

THE PLANNING ACT HANDBOOK

A GUIDE TO LAND USE PLANNING
IN MANITOBA

INDIGENOUS LAND ACKNOWLEDGEMENT

We recognize that Manitoba is on the treaty territories and ancestral lands of the Anishinaabe, Anishinewuk, Dakota Oyate, Denesuline and Nehethowuk peoples.

We acknowledge Manitoba is located on the Homeland of the Red River Métis.

We acknowledge northern Manitoba includes lands that were and are the ancestral lands of the Inuit.

We respect the spirit and intent of Treaties and Treaty Making and remain committed to working in partnership with First Nations, Inuit and Métis people in the spirit of truth, reconciliation and collaboration.

Original Publication date: July 2024

Version 2.1 February 2025

This version captures legislation in effect up to and including September 2023.

Other accessible formats available upon request. Please email the Department's Accessibility Coordinator at mrmaas@gov.mb.ca.









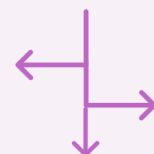


TABLE OF CONTENTS



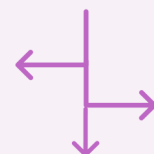
CONTENTS

1	INTRODUCTION	<u>8</u>
1.1	Why We Plan	<u>9</u>
1.2	History of the Planning Act	<u>13</u>
1.3	Reading the Planning Handbook	<u>14</u>
2	PROVINCIAL AND REGIONAL PLANNING	<u>15</u>
2.1	Provincial Land Use Policies	<u>16</u>
2.2	Planning Regions	<u>18</u>
2.3	Special Planning Areas	<u>26</u>
3	PLANNING AUTHORITIES	<u>28</u>
3.1	Municipalities	<u>29</u>
3.2	Planning Districts	<u>29</u>
3.3	Planning Commissions	<u>33</u>
4	PLANS	<u>35</u>
4.1	Development Plans	<u>36</u>
4.2	Secondary Plans	<u>50</u>
4.3	General Provisions	<u>54</u>
5	ZONING BY-LAWS	<u>56</u>
5.1	Zoning By-laws	<u>57</u>
5.2	Adoption of a Zoning By-law	<u>60</u>
5.3	Municipal Board for Zoning Appeals	<u>64</u>
5.4	Amendments	<u>66</u>
5.5	Applicant Appeals Concerning Zoning	<u>68</u>
5.6	General Provisions	<u>70</u>
5.7	Non-Conforming Uses	<u>71</u>



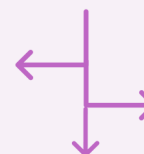
CONTENTS

6	VARIANCES	<u>73</u>
6.1	What is a Variance?	<u>74</u>
6.2	Purpose of a Variance	<u>75</u>
6.3	Minor Variances	<u>80</u>
7	CONDITIONAL USES	<u>83</u>
7.1	What is a Conditional Use?	<u>84</u>
7.2	Purpose of a Conditional Use	<u>84</u>
7.3	General Conditional Uses	<u>86</u>
7.4	Conditional Use Aggregate Quarries	<u>92</u>
7.5	Conditional Use Livestock Operations	<u>94</u>
7.6	Appeals Concerning Aggregate Quarries and Large-Scale Livestock Operations	<u>100</u>
8	SUBDIVISION CONTROL	<u>102</u>
8.1	What is a Subdivision?	<u>103</u>
8.2	Purpose of Subdivision Approval	<u>104</u>
8.3	When Subdivision Approval is Required	<u>107</u>
8.4	Restriction on Subdivision Approval	<u>109</u>
8.5	Applying for Subdivision Approval	<u>110</u>
8.6	Review by Council	<u>112</u>
8.7	Minor Subdivisions	<u>113</u>
8.8	Final Decision by Approving Authority	<u>114</u>
8.9	Appeal to Municipal Board	<u>115</u>
8.10	Certificate of Approval	<u>116</u>
8.11	Waiting Period for New Applications	<u>117</u>
8.12	Conditions of Subdivision Approval	<u>117</u>
8.13	Use and Disposal of Public Reserve Land	<u>120</u>
8.14	Fees, Charges and Capital Levies	<u>121</u>
8.15	Obsolete Plans of Subdivision	<u>122</u>
8.16	Cancelling Plans of Subdivision	<u>123</u>
8.17	Regulations	<u>123</u>



CONTENTS

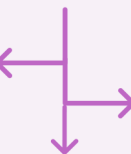
9	DEVELOPMENT REQUIREMENTS	<u>126</u>
9.1	What are Development Permits?	<u>127</u>
9.2	Purpose of Development Permits	<u>129</u>
9.3	What are Development Agreements?	<u>130</u>
9.4	Purpose of Development Agreements	<u>133</u>
10	NORTHERN MANITOBA	<u>134</u>
11	NOTICES, HEARINGS AND DECISIONS	<u>137</u>
11.1	Notices	<u>138</u>
11.2	Hearings	<u>143</u>
11.3	What is a Public Hearing?	<u>144</u>
11.4	The Purpose of Public Hearings	<u>145</u>
11.5	Decisions	<u>146</u>
12	ENFORCEMENT	<u>147</u>
12.0	Enforcement	<u>148</u>
12.1	Offences and Penalties	<u>150</u>
13	MISCELLANEOUS PROVISIONS	<u>151</u>
13.0	Miscellaneous Provisions	<u>152</u>



CONTENTS

14 APPENDICES

- 1 Additional Information
- 2 Contact Information
- 3 Checklist for the Adoption of a Development Plan By-law (or Amendment)
- 4 Checklist for the Adoption of a Zoning By-law (or Amendment)
- 5 Checklist for Variance Applications
- 6 Checklist for Conditional Use Applications
- 7 Checklist for Conditional Use Applications for Large-Scale Livestock Operations
- 8 Checklist for Subdivision Applications
- 9 Checklist for Minor Subdivision Applications
- 10 Checklist for Public Reserve Closures
- 11 Templates for Development Plan Amendment By-laws
- 12 Templates for Zoning By-laws
- 13 Template for Zoning Memorandum
- 14 Template for Variance Order
- 15 Template for Minor Variance Order
- 16 Template for Conditional Use Order
- 17 Template for Public Reserve Closing By-law
- 18 Aggregate Quarry as a Conditional Use – Enquiry Form
- 19 Application to Create a Planning District
- 20 Process for Municipal Application to Join a Planning District
- 21 Process for Municipal Application to Leave a Planning District
- 22 Template for Public Hearing Notice for Development Plan or Zoning By-law Amendment
- 23 Template for Public Hearing Notice for Variance Order
- 24 Template for Public Hearing Notice for Conditional Use Order
- 25 Template for Notice of Second Reading of Development Plan
- 26 Template for Notice of Second Reading of Zoning By-law
- 27 Appealable Items Under The Planning Act





Introduction



1

1.1

Why We Plan



There are many reasons to plan and many reasons to plan well:

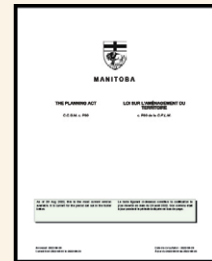
- protect and enhance public health and safety
- avoid land use conflicts and nuisances
- provide for the efficient use of resources
- protect and enhance public and private investments in infrastructure
- protect and improve the environment
- promote economic development

SECTION 1

INTRODUCTION

In Manitoba, land use control is shared by the province, municipalities, planning districts, planning commissions, and local citizens, with each playing a key role in the planning process. **Essentially, The Planning Act (the Act) sets out the ground rules for land use planning in Manitoba.** The Act legislates how land uses may be controlled and who may control them.

This Planning Act Handbook (Handbook) provides a general overview and summary of **The Planning Act, which provides the legal framework for planning in Manitoba, excluding the City of Winnipeg.**



The Planning Act

Click on the link above for an official copy of The Planning Act.



SECTION 1

INTRODUCTION

The purpose of the Handbook is to **help communities navigate land use planning processes**. It will aid planning districts and municipalities with their local land use planning processes to make it easier to complete the minimum requirements for land use planning outlined in the Act.

This handbook is intended to complement, not replace, other planning guides produced by the Province of Manitoba and other agencies. See [Appendix 1](#) for links to other helpful resources, including the Act.

The Community Planning Branch Offices also provide useful resources for municipalities and planning districts. See [Appendix 2](#) for contact information and the Branch territory map.



Checklists for common planning procedures and templates for public notices and by-laws are **located in the appendices**. They are also referenced and linked throughout the document. A list of appealable items under The Planning Act is found in [Appendix 27](#).

SECTION 1

INTRODUCTION



This guide is for information purposes only, and is not an authoritative interpretation of The Planning Act. In the event of any inconsistency between this document and The Planning Act or its regulations, The Planning Act or its regulations will prevail.

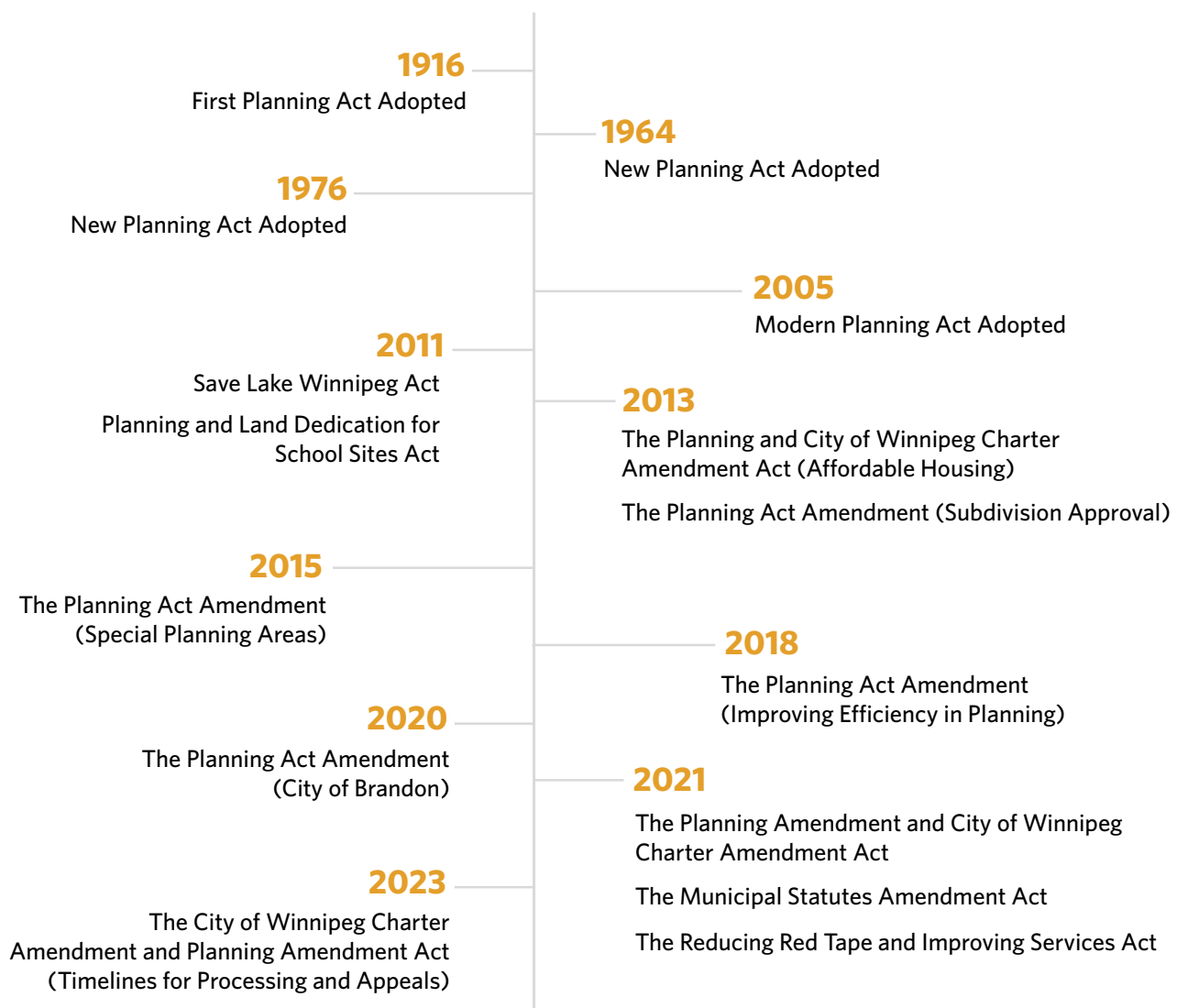
This document is not, and should not, be construed as legal advice. A lawyer should be consulted on questions about the application or interpretation of the laws of Manitoba as they relate to the subject matter of this document. Other agencies, such as provincial departments, the federal government, and municipalities, may have requirements not addressed or included in this guide.



1.2

History of the Planning Act

The first planning act was introduced in Manitoba in 1916. New acts were then adopted in 1964, 1976 and 2005. However, there have been multiple amendments to the Act since 2005.



1.3

Reading the Planning Act Handbook

This handbook follows the structure and order of The Planning Act and is organized into 13 parts. Each section is independent and may be separated from the overall Handbook to use.

Part 1 of the Act provides definitions for common terms used throughout the Act.

This part also states that the Act applies to the entire province, except the City of Winnipeg (unless the Act specifies otherwise), and to lands designated as provincial park under The Provincial Parks Act.

Also noted is the application of the Act to unorganized territory. When the Act is applied to unorganized territory, the unorganized territory is deemed to be a municipality and the Minister is deemed to be council of the municipality.

Provincial and Regional Planning

Part 2 of the Act provides the framework for planning at the provincial and regional level.

2

2.1

Provincial Land Use Policies

Land use planning is both a municipal and provincial activity. Provincial legislation for land use planning and resource management can affect municipal interests and conversely, municipal decisions impact provincial objectives designed for the benefit of all Manitobans. Therefore it is important that municipal and provincial planning efforts are coordinated for the benefit of local residents and the province as a whole.

The [Provincial Planning Regulation](#) sets out the province's interest in land, resources and sustainable development and provides a high level land use approach to ensure consistency across municipalities. The regulation guides local and provincial authorities through the Provincial Land Use Policies (PLUPs) in preparing land use plans and making sustainable land use and development decisions.

The PLUPs apply to all land in Manitoba, including the City of Winnipeg. Municipal development plans or regional plans must be generally consistent with the PLUPs. The legislative authority for the establishment of the PLUPs comes from Section 4(1) of the Act.

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

The PLUPs are divided into **nine policy areas**, each focused on a specific area of provincial interest that can be supported by land use planning. The policy areas are as follows:

General Development



Support the provincial interest in land use and development.

Settlement Areas



Growth and development on existing settlements, and in particular, urban centres.

Agriculture



Limiting the fragmentation of the agricultural land base and protect the viability of agricultural operations.

Renewable Resources, Heritage and Recreation



Ensuring a balance between conservation of renewable and heritage resources and development.

Water



Recognizing the value and importance of water and ensuring that development maintains its integrity of water.

Infrastructure



Support for local authorities to make decisions regarding the provision of infrastructure in the most sustainable way.

Transportation



Ensuring the provincial transportation system can effectively serve freight while continuing to meet mobility and tourism needs.

Mineral Resources



Protect high-quality aggregate and quarry mineral resources from conflicting surface land uses.

Capital Region



Support a coordinated and regional approach to planning and development.

The PLUPs apply to all privately owned and municipal land in Manitoba, including the City of Winnipeg.

2.2

Planning Regions

Part 2 – Division 2 of the Act applies to the entire province, including the City of Winnipeg. It deals with the establishments of the province’s first planning region, the Capital Planning Region, and also provides the Minister of Municipal and Northern Relations the ability to establish a planning region in any other region of the province.

The purpose of planning regions is to enhance economic and social development by coordinating and improving sustainable land use and development within the region. The mandate of planning regions is the adoption of a regional plan, facilitating and promoting regional considerations in providing infrastructure and services, leading the development of regional responses to planning issues of the planning region’s member municipalities and identifying and promoting opportunities for member municipalities to cooperate in the cost-effective development of infrastructure and the provision of services on a regional basis.

The Act, in subsection 8(1), establishes the Capital Planning Region, which is comprised of 18 municipalities (refer to Figure 1). The municipalities include the Cities of Winnipeg and Selkirk, the Towns of Niverville and Stonewall, the Village of Dunnottar, and the Rural Municipalities of Cartier, East St. Paul, Headingley, Macdonald, Ritchot, Rockwood, Rosser, Springfield, St. Andrews, St. Clements, St. François Xavier, Taché and West St. Paul. The above noted member municipalities of the Capital Planning Region may be varied by the Minister by regulation.

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

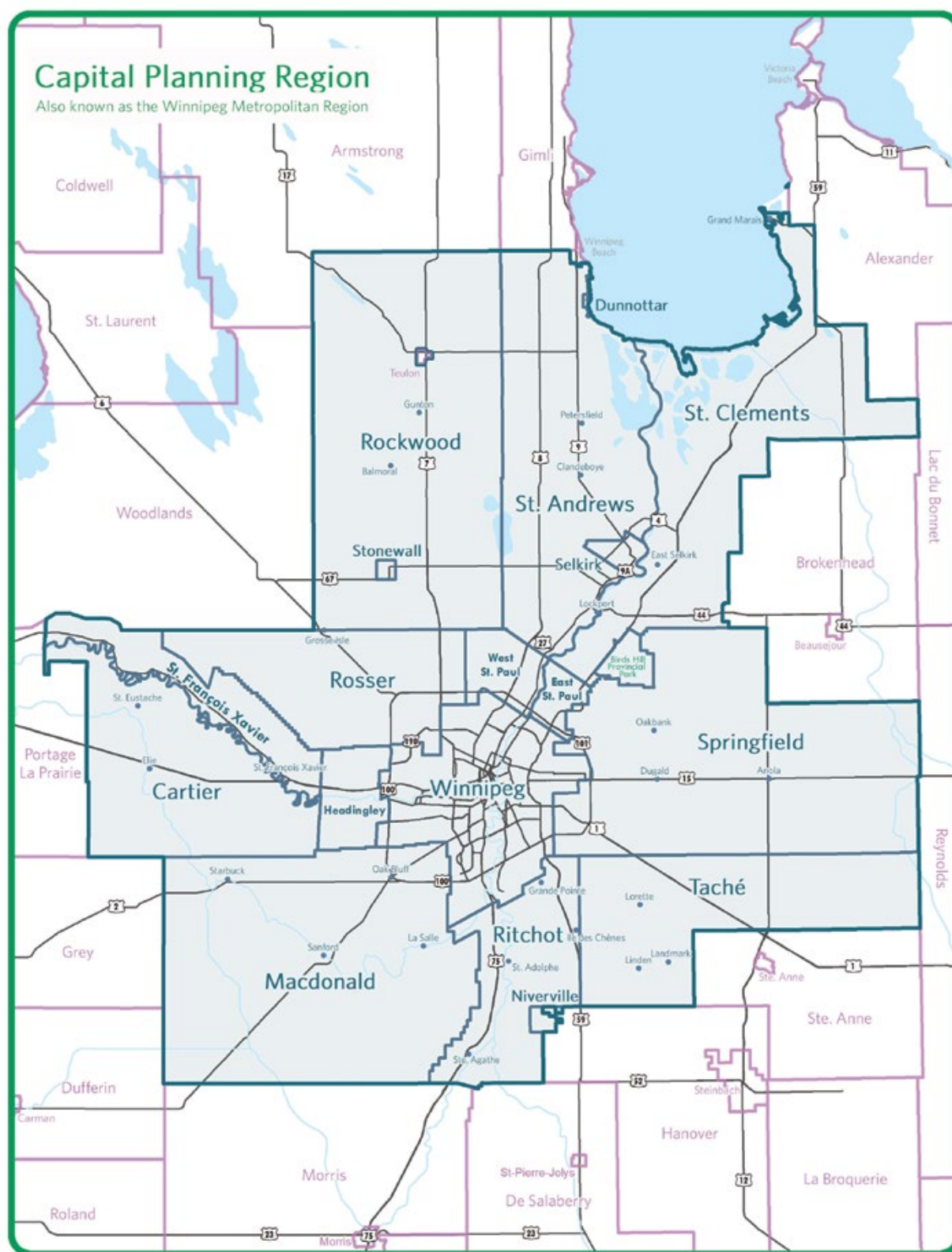


Figure 1: Map of Capital Planning Region and its member municipalities

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

The Act, in subsection 9(2), outlines that considering the establishment of a planning region, the Minister must have regard for the economic and social integration of the region and the need to include at least one area that has sufficient population density, infrastructure and services to serve as the centre of the region. Additionally, the Minister must consult with the council of each municipality proposed to be included in the planning region.

The Act also sets out the Municipal Board's role in the establishment of a planning region. For example, the Minister, or alternatively two or more municipalities, may prepare a proposal to establish a planning region and said proposal may be subsequently referred by the Minister to the Municipal Board. The proposal must contain the following information: the municipalities that are to be included in the region, the boundaries of the proposed region, and the reasons why the proposal meets the criteria listed under subsection 9(1). Under these circumstances, the Municipal Board must give proper public hearing notice, in accordance with the Act, and hold at least two public hearings in different locations in the region to receive representations on the proposed planning region. After the public hearings have concluded, the Municipal Board must make a recommendation to the Minister.

The Act also provides a planning region, with the agreement of member municipalities or their respective planning district, with the ability to administer and enforce the applicable development plan, secondary plan, zoning by-law, building by-laws, or the by-laws related to minimum standards of maintenance and occupancy of buildings.

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

A planning region board must prepare and adopt a regional plan by-law within two years after the date the planning region is established. The Capital Planning Region, established January 1, 2023, will have until January 1, 2025 to adopt a regional plan by-law. However, it is noted the Capital Planning Region Regulation clarifies the planning region is only required to complete a proposed regional planning by-law, give the by-law second reading and submit a second reading package of the by-law to the Minister by the adoption deadline. Third reading may occur after the deadline.

The Act, in subsection 10.3(2), outlines that a regional plan must contain plans and policies pertaining to:

- the physical, social, environmental, economic and fiscal objectives for the region for at least a 30-year time span,
- sustainable land use and development in the region,
- the provision of infrastructure, services and facilities within the region, including drinking water, wastewater, storm water, drainage, solid waste, recycling, transportation, transit and emergency services,
- the protection, management and enhancement of the environment within the region, including its water sources, water quality and quantity, sensitive and natural lands, renewable resources, mineral resources and areas of natural, rare or historic significance,
- the coordination of planning and development by regional member municipalities,

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

- measures for implementing the plan,
- maps to provide direction about the policies contained within the regional plan, and
- any other prescribed matter.

The regional plan is a new addition to Manitoba's planning framework. Regional plans, including the Capital Planning Region's Regional Plan, must be generally consistent with the Provincial Land Use Policies found in Manitoba Regulation 81/2011. Subsequently, development plans, secondary plans, and zoning by-laws applicable to member municipalities must be generally consistent with the any adopted regional plan, in addition to being consistent with the Provincial Land Use Policies (PLUPs). Figure 4 depicts the hierarchy of planning and development control in Manitoba.

The councils of a planning region's member municipalities must not propose to take, or have taken, actions that are in conflict or inconsistent with a regional plan by-law such as adopting a new, or amended, development plan, secondary plan or zoning by-law that is inconsistent with the regional plan by-law. If a member municipality fails, or refuses, to comply with a request by the planning region to stop an action that is inconsistent with the regional plan within the timeframe specified in the request, the planning region may apply for an injunction, or other order, from the Court of King's Bench.

The process for adopting or amending a regional plan by-law is generally based on the process used for adopting or amending a development plan with some slight differences as shown below. Prior to making a decision

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

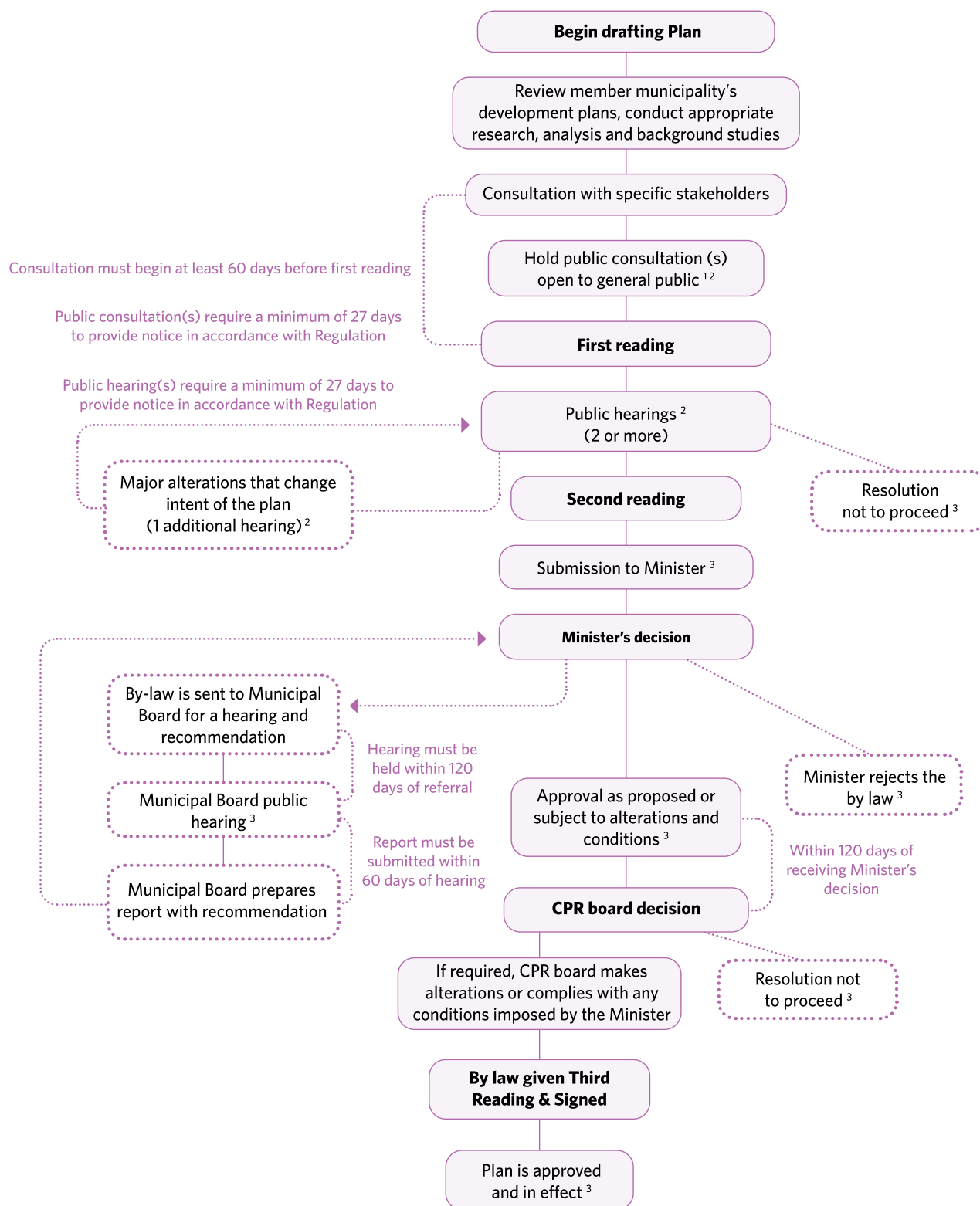
on whether or not to give third reading to a regional plan by-law, a planning region must submit the regional plan after it has been given second reading to the Minister for review and potential approval.

Amendments to a regional plan may only be initiated by the Minister, a planning region or member municipality/ planning district – individuals cannot apply to amend a regional plan. Furthermore, the regional plan is not subject to appeal once adopted. Manitoba Regulation 161/2022, the Capital Planning Region Regulation, states that a regional planning board must begin a review its regional plan eight years after the adoption of the first or any subsequent regional plan by-laws and said review should take no longer than two years to complete. However, the Minister may order the planning region to initiate a review of the regional plan by-law at an earlier or later date.

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

Regional Plan Adoption Process



¹ Public consultations are distinct from public hearings - Part 11: Division 2 of *The Planning Act* does not apply to public consultations

² Refer to s. 33(2) of the Capital Planning Region Regulation regarding notice requirements for public consultations and public hearings (public hearings are also subject to s. 22)

³ Notice required, reference Capital Planning Region Regulation regarding notice requirements

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

Upon third reading and adoption of the regional plan, municipalities and their respective planning districts (if applicable) will have three years to review their development plans, secondary plans, zoning by-laws and drinking water and wastewater management plans (if located in the Capital Planning Region) to ensure that they are not inconsistent with the applicable regional plan by-law. If a municipality or planning region determines that amendments to a development plan by-law are needed to ensure the by-law is not inconsistent with the regional plan, they may apply to the Minister for the applicable amendment to be processed as a minor amendment.

The Act also outlines a number of matters that the Minister may make regulations for pertaining to planning regions such as prescribing the number of board members on a planning region board or establishing the voting structure for the planning region, including providing that votes of the respective regional member municipalities be weighted. One regulation has been created thus far. On January 1, 2023, the Province's Capital Planning Region Regulation came into force providing direction on the structure, governance, operations and decision-making processes for the Capital Planning Region's Board and outlining the processes for regional plan adoption and amendment in detail.

2.3

Special Planning Areas

The Act, in [Section 11\(1\)](#) establishes the Inland Port Special Planning Area, which includes the portion of CentrePort located in the Rural Municipality of Rosser.

All special planning areas must establish a planning authority to hold hearings to consider planning and subdivision applications, hear and decide appeals respecting variance and conditional use applications, advise and assist the Minister on matters affecting land use planning within the areas, and perform any other duties assigned to it by the Minister.

[Section 12.1\(1\)](#) establishes the Inland Port Special Planning Authority for the Inland Port Special Planning Area.

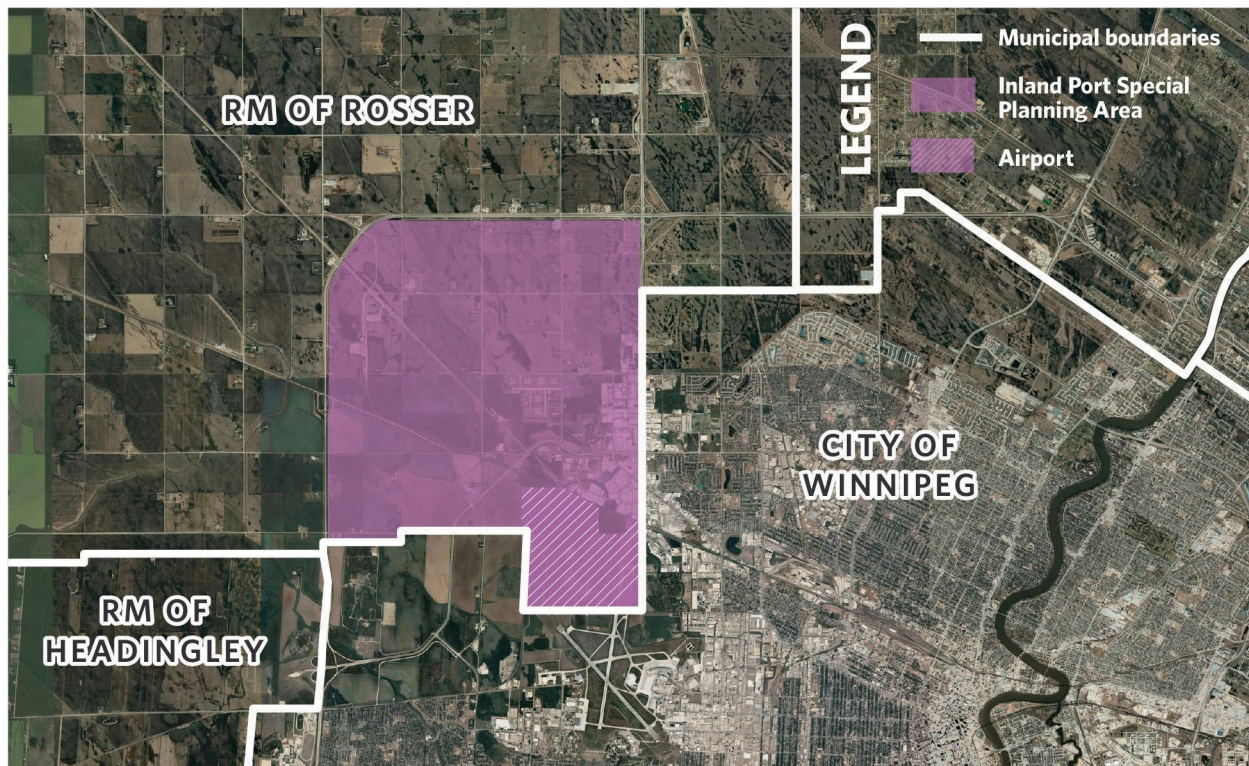


Figure 2: Map of the Inland Port Special Planning Area

SECTION 2

PROVINCIAL AND REGIONAL PLANNING

The Lieutenant Governor in Council may, by regulation, amend the area of the Inland Port Special Planning Area or establish any other area in the province to be a special planning area if the area has special regional or provincial significance.

