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Alta. Reg. 179/2011, s. 1

## **Alberta Land Stewardship Act**

### **ALBERTA LAND STEWARDSHIP REGULATION**

#### **Alta. Reg. 179/2011**

Filed: August 25, 2011

#### **SECTION 1**

##### *Definition*

1 In this Regulation, "Act" means the Alberta Land Stewardship Act.

*Alta. Reg. 179/2011 s1 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

#### **SECTION 2**

##### *Application of Regulation*

2(1) Part 1 deals with matters related to requests for a review of a regional plan or an amendment to a regional plan under section 19.2 of the Act.

(2) Part 2 deals with matters related to applications for variance in respect of any restriction, limitation or requirement regarding a land area or subsisting land use under a regional plan under section 15.1 of the Act.

(3) Part 3 deals with matters related to applications for compensation under Part 3, Division 3 and section 19.1 of the Act.

*Alta. Reg. 179/2011 s2 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

#### **SECTION 3**

##### *Interpretation bulletins*

3(1) The secretariat may, at the direction of the Stewardship Minister or on the initiative of the secretariat, issue interpretation bulletins on the interpretation, application, compliance, non compliance and intended purpose, application or implementation of a regional plan.

(2) An interpretation bulletin must indicate whether it is to be binding or advisory.

(3) An interpretation bulletin that is to be binding must be approved by the Lieutenant Governor in Council.

(4) An interpretation bulletin that is binding has the same effect as if it had been included in a regional plan.

*Alta. Reg. 179/2011 s3 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## SECTION 4

### *Service of notice of conservation directive*

4(1) In this section, "certificate of title" means the record of the title to land that is maintained by the Registrar of Titles.

(2) A notice of a conservation directive may also be served by sending the notice by registered mail or courier,

(a) in the case of Crown land, to the title holder at the last address shown for that person on the records of the department administering the land, or

(b) in the case of land that is neither Crown land nor settlement patented land, to the title holder at the last address shown for that person on the certificate of title.

*Alta. Reg. 179/2011 s4 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## Part 1

## SECTION 5

### Requests for Review of Regional Plan

#### *Interpretation*

5(1) In this Part,

(a) "applicant" means a person who has made a request for a review of a regional plan or an amendment to a regional plan under section 19.2 of the Act;

(b) "application" means a request for review of a regional plan or an amendment to a regional plan;

(c) "directly and adversely affected", in respect of a person with regard to a regional plan, means that there is a reasonable probability that a person's health, property, income or quiet enjoyment of property, or some combination of them, is being or will be more than minimally harmed by the regional plan;

(d) "panel" means a panel referred to in section 6(1)(a) or a board or other body referred to in section 6(1)(b) when it is acting as a panel under this Regulation.

(2) A reference in this Part to review of a regional plan includes review of an amendment to a regional plan.

*Alta. Reg. 179/2011 s5 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## SECTION 6

#### *Panel*

6(1) On receiving an application, the Stewardship Minister may, for the purpose of the conducting of a review of a regional plan in accordance with section 9,

(a) appoint members to a panel, or

(b) refer the request for review to a board or other body established under another enactment if the Stewardship Minister considers that the board or other body has suitable expertise and resources.

(2) The Stewardship Minister may, with respect to a panel referred to in subsection (1)(a),

(a) prescribe the terms of office of its members,

(b) designate a chair,

(c) authorize, fix or provide for the payment of expenses to its members and remuneration to its members who are not employees of the Government, and

(d) prescribe the number of members of the panel that constitutes a quorum.

(3) Where the Stewardship Minister refers an application to a board or other body referred to in subsection (1)(b), the Stewardship Minister may

(a) authorize, fix or provide for the payment of expenses to its members, and remuneration to those members who are not employees of the Government, when they are acting as a panel under this Regulation, and

(b) require the board or other body to act in accordance with the rules respecting the conduct of a review established by the Stewardship Minister under section 10.

*Alta. Reg. 179/2011 s6 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 7**

### *Making an application*

7(1) An application must be in a form approved by the Stewardship Minister and must contain the following information:

(a) the name and address of the applicant and, if the applicant is a corporation, society or other body corporate, the name of the chief executive officer of the applicant;

(b) if the applicant is appointing a person to represent the applicant with respect to the application, the name of the person and the contact information of the person;

(c) the address in Alberta to which notices or other communications with respect to the application may be sent;

(d) identification of the specific provision of the regional plan that the applicant believes is directly and adversely affecting the applicant or will directly and adversely affect the applicant;

(e) an explanation of how the specific provision identified in clause (d) is directly and adversely affecting the applicant or will directly and adversely affect the applicant;

(f) an explanation of the adverse effects the applicant is suffering or expects to suffer as a result of the specific provision identified in clause (d);

(g) the relief being requested by the applicant, which may include any amendment to the specific provision of the regional plan identified in clause (d) that the applicant proposes in order to diminish or eliminate the adverse effects identified in clause (f).

