissemination 16-65
§16.7(2)(f)	Failure to Enforce Breaches..... 16-67
§16.7(3)	Bad Faith..... 16-69
§16.7(4)	Summary 16-70
§16.7(5)	Legislative and Other Attempts To Limit Liability 16-72
§16.7(5)(a)	By Contract and Filing Disclaimer Caveats... 16-72
§16.7(5)(b)	Legislative Immunities 16-72

TABLE OF CONTENTS

INDEX IND-1

APPENDICES Alberta Regulation 43/2002 Subdivision and Development
Regulation (Current as of November 1, 2017) REG-1

Alberta Regulation 195/2017 Subdivision and
Development Appeal Board Regulation SDABREG-1

Alberta Regulation 190/2017 Calgary Metropolitan
Region Board Regulation CMRBREG-1

Alberta Regulation 189/2017 Edmonton Metropolitan
Region Board RegulationEMRBREG-1

Alberta Regulation 191/2017 Intermunicipal
Collaboration Framework RegulationICFREG-1

Alberta Regulation 187/2017 Off-Site Levies
Regulation OSLREG-1