If the special planning area is within a planning region, land use planning for the special planning area must be coordinated with the regional planning of the planning region – this includes the Inland Port Special Planning Area which is also within the Capital Planning Region.

The development plan and zoning by-law for a special planning area is adopted by regulation and the province is responsible for administering any regulations related to special planning areas. The Minister of Municipal and Northern Relations (Minister) is the approving authority for rezoning and subdivision applications.

The designated provincial planner is responsible for administering the variance approval process.

Planning Authorities

Part 3 of the Act provides the planning framework for local planning authorities (e.g., the authority responsible for the adoption, administration and enforcement of development plans, zoning by-laws and all other by-laws respecting land use).

3

3.1

Municipalities

Section 13 of the Act states that the council of a municipality, that is not part of a planning district, is responsible for the **adoption, administration and enforcement** of all by-laws respecting land use, including the development plan and zoning by-law.

3.2

Planning Districts

3.2.1

What is a Planning District?

Sections 14 to 30 of the Act outline the role and function of planning districts. Planning districts are **comprised of two or more municipalities**. To establish a planning district, the councils of the affected municipalities apply to the Minister. The management of the planning district is directed by a board of directors comprised of councillors appointed by each member municipality.

SECTION 3

PLANNING AUTHORITIES

The details of board membership are outlined in the organizational by-law and must include at least one director from each member municipality.

The board of the planning district is responsible for the adoption, administration and enforcement of the development plan by-law for the entire planning district. The board is also responsible for the administration and enforcement of the zoning by-laws for the member municipalities, any secondary plans in the planning district, the building by-laws of the member municipalities, and the by-laws detailing the minimum standards of maintenance and occupancy of buildings.

Planning districts may be altered, dissolved or amalgamated. Generally, the board of the planning district applies to the Minister. For the specific process to create a planning district, refer to [Appendix 19. For the specific process for a municipality to join a planning district, refer to Appendix 20.](#) For the specific process for a municipality to leave a planning district, refer to [Appendix 21.](#)

3.2.2

Benefits of Planning Districts

There are **multiple benefits** to forming a planning district, including:

Regional Approach

Many land use issues span municipal boundaries, and a regional approach can help to reduce land use conflicts between municipalities. A regional approach also addresses the needs of the region instead of a single municipality and aligns growth, servicing and infrastructure investment to support economic development of the region.

SECTION 3

PLANNING AUTHORITIES

Delegation of Authority

Planning districts may apply to receive approving authority for subdivisions within their region.

Coordination of Public Services

Municipalities within a planning district may pool resources and share services. Sharing services is cost-effective and beneficial. For example, municipalities within a planning district may share a by-law enforcement officer.

There are currently 31 planning districts in Manitoba. Refer to **Figure 3 on the next page** for a map of the planning districts. There are a wide variety of planning districts with a wide variety of powers.

31
PLANNING DISTRICTS

PLANNING AUTHORITIES

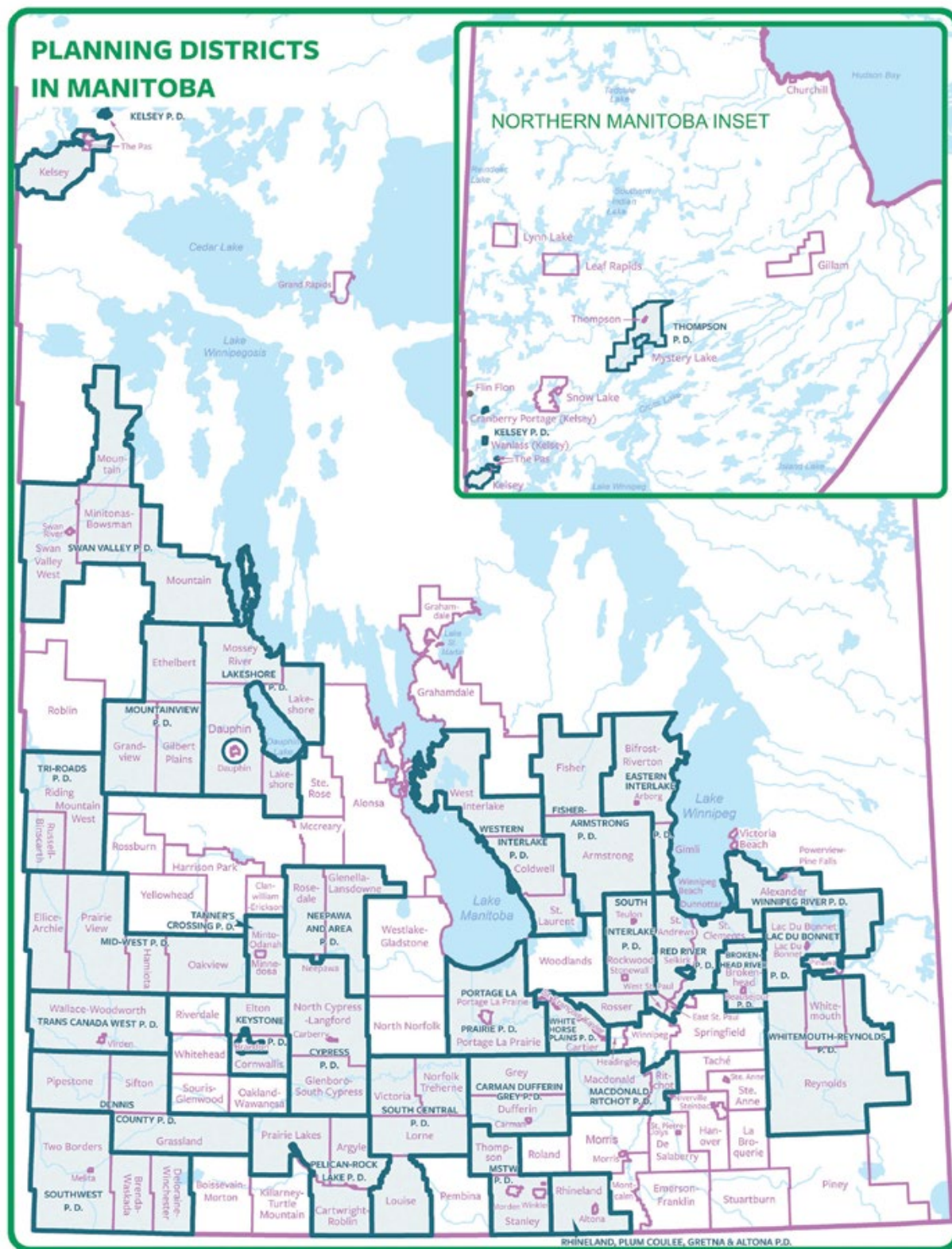


Figure 3: Map of the Planning Districts in Manitoba
Source: Manitoba Municipal and Northern Relations

3.3

Planning Commissions

3.3.1

What is a Planning Commission?

A planning commission may be established under [Section 31](#) of the Act to **administer a planning district's or municipality's zoning by-law**.

The planning commission is comprised of at least three people appointed by the planning district board or municipal council. The composition of the planning commission may be entirely members of the planning district board or council, or a combination of members of the planning district board or council and other persons, or entirely of persons who are not members of the planning district board or council.

Decisions made by the planning commission are subject to the right of appeal by the applicant on variances and conditional uses.

Planning commissions may also be a delegated authority under the Act for matters listed in [Section 36\(1\)](#) to hold a hearing and prepare a report with its recommendations for the planning district or municipality to consider.

SECTION 3

PLANNING AUTHORITIES

3.3.2

Benefits of a Planning Commission

A planning commission plays a central role in the planning process. **They act as an advisory board and as decision makers** in certain planning matters instead of council or a planning district board, thereby allowing council and boards to focus on other municipal and planning district matters.

Planning commissions:

- act as an advisory board to the main governing body on all planning and development issues
- ensure that the development plan is implemented by reviewing development applications on a case-by-case basis
- act as the decision-making body for variances and conditional uses
- hold public hearings for the adoption of a zoning by-law or secondary plan by-law, for subdivision applications when a public road is being created, to close a public reserve, or to declare an obsolete plan of subdivision

Plans

Part 4 of the Act provides the legislative framework for development plans and secondary plans.

4

4.1

Development Plans

4.1.1

What is a Development Plan?

A development plan is the policy document prepared by a planning district or municipality to **guide development in their region**. The development plan sets the community's vision for the future through policy statements that address physical, social, environmental and economic objectives. The development plan describes, with the assistance of maps, how and where the community wants land to be managed and developed.

The development plan guides the future land use decisions within a community. In the hierarchy of planning and development control, development plans are a critical tool that informs all of the planning by-laws and documents that follow it (refer to Figure 4).

SECTION 4

PLANS

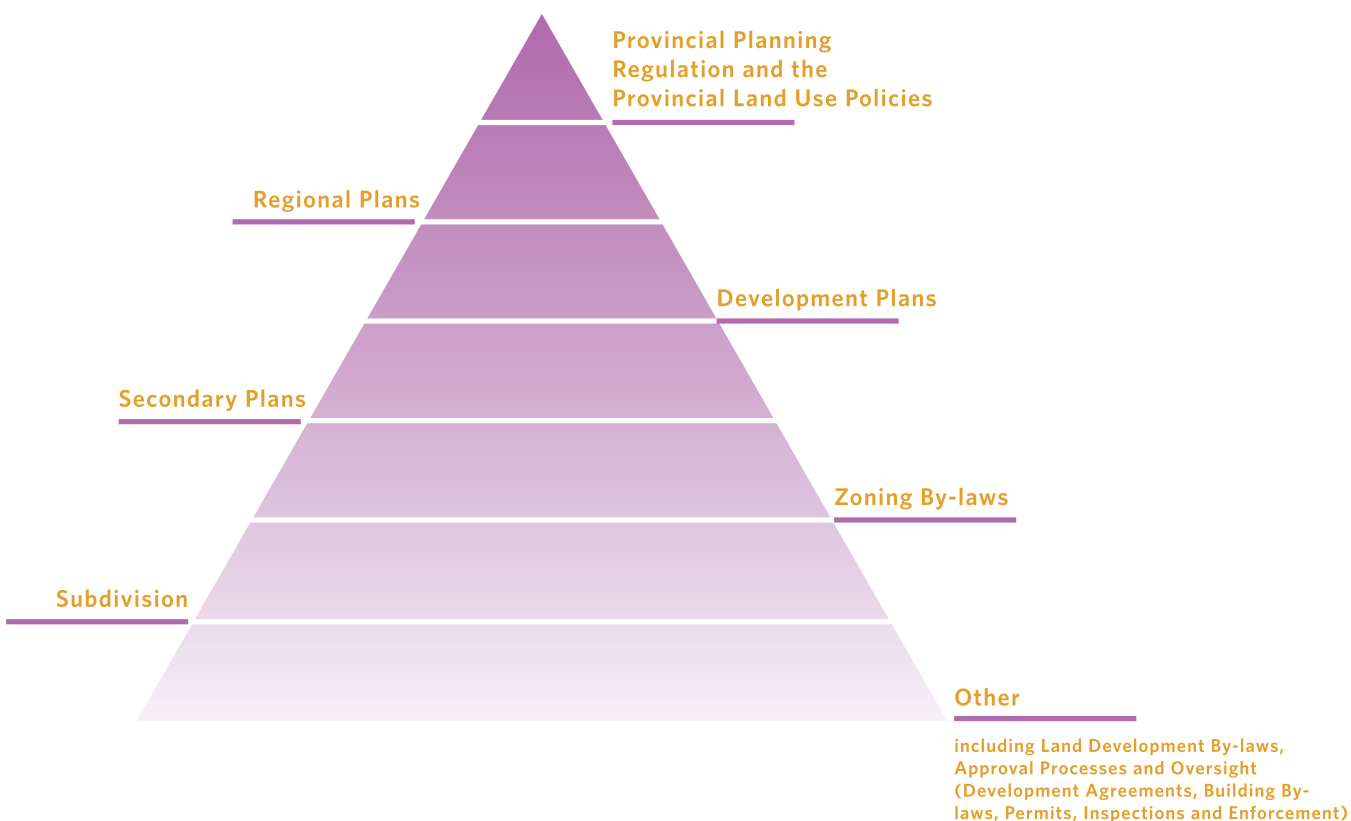


Figure 4: Hierarchy of Planning and Development Control

Most development plans are written to provide direction for future activities over a 10- to 20-year period after adoption, with the understanding that development plans should undergo a comprehensive review approximately every five years.

4.1.2

Benefits of a Development Plan

The benefits of the development plan include:

Community

The development plan provides continuity across time as it gives successive councils or boards a common framework for addressing land use issues.

Balance

The development plan balances competing interests on land by creating development patterns that are orderly and rational, and avoiding conflicts between land uses.

Protection

The development plan protects a community's valued resources by identifying and protecting environmental features, such as wetlands, forested areas, and agricultural land, from inappropriate development.

Economic Development

The development plan provides valuable information that can improve economic opportunities through the sustainable management of land resources.

Vision

The planning process provides local citizens with the opportunity to create a vision for their community.

Justification

The development plan provides a factual and objective basis to support zoning and development decisions.

4.1.3

Requirements

The development plan must generally be consistent with the Provincial Land Use Policies within the **Provincial Planning Regulation**. The Provincial Land Use Policies express the provincial interest in land and resources and how development occurs across Manitoba.

Section 42(1) of the Act lists several requirements that must be included in the development plan. These include:

- policy statements related to the physical, social, environmental and economic objectives,
- maps directing development to specific designated areas,
- an implementation plan on how the policies and land use designations can be implemented, and
- other matters that the minister, planning district board, or municipal council consider important

Part 4 of the Provincial Planning Regulation provides additional information regarding the items necessary for preparation of a development plan. These include:

- developing a long-term vision,
- respecting Treaty and Indigenous rights,
- coordinating with other types and level of plans, such as (but not limited to) climate change action plans, integrated watershed management plans, transportation plans, etc.,
- consulting with the Public Schools Finance Board and local school divisions,
- identifying resources and environmental features, and
- identifying a road hierarchy.

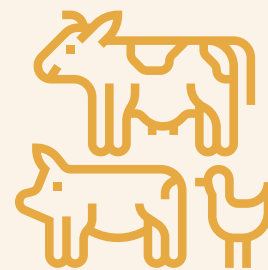
SECTION 4

PLANS

The Regulation further states that studies need to be completed as part of the development plan review process. A background study is to be prepared to inform the development plan and should consider (if applicable):

- economic and fiscal capacity of the planning area,
- natural land and mineral resources in the planning area,
- demographic and population projections,
- supply and demand for residential and other land uses,
- existing housing stock and projected needs,
- traffic impacts of development,
- water and wastewater servicing need,
- vulnerabilities of area to climate change, and
- any other matter related to the present or future characteristics of the planning area.

The Act specifically states that **a development plan must include a livestock operation policy**. The livestock operation policy must state where the development or expansion of livestock operations may be allowed; may be allowed to a specified size; and will not be allowed. The Act also sets the general standards for the siting and setback of livestock operations.



SECTION 4

PLANS



Livestock operation policies may be expressed as text or through mapping, or both. **Figure 5** below provides an example of a livestock operation policy map from a development plan. Refer to the provincial *Planning for Agriculture* guide for more information regarding livestock operation policies.

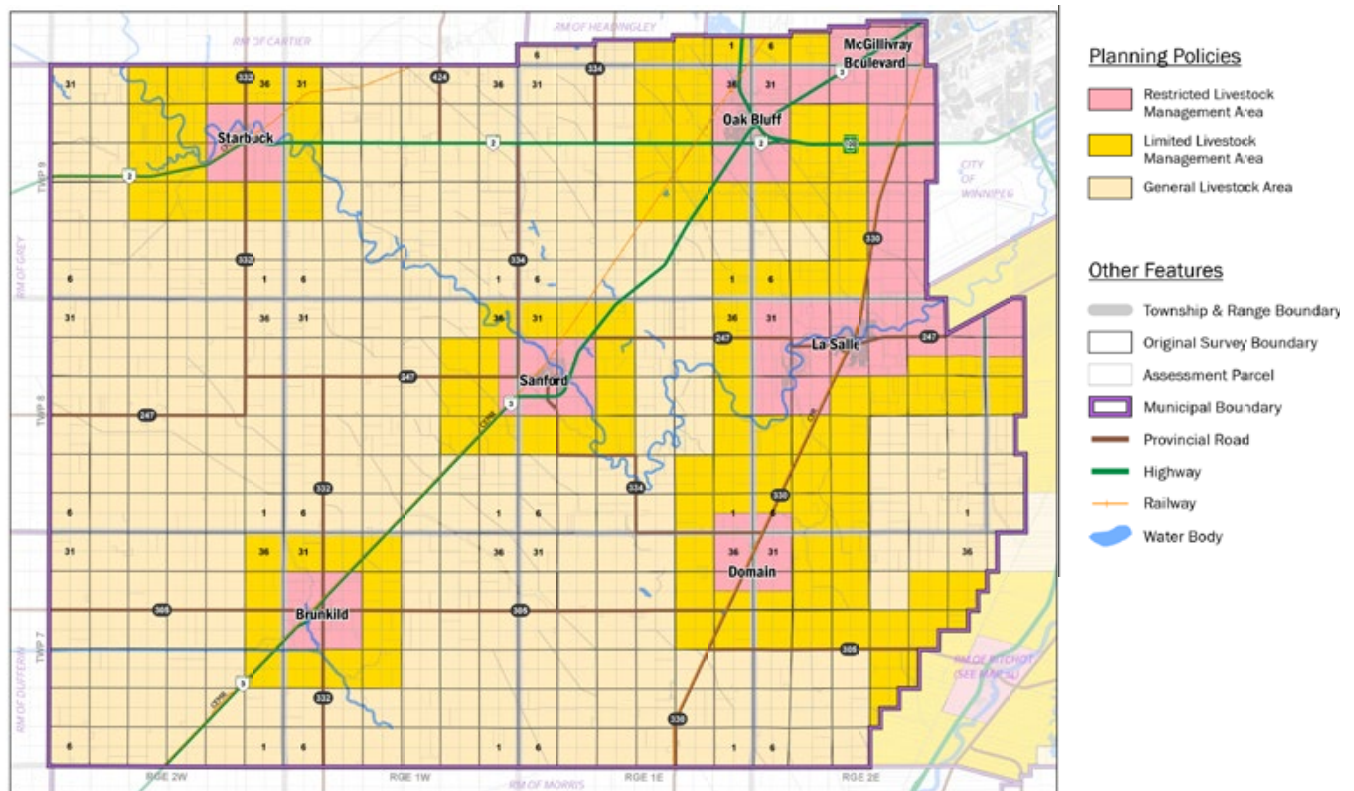


Figure 5: Example of a Livestock Operation Policy Map

Source: Macdonald Ritchot Planning District Development Plan

SECTION 4

PLANS

The Act also requires the planning district or municipality to consult with:

The Public

Consultation usually involves hosting a public open house to disseminate and receive information about the proposed development plan.

The School Board

Consultation must occur with any school board or district whose boundaries are included within the planning district or municipality. Consultation ensures that school planning is integrated with land use planning and that any need for a new school site is identified early in the planning process.

Registered Professional Planner

A planner writes the development plan. The planner must be a member of the Manitoba Professional Planners Institute.

Planning Region

The planning district board or municipal council must also consult with any applicable planning region.

Consulting with the public and other stakeholders plays an important role in the planning process. Consulting early in the process helps to identify issues and provides more time and opportunities to address those issues, later obstacles are removed and there are better project outcomes. It also provides the decision makers with a better understanding of the stakeholders' values and interests about the proposal to incorporate into better decisions.

After the plan is prepared, the board of a planning district must consult with the councils of its member municipalities.



4.1.4

Adoption Process

Sections 45 to 55 of the Act outline the adoption process for a development plan or development plan amendment. Refer to **Appendix 11** for a template of a development plan amendment by-law.

A development plan checklist that outlines all the steps and requirements to pass a by-law is included in **Appendix 3**.

A development plan is adopted via by-law. A complete application is required to begin the adoption process. Before or after a planning district board or municipal council gives the development plan by-law first reading, a public hearing must be held in accordance with **Section 168** of the Act to receive feedback from any person (including government departments) on the proposed development plan. A template for a public hearing notice for a development plan amendment is located in **Appendix 22**.

After the public hearing, the board or council may proceed with second reading if no changes are made, or if there is only a minor alteration that does not change the intent of the plan. If major changes are made (e.g., a mapping change), then another public hearing must be held to deal with the major alteration (not the entire development plan). This second public hearing is to receive representations regarding the alterations to the development plan, giving notice of this second public hearing in accordance with **Section 168** of the Act. If additional major alterations are made, then the subsequent public hearings must also be advertised in accordance with **Section 168** of the Act. Otherwise, the board or council may proceed with second reading or they may pass a resolution to not proceed at this stage.

SECTION 4

PLANS

A guide on how to conduct a public hearing can be found in [Appendix 1](#) - Additional Information.

The board or council must provide notice of second reading (or notice of not to proceed) to every person who objected to the by-law at the public hearing (see example of notice in [Appendix 25](#)). The notice may be issued electronically or as a hard copy.

After second reading, the development plan must be submitted to the Minister of Municipal and Northern Relations via the regional Community Planning branch office. Contact info for Community Planning regional offices can be found in [Appendix 2](#). The submission must include a certified copy of the by-law, a copy of the minutes of the public hearing and any written submissions filed at the public hearing.

After receiving the development plan by-law, the Minister of Municipal and Northern Relations may approve the by-law, approve the by-law subject to alterations or conditions, or reject the by-law. The minister may also decide to refer any objections received or a specific question or issue to the Municipal Board to conduct a hearing and provide a report and recommendation back to the minister.



If the minister refers objections to the development plan to the Municipal Board, the Municipal Board must then send notice of the hearing to the minister, a regional

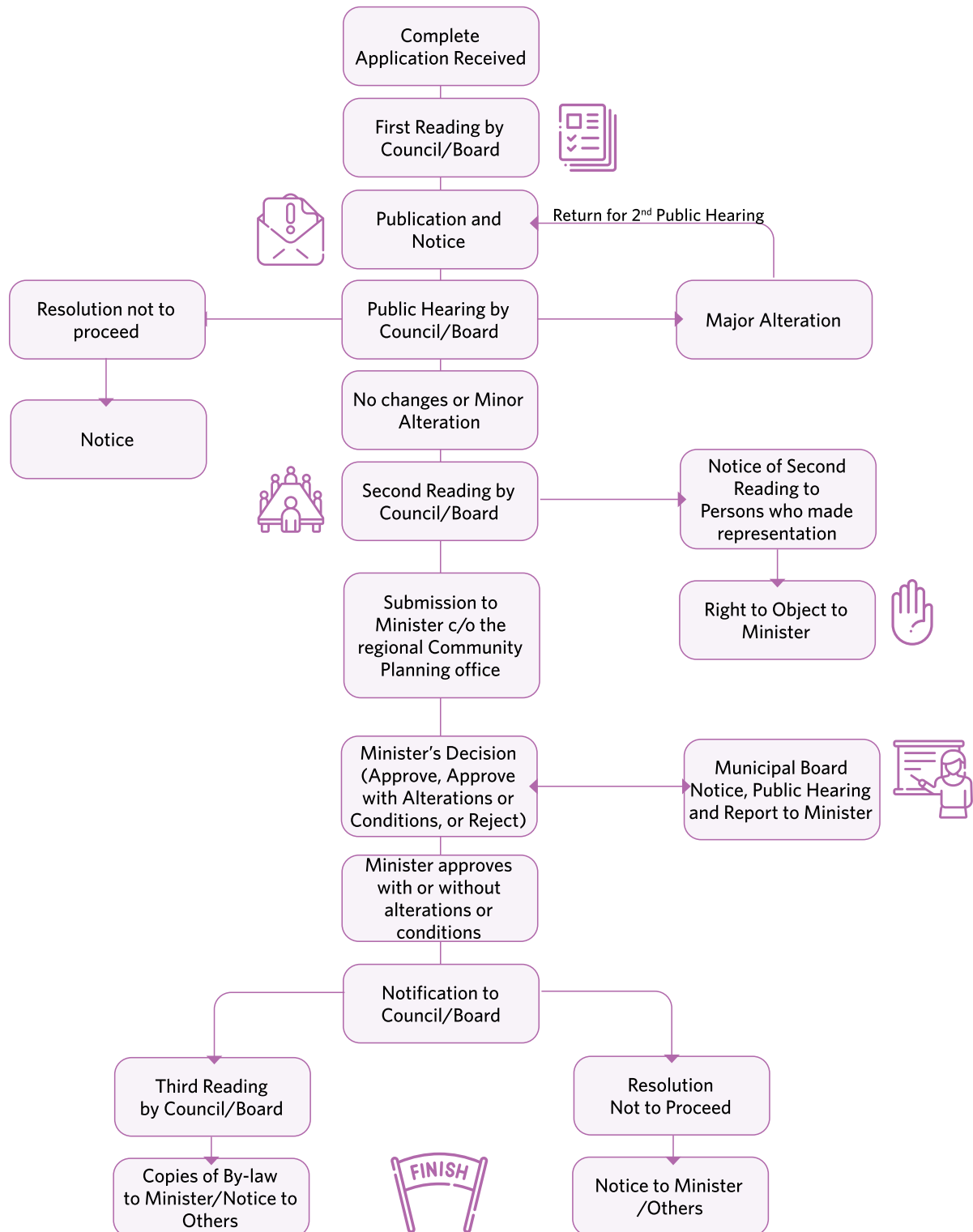
SECTION 4

PLANS

planning board if any land within its region is subject to the development plan, the board or council involved, every person that made a representation at the public hearing and any other person it considers appropriate. Alternatively, if the minister approves the development plan, a board or council may proceed with third reading. Notice of third reading must be sent to every person that made a representation at the public hearing, every person that made a representation at the Municipal Board hearing if one was held, and the regional planning board of any land within its region is subject to the development plan.

The Planning Act

Adoption Process for Development Plans and Development Plan Amendments



SECTION 4

PLANS

4.1.5

Amendments and Review

Amendments to the development plan may be initiated by a board or council or a landowner. If the board or council believes that the application for an amendment is without merit, or is substantially similar to a previous application that was refused within one year before the new application, then the board or council may refuse the application. The board or council must refuse the application by resolution.

The process for adopting an amendment to a development plan is the same process as outlined in [Part 4.1.4](#). See [Appendix 3](#).

Development plans must be updated on a regular basis. It may state in the development plan when it is to be reviewed. For example, the planning district or municipality may select to review their development plan every eight years. Or, if not stated in the development plan, then the development plan should be reviewed every five years.



5 years

4.1.6

Powers of Minister

The minister has the authority to order a planning district or municipality to adopt a development plan, or to amend its development plan, within a specified time period.

4.1.7

Application of Provincial Land Use Policies

The Provincial Land Use Policies no longer apply to a planning district or municipality that has adopted a development plan. However, the development plan must be consistent with the Provincial Land Use Policies. Also, any amendments to the development plan must be consistent with the Provincial Land Use Policies.

4.1.8

Application of Water Statutes

Development plans must also consider a number of water statutes, including:

- regulations under Section 5 of [The Water Protection Act](#),
- any aquifer management plan approved under [The Groundwater and Water Well Act](#), and
- any watershed management plan approved under [The Water Protection Act](#).

Essentially, if any of the above-mentioned plans are applicable to the specific region that is covered by the proposed development plan, they must be considered during the preparation of the development plan.



The intent is to ensure that an abundant supply of high quality water is available to sustain all ecological processes, life-support systems and food production, while also realizing that high quality water is essential to the environmental, economic and social well-being of Manitoba.

4.1.9

Water and Wastewater Infrastructure

Drinking water and wastewater plans are required in certain circumstances. The plans must be prepared if the planning district or municipality is in the Capital Planning Region, or if ordered to do so by the Minister of Municipal and Northern Relations.

The purpose of such plans is to provide an analysis of how water and wastewater are supplied within the planning area and to outline plans for future development. The plans will also identify costs associated with existing and planned water and wastewater systems, as well as inform decisions on land use, infrastructure funding and project approvals.

Refer to the [Guide to Developing a Drinking Water Plan](#) and the [Guide to Developing a Wastewater Management Plan](#) for information on how to prepare these plans.



4.2

Secondary Plans

4.2.1

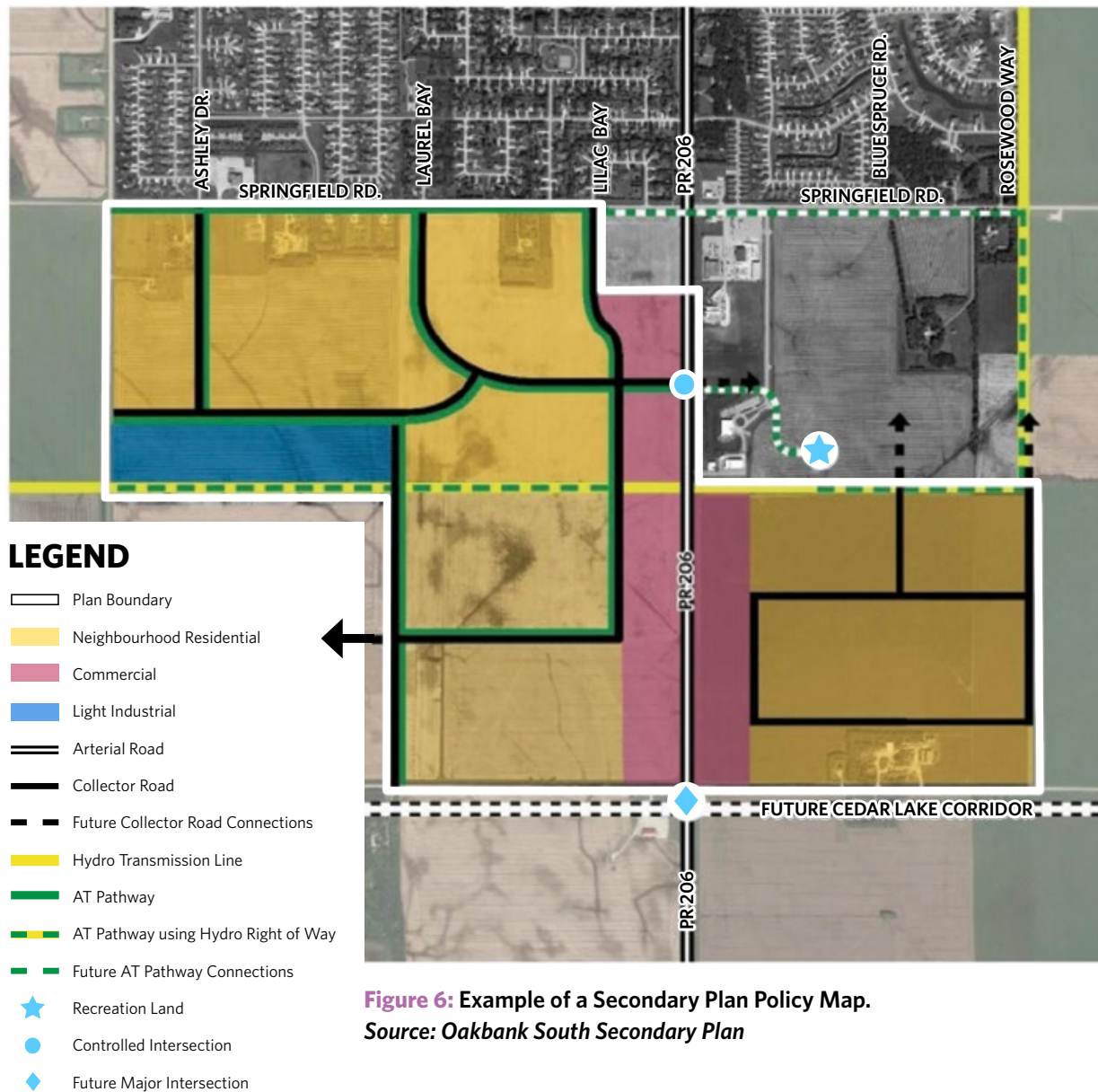
What is a Secondary Plan?