(2) If an application includes a technical or professional report or material of a technical or professional nature, the application must set out the qualifications of the person who prepared the technical or professional report or material.

*Alta. Reg. 179/2011 s7 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 8**

### *Delivery of application*

8(1) Subject to subsection (2), an application must be delivered by personal service, registered mail or courier to the Stewardship Minister at the address designated by the stewardship commissioner.

(2) An application may be delivered by fax or other electronic means, but the application is not considered to be received unless the Stewardship Minister acknowledges receipt of the application.

*Alta. Reg. 179/2011 s8 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 9**

### *Forwarding application to panel*

9(1) Subject to subsection (2), on receipt of a complete application, the Stewardship Minister shall forward the application to the panel for the panel to conduct the required review of the regional plan and to report the results of the review and any recommendations to the Stewardship Minister.

(2) If the Stewardship Minister has received 2 or more applications, the Stewardship Minister may combine some or all of those applications to be reviewed concurrently by the panel.

(3) An application is not complete until all of the applicable information required under section 7 (1) has been provided to the satisfaction of the Stewardship Minister.

*Alta. Reg. 179/2011 s9 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 10**

### *Rules respecting conduct of review*

10(1) The Stewardship Minister may establish rules respecting the conduct of a review by a panel, including, without limitation, rules respecting the review of combined applications, and the contents of reports and any recommendations by the panel.

(2) If the Stewardship Minister establishes rules referred to in subsection (1), the rules and any amendments to them must be posted on the secretariat's website.

*Alta. Reg. 179/2011 s10 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## SECTION 11

### *Availability of applications and reports*

11(1) A copy of each complete application must be posted in its entirety on the secretariat's website as soon as practicable after it is received.

(2) A copy of each report and any recommendations prepared by a panel must be posted on the secretariat's website not less than 30 days and not more than 60 days after the report and any recommendations have been presented by the Stewardship Minister to the Executive Council under section 19.2(3) of the Act.

*Alta. Reg. 179/2011 s11 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## Part 2

## SECTION 12

### Variances in Respect of Regional Plan

#### *Definitions*

12 In this Part,

- (a) "applicant" means a title holder who applies for a variance under section 15.1 of the Act;
- (b) "application" means an application for a variance under section 15.1 of the Act;
- (c) "variance" means a waiver of compliance in respect of any restriction, limitation or requirement regarding a land area or subsisting land use, or both, under a regional plan;
- (d) "variance order" means an order made by the Stewardship Minister under section 15.1 of the Act.

*Alta. Reg. 179/2011 s12 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## SECTION 13

#### *Form of application*

13(1) An application must be in a form approved by the Stewardship Minister and must contain the following information:

- (a) the name and address of the applicant and, if the applicant is a corporation, society or other body corporate, the name of the chief executive officer of the applicant;
- (b) if the applicant is appointing a person to represent the applicant with respect to the application, the name and the contact information of the person;
- (c) the address in Alberta to which notices or other communications with respect to

the application may be sent;

(d) if the application is in respect of a land area, the legal description, or other form of description acceptable to the Stewardship Minister, of the land area;

(e) if the application is in respect of a subsisting land use, a description of the subsisting land use;

(f) identification of the restriction, limitation or requirement under the regional plan in respect of which the applicant is seeking a variance;

(g) an explanation of why the variance is necessary;

(h) a description of the variance specifically requested by the applicant, including any proposed terms and conditions of the variance being requested.

(2) If an application includes a technical or professional report or material of a technical or professional nature, the application must set out the qualifications of the person who prepared the technical or professional report or material.

(3) An application is not complete until all of the applicable information required under subsection (1) has been provided to the satisfaction of the Stewardship Minister.

*Alta. Reg. 179/2011 s13 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 14**

### *Delivery of application*

14(1) Subject to subsection (2), an application must be delivered by personal service, registered mail or courier to the Stewardship Minister at the address designated by the stewardship commissioner.

(2) An application may be delivered by fax or other electronic means, but the application is not considered to be received unless the Stewardship Minister acknowledges receipt of the application.

*Alta. Reg. 179/2011 s14 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 15**

### *Combining applications*

15 If the Stewardship Minister has received 2 or more applications, the Stewardship Minister may combine some or all of the applications and review those applications concurrently.

*Alta. Reg. 179/2011 s15 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 16**

### *Application temporarily suspends operation of a restriction, limitation or requirement*

16 An application suspends, in respect of the applicant, the operation of the restriction, limitation or requirement to which the application pertains until a decision is made under section 19.