Secondary plans can be considered as a second layer to the development plan. They include a land use plan with implementing policies that are adopted by municipal council or the planning district board to ensure that the development creates the desired effect. A secondary plan establishes local development policies unique to a specific area where more detailed direction is required. It must conform to the local development plan. Secondary plans typically include:

- direction on subdivision design,
- building standards,
- road patterns and layout,
- location of municipal water and wastewater,
- location of schools and parks,
- economic development, and
- protection of heritage resources or sensitive lands.

SECTION 4

PLANS



Section 64 of the Act states that the adoption of a secondary plan or an amendment to a secondary plan follows a similar process to that of the adoption of a zoning by-law or an amendment to a zoning by-law. The adoption process for secondary plans and secondary plan amendments must also meet specific timelines. Refer to the flowchart on the Secondary Plan Approval Process for more details on the secondary plan adoption process.

4.2.2

Benefits of Secondary Plans

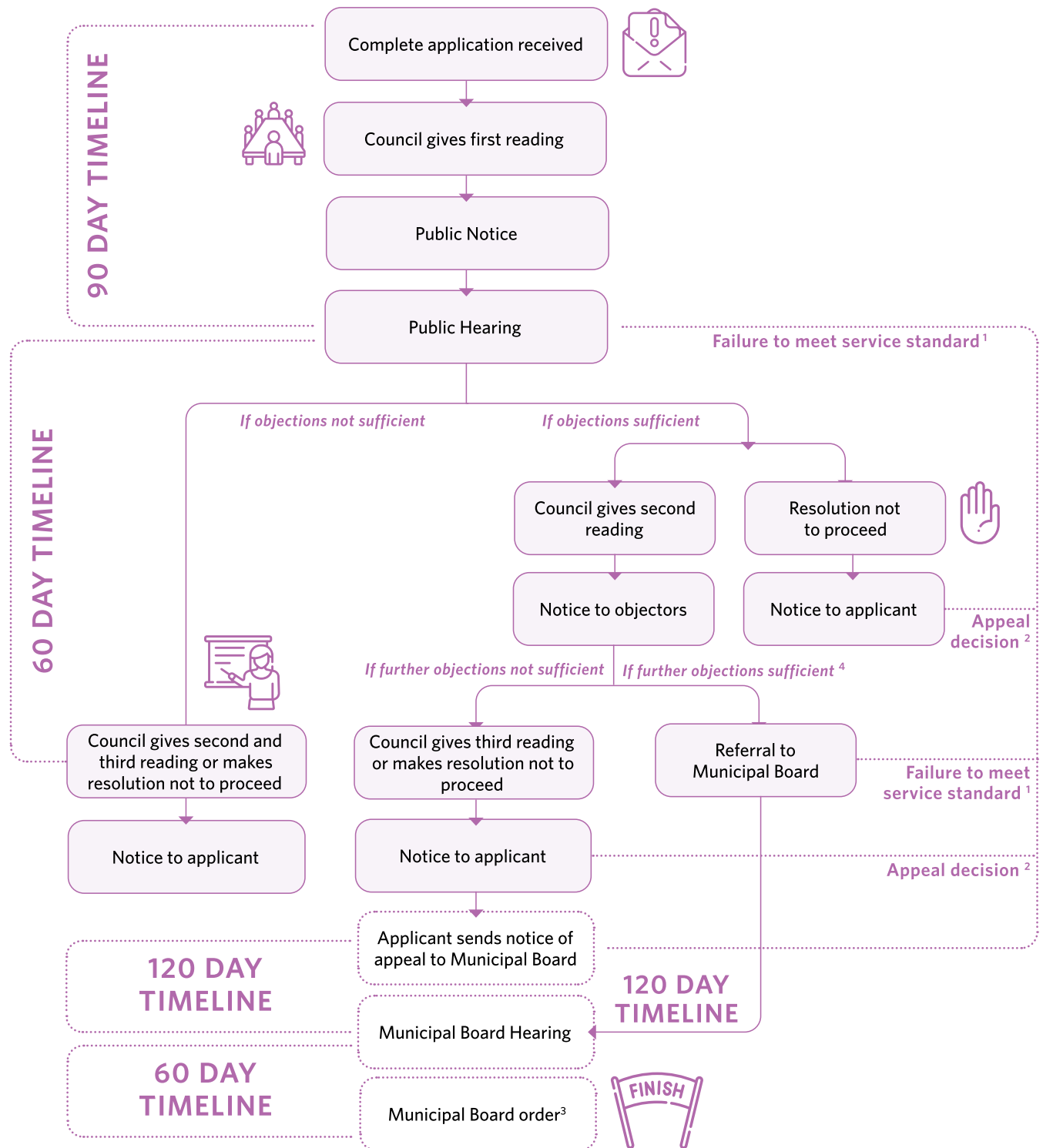
A secondary plan brings increased certainty to property owners about how their property works with adjacent land uses.

Secondary plans are a specific tool that may be used to:

- help understand the opportunities and issues related to land use in a defined geographic area,
- provide specific policies for those areas in a municipality or planning district where more detailed direction is required than provided for in the development plan,
- provide an opportunity to promote consistency in new or developing areas, and compatibility within existing areas,
- preserve the character and identity of a specific area while facilitating the development of vacant or underutilized land.

The Planning Act

Secondary Plan Approval Process



¹ Applicant has 14 days to appeal a missed service standard.

² Applicant has 14 days to appeal decision (applicant may appeal council's rejection, or any conditions of approval, such as the requirement of entering into a development agreement.)

³ If appeal was triggered by sufficient public objections (referral to Municipal Board), the by-law needs to receive third reading in order to be considered approved.

⁴ Objections must be made by at least 25 eligible persons or 50% of the total number of owners of property located within 100 metres of the affected property. Eligible persons means a person, on the day the objection is made, is able to vote for the election of members of the council of the municipality, or the council of a member municipality.

4.3

General Provisions

There are several additional general provisions related to development plans and secondary plans:

- Development within the planning district or municipality must be generally consistent with any applicable development plan and secondary plan.
- Land may be acquired by the planning district or municipality under The Expropriation Act to aid in the implementation of any part of a development plan or secondary plan.
- A planning district development plan applies to all municipalities within the planning district once a full review is complete, therefore any previous development plan that was adopted by a member municipality is repealed.

SECTION 4

PLANS

Read More

- [Guide to Developing a Drinking Water Plan](#)
- [Guide to Developing a Wastewater Management Plan](#)
- [Planning for Agriculture](#)



Zoning By-laws

Part 5 of the Act specifies the requirements for zoning by-laws.

5

5.1

Zoning By-laws

5.1.1

What is a Zoning By-law?

Every municipality is required to adopt a zoning by-law. Planning districts also have the ability to adopt a district-wide zoning by-law. The zoning by-law must divide a municipality (or planning district) into zones, list the permitted and conditional uses for land and buildings in each zone, and set out the procedure for applying for, and issuing, development permits, non-conforming certificates, zoning memoranda and other similar documents.

Refer to the [Municipal Planning Guide to Zoning By-laws in Manitoba](#) for more detailed information.

5.1.2

Benefits of a Zoning By-law

Zoning by-laws permit a municipal council or planning district board to set local standards for the subdivision and use of land.

The benefits of zoning include:

- implements the vision, objectives and policies of the development plan
- prevents the mixing of incompatible land uses
- conserves existing neighbourhoods
- protects recreational areas and open space

5.1.3

Requirements

Sections [68](#) to 72 of the Act outlines the requirements for a zoning by-law.

A zoning by-law must be generally consistent with the development plan and set general development requirements for each zone. **The planning district board or municipal council should consider the following factors:**

- the objectives and policies in the development plan and any applicable secondary plan
- the character of the zone
- the nature of the existing or proposed uses of land and buildings in the zone, and
- the suitability of the zone for particular uses

The Act provides a list of items that may be included in the zoning by-law, including the following required items:

- the use of land
- the construction or use of buildings
- the dimensions and areas of lots, parcels or other units of land, and
- the number, size and location of buildings on parcels of land

Additional items may be considered, as outlined in [Section 71\(3\)](#) of the Act.

SECTION 5

ZONING BY-LAWS

Larger municipalities will have more complex zoning by-laws and may also want to consider including items such as the:

- placement of pedestrian walkways
- outdoor lighting of any building or land
- cutting and removal of trees or vegetation, and
- manner in which any use of land or a building is undertaken, including the hours of operation and the regulation of noxious or offensive emissions, such as noise or odors

Municipalities are also permitted to require a **specified percentage** of the residential units within a new residential development to be **affordable for low and moderate income households**. This is optional for municipalities.



Incentive zoning is permitted and means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities. The amenities may include a specific site design, affordable housing creation or energy-efficient building design. Incentive zoning is optional for municipalities. Incentive zoning may also be used to direct development and ensure that the development aligns with community values.

Provisions in the zoning by-law for livestock operations must be consistent with the livestock operation policy in the development plan and establish siting and setback requirements.

5.2

Adoption of a Zoning By-law

Sections [73](#) to 75 of the Act outlines the process for adopting a zoning by-law. Refer to [Appendix 12](#) for a template of a zoning by-law amendment by-law.

A public hearing is required as part of the process to adopt a zoning by-law (or zoning by-law amendment). The public hearing may be held before or after a board or council gives first reading. Regardless of when the public hearing is held, details of the public hearing must be given in accordance with the process outlined in [Section 168](#) of the Act. A template for a public hearing notice for a zoning by-law amendment can be found in [Appendix 22](#). If less than 25 objections are received from eligible persons and less than 50% of the total number of owners of property located within 100 metres of the affected property object to the proposed by-law, the planning district or board or municipal council may proceed to give the by-law second and third reading. Note that a zoning by-law cannot be given first, second, and third reading in one day. The planning district board or municipal council may also decide to pass a resolution to not proceed with the by-law.

If the zoning by-law is altered after the public hearing, a second public hearing must be held, but no additional public hearing is required for minor alterations. The second public hearing is to consider only the major alteration, not the entire zoning by-law or amendment.

Major Alterations

An alteration that does change the intent of the by-law. For example, a mapping change or policy change.

Minor Alterations

An alteration that does not change the intent of the by-law. For example, fixing a small typo or error.

The threshold of 25 objectors must be met with people that are eligible to object. The objector threshold is also met when 50% or more of the total number of owners of property located within 100 metres of the affected property object. At this point, the planning district board or municipal council may proceed with second reading, pass a resolution to not proceed with the zoning by-law or, if sufficient, refer the by-law and public objections to the Municipal Board.

If second reading is given, then all persons who objected must be sent a notice of second reading. Refer to [Appendix 26](#) for a template of a notice.

If sufficient eligible persons provided a second objection, then the board or council may proceed with third reading, or pass a resolution to not proceed with the zoning by-law.

An eligible person is, on the day the objection is made, a person that is able to vote for the election of members of the council of the municipality.

If 25 or more second objections were received from eligible persons, regarding the adoption of a zoning by-law (or in the case of a zoning by-law amendment 50 per cent of the total number of owners of property located within 100 metres of the affected property), then the board or council must refer the objections to the Municipal Board as soon as possible. Once the zoning by-law and objections have been referred to the Municipal Board, a public hearing will be held by the Municipal Board within 120 days to decide if the objections will be upheld.

25+

OBJECTIONS

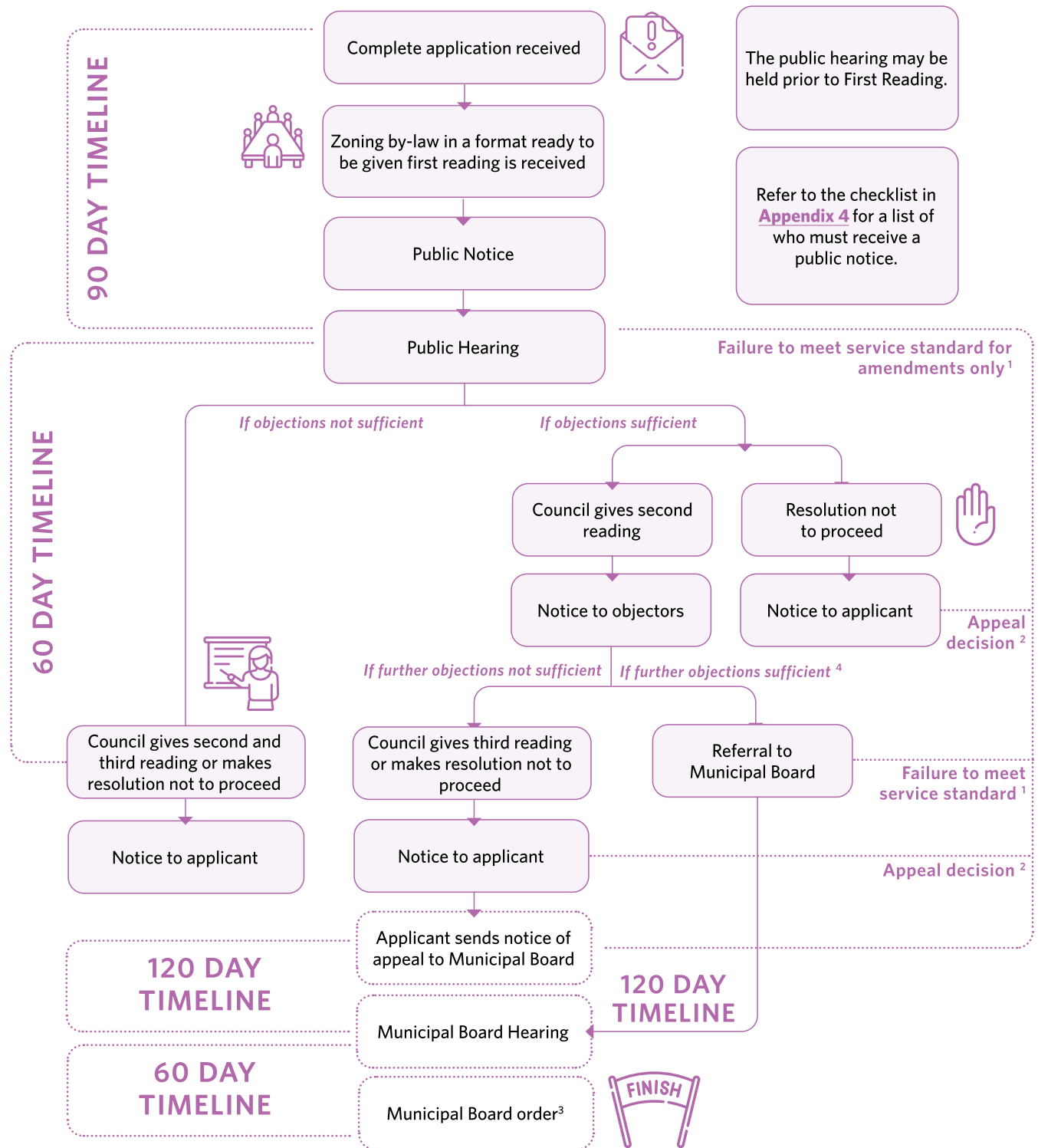


The limits described in The Planning Act do not apply to a development plan by-law, zoning by-law or secondary plan by-law.

Refer to the flow chart for the adoption process and **Appendix 4** for a checklist of the required steps to adopt a zoning by-law or a zoning by-law amendment.

The Planning Act

Zoning By-law Approval Process



¹ Applicant has 14 days to appeal missed service standard.

² Applicant has 14 days to appeal decision (Applicant may appeal council's rejection, or conditions of approval, such as the requirement of entering into a development agreement.)

³ If appeal was triggered by sufficient public objections (referral to Municipal Board), the by-law needs to receive third reading in order to be considered approved.

⁴ Objections must be made by at least 25 eligible persons or 50% of the total number of owners of property located within 100 metres of the affected property. Eligible persons means a person, on the day the objection is made, is able to vote for the election of members of the council of the municipality, or the council of a member municipality.

5.3

Municipal Board for Zoning Appeals

If **sufficient objections** to the zoning by-law are received from eligible persons, the board or council must refer the objections to the Municipal Board. Eligible persons means those, on the day the objection is made, who are able to vote for the election of members of the council of the municipality, or the council of a member municipality in the case of a district-wide zoning by-law.

The Municipal Board must hold a public hearing, subject to subsection 24(3.2) of The Municipal Board Act, within 120 days of receiving the objections. The Municipal Board must send notice of the public hearing at least 14 days in advance to:

- the applicant,
- the board or council that referred the objection,
- the regional planning board, if applicable,
- every person who made a representation at the public hearing held before or after first reading of the zoning bylaw, and
- any other person that the Municipal Board considers appropriate.

The notice for the public hearing must also be posted on a website available to the public.

After the public hearing, the Municipal Board must make a decision. The Municipal Board may either confirm, or refuse to confirm, any part of the by-law that was subject to the objection. The order may also direct municipal council or the planning district board to alter

SECTION 5

ZONING BY-LAWS

the zoning by-law or add conditions in the manner that the Municipal Board specifies. This order must be made within 60 days after the Municipal Board hearing has concluded. A copy of the order must be sent to everyone who made a representation at the Municipal Board public hearing. The order is considered final and not subject to appeal. If an objection is received from the Minister of Municipal and Northern Relations, the board of a regional planning area, the board of a planning district, the council of a municipality or the Government of Canada, the objection must be referred to the Municipal Board.

After receiving the decision of the Municipal Board, the planning district board or council may not give third reading to the by-law unless it follows the Municipal Board order. Notice of the planning district board or council's adoption of the by-law must be forwarded to everyone who made a representation at the local public hearing. For a list of appealable items to The Municipal Board, refer to [Appendix 27](#).



How the Planning District Board or Municipal Council Makes an Appeal to the Municipal Board

- Submit all objections to the Municipal Board at 1144-363 Broadway, Winnipeg, MB R3C 3N9
- Send copy of appeal notice to the Minister of Municipal and Northern Relations, care of the regional Community Planning office

For more information regarding Municipal Board processes, visit their website at: [Province of Manitoba | Manitoba Municipal Board](#)

5.4

Amendments

The same procedure is followed for adopting zoning by-law amendments as it is for adopting a new zoning by-law.

A board may initiate an amendment to a district-wide zoning by-law at any time, or council may initiate an amendment to their municipal zoning by-law at any time.

Landowners may also apply for a zoning by-law amendment, however the board or council is not obligated to amend the zoning by-law or give the amendment first reading if the application is:

- without merit,
- not generally consistent with the development plan, or
- too similar to a previous application that was rejected within the previous year.

For an application to amend a zoning by-law, the board or council must confirm with the applicant that they received the application on a specific date. From that date, the board or council has 20 days to determine if the application is complete. This 20 day time period to determine the completeness of a zoning by-law amendment can be extended provided that there is an agreement in writing between the applicant and the board or council. Applications are considered complete if they include all of the required documentation and associated fees. If the application is deemed incomplete, notice must be given to the applicant identifying the missing items.

SECTION 5

ZONING BY-LAWS

Approval of a zoning by-law can be conditional as the board or council has the authority to require the landowner to enter into a development agreement under Section 150 of the Act. More information on development agreements may be found in the [Guide to Development Agreements \(AMM\)](#) and in [Parts 9.3](#) and [9.4](#).

5.5

Applicant Appeals Concerning Zoning

An applicant may appeal to the Municipal Board if:

- A planning district board or council passes a resolution to not proceed with the zoning by-law amendment, or
- If the land-owner must enter into a development agreement as a condition of approval for the zoning by-law amendment.

An applicant may also appeal to the Municipal Board if the planning district board or council fails to:

- Hold the required public hearing within 90 days after the complete application is received by the board or council,
- Give the by-law second and third readings within 60 days after the public hearing or pass a resolution not to proceed within 60 days after the public hearing, if insufficient public objections are received, or
- Give the by-law third reading within 60 days after the public hearing is held, pass a resolution to not proceed within 60 days after the public hearing, or refer the objections to the Municipal Board within 60 days after the public hearing, if sufficient second objections are received.

The various time periods referred to in [section 82.1\(2\)](#) may be extended provided there is an agreement in writing between the applicant and the board or council.

SECTION 5

ZONING BY-LAWS

To appeal, the applicant must send a notice of appeal to the Municipal Board within 14 days after the planning district board or municipal council has given notice of their decision or exceeded a service standard timeline. The applicant must submit a Notice of Appeal form to the Municipal Board with detailed information including the:

- legal description of the land and the name of the municipality in which it is located,
- name and address of the applicant, and
- reason for the appeal, either:
 - if the decision to appeal relates to conditions being imposed on the application, a description of the conditions, or
 - specifying if a service standard timeline has not been met.

The Municipal Board, subject to subsection 24(3.2) of The Municipal Act, must hold a public hearing within **120 days** from the filing of the appeal.



Once the Municipal Board accepts the applicant's appeal, the applicant becomes an appellant. The Municipal Board must send notice of the public hearing at least 14 days in advance to the:

- appellant,
- planning district board or municipal council,
- the regional planning board, if applicable,
- every person who made a representation at the public hearing held before or after first reading of the zoning by-law, and
- any other person that the Municipal Board considers appropriate.

The notice for the public hearing must also be posted on a website available to the public.

After the public hearing, the Municipal Board must make a decision. The Municipal Board must reject the proposed amendment to the zoning by-law, confirm the proposed by-law, or direct the planning district board or municipal council to alter the by-law as specified.

This order must be completed within 60 days after the public hearing has concluded. A copy of the order must be sent to everyone who made a representation at the Municipal Board public hearing. The order is considered final and not subject to appeal. For example, if the Municipal Board order directs the planning district board or council to approve the by-law, then they must approve the by-law. The Municipal Board may also require a development agreement.

If the Municipal Board determines that the planning district or municipality created an unreasonable delay in dealing with the applicant's application, the Municipal Board may order the planning district or municipality to pay some, or all, of the costs incurred by the Municipal Board in hearing the appeal, and the appellant's reasonable costs related to the appeal.

5.6

General Provisions

Zoning memorandums may be issued to anyone with an interest in a building or parcel of land. A zoning memorandum is a legal document completed by the municipality (or planning district in the case of a district-wide zoning by-law) that confirms a

building, or parcel of land, meets the requirements of the zoning by-law. A zoning memorandum may be prepared by a development officer or building official. Refer to [Appendix 13](#) for a template of a zoning memorandum.

5.7

Non-Conforming Uses

A new zoning by-law may impact a parcel, land use or structure if the zoning changes. Since parcels, land uses and structures already lawfully in existence cannot be eliminated, the affected sites become a non-conforming use. Although the use or structure does not meet the zoning by-law requirements, the use or structure are allowed to remain and be used within certain limitations. The non-conformity runs with the land, not the owner, so if ownership changes, the non-conforming status remains. Once the use changes, then it must comply with the current zoning by-law.

A non-conforming use is a legally existing use that is not listed as a permitted or conditional use for the use zone in which it is located, or which does not meet the development standards for that zone. A non-conforming use will run with the land and may continue “as-is” from the time it becomes non-conforming. Enlargement or expansion of the use is not permitted. If a non-conforming use is discontinued for 12 consecutive months or more, then the non-conforming use may not continue, unless the zoning by-law states otherwise.

A non-conforming structure is any structure which, in some manner, does not meet the requirements of the current zoning by-law. The structure was lawfully erected, but currently does not meet

SECTION 5

ZONING BY-LAWS

the standards in the current zoning by-law. The use is allowed and meets the standards of the current zoning by-law. Examples of non-conforming structures include structures that no longer meet setback requirements (especially in older neighbourhoods where houses are built closely together), or changes in height requirements. As with non-conforming uses, the non-conforming structure status runs with the land and may continue “as-is” from the time it becomes non-conforming.

If the non-conforming structure is destroyed by a fire or similar catastrophe by more than 50 per cent, then if the structure is rebuilt, it must conform to the current zoning by-law.

Non-conforming uses and structures may be altered by a variance. The variance may authorize construction on a non-conforming structure beyond what is permitted in the zoning by-law, an increase in the intensity of the existing non-conforming use, the repair or rebuilding of a structure damaged by more than 50 per cent, or the extension of the 12-month time limit for up to an additional 12 months.

Read More

- [Municipal Planning Guide to Zoning By-laws in Manitoba](#)
- [Zoning for Cannabis: A Guide for Manitoba Municipalities](#)



Variances

Part 6 outlines processes related to variances.

6

6.1

What is a Variance?

A variance is an order that varies specific provision(s) of a zoning by-law as they apply to a particular property.

A variance application can be submitted by anyone who believes that a zoning by-law adversely affects their property rights.

As per Section 97(1), a variance can be approved if it:

i.

will be compatible with the general nature of the surrounding area

ii.

will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area

iii.

is the minimum modification of a zoning by-law required to relieve the injurious effect of the zoning by-law on the applicant's property, and

iv.

is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law.

6.2

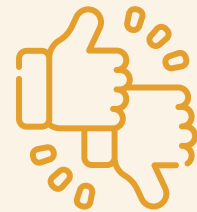
Purpose of a Variance

As circumstances change over time, there may be a need to apply for a variance. Variances are exceptions to the zoning by-law and provide property owners with legal permission to use their land and build structures that would otherwise not comply with the zoning by-law.

The purpose of a variance is to:

- provide flexibility where the zoning by-law has not anticipated every variation in the characteristics of the land, and
- provide assurance to landowners.

Furthermore, a variance **cannot authorize a change of land use, except if it is** (a) a temporary change of land use for a period of not more than five years, or (b) a change to a use that is substantially similar to a use that is already permitted.



The application must be made to the relevant municipal council or, if the property is located in a planning district with a district-wide zoning by-law, to the board of the planning district. The board or council can also pass a by-law authorizing a planning commission to consider and make decisions on variances.

SECTION 6

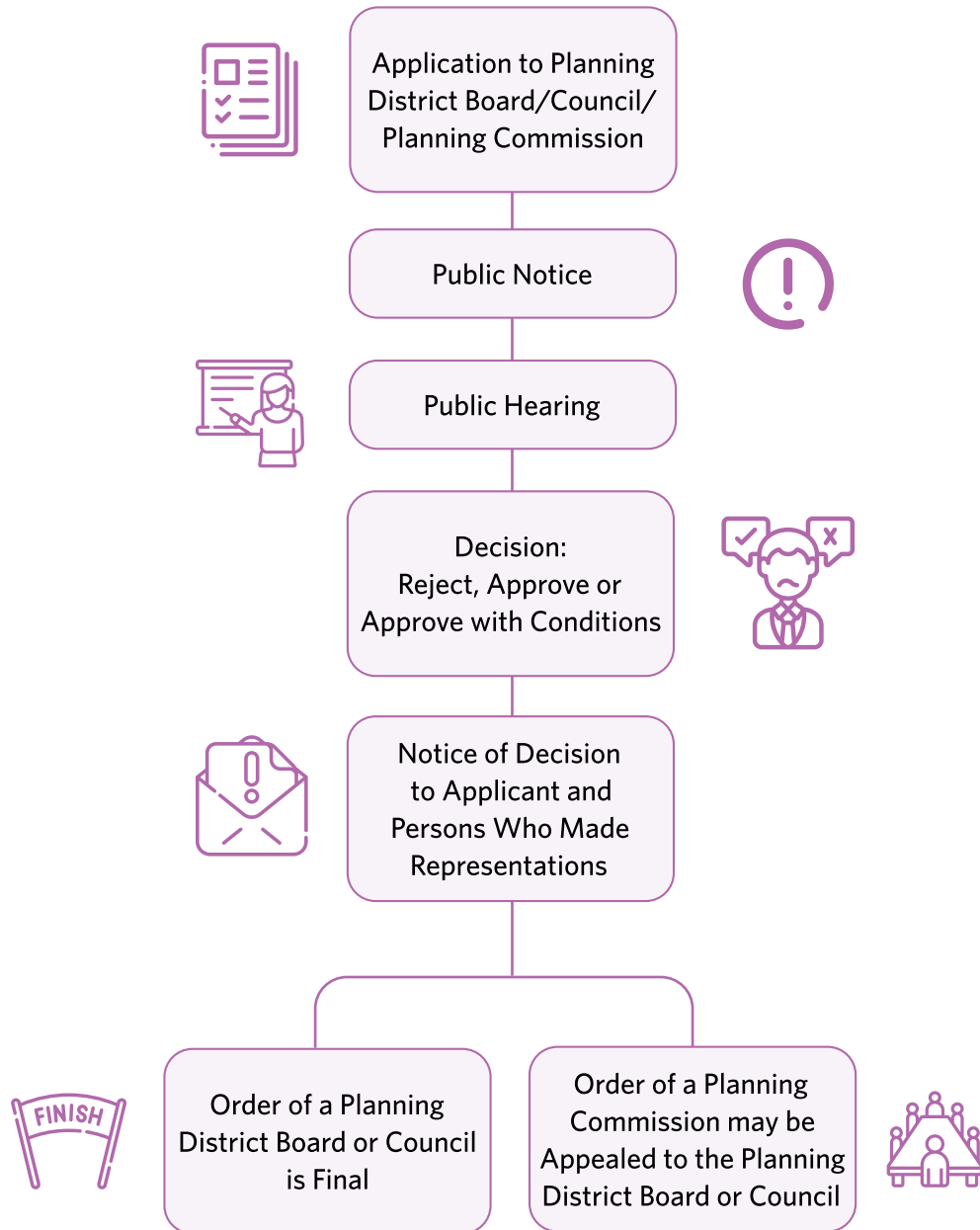
VARIANCES

The board or council must confirm with the applicant the variance application was received on a specific date. From that date the board or council has 20 days to determine if the application is complete. Applications are considered complete if they include all of the required documentation and associated fees. If the application is deemed incomplete, notice must be given to the applicant identifying the missing items. The 20-day time period to determine the completeness of a variance application can be extended provided that there is an agreement in writing between the applicant and the board or council.

The flow chart outlines the process for variance applications, a procedures checklist can be found in [Appendix 5](#) and a template for a variance order can be found in [Appendix 14](#).

The Planning Act

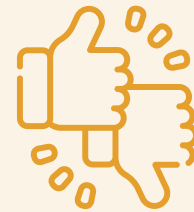
The Variance Process



SECTION 6

VARIANCES

A public hearing must be held and notice provided in accordance with [Section 169](#) of the Act. A template for a public hearing notice for a variance order is located in [Appendix 23](#). **The board, council, or planning commission must then decide to reject or approve the variance** and send notice of the decision to the applicant and all those who made representation at the hearing.



Refer to [Part 11](#) for more information on public hearings.

As a condition of variance approval, a board, council, or planning commission can impose any conditions on the applicant or owner of the property they deem necessary to ensure the variance complies with the criteria listed in [Section 97\(1\)](#) of the Act.

Additionally, a development agreement (as outlined in Sections [150](#)-151.0 of the Act) or a conforming construction agreement ([Section 151.1](#)) can be required as a condition of approval. However, there is a time requirement on the municipality to enter into a development agreement within 90 days, failing which the applicant may appeal to the Municipal Board. The applicant may also appeal if they are not in agreement with the proposed terms of the development agreement.

A variance **expires if not acted on within 12 months of the date of the decision**, although this may be extended by the board, council or planning commission. The extension may be granted for a period not longer than 12 months if the application to extend is received before the expiry of the original deadline. Then, an extension may be granted

SECTION 6

VARIANCES

for an additional 12 months if the application to extend is received before the expiry of the first extension. An applicant must have taken real and material steps towards proceeding with the proposed development to be considered “acted on.” The decision of a board or council is final and not subject to appeal. A decision by a planning commission can be appealed to the planning district board or municipal council in accordance with Sections [34](#) and 35 of the Act.

6.3

Minor Variances

A board or council may delegate decision making authority for certain 'minor' variances to a designated employee. A template for a minor variance order is located in [Appendix 15](#).

A by-law may authorize the designated employee to vary:

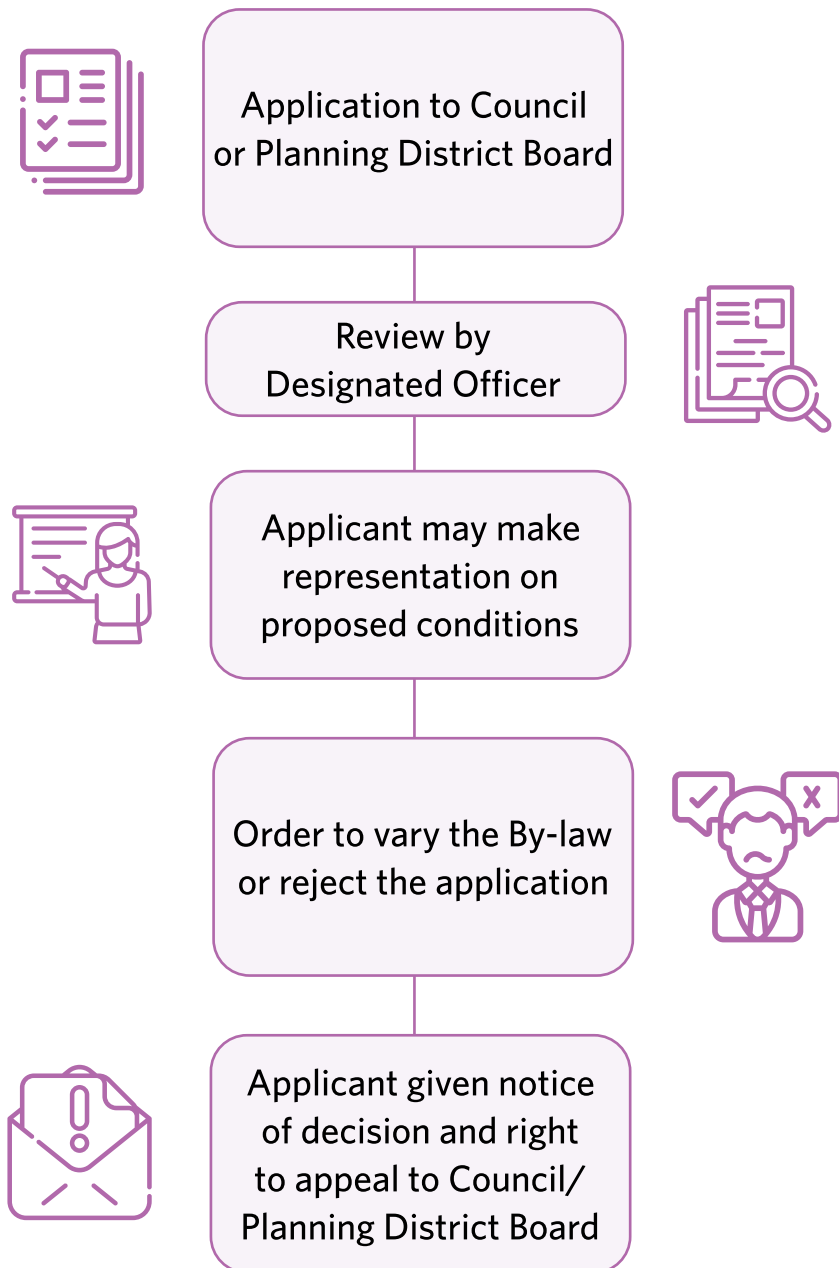
- any height, distance, area, size or intensity of use requirement in the zoning by-law by no more than 15 per cent, or
- the number of parking spaces required by the zoning by-law by no more than 15 per cent.

The process for minor variances is different than that for a full variance, as outlined in the flow chart for the Minor Variance Process. Notably, there is no public hearing required. The designated employee can approve a variance subject to conditions, provided that the applicant has been given a reasonable opportunity to make representation about the proposed conditions.

A decision regarding a minor variance, or the timing for entering into a development agreement, or the terms of the development agreement can be appealed to the relevant municipal council or, if the property is located in a planning district with a district-wide zoning by-law, to the board of the planning district. The appeal process is the same as that for a full variance as outlined in the flow chart for the Minor Variance Process, including the requirement for a public hearing. A variance order may be revoked for non-compliance with a condition of the order.

The Planning Act

The Minor Variance Process



SECTION 6

VARIANCES

Examples of Common Variances

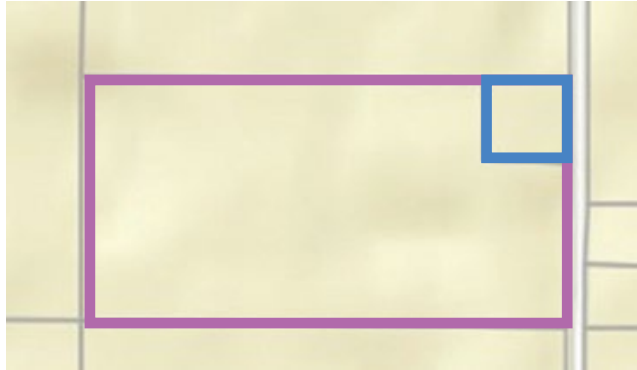


Figure 7: Example of a minor variance application

Minimum site area for an agricultural use is 80 acres. After subdividing the farmstead from the larger holding, the residual parcel is only 70 acres, therefore a variance is required to reduce the minimum site area from the required 80 acres, to 70 acres. Note that this variance may be processed as a minor variance because the reduction in minimum area is 12.5 per cent.

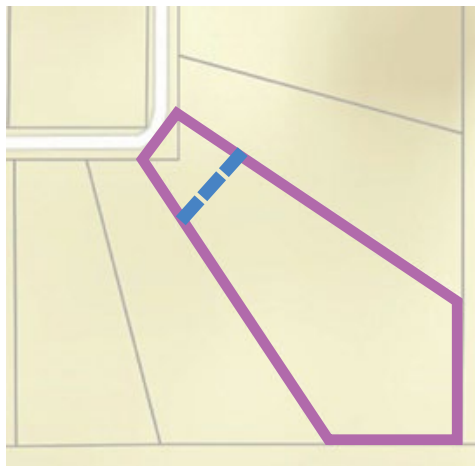


Figure 8: Example of variance application

Minimum site width for a residential lot is a minimum of 40 ft. The existing site width of this lot is 25 ft. so a variance is required to reduce the minimum site width from 40 to 25 ft.

Conditional Uses

Provisions specific to conditional uses can be found in **Part 7** of the Act.

7

7.1

What is a Conditional Use?

A conditional use means a use of land or a building that may be allowed under a zoning by-law. A use is identified as conditional if it may require certain conditions to minimize any potential land use conflicts.

Zoning by-laws divide land into zones and outline whether uses are permitted, conditional, or not permitted in each zone. A public hearing is required to be held to determine if the conditional use application will be approved or rejected.

7.2

Purpose of a Conditional Use

A conditional use allows a municipality to consider special uses which may be desirable to a community and are generally permitted but may require additional examination to determine compatibility with surrounding land uses.

SECTION 7

CONDITIONAL USES

The purpose of the conditional use is to:

- provide flexibility within a zoning by-law.
- enable a municipality to control certain uses which could have a detrimental impact on the community.
- allow community members to have their say through the public hearing process.

The conditional use process affords approving authorities **the opportunity to consider the potential impacts of the proposed use and impose conditions of approval** to mitigate those impacts.



7.3

General Conditional Uses

7.3.1

Applications

A conditional use application must be made to the applicable municipal council or, where the municipality is part of a planning district that has adopted a district-wide zoning by-law, to the board of the planning district.

The planning district board or municipal council can also pass a by-law authorizing a planning commission to consider and make decisions on conditional use applications. The application must be made by the owner of the subject property or someone authorized, in writing, by the owner.

The board or council must confirm with the applicant the specific date the conditional use application was received. From that date the board or council has 20 days to determine if the application is complete. Applications are considered complete if they include all of the required documentation and associated fees. If the application is deemed incomplete, notice must be given to the applicant identifying the missing items. The 20-day time period to determine the completeness of a conditional

SECTION 7

CONDITIONAL USES

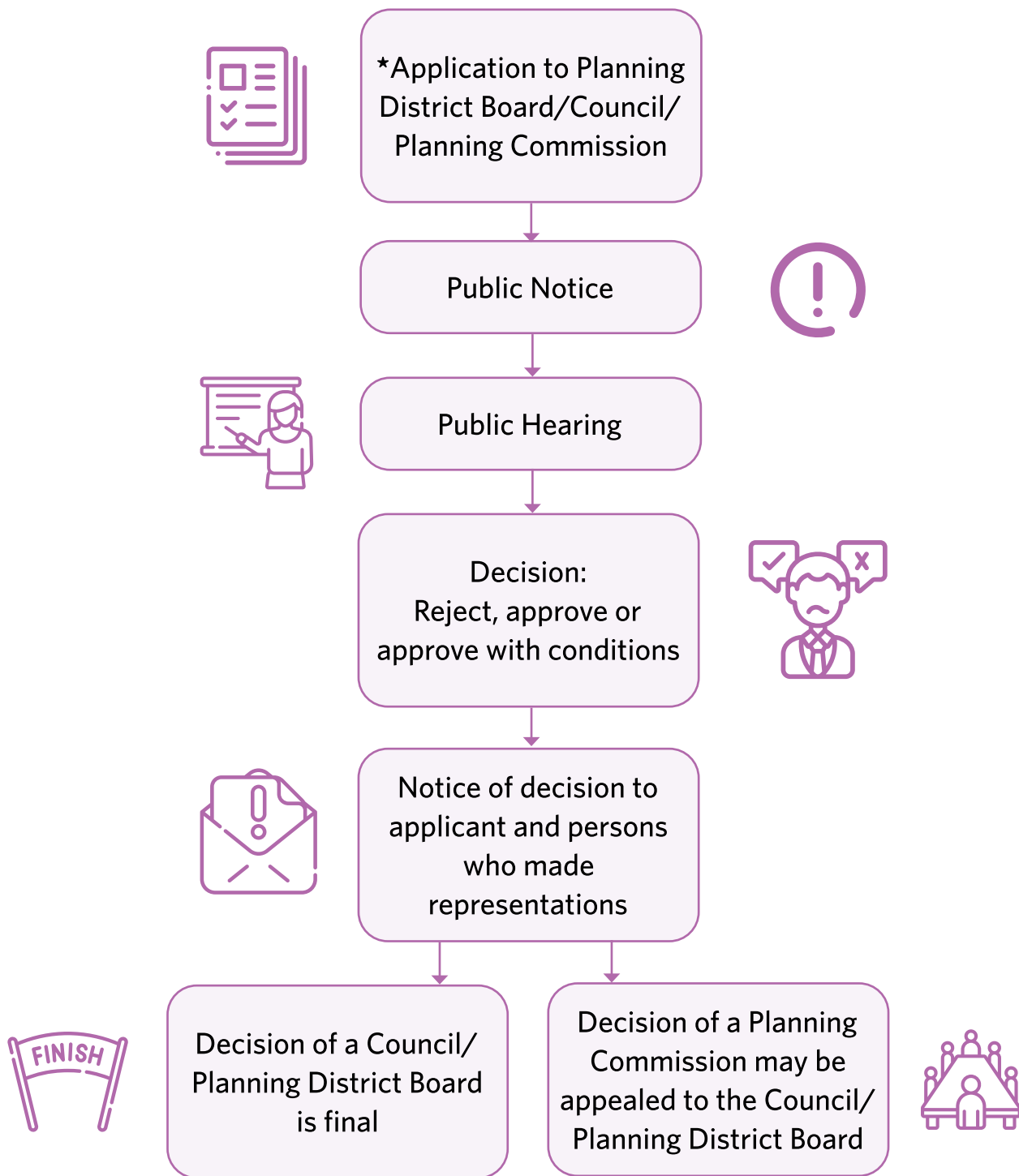
use application can be extended provided that there is an agreement in writing between the applicant and the board or council.

The Act has special provisions for conditional uses dealing with livestock operations or aggregate operations. In these cases, the province provides technical support to the municipality or planning district to ensure the conditional use application meets the requirements of the province. More information on these types of conditional uses is found in [Part 7.5](#).

The flow chart for the Conditional Use Process outlines the process for conditional use applications, a procedures checklist can be found in [Appendix 6](#) and a template for a conditional use order can be found in [Appendix 16](#).

The Planning Act

The Conditional Use Process

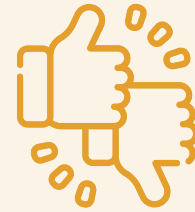


***Non-livestock operation and non-aggregate application**

SECTION 7

CONDITIONAL USES

Best practice indicates that written reasons should be registered by resolution, so that they are voted on and put on public registry. This allows for transparency and effective communication to the applicant.



A board, council, or planning commission can impose any conditions on the approval they deem necessary to ensure the conditional use complies with the following criteria listed in clause [106\(1\)b](#):

i.

will be compatible with the general nature of the surrounding area,

ii.

will not be detrimental to the health or general welfare of people living or working in the surrounding area, or negatively affect other properties or potential development in the surrounding area, and

iii.

is generally consistent with the applicable provisions of the development plan by-law, the zoning by-law and any secondary plan by-law.

A public hearing must be held and notice provided in accordance with [Section 169](#) of the Act. Refer to [Appendix 24](#) for a template for a public hearing notice for a conditional use. The board, council, or planning commission must then decide to reject or approve the conditional use and send notice of the decision to the applicant and all those who made representation at the hearing. If the application is rejected, the decision must be accompanied by written reasons for the rejection as per [Section 174.1](#) of the Act.

SECTION 7

CONDITIONAL USES

Council must take a broad range of factors into consideration in determining whether a proposed conditional use meets these requirements, including the:

- nature or circumstances of the application itself: what use is being proposed, any unique or special considerations about the proposed use,
- intensity of the use, potential environmental impacts, servicing requirements, potential nuisance effects on neighbouring properties and the current use of the property to be developed,
- circumstances of and impacts on the surrounding area and whether any impacts can be addressed,
- applicable zoning by-law requirements and development plan policies, and
- information received and representations made as part of the application and public hearing process.

A development agreement (as outlined in Sections 150-151.0 of the Act) may also be required as a condition of approval. The development agreement may be used to deal with increases in intensity, or the addition of accessory uses or structures.

However, there is a time requirement on the municipality to enter into a development agreement within 90 days, failing which the applicant may appeal to the Municipal Board. The applicant may also appeal if they are not in agreement with the proposed terms of the development agreement. Conditions of approval can be changed only by following the same process required to approve a conditional use.

Council must provide a written reason for rejecting a conditional use application. Refer to [Part 11.4](#) for more information.

SECTION 7

CONDITIONAL USES



The decision of a planning district board or municipal council is final and not subject to appeal. A decision by a planning commission can be appealed in accordance with Sections [34](#) and 35 of the Act. Furthermore, if any conditions of approval are not complied with, approval can be revoked.

If a municipality believes a property owner is not complying with the conditions of a conditional use order, it may consider revoking the conditional use order. In order to revoke conditional use approval, an investigation must first determine that the owner is not complying with a condition of the conditional use order. For more information about how to determine whether an application has been “acted on,” see [Part 6.2](#) of this handbook.

Notice is then given to the owner informing them of:

- conditional use order requirements,
- results of the investigation confirming non-compliance,
- attempts (if any) to have the owner remedy the non-compliance,
- council’s decision to consider whether the owner is not complying with a condition of the conditional use order and if non-compliance is confirmed, the enforcement action to be taken including Council revoking the conditional use approval, and
- time and date of the Council meeting where the owner may attend and provide reasons why they should not be found in non-compliance, note if there are extenuating circumstances for the non-compliance, and identify any steps to be taken to address the non-compliance.

Council must consider the matter and may pass a resolution revoking the conditional use order if it determine the owner is not complying with the conditional use order.

7.3.2

Expiration

A conditional use expires if not acted on within 12 months of the date of the decision, although this can be extended up to an additional 12 months by the board, council, or planning commission, if an application is received before the initial deadline. A second extension of up to an additional 12 months can also be granted. A conditional approval may be revoked for non-compliance with a condition of the order.

7.4

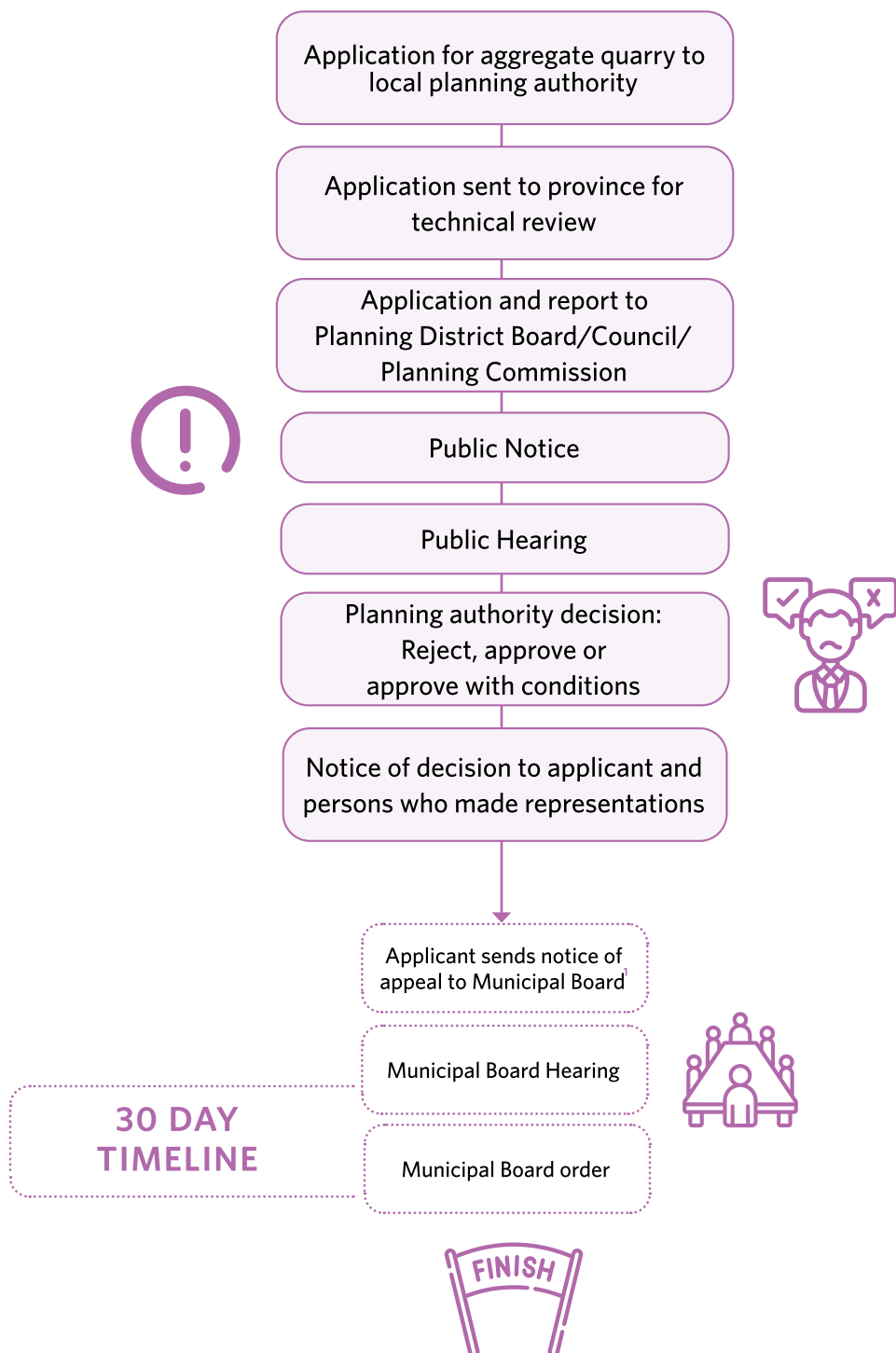
Conditional Use Aggregate Quarries

Conditional uses for aggregate quarries require an additional step. A copy of the notice of a conditional use involving an aggregate quarry must be sent to the Minister at least 60 days before the matter is heard. The 60-day notice period on aggregate proposals provides the opportunity for an interdepartmental technical review to help inform the local decision making process.

Appendix 18 provides a sample Aggregate Quarry Enquiry Form that municipalities and planning districts may use as a support resource. The information provided by the form will help Council and the Technical Review Committee assess the conditional use application.

SECTION 7

Conditional Use Approval Process for Aggregate Operations



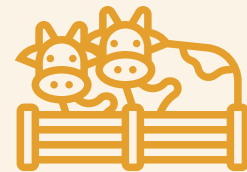
¹ Applicant has 14 days to appeal

7.5

Conditional Use Livestock Operations

Conditional uses involving livestock operations are treated differently under the Act. **All conditions must be relevant and reasonable, and can only deal with the following matters:**

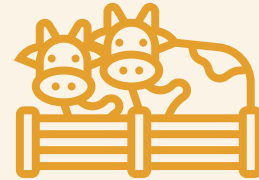
- ensuring conformity with a development plan, secondary plan, and / or zoning by-law,
- reducing odours by requiring covers on manure storage facilities and / or requiring shelter belts – but no conditions regarding the storage, application, transport or use of manure are allowed, and
- requiring the owner to enter into a development agreement dealing with:
 - construction timing,
 - traffic control,
 - construction or maintenance of roads, traffic control devices, fencing, landscaping, shelter belts, or drainage works, and
 - payment to the planning district or municipality to construct any of these.



For small livestock operations involving **fewer than 300 animal units**, there are limitations on the types of conditions that can be applied as outlined in [Section 107](#).

As per [Section 187](#) of the Act, restrictions or conditions cannot be imposed on the location or number of animal units involved in a livestock operation, except as provided for in a development plan or a zoning by-law.

The remainder of this section pertains to livestock operations involving **300 or more** animal units (AUs).



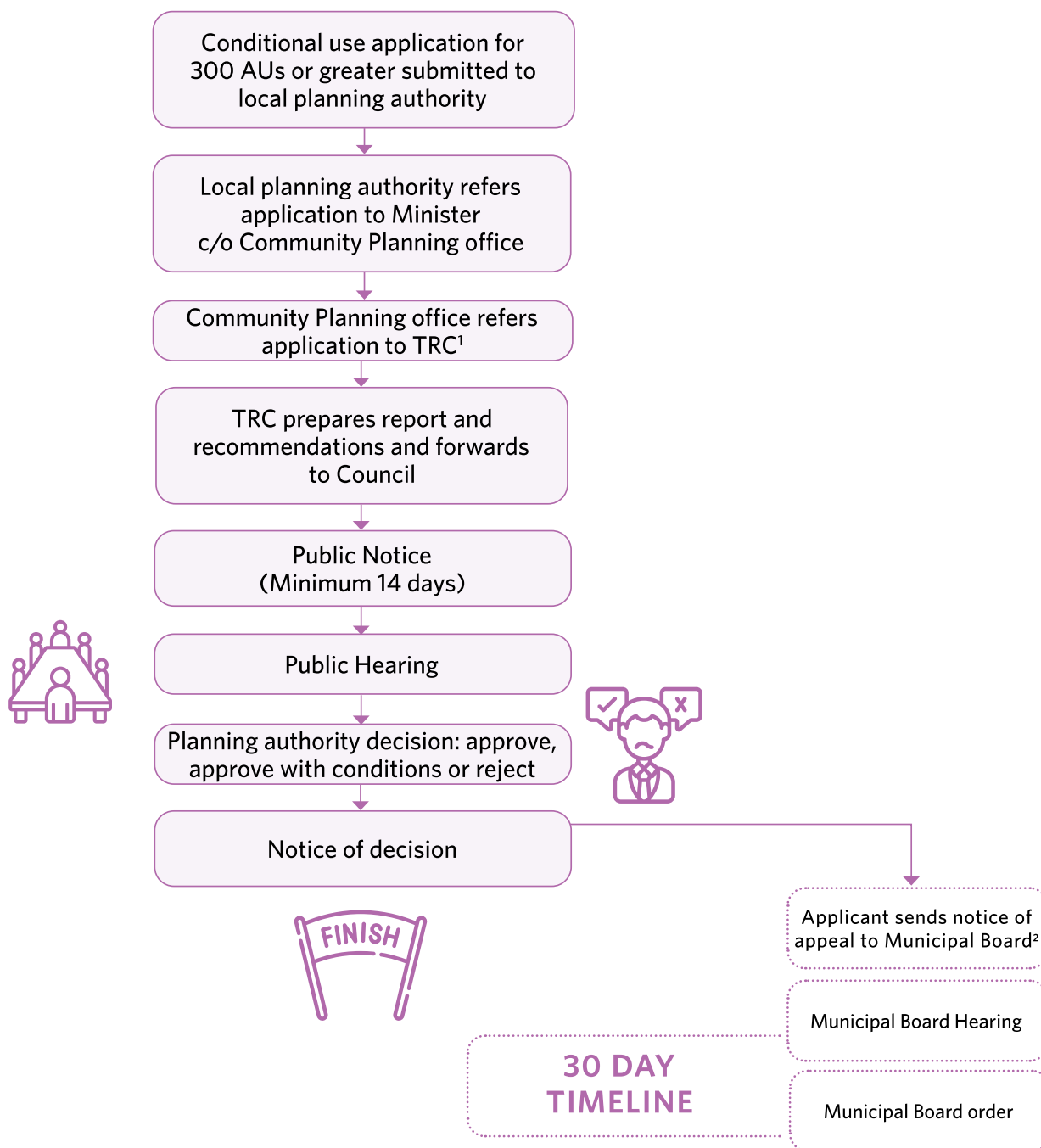
7.5.1

Livestock Operations Involving 300 or More Animal Units

Conditional use application for livestock operations involving 300 or more animal units (AUs) are referred to the Provincial Technical Review Committee (TRC). There are limitations on the types of conditions that can be imposed upon approval. The flow chart for Conditional Use for Large Livestock Operations outlines the process for local planning authorities including planning district boards, municipal councils, and planning commissions to review these types of conditional use applications. [Appendix 7](#) for a checklist of requirements for conditional use applications for large-scale livestock operations.

The Planning Act

Conditional Use Approval Process for Large Livestock Operations



¹ Applicant submits completed Site Assessment to TRC. The Site Assessment is posted to the public registry for 30 days. Refer to the Livestock Technical Review webpage for more information (<https://www.gov.mb.ca/mr/livestock/>)

² Applicant has 14 days to appeal

7.5.2

Technical Review Committees

A conditional use application for a livestock operation involving 300 or more animal units must be referred to the Minister, who must then refer it to the Technical Review Committee (TRC) appointed for the applicable region.

The TRC must then prepare a report with its findings and recommendations and submit it to the planning district board, council or planning commission, that must make the report available for inspection at the applicable municipal or planning district office. Council must consider the findings of the report in their decision.

The Act gives the Lieutenant Governor in Council the authority to make regulations respecting the review of applications received by the Committee - [Regulation 119/2011](#) came into effect Jan. 1, 2012.

7.5.3

Hearings

The planning district board, municipal council or planning commission must hold a public hearing for the application, where anyone can give representation. At least 14 days before the hearing, notice must be sent to the applicant, Minister, all adjacent planning districts and municipalities, and all property owners within three kilometres (including those outside the district or municipality). The notice must indicate that the Technical Review Committee report can be reviewed or copied at the office of the planning district or municipality.

The notice must be posted on the property in accordance with [Section 170](#) of the Act. It must also be published in a newspaper with general circulation in the planning district or municipality, or posted prominently on the website of the newspaper continuously until the hearing. If there is no such newspaper, the notice must be posted conspicuously at the office of the planning district or municipality and in a minimum of two other public places in the planning district or municipality.

7.5.4

Decision

The planning district board, municipal council or planning commission must make an order rejecting or approving the application after the public hearing and send a copy of its decision to the applicant, Minister, and every person who made representation at the hearing. The application can only be approved if the Technical Review Committee has determined that the proposed livestock operation will not create a risk to health, safety or the environment. The proposal must also be assessed

SECTION 7

CONDITIONAL USES

using the same criteria as typical conditional use applications.

The types of conditions of approval that can be imposed on livestock operations involving 300 or more animal units are limited in the same manner as those involving fewer than 300 animal units outlined earlier. However, conditions can also be added that implement recommendations made by the Technical Review Committee.

If a condition is not complied with, conditional approval can be revoked. The livestock operation subject to the application cannot be established (or expanded, as the case may be) unless, and until, the conditional use application is approved, conditions are complied with (or the applicant agrees to comply), and any other applicable approvals (e.g. permits, licenses) are obtained.

Of note, as per [Section 72](#) of the Act, zoning by-laws must establish siting and setback requirements for livestock operations that are consistent with standards established by regulation as well as the livestock operation policy of the planning district or municipality. Part 5 in the [Provincial Planning Regulation](#) (81/2011) contains siting and setback requirements.

7.6

Appeals Concerning Aggregate Quarries and Large-Scale Livestock Operations

An applicant can appeal to the Municipal Board regarding the decision of a planning district board, municipal council or planning commission to either reject or add conditions of approval onto a conditional use for an aggregate quarry or large-scale livestock operation. An applicant may also appeal the timing for entering into a development agreement or the terms of the development agreement.

As per [The Mines and Minerals Act](#), 'aggregate quarry' means a quarry from which aggregate is produced; **'aggregate' means a quarry mineral that is used solely for construction purposes or as a constituent of concrete** other than in the manufacture of cement and includes sand, gravel, clay, crushed stone and crushed rock.



The applicant must send a notice of appeal to the Municipal Board (Board) within 14 days of the planning district board, municipal council or planning commission giving its notice of decision. The Municipal Board must then hold a

SECTION 7

CONDITIONAL USES

hearing, sending notice to the appellant, the board, council or planning commission and any other person The Board considers appropriate at least 14 days prior to the hearing.

Within 30 days of the conclusion of the hearing, the Board must make an order rejecting or approving the appeal. The Board can add any conditions of approval that the board, council or planning commission could have as outlined in [Section 116\(2\)](#). The board, council or planning commission continues to have the ability to revoke the approval should there be non-compliance of any conditions.

Read More

- [Livestock Technical Review](#)
- [Technical Review Committee Regulation 119/2011](#)
- [Provincial Planning Regulation 81/2011](#)
- [Manitoba Municipal Board](#)



Subdivision Control

Part 8 of The Act is related to subdivision control
and related processes

8

8.1

What is a Subdivision?

Land subdivision is the process of creating legal titles for two or more lots of land from one original title. Examples of subdivision include when land is split into two or more parts, property boundaries are rearranged, or a lease (for 21 years or more), mortgage or other instrument is registered that has the effect of subdividing the parcel. In any case, the subdivision of land must conform to the local development plan and zoning by-law and the subdivision must be suitable for the use it is intended.

In Manitoba we typically encounter three different types of subdivisions:

- **Standard:** These are all subdivisions that create two or more additional lots. The majority of subdivisions fall into this category.
- **Minor:** These are single-lot subdivisions or boundary realignments where a maximum of one new lot is created. To qualify for a minor subdivision, the application must (i) comply with the development plan, zoning by-law and any applicable secondary plan, (ii) no new public roads may be created, and (iii) the subdivision does not require any change in access to a provincial road or provincial trunk highway.
- **Bare land condominiums:** A bare land condominium is like a plan of subdivision and each bare land unit is treated as if it were a lot. The difference between a bare land plan and other condominium plans is that a bare land plan will show parcels of land as units or common area. These units may include buildings, but the unit would not be completely covered by said building plan. This type of subdivision follows the standard subdivision process.



Refer to [Subdivision in Manitoba](#) for more detailed information on the subdivision process.