*Alta. Reg. 179/2011 s16 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## SECTION 17

### *Additional information*

17(1) The Stewardship Minister may in the course of reviewing an application require the applicant to provide additional information or documents to support the application within the time set by the Stewardship Minister.

(2) The Stewardship Minister may refuse to make a decision on the application if the applicant has failed or refused to provide additional information or documents when requested to do so under subsection (1).

*Alta. Reg. 179/2011 s17 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## SECTION 18

### *Advisory panel*

18(1) In determining whether to approve an application, the Stewardship Minister may by order establish an advisory panel, which must review the application and make recommendations to the Stewardship Minister as it considers appropriate.

(2) The Stewardship Minister may, with respect to an advisory panel established under subsection (1),

(a) appoint or provide for the appointment of its members,

(b) designate a chair,

(c) authorize, fix or provide for the payment of expenses to its members and remuneration to its members who are not employees of the Government,

(d) prescribe the number of members of the advisory panel that constitutes a quorum,

(e) prescribe timelines for the delivery of its recommendations, and

(f) establish rules for the conduct of its proceedings.

(3) Before making a decision on the application, the Stewardship Minister shall consider, but is not bound by, any recommendations of the advisory panel.

*Alta. Reg. 179/2011 s18 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## SECTION 19

### *Decision*

19(1) If the Stewardship Minister approves an application, the Stewardship Minister shall provide the applicant with a copy of the variance order.

(2) If the Stewardship Minister refuses to approve an application, the Stewardship Minister shall provide the applicant with a copy of the Stewardship Minister's decision with reasons.

*Alta. Reg. 179/2011 s19 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 20**

*Withdrawal of application*

20 If an applicant wishes to withdraw an application before the Stewardship Minister makes a decision, the applicant shall send or deliver a written notice to the Stewardship Minister to that effect.

*Alta. Reg. 179/2011 s20 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 21**

*Variance order*

21 A variance order

(a) is effective on the date of signing unless another date is specified in the order, and

(b) may rescind a previous variance order in respect of the same land area or land use.

*Alta. Reg. 179/2011 s21 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 22**

*Availability of applications and variance orders*

22(1) A copy of each complete application must be posted in its entirety on the secretariat's website as soon as practicable after it is received.

(2) A copy of each variance order must be posted on the secretariat's website and made publicly available not more than 30 days after the variance is granted.

*Alta. Reg. 179/2011 s22 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **Part 3**

## **SECTION 23**

### **Regional Plan Compensation**

*Definitions*

23 In this Part,

(a) "applicant" means

(i) with respect to an application under Division 1, a title holder described in section 38(1) of the Act, or

(ii) with respect to an application under Division 2, a registered owner described



in section 19.1(2) of the Act;

(b) "application" means an application under Division 1 or Division 2, as the case may be;

(c) "Compensation Board" means

(i) in respect of land other than settlement patented land, the Land Compensation Board, and

(ii) in respect of settlement patented land, the Metis Settlements Appeal Tribunal Land Access Panel established under section 186(1) of the Metis Settlements Act.

*Alta. Reg. 179/2011 s23 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 24**

*Application of Part*

24(1) Division 1 applies to the determination of compensation under Part 3, Division 3 of the Act.

(2) Division 2 applies to the determination of compensation under section 19.1 of the Act.

*Alta. Reg. 179/2011 s24 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **Division 1**

## **SECTION 25**

### **Conservation Directive Compensation**

*Application for compensation*

25(1) Before applying to the Compensation Board or the Court of Queen's Bench for compensation under Part 3, Division 3 of the Act, an applicant must submit an application to the Stewardship Minister.

(2) An application must be in a form approved by the Stewardship Minister and must

(a) contain the following information:

(i) the name and address of the applicant and, if the applicant is a corporation, society or other body corporate, the name of the chief executive officer of the applicant;

(ii) if the applicant is appointing a person to represent the applicant with respect to the application, the name and the contact information of the person;

(iii) the address in Alberta to which notices or other communications with respect to the application may be sent;

(iv) the legal description, or other form of description acceptable to the Stewardship Minister, of the land area that is the subject of the application;

(v) the amount of compensation the applicant is seeking,

and

(b) be accompanied with

(i) a copy of the notice of the conservation directive provided to the applicant under section 38 of the Act, and

(ii) any documents and other information to support the claim for compensation.

(3) If an application includes a technical or professional report or material of a technical or professional nature, the application must set out the qualifications of the person who prepared the technical or professional report or material.

(4) An application is not complete until all of the applicable information required by subsection (2) has been provided to the satisfaction of the Stewardship Minister.

*Alta. Reg. 179/2011 s25 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 26**

### *Delivery of application*

26(1) Subject to subsection (2), an application must be delivered by personal service, registered mail or courier to the Stewardship Minister at the address designated by the stewardship commissioner.