8.2

Purpose of Subdivision Approval

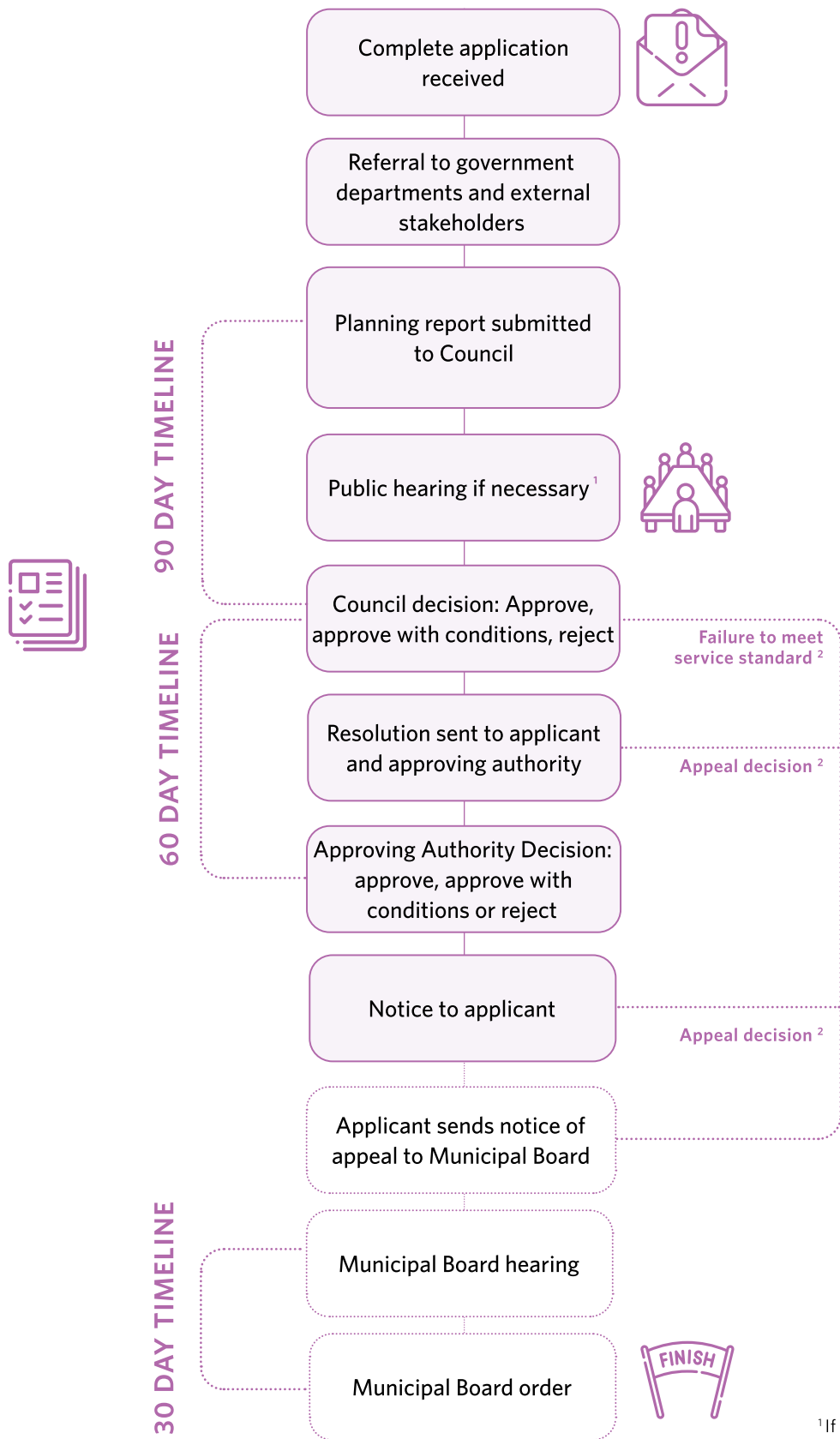
Subdividing land is a complex process. There are multiple reasons why a land-owner may want to subdivide their property, such as a farmer that wants to separate the yard site from the larger agricultural holding or a large-scale residential subdivision. However, there are numerous legal requirements that must be met so that land rights and ownership are protected.

Subdivision approval ensures that:

- the land is suitable for the proposed new use.
- the proposed subdivision conforms with the development plan and zoning by-law.
- existing and future residents of the community are protected from developments that are inappropriate for the community, or place undue stress on community services and infrastructure.

The Planning Act

Subdivision Approval Process (Standard)

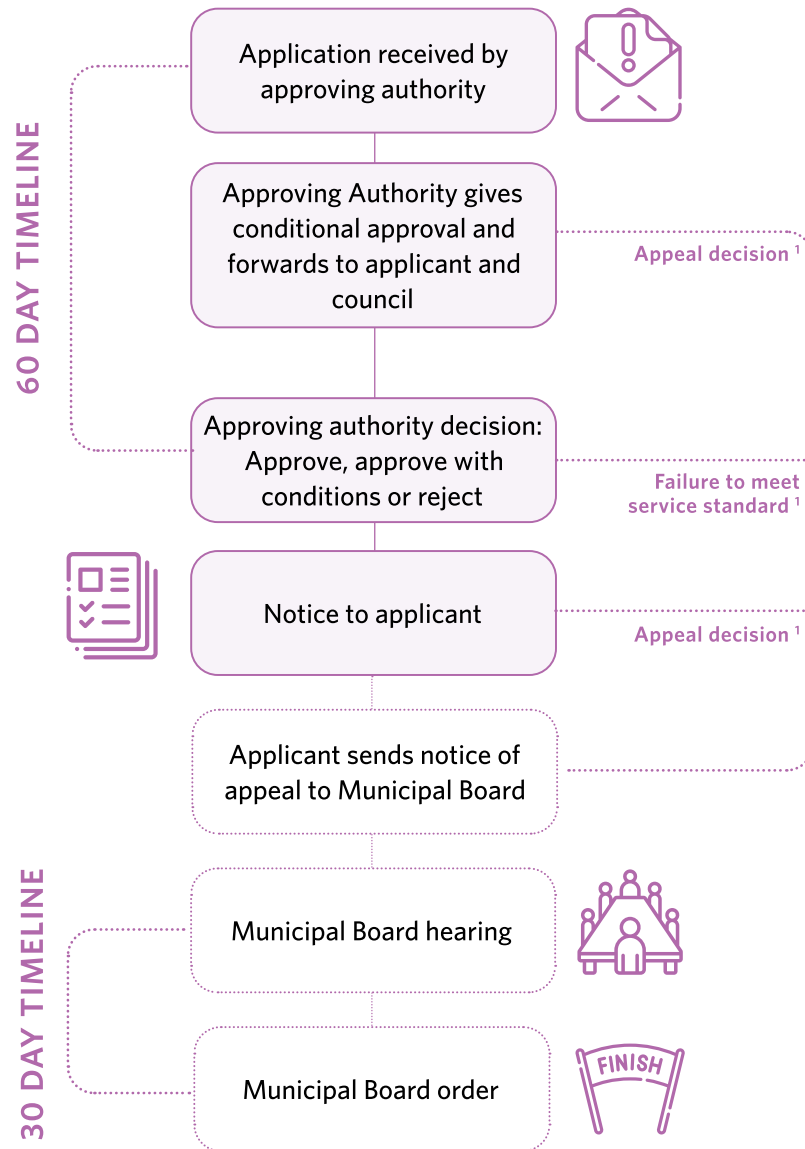


¹ If new public road is proposed

² Applicant has 14 days to appeal

The Planning Act

Subdivision Approval Process (Minor)



¹ Applicant has 14 days to appeal

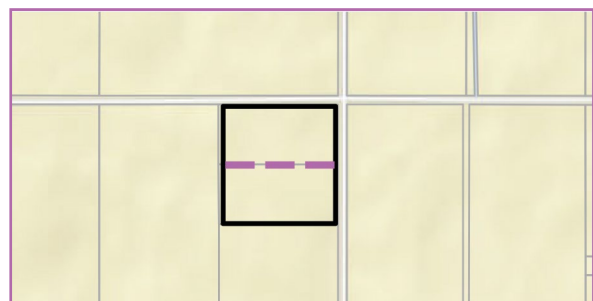
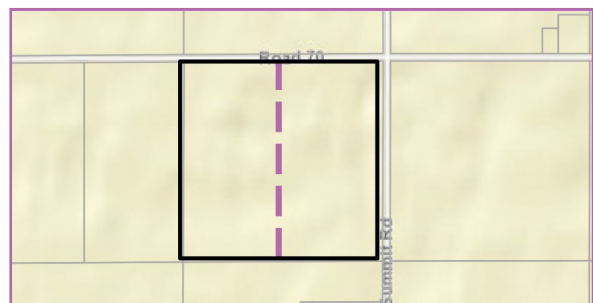
8.3

When Subdivision Approval is Required

A subdivision must be approved (by the appropriate approving authority) under the Act before it can be accepted for registration at the land titles office. The approving authority may be the board of a planning district, the council of a municipality, or the Minister of Municipal and Northern Relations. However, there are circumstances where approval from the approving authority is not required.

This includes when each parcel resulting from the subdivision consists of the following, and can be handled directly at the Land Titles Office:

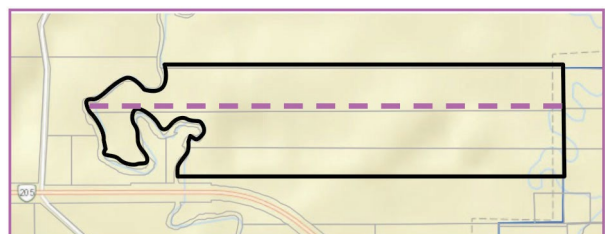
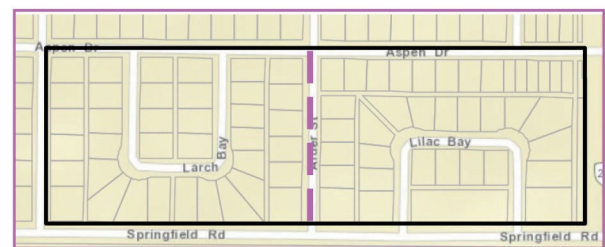
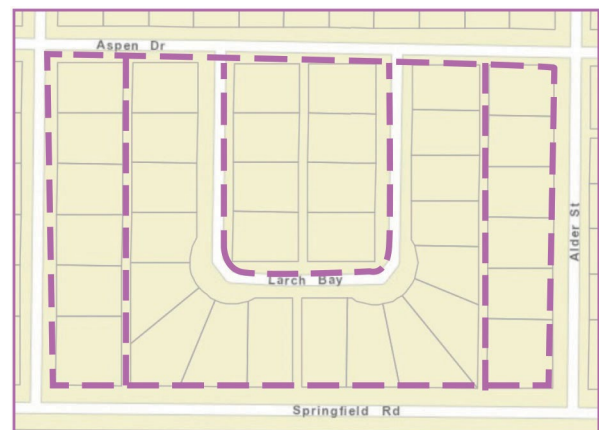
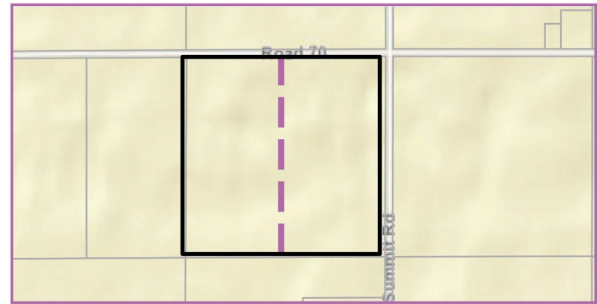
- at least 80 acres, and abuts a public road (namely when a quarter section is split into two, 80-acre parcels)
- two or more legal subdivisions that abut each other, abut a public road, or are being consolidated with an adjoining parcel that abuts a public road. Legal subdivision is a section that has been divided into 16 equal parcels (rather than quarters)



SECTION 8

SUBDIVISION CONTROL

- a parcel of approximately equal area to the other parcel created by the subdivision of an entire quarter section where the parcels abut each other and either abut on a public road or are being consolidated with an adjoining parcel that abuts on a public road
- one or more whole lots or blocks in a registered plan of subdivision, where the entire subdivision is still held under one title and each separate title results in a block of lots
- one or more whole lots or blocks and any existing part or parts of a lot or block contiguous thereto in a registered plan of subdivision
- at least one parish lot, or more if contiguous, in either the inner or the outer two miles, or a settlement lot, not including a woodlot or a park lot



There are additional circumstances when approval from the approving authority is not required. For example:

- The parcel resulting from the subdivision is not contiguous to and does not abut any other land described in the certificate of title, but does abut on a public road or is being consolidated with adjoining land that abuts on a public road,
- The land is being acquired or disposed of, by His Majesty in right of Canada or Manitoba, or by Manitoba Hydro,
- The land is being acquired by a municipality for the purpose of (i) widening or extending a public road, or (ii) constructing, opening or making a new drain, or widening, altering, diverting or straightening an existing drain under The Municipal Act,
- The land was part of a government road allowance, public road or public reserve that has been closed by by-law and is being consolidated with adjacent existing titles, or
- The land is part of a railroad right-of-way and is being consolidated with adjacent existing titles.

8.4

Restriction on Subdivision Approval

A subdivision cannot be approved unless it conforms to the applicable development plan and zoning by-law, as well as any applicable secondary plan and [**Manitoba Subdivision Regulation 137/2006**](#).

8.5

Applying for Subdivision Approval

The owner of land, or someone acting on behalf of the owner, may apply for a subdivision. Applications for subdivision are submitted to the appropriate approving authority. In Manitoba, two planning districts have been granted approving authority for subdivisions, including the:

- Red River Planning District, and
- South Interlake Planning District.

The City of Brandon has been granted approving authority for the subdivision of land in Brandon. The Community Planning offices in Beausejour, Brandon, Dauphin, Morden, Portage la Prairie, Selkirk, Steinbach and Thompson have been delegated approving authority on behalf of the Minister of Municipal and Northern Relations.

The board or council must confirm with the applicant the specific date the subdivision application was received. From that date, the board or council has 20 days to determine if the application is complete. Applications are considered complete if they include all of the required documentation and associated fees. If the application is deemed incomplete, notice must be given to the applicant identifying the missing items. The 20-day time period to determine the completeness of a subdivision application can be extended provided that there is an agreement in writing between the applicant and the board or council.

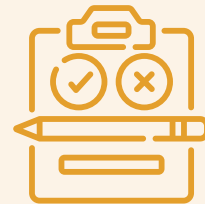
SECTION 8

SUBDIVISION CONTROL

The approving authority will determine if the application is a standard or minor subdivision. Refer to [Appendix 8](#) for a checklist for subdivision applications and [Appendix 9](#) for a checklist for minor subdivision applications.

If the application is for a standard subdivision, then the approving authority circulates the application to government departments and agencies for comment. Departments and agencies have 20 days to provide comments. Refer to the [Subdivision in Manitoba guide](#) for typical requirements and conditions of subdivision approval from other departments and agencies.

After the comments are received, the approving authority will prepare **a planning report with recommendations** and forward it to the council of the municipality in which the subject land is located.



If the application is deemed to be a minor subdivision, then the approving authority may issue conditional approval with any conditions deemed appropriate and forward a copy of the conditional approval to the council of the municipality in which the subject land is located. A minor subdivision must meet specific criteria. The approving authority has the ability to remove a subdivision application from the minor process. The approving authority may add or remove a condition at any time before a certificate of approval is issued regarding a minor subdivision.

8.6

Review by Council

Council has the authority to approve a subdivision application, to approve the application with or without conditions, or to reject the application. The decision is passed by council resolution. If council rejects the subdivision application, written reasons must be provided. If the proposed subdivision creates a public road or extends a public road, then a public hearing must be held before passing a resolution approving or denying the application to receive representations on the proposed subdivision. Notice for the public hearing must be given in accordance with **Section 169** of the Act.

Council must provide the approving authority with a certified copy of the resolution. Recent amendments to the Act now require Council to make a decision within 90 days of receiving the application and planning report. If Council fails to make a decision within 90 days of receiving the application and planning report, the applicant may consider their application to have been rejected and may make an appeal to the Municipal Board. The approving authority also has a deadline to make a decision regarding the subdivision application. The approving authority has 60 days from receiving Council's resolution to issue a decision on the subdivision application. If a decision is not made within 60 days, then the applicant may consider their subdivision application to be rejected by the approving authority and may appeal to the Municipal Board.

The 90-day time period to make a decision and pass a resolution regarding a subdivision application can be extended provided that there is an agreement in writing between the applicant and the board or council.

8.7

Minor Subdivisions

After receiving the conditional approval and application from the approving authority, Council may approve, with or without conditions, or reject the application by resolution. Council may add, vary or remove conditions prior to the issuance of the certificate of approval. Timelines also apply to minor subdivisions. The applicant may appeal to the Municipal Board if Council does not make a decision on the minor subdivision application within 60 days.

The 60 day time period to make a decision and pass a resolution regarding a minor subdivision application can be extended provided that there is an agreement in writing between the applicant and the board or council.

If Council rejects the application, then the previous decision of the approving authority is rescinded.

8.8

Final Decision By Approving Authority

After receiving the decision from Council, the approving authority may give conditional approval subject to any conditions specified by Council or any additional conditions that the approving authority considers appropriate, or reject the application. All conditions imposed by Council must be included in the conditional approval letter. For potential conditions that may be added to a conditional approval, refer to [Section 135](#) of the Act and [Part 8.12](#) of this handbook. Notice of the decision of the approving authority must be sent to the applicant, council, and to the Minister. In this case, the notice is sent to the Minister, care of the appropriate regional Community Planning offices, or to the planning district, if it is the approving authority.

If the approving authority fails to make a decision within 60 days from the date of the council resolution, the subdivision application is considered to be rejected. The applicant may appeal this type of rejection to the Municipal Board. Conditional approvals are valid for two years. Prior to expiration, and for an applicable fee, the applicant may apply via a written request to extend this conditional approval period by an additional 12 months.

The approving authority may revoke a conditional approval it believes was issued in error. In these circumstances, the applicant is entitled to be compensated for their related expenses. Notice of the revocation must be sent to the municipality and it may not be appealed.

8.9

Appeal to Municipal Board

An applicant may appeal the decision of the approving authority (which may be the Province, the planning district or the municipality) to the Municipal Board. The applicant may appeal:

- the decision to approve or reject an application,
- any of the conditions that are part of the conditional approval, or
- a time violation.

The appeal must be sent to the Municipal Board within 14 days of receipt of the decision of the approving authority, or 14 days after a non-decision of the approving authority or municipality. The notice of appeal must include the legal description of the land to be subdivided, the name of the municipality in which the land is located, the name and address of the applicant, the name and address of the appellant, and if applicable, the description of the conditions being appealed.

The Municipal Board must hold a hearing. Notice of the hearing is to be sent to the applicant, the Minister, the approving authority, the council and any other persons the board considers appropriate, at least 14 days before the hearing. The Municipal Board is required to make an order to reject the subdivision or to approve the subdivision, subject to any conditions it deems appropriate. The Municipal Board must make this order within

30 days after the conclusion of the hearing. A copy of the order is to be sent to the applicant, the approving authority, the council, the Minister and any other person who was part of the appeal.

The conditional approval will expire in two years if all conditions are not met, unless extended for a 12-month period under [Section 127](#). Recent amendments to the Act allow the Municipal Board to determine if the delay of the decision by the planning district or municipality is unreasonable. If the Municipal Board deems the delay unreasonable, then it has the ability to require a planning district or municipality to pay some, or all, of the costs incurred by the Municipal Board in hearing an appeal, and the appellant's costs related to the appeal.

8.10

Certificate of Approval

A certificate of approval is issued for a subdivision after the approving authority considers all conditions of the conditional approval to have been met by the applicant. The certificate of approval, along with the signed mylars, are necessary to register the subdivision at the land titles office. Mylars are not required for registration at the land titles office for subdivisions completed by legal description.



The certificate of approval must be sent to the applicant, the council and the Minister (care of the Community Planning office). The certificate of approval is **valid for 24 months** and no extensions are permitted. Note that there is a transitional period that allows a certificate of approval issued before May 20, 2021 to be extended for one additional 12-month period.

8.11

Waiting Period for New Applications

If the approving authority, or the Municipal Board, rejects a subdivision application, the approving authority can refuse to accept another application on the same land for up to six months.

8.12

Conditions of Subdivision Approval

When a subdivision application is conditionally approved, there are usually a number of conditions that the applicant must meet for the application to become final. The approving authority will apply the conditions that are most relevant to the subdivision and the local circumstance. Conditions are added to ensure that the subdivision will comply with the Act or other provincial legislation, or any regulations made under legislation, or a development plan, secondary plan or zoning by-law.

Conditions may also be added to ensure that the requirements of any municipal by-laws are also met or to restrict the land uses that may be carried out on the property. Conditions are also included that are required by other government departments.

SECTION 8

SUBDIVISION CONTROL

Typical conditions of approval include:

Confirmation from the municipality that the **property taxes are up-to-date**. Also note that the municipality may charge additional fees, such as capital lot levies.

That the **developer enter into a development agreement** with the municipality. For more information on development agreements refer to Section 9.2.

That a **conditional use**, if necessary, has been obtained.

That a **variance**, if necessary, has been obtained.

Easement agreements are entered into.

That the **zoning by-law is amended**, if necessary.

A drainage plan **has been approved**.

The **onsite wastewater management system complies** with the Onsite Wastewater Management Systems Regulation.

A **valid licence** has been obtained for an **engineered storm water management and drainage plan** and/or the extension of the piped water or wastewater system.

Onsite drainage will **not negatively impact** the provincial highway system.

Appropriate **permits** for new access onto a Provincial Road or Provincial Trunk Highway have been obtained.

A **Heritage Resources Impact Assessment** has been completed, if necessary.

SECTION 8

SUBDIVISION CONTROL

When land is required for a public reserve or school, the amount of land dedicated depends on the circumstances of the proposal. The Act places limits on the amount of land that can be taken. This condition may be addressed through the development agreement, which would limit any use, activity or development of the land.

In lieu of land, municipalities may require the landowner to provide money to the municipality, school board or school district. The amount that is to be paid is equivalent to the value of the land that would have been dedicated. Council must state in its approving resolution that this is the condition.

The Act prohibits developers (outside the City of Winnipeg) from advertising that a school is to be built in a new subdivision, unless the school division or district has issued tenders for the construction of a school. **Any advertisements for schools are subject to fines.**



All conditional approval letters also list requirements of approval. Requirements cannot be appealed to the Municipal Board. Requirements typically include the following:

- The fees payable to the Province have been paid. The lot approval fees are calculated for every new lot created.
- A Plan of Subdivision, or Plan of Survey, has been submitted. The Plan of Subdivision, or Plan of Survey, must be prepared by a Manitoba Land Surveyor. The mylars are to be submitted to the appropriate approving authority.
- A plan showing the total area of each lot, calculated by a Manitoba Land Surveyor.

8.13

Use and Disposal of Public Reserve Land

Through the subdivision process, land may be dedicated to become a public reserve. Public reserve land can only be used for public parks; public recreation areas; natural areas; planted buffer strips separating conflicting land uses; or for public works.

Public reserve land may be registered in the name of the municipality or the Crown. If registered in the name of the municipality and used as a public park or public recreation area, but not designated as public reserve on a registered plan of subdivision, that land is still considered to be a public reserve under the Act.

Public reserve land may be closed by a municipality, regardless of which entity to which the public reserve is registered (either the municipality or the Crown). For more information on how a municipality can close a public reserve, refer to the checklist in [Appendix 10](#) and the template for a public reserve closing by-law in [Appendix 17](#). If there are encroachments on the public reserve, such as a structure or a driveway, then the municipality will have to resolve those issues first. If the encroachments have easements rights registered against the title, the municipality has to deal with those registered interests first before closing and transferring the land. If the interest is not registered, the municipality would have to determine the nature of the interest located on the public reserve.

Council may close the public reserve by

- passing a by-law,
- obtaining written approval from the Minister care of the Community Planning office, and
- registering the approved by-law at the land titles office.

The municipality must hold a public hearing between first and second reading of the by-law, and give notice of the hearing in accordance with [Section 169](#) of the Act. Refer to [Part 11](#) for more information on public hearings. If money is received from the sale or lease of the land that was a public reserve, then that money must be used only for public parks or other recreational purposes.

The same premise applies to money received by the municipality in place of dedicating land for schools. Money received from the sale or lease of land that was intended to be a school site must only be used for capital expenditures.

A school board must give public notice if it proposes to dispose of land and must hold a public hearing to receive representations from any person that may be affected by the disposal of land.

8.14

Fees, Charges and Capital Levies

Boards or councils may pass by-laws to set fees and charges to be paid by applicants during the subdivision process. The fees can relate to the technical, administrative, professional, consultative or other services required by the planning district or municipality to examine and approve a subdivision application.

SECTION 8

SUBDIVISION CONTROL

A council, via by-law, can set the amount of the levies to be paid by applicants to compensate the municipality for any capital costs that may be incurred by the municipality by the subdivision of the land. For example, the municipality may charge a levy to compensate for the cost of road construction or extending municipal water and wastewater services to the site.

8.15

Obsolete Plans of Subdivision

An Obsolete Plan of Subdivision occurs when land is not developed for a long period of time and is not in substantial compliance with current regulations. Council may then declare the plan to be obsolete, meaning that any development on the affected land would not be permitted unless the land is subdivided again. To permit construction of a structure, the land must be re-subdivided.



Once a plan is declared as obsolete, the land must be re-subdivided in order to issue a permit in accordance with the applicable zoning by-law.

8.16

Cancelling Plans of Subdivision

Council may apply to the Municipal Board to obtain an order to cancel, in whole or in part, a registered plan of subdivision to allow for the physical development of the municipality. The Municipal Board, after holding a hearing, must,

- make an order to reject the application,
- approve the cancellation subject to conditions, or
- direct a new plan of subdivision to be registered, subject to any conditions.

8.17

Regulations

Currently, under the Act, [Subdivision Regulation 137/2006](#) applies to the whole province (except the City of Winnipeg).

The regulation may also prescribe subdivision standards and requirements, the criteria that the approving authority must consider when processing a subdivision application.

SECTION 8

SUBDIVISION CONTROL

Subdivision Regulation 137/2006 addresses:

Application procedures for applicants, Council, the approving authority or other interested persons.

The **minor** subdivision process.

The process for **referring subdivision applications** to other government departments and agencies.

The requirements of a **Subdivision Application Map (SAM)**.

The form of the **subdivision application** or other documents to be submitted.

General evaluation criteria applied to subdivision applications. This includes reviewing the existing land use, the proposed land use, existing and proposed driveways, and drainage.

Minimum road standards and lot requirements for areas not covered by a zoning by-law.

Public road frontage, double-fronting lots and depth-to-width ratios.

Time periods for **processing applications**.

The fees to be paid by applicants.

SECTION 8

SUBDIVISION CONTROL

Read More

- [Subdivision in Manitoba](#)



Development Requirements

Part 9 of the Act pertains to development permits, development agreements and conforming construction agreements.

9

9.1

What are Development Permits?

A development permit is a permit approved by the municipality (or delegated authority) that specifies how development is to occur on a given parcel of land.

Development cannot take place unless a development permit has been issued and the development complies with the permit and the applicable zoning by-law. Applications for development permits may be made to the board of a planning district or to the council of the municipality in which the proposed development is located. A designated employee or officer of a municipality or planning district must determine if the development permit application is complete within 20 days of receiving the application. Applications are considered complete if they include all of the required documentation and associated fees. If the application is deemed incomplete, notice must be given to the applicant identifying the missing items. Once the application is deemed complete, it must be forwarded to the planning district board or council as soon as reasonably practicable.

The board, or council, may issue the development permit if it is satisfied that the proposed development conforms to the development plan, the zoning by-law and any applicable secondary plan. It must make this decision within 60 days of receiving the permit application. The board, or council, may reject the development permit application if the proposal does not conform to the development plan, zoning by-law or any applicable secondary plan.

SECTION 9

DEVELOPMENT REQUIREMENTS

The planning district board or council may withhold issuing the development permit for a further 90 days if at the time the application was made:

- the planning district board or council has authorized the preparation of development plan, zoning by-law, secondary plan or an amendment to any of those by-laws, and
- the proposed development generally does not conform to the proposed development plan, zoning by-law, secondary plan or proposed amendment to those by-laws.

If the proposed development plan, zoning by-law, secondary plan or proposed amendment is not adopted during that 90-day period, the development permit application must be issued, provided that it generally conforms to any by-law in effect at the time the application was made.

Applicants may appeal to the Municipal Board if their development permit applications have been rejected or if any conditions have been imposed on their development permits. Applicants may also appeal if the prescribed timelines for issuing a development permit have not been met. If the Municipal Board believes there was an unreasonable delay in issuing the development permit, the planning district or municipality may be required to pay some, or all, of the costs incurred by the Municipal Board in hearing the appeal, and the appellant's reasonable costs related to the appeal.

9.2

Purpose of Development Permits

Development permits must be obtained from the planning district or municipality prior to development taking place.

This ensures that:

- specific requirements regarding the character of development, including landscaping, and the siting, form, exterior design and finish of buildings and structures conforms to the zoning by-law.
- conditions respecting the sequencing and timing of construction may be added if deemed necessary.



A development permit is different than a building permit. A development permit allows the municipality or planning district to review a development to see if it meets the requirements of the development plan and zoning by-law. There may be conditions attached to a development permit.

A building permit is required before construction begins and gives authorization to erect, demolish, alter or repair a structure. A building permit is reviewed for compliance with the Building Code.

9.3

What are Development Agreements?

A development agreement is a contractual agreement between a municipality and the owner of a property relating to development or redevelopment of that property. Development agreements establish the terms and conditions for the development and use of the land. They typically require that the developer pays for, and constructs, municipal services to the satisfaction of the municipality. As a condition of amending a zoning by-law, granting a variance order, or approving a conditional use, a planning district, municipality or planning commission may require the owner of the affected property to enter into a development agreement under [Section 150](#) of the Act. Development agreement terms for subdivisions are regulated under [Section 135](#) of the Act. Development agreements typically run with the land, meaning that they are attached as a caveat on the status of title and that subsequent owners of the property can be bound by the development agreement requirements.

The development agreement under [Section 150](#) of the Act may address one or more of the following:

- the land use and use of the proposed or existing building,
- the timing of construction for any new buildings or structures,
- the site design and design of the exterior of any new buildings,

SECTION 9

DEVELOPMENT REQUIREMENTS

- the provision of affordable housing, if applicable,
- the provision of parking,
- landscaping for the site, as well as the provision of open space, and
- the construction or maintenance of municipal works including (but not limited to) roads, water and wastewater, drainage, street lighting and access.

The board or council must confirm with the applicant the specific date the application for the development agreement amendment was received. From that date, the board or council has 20 days to determine if the application is complete. Applications are considered complete if they include all of the required documentation and associated fees. If the application is deemed incomplete, notice must be given to the applicant identifying the missing items. The 20-day time period to determine the completeness of the development agreement amendment application can be extended provided that there is an agreement in writing between the applicant and the board or council.

If a board, council or planning commission fails to complete a development agreement within 90 days after the complete application is received, (for all planning applications, except subdivisions) the owner may appeal to the Municipal Board. The 90-day time period to make a decision on a development agreement application or to agree to the terms and conditions of a development agreement can be extended provided that there is an agreement in writing between the applicant and the board or council. The applicant may also appeal the terms and conditions within the development agreement, or any proposed amendments to the development agreement.

SECTION 9

DEVELOPMENT REQUIREMENTS

To appeal, the applicant must send a notice of appeal to the Municipal Board. The notice of appeal should include the following information: the legal description of the affected land and the name of the municipality in which the land is located, the name and address of the appellant, and a description of the conditions in the development agreement that are being appealed. The Municipal Board, subject to subsection 24(3.2) of The Municipal Board Act, must hold a hearing to consider the appeal within 120 days after the notice of appeal is received. Following receipt of the appeal, the Municipal Board must send notice of the hearing to: the appellant, the applicable local authority (board, council, or planning commission), the regional planning board if applicable, and any other person the Municipal Board considers appropriate. Within 60 days of the hearing, the Municipal Board must make an order rejecting the requirement that the applicant enter into a development agreement or specifying the content of the development agreement. A decision by the Municipal Board is final and not subject to appeal.

The Municipal Board also has the authority to determine if there was an unreasonable decision by the planning district or municipality in dealing with the applicant's application. In such cases, the Board can order the planning district or municipality to pay some or all of the costs incurred by the Board and the appellant's reasonable costs.

Refer to the [**Guide to Development Agreements prepared by the Association for Manitoba Municipalities \(AMM\)**](#) for more information on the specific issues that may be addressed through the development agreement.

9.4

Purpose of Development Agreements

The requirement to enter into a development agreement under [Section 135](#) of the Act is a common condition of subdivision approval. The purpose of the development agreement is to:

- ensure that the development occurs as described in the agreement.
- allow municipalities an increased level of discretion when it comes to approving a development.
- ensure that the developer bears the cost and risk of the proposed development.
- ensure that the developer pays for, and constructs, municipal services to the satisfaction of the municipality.

9.4.1

Conforming Construction Agreements

A conforming construction agreement is an agreement between the property owner and the planning district or municipality that is issuing a building permit or variance order. These agreements provide flexibility when dealing with building separation and access to a property being permitted through another parcel of land.

Read More

[Guide to Development Agreements \(AMM\)](#)



Northern Manitoba

Part 10 of the Act applies to Northern Manitoba.

10

10.0

Northern Manitoba



References to “the Minister” means **the Minister appointed to administer The Northern Affairs Act**, except in Part 8 (Subdivision Control) where it continues to mean the Minister appointed to administer the Act.

While the Act applies to Northern Manitoba, some changes are necessary to account for the region’s unique governance structure. For example, Part 10 of the Act clarifies that when being applied to Northern Manitoba, the following rules apply:

- The Minister is deemed to be the council for unincorporated areas of Northern Manitoba. The Minister may delegate their authority to a community council (as defined in [The Northern Affairs Act](#)) to adopt, administer and enforce a development plan and/or zoning by-law, issue development permits, and enter into development agreements. The delegation of authority would take place via regulation and may be subject to terms and conditions – the [Northern Manitoba Planning By-laws Regulation 45/2002](#) was registered on March 15, 2002.

SECTION 10

NORTHERN MANITOBA

- An incorporated community (as defined in The Northern Affairs Act) is deemed to be a municipality and its council is deemed to be a municipal council. Should a development plan by-law and/or zoning by-law be adopted, the incorporated community's council would be the adopting authority.
- Where a development plan by-law is prepared by a community council, unlike the typical development plan adoption process, the Minister is not required to approve the by-law. The community council may give third reading to the by-law 60 days after it is submitted to the Minister or, if the Minister refers the by-law to the Municipal Board, 60 days after the Minister provides the community council with a copy of the Municipal Board's report required under [Section 50\(2\)](#) of the Act.
- A community council must file a copy of a development plan by-law or zoning by-law it has adopted with the Minister, in accordance with applicable regulations (e.g., the Northern Manitoba Planning By-laws Regulation linked in the 'Read More' section).
- The by-law comes into force 30 days after it is filed. The Minister may disallow the by-law in whole or in part by written notice to the community council, in which case the by-law (or the disallowed part) is deemed to be repealed.
- Sections [208](#) and 209 of the Act apply to applications related to livestock operations in areas of Northern Manitoba not subject to a development plan or zoning by-law.

Read More

- [The Northern Affairs Act](#)
- [Northern Manitoba Planning By-laws Regulation 45/2002](#)



Notices, Hearings and Decisions

Part 11 of the Act deals with processes related to notices, hearings and decisions for planning applications. It is relevant to many other sections of the Act.

11

SECTION 11

NOTICES, HEARINGS AND DECISIONS

11.1

Notices

When the Act requires a notice or other document to be given to a person, **Section 163(1)** states it may be personally delivered or sent by ordinary mail (in which case it is deemed to be received on the fourth day after it is mailed). It can also be sent by e-mail or other method of electronic communication, but only if the intended recipient has agreed to that method in writing.

Where these options are not possible or reasonable (e.g., if a property is vacant, or if the registered owner does not live in the community and the municipal records do not have a valid, current address), the notice or document is deemed to be sent if a copy is posted at the office of the applicable planning district or municipality in a conspicuous manner for seven consecutive days.

The notice must be posted in a prominent location at the municipal office. Placing the notice on the municipal website is not required, but is recommended.



SECTION 11

NOTICES, HEARINGS AND DECISIONS

Anyone who wants to inspect documents related to the matter advertised in the notice must be permitted to do so at the applicable office at times set out in the notice. Any documents that council is considering have to be made public, and copies of the documents must be provided for a reasonable fee (e.g., reflects the administration costs associated with copying and providing the copies). The fee must be for cost recovery purposes only.

Where a notice must be provided to those who made representation at a public hearing, and a written submission was made on behalf of more than one person, notice need only be sent to one of those persons.

SECTION 11

NOTICES, HEARINGS AND DECISIONS

11.1.1

Notice of Hearings

A notice of hearing required under the Act must:

- give the date, time and place of the hearing,
- provide a summary of the matter to be considered at the hearing,
- indicate that any person may make a representation on the matter at the hearing,
- state that documents related to the matter to be considered at the hearing may be inspected or copied at the office of the applicable planning district or municipality and any other location specified in the notice,
- in the case of a hearing to consider a proposed by-law of general application, describe the area affected, by reference to designations or zones in the planning district or municipality, or say that the by-law applies to the entire district or municipality, and
- in the case of a hearing to consider a matter affecting a specific property, identify the location of that property by its civic address or legal description.

SECTION 11

NOTICES, HEARINGS AND DECISIONS

There are two different sets of requirements for notices depending on the type of applications. These are outlined in Figure 9.

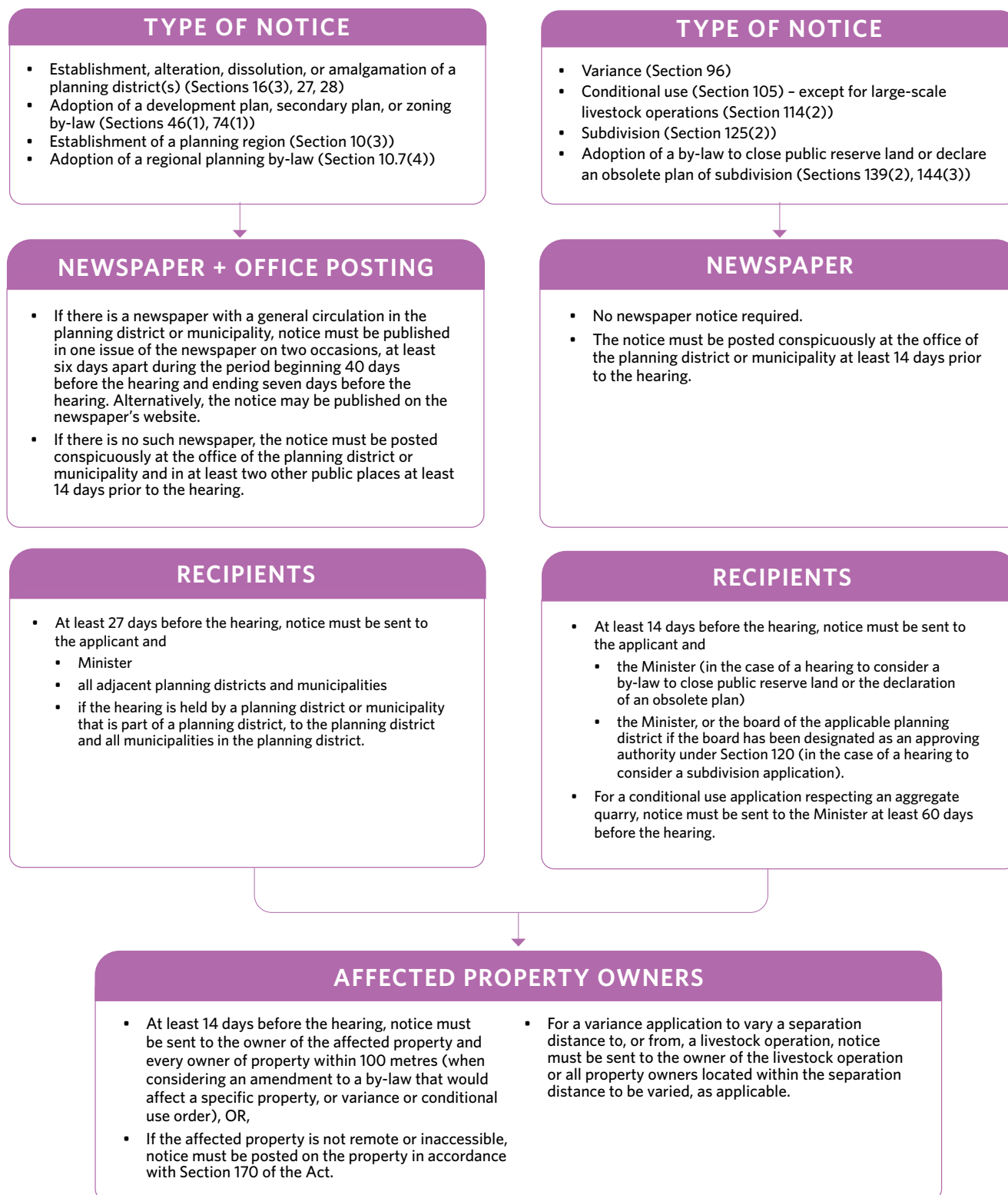


Figure 9: Requirements for Public Hearing Notices by Type of Planning Application.

SECTION 11

NOTICES, HEARINGS AND DECISIONS



Where notice must be posted on the affected property, it **must be at least 28 x 43 cm (11 x 17 in.)** in size with the words **NOTICE OF PUBLIC HEARING** printed in large bold letters.

It must also be posted outdoors for the 14 days immediately before the date of the hearing in conspicuous locations on the property facing each adjacent public road and not more than one metre inside the property boundary. Notices must be kept in legible form. Refer to [Appendices 22](#) to [25](#) for templates on public hearing notices for all major planning processes.

Evidence that a notice was posted on two occasions at least six days apart during the 14-day period is considered proof that the notice was posted for the entire 14-day period.

Photos of the posted notice with the date recorded on them is a good way of **documenting that posting requirements have been met.**



The onus to provide evidence of posting is on the entity responsible to give the notice (e.g., for a conditional use, the municipality would be responsible). Evidence is usually given in the form of an affidavit from the person within the municipality responsible for providing the notice.

SECTION 11

NOTICES, HEARINGS AND DECISIONS

If expanded notice is provided (e.g., sending notices to all property owners within 500 metres instead of the required 100 metres), it is recommended that this is done consistently for the same types of decisions to avoid confusing the public. The applicable municipality should consider adopting a policy stipulating the circumstances where extra notice will be given.

11.2

Hearings

The public hearing must be held at the same date, time and place as set out in the public notice. The planning district board or council must allow any person who wishes to make a representation on the matter to be heard, and must also keep written minutes of the hearing. The Act permits hearings to be conducted in-person or partly, or entirely, by means of an electronic facility, as long as the people participating in the public hearing are able to hear the proceedings of the meeting and participate.

Combined hearings are an option if the development application requires amendments to more than one by-law or other approvals are required. Under these circumstances, the notice of hearing for each matter may be combined into a single notice. Note that the same timelines apply, and if a decision is not made within 30 days after the end of the longest time period applicable, the applicant may consider their application to be rejected and can appeal the matter to the Municipal Board.

11.3

What is a Public Hearing?



Public hearings serve as a forum for the planning district board or council to receive representations. Public hearings may be conducted partly, or entirely, by means of electronic or another communication facility. The body holding a hearing must do so at the date, time and place outlined in the notice. The place, as defined in The Act, includes electronic facilities.

Any person who wishes to make a representation on the matter may do so by either making an oral submission at the hearing, or by submitting a written submission at, or prior, to the hearing. All written submissions must be read into the record by the body holding the hearing so that the submission is made public. The body holding the hearing must keep written minutes of the meeting and a record of all representations made.

A hearing may be adjourned, but unless the new hearing date is announced at the time of adjournment, notice must be given for the adjourned hearing as if it were a new hearing.

If a proposal requires amendments to more than one by-law or other approvals that require hearings, multiple hearings can be held together in a single combined hearing. Similarly, a combined hearing notice can be used instead of separate notices. However, municipalities and planning districts should consider the potential implications of a combined hearing.

SECTION 11

NOTICES, HEARINGS AND DECISIONS

The time period after which an applicant may consider their application rejected and appeal to the Municipal Board varies by type of application. Where there are conflicting timelines for different types of applications subject to a combined hearing, the longest applicable time period applies. If a public hearing is cancelled after it has been advertised, but before the hearing was held, then the process for advertising the public hearing must start over. If the public hearing is opened and then adjourned, as long as the adjournment date is announced while the hearing was open, then no new notice needs to be provided.

11.4

The Purpose of Public Hearings

Residents and other interested parties play an important role in decisions about how their communities will develop by participating in local planning and land use processes, such as public hearings. Public hearings are a requirement that allows affected persons to provide their views to the council or planning district board about the adoption of development plan by-laws, zoning by-laws, subdivisions where a public road is being created, and conditional uses. Public hearings also allow applicants to present their applications or proposals to council.

The public hearing:

- allows the proponent to communicate their plan for development, and
- ensures affected citizens are given an opportunity to express their opinions.

11.5

Decisions

Written reasons must accompany decisions to:

- resolve not to adopt a development plan by-law, secondary plan by-law or a zoning by-law, including a decision not to adopt an amendment to any of them, on application made by an owner of the affected property,
- reject an application for a conditional use, and
- reject an application for subdivision approval.

There can be many reasons why a planning application is rejected by council. Each council member is only responsible for their own decision, not those made by other council members. Ideally, council will be able to agree on the reasons and list all those given by each councillor who voted against the application. There may be no consensus for the reasons for rejection, but council must ensure the record includes all of the reasons. To ensure transparency and effective communication to the applicant, reasons should be registered by resolution, so that it is voted upon by all councillors and added to the public registry.

It is the responsibility of the regional planning board, board, council, planning commission or designated employee or officer to **ensure that written reasons accompany the decision to not adopt or reject an application**. The written reasons provide information about the considerations that the regional planning board, board, council, planning commission or designated employee considered in making their decision.



Enforcement

Part 12 of the Act is related to enforcement of by-laws under the Act.

12

12.0

Enforcement

A regional planning board, planning district board, or municipal council can pass a by-law to designate an employee or officer to carry out enforcement-related activities described in Part 12 of the Act. The Act gives a designated employee or officer the authority to enter property (e.g., land or building) to conduct an inspection or take an enforcement action. The inspection or action must relate to a by-law adopted under the Act that the planning region, planning district or municipality is authorized to enforce (e.g., zoning by-law or building by-law) and/or the terms or conditions of a permit, approval, or order made or issued under the Act.

A justice may issue a warrant if satisfied that entry has been, or likely will be, refused. The designated employee or officer must also give reasonable notice of the inspection or action, which must take place at a reasonable time. The only exception is in an emergency or extraordinary circumstance. Then, no notice, consent, or warrant is required.



Provided that it relates to the inspection, **the designated employee or officer can ask to see or copy certain items**, or remove a record, document, or other item, provided they issue a receipt. No person may interfere with the designated employee or officer, who must produce identification upon request.

SECTION 12

ENFORCEMENT

The designated employee or officer must have either the consent of the occupant, or a warrant to enter the property. Where a by-law and/or the terms or conditions of a permit, approval, or order made or issued under the Act are being contravened, a designated employee or officer may issue a written order to remedy the contravention. The written order must direct the person to remedy the contravention and set out a deadline for compliance. No later than 14 days after the order is made, the person subject to the order may require the board or council to review it by submitting a written request. The board or council must then confirm, vary, or rescind the order.

If the applicant does not comply with the written order within the time period set out in the order, the planning region, planning district or municipality may then take any reasonable action or measure to remedy the contravention, with related costs becoming a debt owed by the person in contravention.

The municipality or planning district can also apply to the Court of King's Bench for an injunction or other order, without initiating prosecution. The intent of a court order is to stop a person from acting in violation of a by-law.

12.1

Offences and Penalties

Contravention of the Act, a by-law adopted under the Act, or the terms or conditions of a permit, approval, or order made or issued under the Act is an offence. Each day the contravention continues is considered a separate offence.

The Act sets limits on penalties that can be applied upon conviction – a maximum fine of \$5,000 and/or a maximum of six months imprisonment for an individual and a maximum fine of \$20,000 for a corporation. Where the guilty party is a corporation, its director or officer who authorized, permitted, or acquiesced in the commission of the offence can be separately convicted as an individual. In addition to a fine, a justice may order the guilty party to remedy the contravention and repay any related expenses that the planning district or municipality incurred.

Prosecution must begin within two years of the alleged offence.

Miscellaneous Provisions

Part 13 of the Act contains miscellaneous provisions.

13

13.0

Miscellaneous Provisions

Where possible, these have been described elsewhere in this handbook.

Following are some provisions that have not been addressed:

- If the boundaries of a planning region, municipality or planning district are altered, the regional plan, development plan, zoning by-law and any secondary plan that are applied to that land continues to apply and must be administered by the new jurisdiction until the new jurisdiction amends their development plan by-law and zoning by-law to cover that land.
- Unless the person was acting in bad faith, no action or proceeding may be brought against a member of a board, council, special planning authority or planning commission, or any person acting under authority of the Act, for anything done, or not done, or for any neglect related to duties under the Act.
- Certified copies of planning district records are subject to Section 423 of [The Municipal Act](#).
- The Act prevails in the event of a conflict between it and [The Watershed Districts Act](#).

SECTION 13

MISCELLANEOUS PROVISIONS

The Minister may:

- make recommendations to the Lieutenant Governor in Council on the development of provincial land use policies,
- co-ordinate provincial land use and development policies and programs with federal and local government land use and development policies and programs,
- conduct a study of any issue related to land use and development in the province,
- issue guidelines to planning districts and municipalities on any matter under this Act,
- promote co-operation between planning districts and municipalities on regional land use and development issues, and
- promote public participation in the development of land use and development policies.



The Minister **may also provide advice and technical planning assistance** to a planning district or municipality upon request, and create regulations regarding planning districts.

SECTION 13

MISCELLANEOUS PROVISIONS

Following are the types of regulations that can be established by the Lieutenant Governor in Council:

- development plans,
- siting and setback requirements for livestock operations for the purposes of [Section 72\(3\)](#),
- the form or content of any document required under the Act,
- defining any word or expression used but not defined in the Act,
- respecting any matter necessary or advisable to carry out the purposes of the Act.

Read More

[The Municipal Act](#)



Appendix:

Additional Information

1

Additional Information

The Province remains committed to providing planning guides to support planning districts and municipalities. The following is a list of guides produced by the Province and other agencies to aid planning districts and municipalities in their land use decisions:

Calculating Supply and Demand for Residential Lands

Municipal and Northern Relations

A guide for conducting an analysis of residential lands in support of preparing a development plan.

Climate Change Adaptation through Land Use Planning

Municipal and Northern Relations

A guide for local governments to better adapt to climate change through their local response to global issues.

Climate Change Mitigation through Land Use Planning

Municipal and Northern Relations

A guide to inform land use planning decisions that mitigate climate change locally.

APPENDIX 1

ADDITIONAL INFORMATION

Conduct of a Public Hearing Under The Planning Act

McCandless & Associates

A manual to guide councils and CAOs on the conduct of public hearings where The Planning Act requires a public hearing.

Fire Protection Guide for Land Use Planning

Municipal and Northern Relations and Office of the Fire Commissioner

The guide outlines steps to integrate emergency services with land use planning.

Guide to Developing a Drinking Water Plan

Municipal and Northern Relations

A guide for developing Drinking Water Plans that will project infrastructure, supply and capacity needs.

Guide to Developing a Wastewater Management Plan

Municipal and Northern Relations

A guide for developing a Wastewater Management Plan that projects infrastructure needs and capacity into the future.

Guide to Development Agreements

AMM

This guide sets out general principles and approaches to land development issues and agreements.

Managing Change in Rural Manitoba: A Manual for Conservation Design

Municipal and Northern Relations

A guide to designing rural subdivisions that protect open space, woodlands, natural areas, wildlife habitats, and wetlands.

APPENDIX 1

ADDITIONAL INFORMATION

Municipal Boundary Changes Handbook

Municipal and Northern Relations

A guide to assist municipalities with the amalgamation or annexation processes.

Municipal Planning Guide to Zoning By-laws in Manitoba

Municipal and Northern Relations

A guide in three parts that provides practical guidance on the role and function of zoning.

Planning for Agriculture

Municipal and Northern Relations

A guide to protect agricultural lands from conversion to other uses and how to provide agricultural operations the opportunity to continue to operate, diversify, or expand in the future.

Planning for the Protection of Riparian Areas

Municipal and Northern Relations

This guide focuses on the protection of water quality and quantity where land use planning and riparian areas intersect.

Preventing Disaster Before it Strikes: Developing a Canadian Standard for New Flood- Resilient Communities

Intact Centre on Climate Adaptation

The report profiles 20 best practices to be incorporated into the design and construction of new flood-resilient communities in Canada.

Proximity Guidelines and Best Practices

Railway Association of Canada and Federation of Canadian Municipalities

This guide helps municipalities with three main issues: land development near rail operations; new or expanded rail facilities; and/or road/rail crossings.

APPENDIX 1

ADDITIONAL INFORMATION

Subdivision in Manitoba

Municipal and Northern Relations

Subdividing land is a complicated process and this guide provides all the necessary details.

Transportation Planning

Municipal and Northern Relations

A guide to integrated transportation and land use planning.

Zoning for Cannabis: A Guide for Manitoba Municipalities

Municipal and Northern Relations

A guide to help municipalities with proposed cannabis facilities to amend their existing zoning by-laws to regulate the siting and operation of cannabis production and retail within their communities.

Municipal Board Rules and Procedures Guide

The Municipal Board

This guide details the policies and procedures of the Municipal Board and reflects recent legislative changes.

Under development - coming soon.

For more information, please refer to the Municipal Board website <https://www.gov.mb.ca/municipalboard/>

Appendix:

Contact Information

2

APPENDIX 2

CONTACT INFORMATION

Manitoba Municipal and Northern Relations is the provincial government department that administers The Planning Act. Staff in each of the Community Planning Branch regional offices can help municipalities, planning districts, planning commissions and local citizens with land use planning questions or issues.

Regional staff can help municipalities and planning districts:

- apply for planning grants,
- coordinate the inter-departmental review of development plans, secondary plans, and zoning by-laws,
- make recommendations on planning applications,
- review and approve subdivision applications where the Province is the approving authority,
- provide support to planning appeal boards,
- prepare special reports and background studies,
- approve public reserve closure by-laws,
- participate in Technical Review Committees, and
- process geographic information including maps.

Each regional office services a particular region of the province, as shown on the map.

APPENDIX 2

CONTACT INFORMATION

COMMUNITY PLANNING BRANCH REGIONAL OFFICES

Beausejour

204-268-6058
20 First Street, Box 50
Beausejour MB R0E 0C0
E: beausejourcrp@gov.mb.ca

Brandon

204-726-6267
Unit 1B – 2010 Currie Blvd.
Brandon MB R7B 4E7
E: brandoncrp@gov.mb.ca

Dauphin

204-622-2115
27 – 2nd Avenue SW
Dauphin MB R7N 3E5
E: dauphincrp@gov.mb.ca

Morden

204-822-2840
A – 536 Stephen St, Box 50075,
Morden MB R6M 1T7
E: mordenrcrp@gov.mb.ca

Portage

204-239-3348
108 – 25 Tupper Street
Portage la Prairie MB R1N 3K1
E: portagecrp@gov.mb.ca

Interlake (Selkirk)

204-785-5090
103 – 235 Eaton Avenue
Selkirk MB R1A 0W7
E: selkirkcrp@gov.mb.ca

Steinbach

204-346-6240
240 – 323 Main St.
Steinbach MB R5G 1Z2
E: steinbachcrp@gov.mb.ca

Thompson

204-945-2150
600-800 Portage Ave.
Winnipeg MB R3G 0N4
E: thompsoncrp@gov.mb.ca

Winnipeg

204-945-2150
600-800 Portage Ave.
Winnipeg MB R3G 0N4
E: provincialplanning@gov.mb.ca

APPENDIX 2

CONTACT INFORMATION

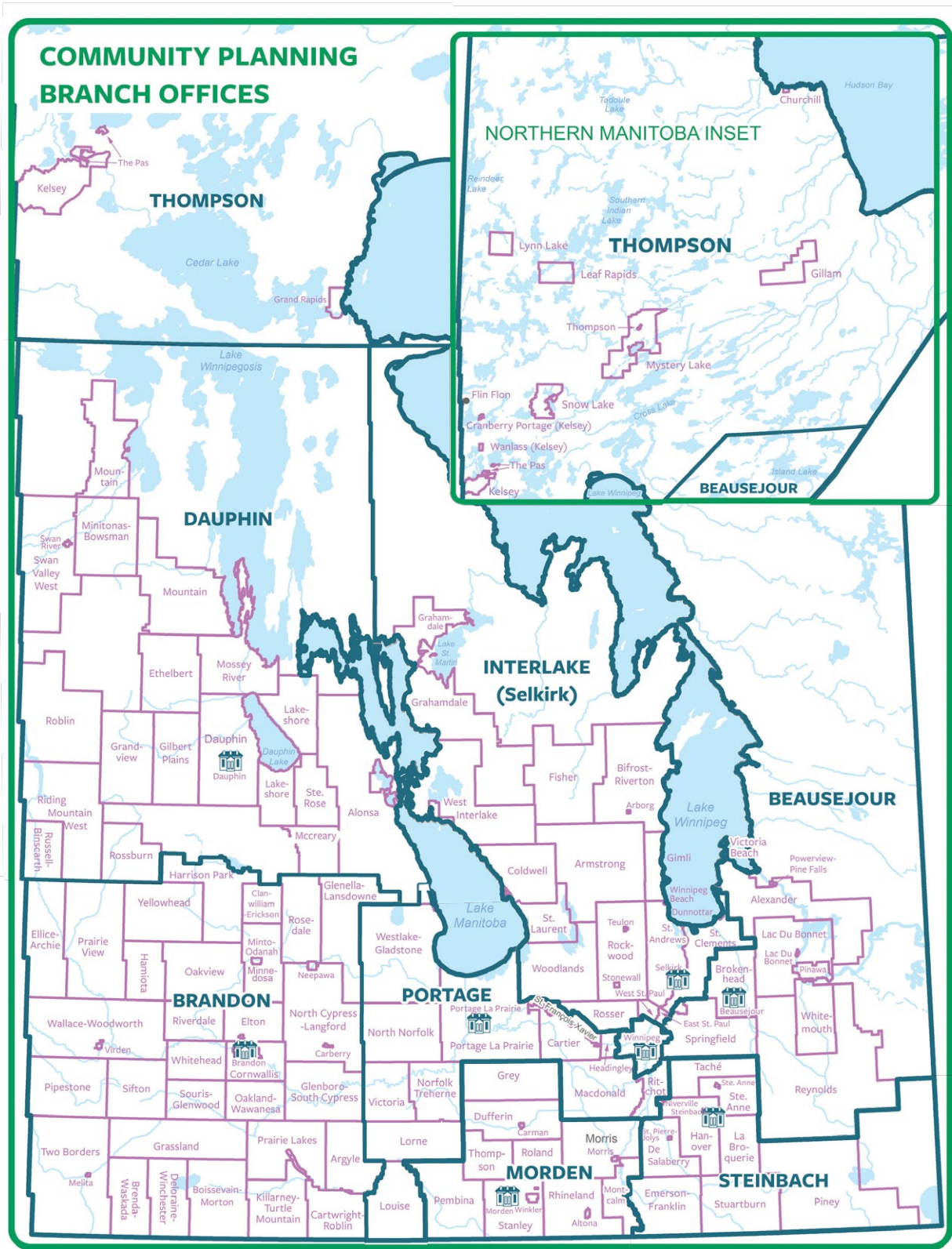


Figure 10: Map of Community Planning Regional Office Locations


Source: [Manitoba Municipal and Northern Relations](#)

Appendix:


Checklist for the Adoption of a Development Plan By-law (or Amendment)

3


CHECKLIST FOR THE
ADOPTION OF A DEVELOPMENT PLAN
BY-LAW (OR AMENDMENT)

	TASK	NOTES
<p>1</p> <input data-bbox="198 527 263 590" type="checkbox"/>	<p>First Reading</p>	<p>Council or the board may wait until after the public hearing to give First Reading. An application for a development plan amendment may be refused by the board or council if the application is without merit or the same as an earlier application made within the previous year.</p>
<p>2</p> <input data-bbox="198 955 263 1018" type="checkbox"/>	<p>Publication of Notice</p> <ul style="list-style-type: none"> • Set date for public hearing. • Prepare public notice (see Appendix 22 for template). • The public notice must be: <ul style="list-style-type: none"> - printed in local newspaper, OR - posted prominently on newspaper website, OR if there is no local newspaper - posted in office of planning district or municipality and at least two other public places. 	<p>For print publications, the public notice must be posted twice, at least six days apart during the period beginning 40 days before the hearing and ending seven days before the hearing.</p>
<p>3</p> <input data-bbox="198 1430 263 1493" type="checkbox"/>	<p>Notice of the Public Hearing</p> <ul style="list-style-type: none"> • Send copy of the by-law and public notice to the minister, care of the local Community Planning office. • Send copy of the public notice to affected property owners, and all adjacent planning districts and municipalities. 	<p>At least 27 days before the hearing, a copy of the public hearing notice must be sent by mail to the listed stakeholders.</p>
<p>4</p> <input data-bbox="198 1829 263 1892" type="checkbox"/>	<p>Notice to Affected Property Owners</p> <ul style="list-style-type: none"> • Send a copy of the public notice to the owner of the affected property and to property owners within 100 metres, OR • If property is accessible, post a copy of the public hearing notice on the affected property. 	<p>If the by-law amendment impacts a specific property owner, then notice of the public hearing must also be sent to that owner and to other property owners within 100 metres of the affected property, at least 14 days before the public hearing.</p>

CHECKLIST FOR THE
ADOPTION OF A DEVELOPMENT PLAN
BY-LAW (OR AMENDMENT)

	TASK	NOTES
<p>5</p> <input type="checkbox"/>	<p>Public Hearing</p> <ul style="list-style-type: none"> Hear any person who wishes to make a representation. Keep written minutes of hearing. 	<p>A person may make a written or an oral submission, either in support of, or in objection to the proposed by-law amendment.</p>
<p>6</p> <input type="checkbox"/>	<p>Notice of Resolution not to Proceed (if applicable)</p> <ul style="list-style-type: none"> Copies of the resolution must be sent to the minister, care of the Community Planning office, and every person who made a representation at the hearing 	<p>After the public hearing, council or the board may choose to pass a resolution not to proceed with the by-law. Written reasons must accompany the rejection.</p>
<p>7</p> <input type="checkbox"/>	<p>Second Reading</p> <ul style="list-style-type: none"> Council may give the by-law Second Reading. 	<p>If a major alteration occurs after the public hearing (such as a mapping alteration) then council or the board must hold another public hearing. If no changes, or minor alterations, occur after the public hearing, the board or council may proceed with Second Reading.</p>
<p>8</p> <input type="checkbox"/>	<p>Notice of Resolution not to Proceed (if applicable)</p> <ul style="list-style-type: none"> Copies of the resolution must be sent to the minister, care of the Community Planning office, and every person who made a representation at the hearing. 	<p>After Second Reading, council or the board may choose to pass a resolution not to proceed with the by-law.</p>
<p>9</p> <input type="checkbox"/>	<p>Submission to Minister</p> <ul style="list-style-type: none"> Submit certified copy of by-law, a copy of the hearing minutes and each written submission filed at the hearing to the minister, care of the Community Planning office. 	<p>As soon as practicable, the board or council must submit the by-law package to the Minister. The package may be submitted by email. The board or council cannot give Third Reading to the by-law until they receive ministerial approval.</p>

CHECKLIST FOR THE
ADOPTION OF A DEVELOPMENT PLAN
BY-LAW (OR AMENDMENT)


	TASK	NOTES
<p>10</p> <input data-bbox="233 499 298 562" type="checkbox"/>	<p>Notice of Second Reading (refer to Appendix 25 for template)</p> <ul style="list-style-type: none"> Send notice of Second Reading to all those that made an objection at the public hearing. 	<p>Notice of Second Reading must be sent as soon as practicable after the Second Reading By-law package has been sent to the Minister.</p>
<p>11</p> <input data-bbox="233 762 298 825" type="checkbox"/>	<p>Notice of Resolution not to Proceed (if applicable)</p> <ul style="list-style-type: none"> Copies of the resolution must be sent to the Minister, care of the Community Planning office, and every person who made a representation at the hearing. 	<p>After the Minister's decision to approve, council or the board may choose to pass a resolution not to proceed with the by-law.</p>
<p>12</p> <input data-bbox="233 1077 298 1140" type="checkbox"/>	<p>Third Reading</p> <ul style="list-style-type: none"> Council or the board may proceed with Third Reading after receiving written notice of the Minister's approval. 	<p>If a major alteration occurs after the public hearing (e.g., a mapping alteration) then council or the board must hold another public hearing. If no changes are made, or a minor alteration occurs, after the public hearing, the board or council may proceed with Second Reading.</p>
<p>13</p> <input data-bbox="233 1402 298 1465" type="checkbox"/>	<p>Notice of Resolution not to Proceed (if applicable)</p> <ul style="list-style-type: none"> Copies of the resolution must be sent to the Minister, care of the Community Planning office, and every person that made a representation at the hearing. 	<p>If the Minister has requested an alteration or condition, then the board or council must make those alterations or meet the condition prior to giving the by-law Third Reading.</p>
<p>14</p> <input data-bbox="233 1707 298 1770" type="checkbox"/>	<p>Notice of Adoption</p> <ul style="list-style-type: none"> Copies of the development plan by-law must be forwarded to the minister, care of the Community Planning office. A notice that the by-law has been adopted must be sent to every person who made a representation at the public hearing. 	

Appendix:






Checklist for the Adoption of a Zoning By-law (or Amendment)

4






CHECKLIST FOR THE
ADOPTION OF A ZONING BY-LAW
(OR AMENDMENT)

	TASK	NOTES
<p>1</p> <input data-bbox="183 506 248 569" type="checkbox"/>	<p>First Reading</p>	<p>Council or the board may wait until after the public hearing to give First Reading. An application for an amendment to a zoning by-law may be refused by the board or council if the application is deemed to be without merit, it is not consistent with the development plan, or is the same as an earlier application made within the previous year.</p>
<p>2</p> <input data-bbox="183 947 248 1010" type="checkbox"/>	<p>Publication of Notice</p> <ul style="list-style-type: none"> • Set date for public hearing. • Prepare public notice (see Appendix 22 for template). • The public notice must be: <ul style="list-style-type: none"> - printed in a local newspaper, OR - posted prominently on a local newspaper website, OR if there is no local newspaper, - posted in the planning district or municipality office and at least two other public places. 	<p>The public notice must be posted twice, at least six days apart, during the period beginning 40 days before the hearing and ending seven days before the hearing.</p>
<p>3</p> <input data-bbox="183 1440 248 1503" type="checkbox"/>	<p>Notice of the Public Hearing</p> <ul style="list-style-type: none"> • Send copy of the by-law and public notice to the Minister, care of the local Community Planning office. • Send copy of the public notice to affected property owners, and all adjacent planning districts and municipalities. 	<p>At least 27 days before the hearing, a copy of the public hearing notice must be sent by mail to the listed stakeholders.</p>
<p>4</p> <input data-bbox="183 1848 248 1911" type="checkbox"/>	<p>Notice to Affected Property Owners</p> <ul style="list-style-type: none"> • Send a copy of the public notice to the owner of the affected property and to property owners within 100 metres, OR • If property is accessible, post a copy of the public hearing notice on the affected property. 	<p>If the by-law amendment impacts a specific property owner, then notice of the public hearing must also be sent to that owner, and to other property owners within 100 metres of the affected property at least 14 days before the public hearing.</p>

CHECKLIST FOR THE
ADOPTION OF A ZONING BY-LAW
(OR AMENDMENT)

	TASK	NOTES
<p>5</p> 	<p>Public Hearing</p> <ul style="list-style-type: none"> Hear any person who wishes to make a representation. Keep written minutes of hearing. 	<p>A person may make a written or an oral submission, either in support of, or objection to, the proposed by-law amendment.</p>
<p>6</p> 	<p>Second and Third Reading</p> <ul style="list-style-type: none"> Council may give the by-law Second and Third Reading, provided that public objections (if any) are insufficient and there were no major alterations. If sufficient objections are received, council may proceed with Second Reading only, and must notify the objectors after Second Reading as soon as practicable. 	<p>If a major alteration occurs after the public hearing (e.g., a mapping alteration), then council must hold another public hearing.</p> <p>If no changes are made, or a minor alteration occurs after the public hearing, the board or council may proceed with Second and Third Readings.</p> <p>To be sufficient, objections must be received from at least 25 eligible persons or 50 per cent of the total number of property owners located within 100 metres of the affected property.</p>
<p>7</p> 	<p>Notice of Resolution not to Proceed (if applicable)</p> <ul style="list-style-type: none"> Copies of the resolution must be sent to the Minister, care of the Community Planning office, the applicant and every person that made a representation at the hearing. 	<p>After First or Second Reading, council may choose to pass a resolution not to proceed with the by-law. Written reasons must accompany the rejection.</p>
<p>8</p> 	<p>Notice of Second Reading to Objectors (refer to Appendix 26 for template)</p> <ul style="list-style-type: none"> Send notice of Second Reading to all those who made an objection at the public hearing. 	<p>Notice of Second Reading must be sent as soon as practicable after Second Reading.</p> <p>The notice must specify a deadline of at least 14 days after the date in the notice.</p>

CHECKLIST FOR THE
ADOPTION OF A ZONING BY-LAW
(OR AMENDMENT)

	TASK	NOTES
<p>10</p> 	<p>If Sufficient Objections Received</p> <ul style="list-style-type: none"> The board or council must refer the objections to the Municipal Board. 	<p>The Municipal Board must hold a public hearing within 120 days of receiving the objection.</p>
<p>11</p> 	<p>Notice of Municipal Board Decision</p> <ul style="list-style-type: none"> The Municipal Board will make an order regarding the by-law – either confirming, or refusing to confirm the by-law, or directing the board or council to alter the by-law. 	<p>The Municipal Board must issue their order within 60 days of the public hearing. The Municipal Board must send notice of its decision to every person that made a representation at the public hearing.</p>
<p>12</p> 	<p>Third Reading</p> <ul style="list-style-type: none"> If ordered by the Municipal Board, the board or council needs to give the by-law Third Reading for the by-law to come into effect. 	
<p>13</p> 	<p>Notice of Adoption</p> <ul style="list-style-type: none"> Copies of the zoning by-law after Third Reading are to be forwarded to the minister care of the Community Planning office. A notice that the by-law has been adopted must be sent to the applicant and every person who made a representation at the public hearing. 	

Appendix:





Checklist for Variance Applications

5

CHECKLIST FOR
VARIANCE APPLICATIONS

	TASK	NOTES
<p>1</p> 	Application to Board or Council	<p>The variance application must be in a format as prescribed by the planning district or municipality and accompanied by the required fee.</p>
<p>2</p> 	Publication of Notice <ul style="list-style-type: none"> Set date for public hearing. Prepare public hearing notice (see template in Appendix 23) The public notice must be: <ul style="list-style-type: none"> posted in the planning district or municipality office. 	<p>The public notice must be posted at least 14 days before the public hearing.</p>
<p>3</p> 	Notice of the Public Hearing <ul style="list-style-type: none"> Send copy of the public notice to the applicant and to property owners within 100 metres, OR If property is accessible, post a copy of the public hearing notice on the affected property. 	<p>At least 14 days before the hearing, a copy of the public hearing notice must be sent by mail to the listed stakeholders.</p>
<p>4</p> 	Notice of Variance involving Livestock Operations <ul style="list-style-type: none"> Send copy of the public notice to the owner of the livestock operation, and Send copy of the public notice to every property owner located within the separation distance of the proposed variance. 	

CHECKLIST FOR
VARIANCE APPLICATIONS






	TASK	NOTES
<p>5</p> 	<p>Public Hearing</p> <ul style="list-style-type: none"> Hear any person who wishes to make a representation. Keep written minutes of hearing. 	<p>A person may make a written or an oral submission, either in support of, or in objection to, the variance application.</p>
<p>6</p> 	<p>Decision</p> <p>The board or council may approve, reject or approve with conditions.</p>	
<p>7</p> 	<p>Notice of Decision</p> <p>Send copy of decision to the applicant and to every person that made a representation at the public hearing.</p>	<p>The decision of the board or council is final and cannot be appealed.</p>

Appendix:




Checklist for Conditional Use Applications

6

CHECKLIST FOR CONDITIONAL USE APPLICATIONS

	TASK	NOTES
1 	Application to Board or Council	<p>The conditional use application must be in a format as prescribed by the planning district or municipality and accompanied by the required fee.</p>
2 	Publication of Notice <ul style="list-style-type: none"> • Set date for public hearing. • Prepare public hearing notice (see template in Appendix 24). • The public notice must be: <ul style="list-style-type: none"> - posted in the planning district or municipality office. 	<p>The public notice must be posted at least 14 days before the public hearing.</p>
3 	Notice of the Public Hearing <ul style="list-style-type: none"> • Send copy of the public notice to the applicant and to property owners within 100 metres, OR • If property is accessible, post a copy of the public hearing notice on the affected property. 	<p>At least 14 days before the hearing, a copy of the public hearing notice must be sent by mail to the listed stakeholders.</p>
4 	Public Hearing <ul style="list-style-type: none"> • Hear any person who wishes to make a representation. • Keep written minutes of hearing. 	<p>A person may make a written or an oral submission, either in support of, or in objection to, the variance application.</p>

CHECKLIST FOR
CONDITIONAL USE APPLICATIONS







	TASK	NOTES
<p>5</p> 	<p>Decision</p> <ul style="list-style-type: none"> The board or council may approve, reject or approve with conditions. 	<p>Written reasons must accompany a rejection.</p>
<p>6</p> 	<p>Notice of Decision</p> <ul style="list-style-type: none"> Send copy of decision to the applicant and to every person that made a representation at the public hearing. 	<p>The decision of the board or council is final and cannot be appealed, unless the conditional use is for a large-scale livestock operation or aggregate quarry.</p>

Appendix:






Checklist for Conditional Use Applications for Large-Scale Livestock Operations

7

CHECKLIST FOR
**CONDITIONAL USE APPLICATIONS FOR
 LARGE-SCALE LIVESTOCK OPERATIONS**

	TASK	NOTES
1 	Application to Board or Council <ul style="list-style-type: none"> Application for a livestock operation of 300 animal units or more 	<p>The conditional use application must be in a format as prescribed by the planning district or municipality and accompanied by the required fee.</p>
2 	Application sent to Minister <ul style="list-style-type: none"> Application to be forwarded to Minister, care of the Community Planning office. 	
3 	Minister Refers Application to TRC <ul style="list-style-type: none"> The application is forwarded to the Technical Review Committee (TRC). 	
4 	TRC Prepares Report and Recommendations <ul style="list-style-type: none"> The TRC prepares a report with its findings and recommendations. The report is forwarded to the board or council. 	<p>The TRC report must be available for viewing at the office of the applicable planning district or municipality.</p>
5 	Publication of Notice <ul style="list-style-type: none"> Set date for public hearing. Prepare public hearing notice (see template in Appendix 24). The public notice must be: <ul style="list-style-type: none"> posted in the planning district or municipality office. 	<p>The public notice must be posted at least 14 days before the public hearing.</p>

CHECKLIST FOR
**CONDITIONAL USE APPLICATIONS FOR
 LARGE-SCALE LIVESTOCK OPERATIONS**






	TASK	NOTES
<p>6</p> 	<p>Notice of the Public Hearing</p> <ul style="list-style-type: none"> • Send copy of the notice to the applicant • Send copy of the public notice to the Minister, care of the local Community Planning office. • Send copy of the public notice to affected property owners within three kilometres of the site of the proposed livestock operation. • Send copy of the public notice to all adjacent planning districts and municipalities. 	<p>The public notice must be sent to stakeholders at least 14 days before the public hearing.</p>
<p>7</p> 	<p>Public Hearing</p> <ul style="list-style-type: none"> • Hear any person who wishes to make a representation. • Keep written minutes of hearing. 	<p>A person may make a written or an oral submission, either in support of, or in objection to, the variance application.</p>
<p>8</p> 	<p>Decision</p> <ul style="list-style-type: none"> • The board or council may approve, reject or approve with conditions. 	<p>The application may only be approved if the TRC Report recommends approval.</p>
<p>9</p> 	<p>Notice of Decision</p> <ul style="list-style-type: none"> • Send copy of decision to the applicant and to every person who made a representation at the public hearing. 	<p>The decision of the board or council may be appealed to the Municipal Board.</p>

Appendix:


Checklist for Subdivision Applications

8

CHECKLIST FOR SUBDIVISION APPLICATIONS

	TASK	NOTES
1 	Contact the Planner <ul style="list-style-type: none"> Contact with the planner at a Community Planning office or at a planning district that has approving authority. 	<p>This step will help you determine the policies and regulations related to your application.</p>
2 	Application to Approving Authority <ul style="list-style-type: none"> All subdivision applications require a Subdivision Application Map (SAM) to be prepared by a Manitoba Land Surveyor. 	<p>The approving authority for subdivisions has been delegated to Community Planning offices, two planning districts, and one municipality.</p> <p>The subdivision application must be in a format as prescribed by the approving authority and accompanied by the required fee.</p>
3 	Application Circulation <ul style="list-style-type: none"> Approving authority to circulate subdivision application to government departments and agencies for comment. Approving authority prepares report to council with recommendations after comments received. 	<p>Government departments and agencies have 20 days to provide comments to the approving authority.</p>
4 	Council Decision <ul style="list-style-type: none"> Council may approve, approve with conditions or reject the subdivision application. Council sends copy of the resolution to approving authority and the applicant. 	<p>Note that if the proposed subdivision will create a public road, a public hearing must be held to receive representations on the proposed subdivision.</p> <p>Council has 90 days to make a decision once it receives the planning report from the approving authority. If council fails to pass a resolution within 90 days then the applicant may appeal the matter to the Municipal Board.</p>

CHECKLIST FOR SUBDIVISION APPLICATIONS






	TASK	NOTES
<p>5</p> <input type="checkbox"/>	<p>Approving Authority Decision</p> <ul style="list-style-type: none"> • If council has approved the subdivision application, the approving authority may issue a conditional approval letter. • The conditional approval letter sets out the conditions and requirements that must be met prior to registering the subdivision at The Property Registry. • Copy of the decision must be sent to the applicant, council and where a board is the approving authority, to the Minister, care of the Community Planning office. 	<p>The approving authority has 60 days to make a decision once they receive council's resolution.</p> <p>If council rejects the subdivision application then the approving authority must also reject the application. An application rejected by council is not subject to appeal.</p> <p>The approving authority may reject an application that council has approved. The decision of the approving authority in this case may be appealed to the Municipal Board.</p>
<p>6</p> <input type="checkbox"/>	<p>Conditional Approval</p> <ul style="list-style-type: none"> • Conditional approval is valid for two years, with the potential for a one-year extension. 	<p>It is the responsibility of the applicant to meet all conditions and requirements listed in the conditional approval letter.</p>
<p>7</p> <input type="checkbox"/>	<p>Certificate of Approval and Registration</p> <ul style="list-style-type: none"> • After all conditions and requirements of the conditional approval letter have been met, the approving authority may issue the certificate of approval. • The certificate of approval and Plan of Subdivision or Plan of Survey are required to register the subdivision at The Property Registry. • A copy of the certificate of approval must be sent to the applicant, council (unless council is the approving authority), and to the Minister, care of the Community Planning office (unless the minister is the approving authority). 	<p>A certificate of approval issued after May 20, 2021 is valid for two years. A certificate of approval issued before May 20, 2021 is valid for one year, with the potential for a one-year extension.</p>

Appendix:




Checklist for Minor Subdivision Applications

9

CHECKLIST FOR
MINOR SUBDIVISION APPLICATIONS

	TASK	NOTES
<p>1</p> 	<p>Contact the Planner</p> <ul style="list-style-type: none"> • Contact the planner at a Community Planning office or at a planning district that has approving authority. 	<p>This step will help you determine the policies and regulations that may be related to your application.</p>
<p>2</p> 	<p>Application to Approving Authority</p> <ul style="list-style-type: none"> • All subdivision applications require a Subdivision Application Map (SAM) to be prepared by a Manitoba land surveyor. 	<p>The approving authority for subdivisions has been delegated to Community Planning offices, two planning districts, and one municipality.</p> <p>The subdivision application must be in a format as prescribed by the approving authority and accompanied by the required fee.</p>
<p>3</p> 	<p>Approving Authority Decision</p> <ul style="list-style-type: none"> • Approving authority issues conditional approval. • Sends copy of conditional approval to council and applicant. 	<p>Council has 60 days to make a decision and to send notification of the decision to approving authority and the applicant.</p>
<p>4</p> 	<p>Council Decision</p> <ul style="list-style-type: none"> • Council may approve, approve with conditions or reject the subdivision application. • Council sends copy of the resolution to approving authority and the applicant. 	<p>Note that if the proposed subdivision will create a public road, a public hearing must be held to receive representations on the proposed subdivision.</p>

CHECKLIST FOR
MINOR SUBDIVISION APPLICATIONS






	TASK	NOTES
<p>5</p> 	<p>Conditional Approval</p> <ul style="list-style-type: none"> Conditional approval is valid for two years, with the potential for a one-year extension. 	<p>It is the responsibility of the applicant to meet all conditions and requirements listed in the conditional approval letter.</p>
<p>6</p> 	<p>Certificate of Approval and Registration</p> <ul style="list-style-type: none"> After all conditions and requirements of the conditional approval letter have been met, the approving authority may issue the certificate of approval. The certificate of approval and Plan of Subdivision are required to register the subdivision at The Property Registry. A copy of the certificate of approval must be sent to the applicant, council (unless council is the approving authority), and to the minister care of the Community Planning office (unless the minister is the approving authority). 	<p>A certificate of approval issued after May 20, 2021 is valid for two years. A certificate of approval issued before May 20, 2021 may be extended for one additional 12-month period.</p>

Appendix:







Checklist for Public Reserve Closures

10

CHECKLIST FOR CHECKLIST FOR PUBLIC RESERVE CLOSURES

	TASK	NOTES
1 	Prepare By-law to close public reserve	<p>A municipality may close public reserve land, whether the land is in the name of the municipality or the Crown.</p> <p>It is recommended to check with the land titles office to determine if a plan may need to be prepared by a Manitoba land surveyor to support the by-law.</p>
2 	First Reading <ul style="list-style-type: none"> • Council gives the public reserve closing by-law First Reading. • By-law to be forwarded to the Minister, care of the local Community Planning Office. 	<p>The Community Planning Office will circulate the proposed by-law to key provincial agencies and departments to prepare a report for Council's consideration.</p>
3 	Publication of Notice <ul style="list-style-type: none"> • Set date for public hearing. • Prepare public hearing notice (see template in Appendix 17) • The public notice must be: <ul style="list-style-type: none"> o Posted in the municipal office. 	<p>The public notice must be posted at least 14 days before the public hearing.</p>
4 	Notice of the Public Hearing <ul style="list-style-type: none"> • Send a copy of the notice to the Minister, care of the local Community Planning Office. • Send copy of the public notice to property owners within 100 metres, OR • If the property is accessible, post a copy of the public hearing notice on the affected property. 	<p>At least 14 days before the hearing, a copy of the public hearing notice must be sent by mail to the listed stakeholders.</p>

CHECKLIST FOR
CHECKLIST FOR PUBLIC RESERVE CLOSURES

	TASK	NOTES
5 	Public Hearing <ul style="list-style-type: none"> Hear any person who wishes to make a representation. Keep written minutes of the hearing. 	<p>A person may make a written or an oral submission, either in support of, or in objection to, the public reserve closure.</p> <p>When a planning report is provided, the report must be part of the public hearing and made available to the public at the municipal office.</p>
6 	Council Decision <ul style="list-style-type: none"> Council may make major or minor alterations to the by-law or decide not to proceed. 	<p>If a major alteration occurs after the public hearing (e.g., a mapping alteration), then council must hold another public hearing.</p> <p>If no changes are made, or a minor alteration occurs after the public hearing, council may proceed with Second and Third Readings.</p>
7 	Second and Third Reading <ul style="list-style-type: none"> Third Reading by-law to be forwarded to the Minister, care of the local Community Planning Office. 	
8 	Obtain Written Approval <ul style="list-style-type: none"> Obtain written approval of the by-law from the Minister of Municipal and Northern Relations. 	<p>Approval of public reserve closing by-laws has been delegated to the local Community Planning Offices.</p>
9 	Registration <ul style="list-style-type: none"> Register the approved by-law in the appropriate land titles office. 	<p>A plan may need to be prepared by a Manitoba land surveyor.</p>

Appendix:

Templates for Development Plan By-laws

- New Development Plan (Planning District)
- New Development Plan (Municipality)
- Development Plan Amendment (Planning District)
- Development Plan Amendment (Municipality)

11

BY-LAW NO. [INSERT BY-LAW NUMBER]

WHEREAS, 40(1) of The Planning Act, being C.C.S.M. c. P80 of the Statutes of Manitoba, directs a planning district to prepare a development plan for the entire district;

AND WHEREAS, Section 45 of The Planning Act requires a board to adopt a development plan;

AND WHEREAS pursuant to the provisions of Section 51 of The Planning Act, the Minister of Municipal and Northern Relations approved the [insert planning district's name] development plan by-law [insert by-law number] on the [insert day] day of [insert month], [insert year];

NOW THEREFORE, the board of the [insert planning district's name] in meeting duly assembled, enacts as follows:

1. The Development Plan, attached hereto and forming part of this By-law as Schedule A, is hereby adopted, and known as the [insert planning district's name] Development Plan By-law [insert by-law number].
2. This Development Plan shall take force and effect on the date of third reading of this By-law.
3. The [insert planning district's name] Development Plan By-law [insert *previous* By-law number] and all amendments thereto are hereby rescinded.

DONE AND PASSED as a by-law of the [insert Planning District's name] in the Province of Manitoba this [insert day] day of [insert month], [insert year].

[insert name of Chair], Chair

[insert name of second signatory], [insert *title* of second signatory]

Read a first time this [insert day] day of [insert month], [insert year].

Read a second time this [insert day] day of [insert month], [insert year].

Read a third time this [insert day] day of [insert month], [insert year].

BY-LAW NO. [INSERT BY-LAW NUMBER]

WHEREAS, 40(2) of The Planning Act, being C.C.S.M. c. P80 of the Statutes of Manitoba, directs the council of a municipality to prepare a development plan for the municipality;

AND WHEREAS, Section 45 of The Planning Act requires a council to adopt a development plan;

AND WHEREAS pursuant to the provisions of Section 51 of The Planning Act, the Minister of Municipal and Northern Relations approved the [insert municipality's name] development plan by-law [insert By-law number] on the [insert day] day of [insert month], [insert year];

NOW THEREFORE, the council of the [insert municipality's name] in meeting duly assembled, enacts as follows:

1. The Development Plan, attached hereto and forming part of this By-law as Schedule A, is hereby adopted, and known as the [insert municipality's name] Development Plan By-law [insert by-law number].
2. This Development Plan shall take force and effect on the date of third reading of this By-law.
3. The [insert municipality's name] Development Plan By-law [insert *previous* By-law number] and all amendments thereto are hereby rescinded.

DONE AND PASSED as a by-law of the [insert municipality's name] in the Province of Manitoba this [insert day] day of [insert month], [insert year].

[insert name], Reeve/Mayor

[insert *name* of second signatory], [insert *title* of second signatory]

Read a first time this [insert day] day of [insert month], [insert year].

Read a second time this [insert day] day of [insert month], [insert year].

Read a third time this [insert day] day of [insert month], [insert year].

BY-LAW NO. [INSERT BY-LAW NUMBER]

BEING a by-law of the [insert municipality's name] to amend the [insert municipality's name] Development Plan By-law No. [Insert Development Plan By-law number], as amended.

WHEREAS, Section 56(1) of The Planning Act gives the board of a planning district the power to amend an adopted development plan;

NOW THEREFORE, the council of the [insert planning district's name] in meeting duly assembled, enacts as follows:

- TEXT AMENDMENT: [list text amendments or direct readers to an attached schedule].
- That Map [insert name of map to be amended], attached to and being part of the [insert municipality's name] Development Plan By-law No. [insert development plan by-law number], is hereby amended in order that:
- [insert legal description and/or civic address of affected parcel(s)], as shown outlined in a heavy solid line and coloured on the map attached hereto as Schedule "A," and forming part of this by-law, be re-designated:

FROM: [insert current land use designation]

TO: [insert proposed land use designation]

DONE AND PASSED as a by-law of the [insert planning district's name] in the Province of Manitoba this [insert day] day of [insert month], [insert year].

[insert name of Chair], Chair

[insert *name* of second signatory], [insert *title* of second signatory]

Read a first time this [insert day] day of [insert month], [insert year].

Read a second time this [insert day] day of [insert month], [insert year].

Read a third time this [insert day] day of [insert month], [insert year].

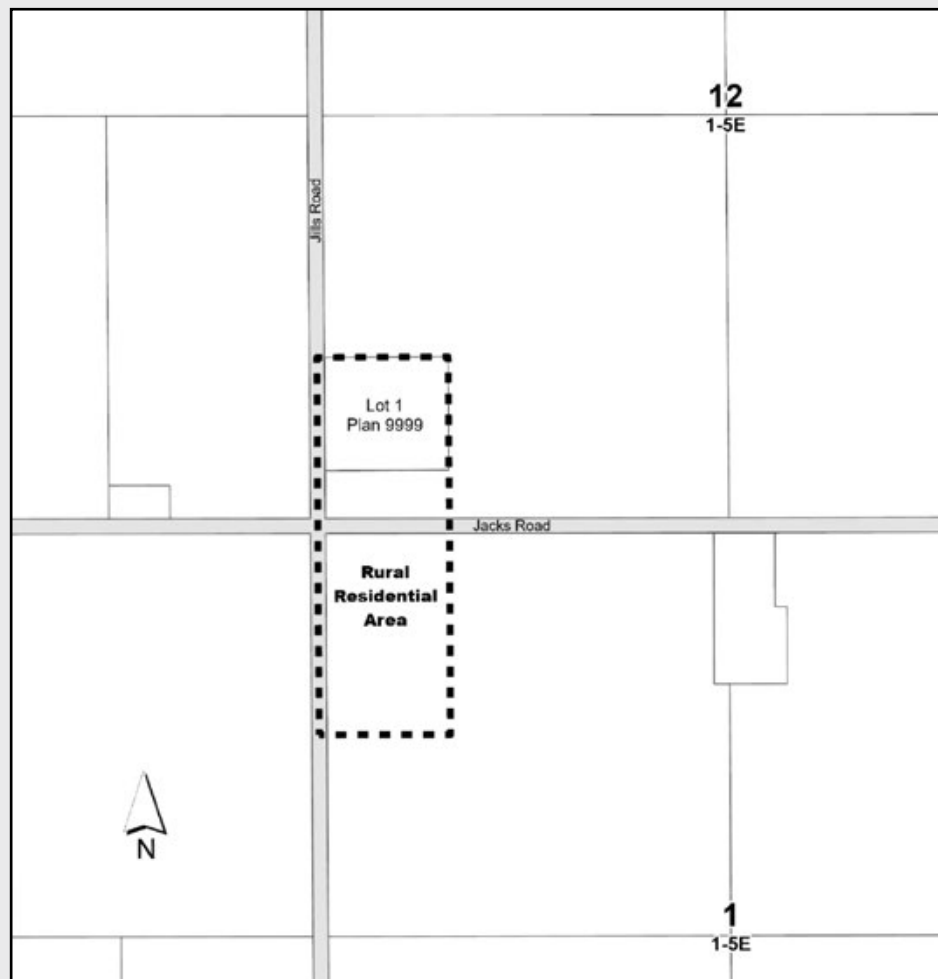
Schedule "A" to By-law No. [insert by-law number]

Amending Map [insert map name] of the [insert planning district's/municipality's name]
Development Plan By-law No. [insert development plan by-law number]

[insert map of development plan]

Ensure that the map is:

- ◇ clear ◇ legible ◇ major streets are labelled ◇ includes a north arrow
- ◇ all boundaries of the affected area display the general intent



BY-LAW NO. [INSERT BY-LAW NUMBER]

BEING a by-law of the [insert municipality's name] to amend the [insert municipality's name] Development Plan By-law No. [Insert Development Plan By-law number], as amended.

WHEREAS, Section 56(1) of The Planning Act gives the council of a municipality the power to amend an adopted development plan;

NOW THEREFORE, the council of the [insert municipality's name] in meeting duly assembled, enacts as follows:

- TEXT AMENDMENT: [list text amendments or direct readers to an attached schedule].
- That Map [insert name of map to be amended], attached to and being part of the [insert municipality's name] Development Plan By-law No. [insert development plan by-law number], is hereby amended in order that:
- [insert legal description and/or civic address of affected parcel(s)], as shown outlined in a heavy solid line and coloured on the map attached hereto as Schedule "A," and forming part of this by- law, be re-designated:

FROM: [insert current land use designation]

TO: [insert proposed land use designation]

DONE AND PASSED as a by-law of the [insert municipality's name] in the Province of Manitoba this [insert day] day of [insert month], [insert year].

[insert name of Reeve or Mayor], Reeve/Mayor

[insert *name* of second signatory], [insert *title* of second signatory]

Read a first time this [insert day] day of [insert month], [insert year].

Read a second time this [insert day] day of [insert month], [insert year].

Read a third time this [insert day] day of [insert month], [insert year].

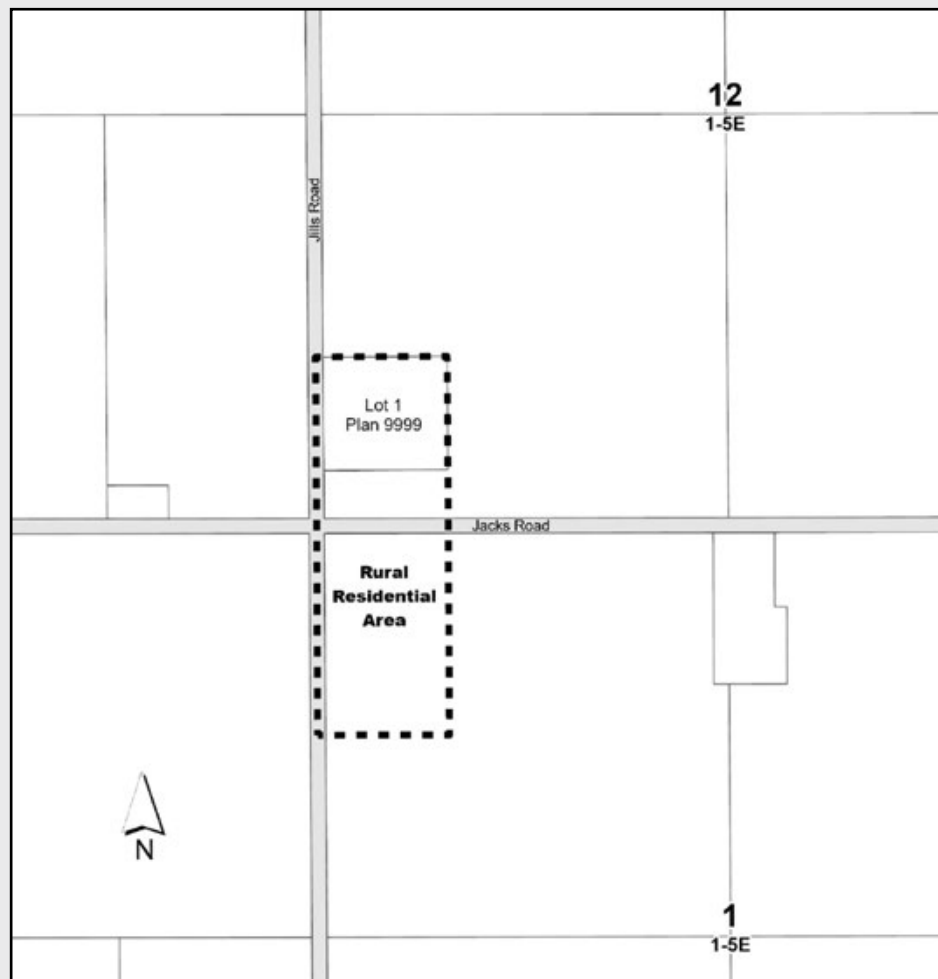
Schedule "A" to By-law No. [insert by-law number]

Amending Map [insert map name] of the [insert planning district's/municipality's name]
Development Plan By-law No. [insert development plan by-law number]

[insert map of development plan]

Ensure that the map is:

- ◇ clear ◇ legible ◇ major streets are labelled ◇ includes a north arrow
- ◇ all boundaries of the affected area display the general intent



Appendix:

Templates for Zoning By-laws

- New Zoning By-law
- Zoning By-law amendment

12

BY-LAW NO. [INSERT BY-LAW NUMBER]

BEING a by-law of the [insert municipality's name] to regulate the use and development of land within the [insert municipality's name].

WHEREAS, 68 of The Planning Act provides that the council of a municipality must enact a zoning by-law which is generally consistent with a development plan and any secondary plan by-law in effect in the municipality;

AND WHEREAS, pursuant to the provisions of Part 4 of The Planning Act, the [board/council] of [insert planning district's/municipality's name] has adopted a development plan;

NOW THEREFORE, the council of the [insert municipality's name] in meeting duly assembled, enacts as follows:

1. The zoning by-law, attached hereto and forming part of this By-law as Schedule A, is hereby adopted, and known as the [insert municipality's name] Zoning By-law [insert by-law number].
2. This by-law shall take force and effect on the date of its third reading.
3. The [insert municipality's name] Zoning By-law [insert *previous* By-law number] and all amendments thereto are hereby rescinded.

DONE AND PASSED as a by-law of the [insert municipality's name] in the Province of Manitoba this [insert day] day of [insert month], [insert year].

[insert name], Reeve/Mayor

[insert *name* of second signatory], [insert *title* of second signatory]

Read a first time this [insert day] day of [insert month], [insert year].

Read a second time this [insert day] day of [insert month], [insert year].

Read a third time this [insert day] day of [insert month], [insert year].

BY-LAW NO. [INSERT BY-LAW NUMBER]

BEING a by-law of the [insert municipality's name] to amend the [insert municipality's name] Zoning By-law No. [insert zoning by-law number], as amended.

WHEREAS, Section 80(1) of The Planning Act gives the council of a municipality the power to amend an adopted zoning by-law;

NOW THEREFORE, the council of the [insert municipality's name] in meeting duly assembled, enacts as follows:

- TEXT AMENDMENT: [list text amendments or direct readers to an attached schedule].
- That Map [insert name of map to be amended], attached to and being part of the [insert municipality's name] Zoning By-law No. [insert zoning by-law number], is hereby amended in order that:
- [insert legal description and/or civic address of affected parcel(s)], as shown outlined in a heavy solid line and coloured on the map attached hereto as Schedule "A," and forming part of this by-law, be re-zoned:

FROM: [insert current zone]

TO: [insert proposed zone]

DONE AND PASSED as a by-law of the [insert municipality's name] in the Province of Manitoba this [insert day] day of [insert month], [insert year].

[insert name of Reeve or Mayor], Reeve/Mayor

[insert name of second signatory], [insert title of second signatory]

Read a first time this [insert day] day of [insert month], [insert year].

Read a second time this [insert day] day of [insert month], [insert year].

Read a third time this [insert day] day of [insert month], [insert year].

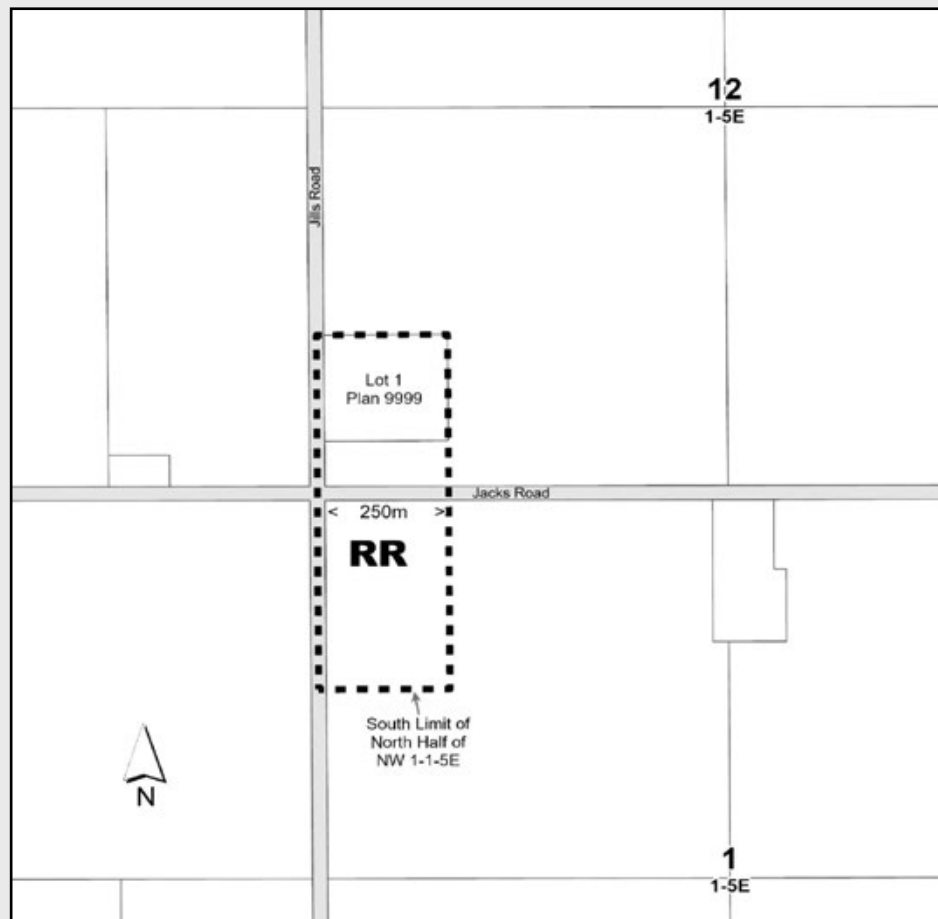
Schedule "A" to By-law No. [insert By-law number]

Amending Map [insert map name] of the [insert planning district's/municipality's name]
Zoning By-law No. [insert zoning by-law number]

[insert map of development plan]

Ensure that the map is:

- ◇ clear ◇ legible ◇ major streets are labelled ◇ includes a north arrow
- ◇ all boundaries of the affected area are clearly delineated by, or in reference to, a known registered survey plan or tax assessment parcel using distances when referencing a boundary



Appendix:

Template for Zoning Memorandum

13

**Zoning Memorandum
Under The Planning Act
[insert name of municipality]**

**RE: [insert legal description and/or civic/legal address of land] in the
[insert name of municipality] [insert title or roll number]**

The above noted property is designated [insert designation name] according to the [insert name of Development Plan]. Development of the land for [insert intended use of land] is supported by the policies within the Development Plan. This includes but is not limited to, [insert general uses in this designation as outlined in the development plan].

The above noted property is currently zoned as “[insert zone name abbreviation]” [zone name] Zone according to the [insert name of Zoning By-law]. Land uses within the “[insert zone name abbreviation]” Zone are to be generally oriented towards [similar uses described in Zoning By-law].

The proposed [insert intended use of land] use is a permitted use in the “[insert zone name abbreviation]” and complies with the requirements of the [insert name of Zoning By-law], including the siting and setback requirements.

[insert name of CAO]
Chief Administrative Officer

Appendix:

Template for Variance Order

14

**Variance Order
Under The Planning Act
[insert name of municipality]**

Variance Order No. [insert variance order number]

WHEREAS, [insert name of property owner], owner of the property legally described as [insert legal description of land], or located at [insert civic/legal address], or as otherwise described within Certificate of Title [insert Certificate of Title number], located at [insert civic address if applicable], in the [insert name of municipality], has applied to the Council of the [insert name of municipality] to vary the application of [insert name of Zoning By-law], as amended, as it applies to the subject property and provided within The Planning Act.

From: [insert current Zoning By-law requirements]

To: [insert variance requested]

For the Purpose of: [insert reason for variance]

And **WHEREAS** after careful consideration of the application and any representations made for or against the variance sought by the applicant, the Council of the [insert name of municipality], in meeting duly assembled this [insert date] day of [insert month and year] **APPROVED** the said variances subject to the following conditions:

1. [insert condition if applicable]

This variance order will expire and cease to have any effect if it is not acted upon within 12 months of the date of the decision or renewed for an additional period by Council [or the Planning Board] not exceeding 12 months.

[insert name of CAO or designated employee]
Chief Administrative Officer [or title of designated employee]

Minute Reference: Res. No. [insert resolution number]

Appendix:

Template for Minor Variance Order

15

**Minor Variance Order
Under The Planning Act
[insert name of municipality]**

**Variance Order
[insert variance order number]**

WHEREAS, Section 102(1) of The Planning Act allows a designated employee or officer of the Municipality to approve Minor Variances AND **WHEREAS** By-law No. [insert By-law Number granting authority to designated employee] **WHEREAS** [insert name of property owner], owner of the property legally described as [insert legal description of land], or located at [insert civic/legal address], or as otherwise described within Certificate of Title [insert Certificate of Title number], located at [insert civic address if applicable], in the [insert name of municipality], has applied to the Council of the [insert name of municipality] to vary the application of [insert name of Zoning By-law], as amended, as it applies to the subject property and provided within The Planning Act.

From: [insert current Zoning By-law requirements]

To: [insert variance requested]

For the Purpose of: [insert reason for variance]

NOW THEREFORE BE IT RESOLVED that the designated officer of the [insert name of municipality] APPROVE Variance Order [insert variance order number], with the following conditions:

1. [insert condition if applicable]

This variance order will expire and cease to have any effect if it is not acted upon within 12 months of the date of the decision or renewed for an additional period by Council [or the Planning Board] not exceeding 12 months.

[insert name of CAO or designated employee]

Chief Administrative Officer [or title of designated employee]

Appendix:

Template for Conditional Use Order

16

**Conditional Use Order
Under The Planning Act
[insert name of municipality]**

**Conditional Use Order No.
[insert conditional use order number]**

WHEREAS, [insert name of property owner], owner of the property legally described as [insert legal description of land], or located at [insert civic/legal address], or as otherwise described within Certificate of Title [insert Certificate of Title number], located at [insert civic address if applicable], in the [insert name of municipality], has applied to the Council of the [insert name of municipality] for a Conditional Use Order under [insert name of Zoning By-law], as amended, as provided within The Planning Act, in order to permit a [insert use], on the land;

And **WHEREAS** after careful consideration of the application and any representations made for or against the Conditional Use Order sought by the applicant, the Council of the [insert name of municipality], in meeting duly assembled this [insert date] day of [insert month and year] APPROVED the said application subject to the following conditions:

1. [insert condition if applicable]

This Conditional Use Order will expire and cease to have any effect if it is not acted upon within 12 months of the date of the decision or renewed for an additional period by Council [or the Planning Board] not exceeding 12 months.

[insert name of CAO or designated employee]
Chief Administrative Officer [or title of designated employee]

Minute Reference: Res. No. [insert resolution number]

Appendix:

Template for Public Reserve Closing By-law

17

BY-LAW NO. [INSERT BY-LAW NUMBER]

BEING a By-law of the [insert municipality's name] for closing certain lands taken for a public reserve.

WHEREAS, Section 139(1) of The Planning Act gives the Council of a municipality the power to close a public reserve by

- a. Passing a by-law to close the public reserve land;
- b. Obtaining written approval of the by-law from the minister; and
- c. Registering the approved by-law and, if required by a district registrar, a plan in the appropriate land titles office.

AND WHEREAS Section 139(2) of The Planning Act requires a public hearing to be held before giving Second Reading and to give notice of the hearing in accordance with Section 169.

NOW THEREFORE, the Council of the [insert municipality's name] in meeting duly assembled, enacts as follows that the land described as follows: [insert legal description and/or civic/legal address of land] is hereby closed as a public reserve.

DONE AND PASSED as a by-law of the [insert municipality's name] in the Province of Manitoba this [insert day] day of [insert month], [insert year].

[insert name of Reeve or Mayor], Reeve [or Mayor]

[insert *name* of Chief Administrative Officer], Chief Administrative Officer

Read a first time this [insert day] day of [insert month], [insert year].

Read a second time this [insert day] day of [insert month], [insert year].

Read a third time this [insert day] day of [insert month], [insert year].

Appendix:

Aggregate Quarry as a Conditional Use - Enquiry Form

18

TEMPLATE FOR
**AGGREGATE QUARRY AS A
CONDITIONAL USE -
ENQUIRY FORM**

AGGREGATE QUARRY AS A CONDITIONAL USE - ENQUIRY FORM

Please note this enquiry form is submitted to the municipality when applying for a conditional use permit. This information will be used to support the 60-day provincial technical review of the application, as required under 169(5) of The Planning Act. Upon completion of the review, Municipal and Northern Relations will share a copy of the completed planning report with the applicant and the municipality. This planning report will be made available prior to the conditional use public hearing.

SECTION A: APPLICANT INFORMATION

Applicant:

Address:

Phone:

Email:

SECTION B: SITE AND OPERATION PLAN

Note: A formal mining plan (including post-closure plans) maybe requested by the Municipality or Planning District

a. Location of the proposed quarry:

i. Legal Description:

ii. Municipality:

b. Size of the proposed quarry (in hectares):

c. Proposed volume of extraction per year (in m³):

i. Depth of excavation:

d. Quarry materials to be extracted: Select all that may apply

- ☐ Sand
- ☐ Gravel
- ☐ Rock
- ☐ Horticultural peat
- ☐ Stockpiled material
- ☐ Armour stone
- ☐ Other (specify)

Other 1: _____

Other 2: _____

e. Quarry operations to occur: Select all that may apply

- ☐ Drilling
- ☐ Blasting
- ☐ Ripping
- ☐ Crushing
- ☐ Washing
- ☐ Asphalt batch plant
- ☐ Other (specify)

Other 1: _____

Other 2: _____

f. What is the proposed start date of the quarry? (dd /mm/yyyy) _____

g. What are the proposed hours of operation? _____

h. What is the estimated life span of the quarry? (In years): _____

TEMPLATE FOR
**AGGREGATE QUARRY AS A
CONDITIONAL USE -
ENQUIRY FORM**

SECTION C: ACCESS AND PROPOSED HAUL ROUTES

- a. Does the quarry site have any existing access? (e.g., public road, provincial highway etc.).

☐ No ☐ Yes Please specify: _____

- b. Are there proposed truck entrances and exits

☐ No ☐ Yes

If yes, please note that approval from Manitoba Transportation and Infrastructure for a new approach may be required prior to approval

- c. Are there proposed parking and loading areas?

☐ No ☐ Yes

- d. Please describe your proposed haul route plan.

- e. Are there any implications for the proposed haul route(s) (e.g., traffic, road closure)?

☐ No ☐ Yes Please specify: _____

- f. Please specify the anticipated number of aggregate trucks per day. _____

SECTION D:

- a. Are there any water bodies (e.g., rivers, streams) within 300 metres or within the proposed quarry area?

☐ No ☐ Yes

If yes, please specify the direction and distance from quarry area:

- b. Will water be required for the quarry operations?

☐ No ☐ Yes

If yes, what is the source (e.g., surface or proposed/existing ground water) and volume of water required:

- c. Are there any existing surface water drainage and drainage facilities on or within the quarry area?

☐ No ☐ Yes If yes, please specify: _____

- d. Is there any proposed water diversion, and points of discharge to surface water?

☐ No ☐ Yes please specify where, how?

TEMPLATE FOR
**AGGREGATE QUARRY AS A
CONDITIONAL USE -
ENQUIRY FORM**

SECTION D: CONTINUED

e. Identify existing land uses within 300 metres of the site (e.g., roads, dwellings, cabins, transmission lines, quarries, agricultural land)

☐ No ☐ Yes Please specify land use, distance and direction:

f. Are there any existing or proposed measures to control dust, noise, and visibility issues (e.g. berm, shelterbelt, acoustical fencing etc.)

☐ No ☐ Yes

If yes, please specify location, describe width, height:

g. Does the land contain any trees or vegetation?

☐ No ☐ Yes Describe the existing cover type:

h. Are there any new buildings or structures proposed within the quarry site (e.g. office, fences, hydro poles etc.)

☐ No ☐ Yes

If yes, please specify the structures and their locations:

▪ **Note: If the site is on Crown Lands, additional permits may be required.**

SECTION E: REQUIREMENT CHECKLIST/DECLARATION

Incomplete and/or inaccurate applications, or proposed quarry boundaries that encroach on the required setback distances, will not be accepted. Please review and confirm the following:

☐ All sections of this form are complete and accurate

☐ A digital boundary map/dimensioned site plan accompanies the application showing any of the following:

- the extraction area relative to property lines
- land area and depth of excavation (including any test pit results)
- location of existing and proposed buildings and structures
- truck haul route(s) (provincial/municipal highway and roads accesses)
- planned noise and/or dust mitigation measures (e.g. shelterbelts, berm, acoustical fencing)
- water bodies (e.g., streams, ponds)
- wetland
- intended staging for progressive rehabilitation

☐ The applicant acknowledges that fees may be required and has discussed this with the municipality.

☐ The proposed quarry operation will comply with the Manitoba Quarry Minerals Regulation Section 5 Operation and Rehabilitation of Quarries

I hereby certify that all of the information provided in this application is truthful to the best of my knowledge. I understand that the submission does not provide any rights to quarry the area outlined in this application, that no activity may occur until a signed conditional use quarry permit has been received, and all other required permits have been obtained.

Name: _____

Signature: _____

Date: _____

TEMPLATE FOR
**AGGREGATE QUARRY AS A
CONDITIONAL USE -
ENQUIRY FORM**

Additional Notes

Appendix:

Application to Create a Planning District

19

APPLICATION TO CREATE A PLANNING DISTRICT

1. Each council of each municipality must hold a public hearing to receive representations on the proposed planning district. Notice of the hearing must be done in accordance with Section 168 of the Act.
2. After the public hearing, the councils of the municipalities submit an application to the Minister under Section 16 of the Act, requesting that a planning district is established.
3. The application must include:
 - A resolution supporting the establishment of the proposed planning district from each council of each municipality.
 - Evidence that each municipality held a public hearing.
4. The Minister may:
 - Approve the application and establish the new planning district by regulation, or
 - Reject the application, which ends the process.
5. If approved, a draft regulation is posted to the government's consultation website for a minimum of 45 days seeking stakeholder feedback. The draft regulation must set out the name and boundaries of the proposed planning district and the date when the planning district will begin to carry out its duties under the Act. Note: An amendment to the Planning District Regulation will likely be exempt from the 45-day public consultation period. However, the Department may opt for the 45-day consultation if public input and feedback is desired.
6. The finalized regulation is posted publicly.

Appendix:

Process for Municipal Application to Join a Planning District

20

PROCESS FOR A MUNICIPAL APPLICATION TO JOIN A PLANNING DISTRICT

1. Council of the municipality proposing to join an existing planning district must hold a public hearing to receive representations on joining the planning district. Notice of the hearing must be done in accordance with Section 168 of the Act.
2. After the public hearing, the council of the municipality and the board of the planning district submit an application to the Minister under Section 27(1) of the Act.
3. The application must include:
 - A resolution in support of joining the planning district, and
 - Evidence that the municipality held a public hearing.
4. The Minister may:
 - Approve the application and amend the existing planning district by regulation,
 - Refer the matter to The Municipal Board under Section 28(1) of the Act, or
 - Reject the application, which ends the process.
5. Municipal Board holds public hearing on the municipal request to join a planning district.
6. Municipal Board makes a recommendation to the Minister on the application of the municipality.
7. Minister reviews the Municipal Board recommendations and either:
 - Accepts municipal application, or
 - Rejects municipal application, which ends the process.
8. If approved, a draft regulation is posted to the government's consultation website for a minimum of 45 days seeking stakeholder feedback. The draft regulation must set out the name and boundaries of the proposed planning district and the date when the planning district will begin to carry out its duties under the Act. Note: An amendment to the Planning District Regulation will likely be exempt from the 45-day public consultation period. However, the Department may opt for the 45-day consultation if public input and feedback is desired.
9. The finalized regulation is posted publicly.

Appendix:

Process for Municipal Application to Leave a Planning District

21

PROCESS FOR MUNICIPAL APPLICATION TO LEAVE A PLANNING DISTRICT

1. Municipality submits report to Minister under Section 27(2)(b) of The Planning Act, requesting that they be removed from a planning district.
2. Municipal report is:
 - referred by Minister to Department for review and advice (go to step 3),
 - referred by Minister to Municipal Board under Section 28(1) of the Planning Act (go to step 4)
3. After receiving departmental advice, Minister either:
 - accepts municipal application (go to step 7),
 - refers report to Municipal Board under Section 28(1) of the Planning Act (go to step 4), or
 - rejects municipal application (process ends).
4. Municipal Board holds public hearing on the municipal request to be removed from a planning district (Section 28(2)).
5. Municipal Board makes a recommendation to the Minister on the application of the municipality (Section 28(3)).
6. Minister reviews the Municipal Board recommendations and either:
 - accepts municipal application (go to step 7),
 - rejects municipal application (process ends).
7. Draft regulation is posted to government's consultation website for a minimum of 45 days seeking stakeholder feedback. Note: An amendment to the Planning District Regulation will likely be exempt from the 45-day public consultation period. However, the Department may opt for the 45-day consultation, if public input and feedback is desired.
8. The finalized regulation is posted publicly.

Appendix:

Template for Public Hearing Notice for Development Plan or Zoning By-law Amendment

22

**UNDER THE AUTHORITY OF THE PLANNING ACT
NOTICE OF PUBLIC HEARING**

On the date and at the time and location shown below, a **PUBLIC HEARING** will be held to receive representations from any person(s) who wish to make them in respect to the following matter:

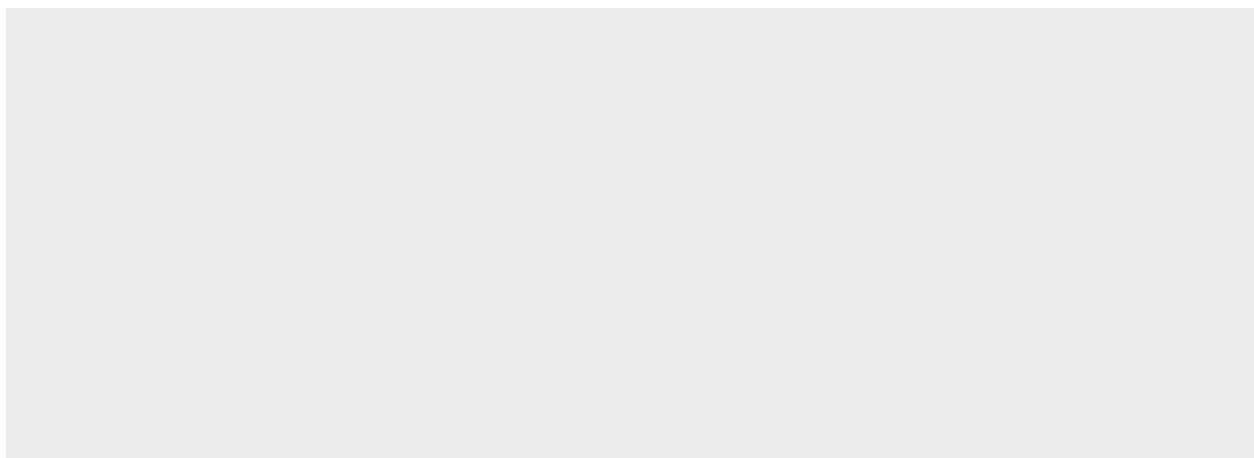
By-law No. [insert By-law number], being an amendment to [Development Plan or Zoning By-law] [insert By-law number]

Hearing Location: [insert address of public hearing and/or insert an online link to public hearing]

Date & Time: [insert day and time of public hearing]

General Intent: To [re-designate or re-zone] the hatched area as shown on the map below, from [insert current designation or zone] to [insert proposed designation or zone].

Area: [insert map of affected area OR affects entire Planning District/Municipality]



For Information Contact: [insert municipal contact information]

A copy of the above proposal and supporting material may be inspected at the location noted above during normal office hours, Monday to Friday. Copies may be made and extracts taken there from, upon request.

Appendix:

Template for Public Hearing Notice for Variance Order

23

**UNDER THE AUTHORITY OF THE PLANNING ACT
NOTICE OF PUBLIC HEARING**

Variance Order
[insert variance order number]

The [insert municipality], under the authority of The Planning Act, will hold a PUBLIC HEARING at [insert address of public hearing and/or insert an online link to public hearing] at which time and place Council will receive written or verbal representations from the applicant and any persons who wish to make them in respect to the following application matter:

Application for Variance Order under the [insert municipality] Zoning By-law [insert Zoning By-law number].

Where: [insert location of subject property. Civic/legal addresses may be used.]

Property Owner: [insert property owner's name]

Applicant: [insert applicant's name]

Proposal: [insert reason for variance order application]

Zoning: [insert current zoning of subject property]

Area: [insert location map of subject property]

[insert map of proposed variance]

Ensure that the map is clear, legible, shows nearby major features, has major streets labelled and includes a north arrow and scale.

A copy of the above proposal and supporting material may be inspected at the location noted above during normal office hours, Monday to Friday. Copies may be made and extracts taken there from, upon request.

For information contact:

[Insert contact information]

Appendix:

Template for Public Hearing Notice for Conditional Use Order

24

**UNDER THE AUTHORITY OF THE PLANNING ACT
NOTICE OF PUBLIC HEARING**

Conditional User Order
[insert conditional use order number]

The [insert municipality], under the authority of The Planning Act, will hold a PUBLIC HEARING at [insert address of public hearing and/or insert an online link to public hearing] on [insert day and time] at which time and place Council will receive representations from the applicant and any persons who wish to make them in respect to the following application under the [insert municipality] Zoning By-law [insert Zoning By-law number].

Where: [insert location of subject property. Civic/legal addresses may be used.]

Property Owner: [insert property owner's name]

Applicant: [insert applicant's name]

Proposal: [insert reason for variance order application]

Zoning: [insert current zoning of subject property]

Area: [insert location map of subject property]

[insert map of proposed conditional use]

Ensure that the map is clear, legible, shows nearby major features, has major streets labelled and includes a north arrow and scale.

A copy of the above proposal and supporting material may be inspected at the location noted above during normal office hours, Monday to Friday. Copies may be made and extracts taken there from, upon request.

For information contact:
[Insert contact information]

Appendix:

Template for Notice of Second Reading of Development Plan

25

TEMPLATE FOR
**NOTICE OF SECOND READING
OF DEVELOPMENT PLAN**

[Insert Date]

Dear Resident,

In accordance with Section 48(c) of The Planning Act, notice is hereby given that the Council of the [insert municipality], at their regular meeting held [insert date], gave Second Reading to By-law No. [insert by-law number], being an amendment to [insert development plan number] to redesignate [insert legal description and/or civic/legal address of subject property] (refer to the map below for subject property). The By-law has been submitted to the minister for approval.

The general intent of this By-law No. [insert by-law number] is to redesignate the subject property from [insert current designation] to [insert proposed destination] in order to accommodate [insert reason].

You may file an objection with the Municipality that includes your full name, mailing address, signature and the reasons for your objection by no later than [insert day and time]. The objection may be filed with the Municipality at the Municipal Office address below:

[insert address of municipal office]

Sincerely,

[insert name of Planning and Development Officer or CAO]

[insert map of subject property]

Ensure that the map is clear, legible, shows nearby major features, major streets are labelled and includes a north arrow and scale.

Appendix:

Template for Notice of Second Reading of Zoning By-law

26

TEMPLATE FOR
**NOTICE OF SECOND READING
OF ZONING BY-LAW**

[Insert Date]

Dear Resident,

In accordance with Section 76(3) of The Planning Act, notice is hereby given that the Council of the [insert municipality], at their regular meeting held [insert date], gave Second Reading to By-law No. [insert by-law number], being an amendment to [zoning by-law number] to rezone [insert legal description and/or civic/legal address of subject property] (refer to the map below for subject property).

The general intent of this By-law No. [insert by-law number] is to rezone the subject property from [insert current zoning] to [insert proposed zoning] in order to accommodate [insert reason].

You may file a second objection with the Municipality that includes your full name, mailing address, signature and the reasons for your objection by no later than [insert day and time]. If sufficient objections are not received before the deadline, the By-law may be given Third Reading without further notice. The objection may be filed with the Municipality at the Municipal Office address below:

[insert address of municipal office]

Sincerely,

[insert name of Planning and Development Officer or CAO]

Appendix:

Appealable Items Under The Planning Act

27

APPEALABLE ITEMS UNDER THE PLANNING ACT

This list is provided for convenience and its contents may change from time to time. In the event of any discrepancies between this list and The Planning Act, The Planning Act prevails. Please note this list does not reflect planning applications within Special Planning Areas.

Appealable Action	Timeline for Applicant to file Notice of Appeal with Authority	Authority receiving Notice of Appeal
Missed service standard (general)	14 days from missed standard	Municipal Board
Designated employee decision	terms specified in notice of decision (s. 102(5))	local planning authority (s. 102(6))
Planning Commission decision	terms specified in notice of decision (s. 34(1))	local planning authority (s. 35(1))

A decision not to proceed (refusal) or to reject an application:		
Secondary Plan By-law or Amendment (s. 82.1(1)(a) via s. 64)	14 days from notice of decision	Municipal Board
Zoning By-law Amendment (e.g. rezoning) (s. 82.1(1)(a))	14 days from notice of decision	Municipal Board
Conditional Use related to aggregate (s.118.2(1)(a)(i)) or large-scale livestock operations (s. 118.2(1)(b)(i))	14 days from notice of decision	Municipal Board
Subdivision where the province is approving authority (s. 129(1)(a)) via s.126(2)(a))	14 days from notice of decision	Municipal Board
Subdivision where the district board or council is the approving authority (s. 129(1)(a)) or s. 129(1.1))	14 days from notice of decision	Municipal Board
Minor Subdivision including a council rejection on a conditional approval issued by the province* (s. 129(1)(a) via s. 125.1(6)) or s. 125.2 and s. 126(2)(a))	14 days from notice of decision	Municipal Board
Development Permit (s. 149.2(1)(a))	14 days from notice of decision	Municipal Board
Development Agreement Amendment (s. 151.0.3(1)(b)(i))	14 days from notice of decision	Municipal Board

**Note: a revocation of conditional approval is final and not subject to appeal*

APPEALABLE ITEMS UNDER THE PLANNING ACT

A decision to impose conditions on the approval of an application:		
Secondary Plan By-law Amendment: requirement to enter into a development agreement (s. 82.1(1)(b) via s. 64)	14 days from notice of decision or date a development agreement is imposed	Municipal Board
Zoning By-law Amendment: requirement to enter into a development agreement (s. 82.1(1)(b))	14 days from notice of decision or date a development agreement is imposed	Municipal Board
Conditional Use related to aggregate (s.118.2(1)(a)(ii)) or large-scale livestock operations (s. 118.2(1)(b)(ii))	14 days from notice of decision	Municipal Board
Subdivision Conditional Approval where the province is approving authority (s. 129(1)(a) via s. 126(2)(b) and s. 129(1)(b) via s. 126(4))	14 days from notice of decision	Municipal Board
Subdivision where the district board or council is the approving authority (s. 129(1.1) via ss. 125 or 125.1)	14 days from notice of decision	Municipal Board
Minor Subdivision (s. 129(1)(b) via s. 126(4))	14 days from notice of decision	Municipal Board
Development Permit (s. 149.2(1)(b) via s. 126(4))		Municipal Board
Development Agreement terms and conditions related to a rezoning, variance, or conditional use (excluding aggregate or large livestock-based conditional uses) (s. 151.0.3(1)(a))	14 days from notice of decision	Municipal Board
Development Agreement terms and conditions (new or varied) related to an application to amend an existing development agreement (s. 151.0.3(1)(b)(ii))	14 days from notice of decision	Municipal Board

Missed Service Standard (Timelines)**		
Secondary Plan Amendment: 90 days from application to hearing (s. 82.1(2)(a))	14 days from expiry of time period where planning authority has failed to take action	Municipal Board
Secondary Plan Amendment: 60 days from hearing to district board or council decision, or referral to the Municipal Board (ss. 82.1(2)(b), 82.1(2)(c), or 82.1(2)(d))	14 days from expiry of time period where planning authority has failed to take action	Municipal Board

APPEALABLE ITEMS UNDER THE PLANNING ACT

Zoning By-Law Amendment (e.g. rezoning): 90 days from application to hearing (s. 82.1(2)(a))	14 days from expiry of time period where planning authority has failed to take action	Municipal Board
Zoning By-Law Amendment (e.g. rezoning): 60 days from hearing to district board or council decision, or referral to the Municipal Board (ss. 82.1(2)(b), 82.1(2)(c), or 82.1(2)(d))	14 days from expiry of time period where planning authority has failed to take action	Municipal Board
Subdivision: 90 days from application received by council to council resolution (s. 125(4.1))	14 days from expiry of time period where planning authority has failed to take action	Municipal Board
Subdivision: 60 days from council resolution to approving authority decision (s. 126(5))	14 days from expiry of time period where planning authority has failed to take action	Municipal Board
Minor Subdivision: 60 days from application to council decision (s. 129(3)(b) via s. 125.3)	14 days from expiry of time period where planning authority has failed to take action	Municipal Board
Development Permit: 60 days from application submission to determine whether or not the application conforms with applicable by-laws (s. 149.2(2) via s. 148(2))	14 days from expiry of time period where planning authority has failed to take action	Municipal Board
Development Agreement: 90 days from requirement of a development agreement related to a zoning by-law amendment, variance, or conditional use (excluding aggregate or large livestock-based conditional uses) to agreement of terms and conditions of said development agreement (s. 151.0.1 via s. 151.0.3(1)(a))	14 days from the expiry of the time period for coming to agreement	Municipal Board
Development Agreement: 90 days from application to amend existing development agreement to agreement of terms and conditions of said amended development agreement (s. 151.0.3(2))	14 days from expiry of time period where planning authority has failed to take action	Municipal Board
Combined Hearing: A decision was not made within 30 days following the longest time period applicable and the application was deemed rejected (s. 174(3) as it applies to one or more of: s. 82.1(2), 125.3, 151.0.1, 151.0.3)	14 days from expiry of time period where planning authority has failed to take action	Municipal Board

****Note:** timelines are subject to agreements to extend time between the applicant and planning authority

Municipal and Northern Relations - Community Planning

email: provincialplanning@gov.mb.ca

website: <https://www.gov.mb.ca/mr/>