(2) An application may be delivered by fax or other electronic means, but the application is not considered to be received unless the Stewardship Minister acknowledges receipt of the application.

*Alta. Reg. 179/2011 s26 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 27**

### *Combining applications*

27 If the Stewardship Minister has received 2 or more applications, the Stewardship Minister may combine some or all of those applications and review them concurrently.

*Alta. Reg. 179/2011 s27 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 28**

### *Additional information*

28(1) The Stewardship Minister may, in the course of reviewing an application, require the applicant to provide additional information or documents to support the application within the time set by the Stewardship Minister.

(2) The Stewardship Minister may refuse to make a decision on the application if the applicant has failed or refused to provide additional information or documents when requested to do so under subsection (1).

*Alta. Reg. 179/2011 s28 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 29**

*Decision on compensation*

29(1) Unless subsection (2) or section 30 applies, the Stewardship Minister shall determine

- (a) whether the applicant is entitled to compensation, and
- (b) if the applicant is entitled to compensation, the amount of any compensation payable.

(2) The Stewardship Minister may at any time, with notice in writing to the applicant, refer an application to the Compensation Board.

(3) Notwithstanding that the Stewardship Minister has referred an application to the Compensation Board, the applicant may apply to the Court of Queen's Bench for the determination of the compensation, but the applicant shall notify the Stewardship Minister and the Compensation Board of the application to the Court.

(4) The decision of the Stewardship Minister under this section, with reasons for that decision, must be provided to the applicant in writing.

*Alta. Reg. 179/2011 s29 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 30**

*Application to Compensation Board or Court*

30(1) If the applicant does not agree with a decision of the Stewardship Minister in respect of a refusal under section 28(2) or of an entitlement to, or the amount of, compensation under section 29(1), the applicant may apply to the Compensation Board or the Court of Queen's Bench for the determination.

(2) If an application is made to the Land Compensation Board pursuant to subsection (1) or a referral is made to the Land Compensation Board pursuant to section 29, the Expropriation Act and the regulations made under it respecting the determination of compensation, hearings and procedures, including interest and costs, apply to the application.

(3) If an application is made to the Metis Settlements Appeal Tribunal Land Access Panel pursuant to subsection (1) or a referral is made to the Metis Settlements Appeal Tribunal Land Access Panel pursuant to section 29, Part 7 of the Metis Settlements Act and the regulations made under that Act respecting the determination of compensation, hearings and procedures, including interest and costs, apply to the application.

*Alta. Reg. 179/2011 s30 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 31**

*Appeal to Court of Appeal*

31 The applicant or the Stewardship Minister may, within 30 days after receiving notice of a determination of the Compensation Board, appeal the determination to the Court of Appeal.

*Alta. Reg. 179/2011 s31 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## SECTION 32

### *Withdrawal of application*

32 If an applicant wishes to withdraw an application before the Stewardship Minister makes a decision, the applicant shall send or deliver a written notice to the Stewardship Minister to that effect.

*Alta. Reg. 179/2011 s32 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## Division 2

## SECTION 33

### Compensable Taking Compensation

#### *Application in respect of compensable taking*

33(1) An applicant who has suffered a compensable taking under the Act may, in accordance with this Division, submit an application.

(2) An application must be in a form approved by the Stewardship Minister and must

(a) contain the following information:

(i) the name and address of the applicant and, if the applicant is a corporation, society or other body corporate, the name of the chief executive officer of the applicant;

(ii) if the applicant is appointing a person to represent the applicant with respect to the application, the name and the contact information of the person;

(iii) the address in Alberta to which notices or other communications with respect to the application may be sent;

(iv) the legal description, or other form of description acceptable to the Stewardship Minister, of the land area that is the subject of the application;

(v) identification of the specific provision of the regional plan, or an amendment to the regional plan, that the applicant believes has caused the applicant to suffer a compensable taking;

(vi) an explanation of how the specific provision identified in subclause (v) has caused the applicant to suffer a compensable taking;

(vii) the amount of compensation the applicant is seeking,

and

(b) be accompanied with any documents and other information to support the claim for compensation.

(3) If an application includes a technical or professional report, or material of a technical or

professional nature, the application must set out the qualifications of the person who prepared the technical or professional report or material.

(4) An application is not complete until all of the applicable information required by subsection (2) has been provided to the satisfaction of the Stewardship Minister.

*Alta. Reg. 179/2011 s33 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 34**

### *Advisory panel*

34(1) In determining whether to approve an application, the Stewardship Minister may by order establish an advisory panel, which must review the application and make recommendations as it considers appropriate.

(2) The Stewardship Minister may, with respect to an advisory panel established under subsection (1),

- (a) appoint or provide for the appointment of its members,
- (b) designate a chair,
- (c) authorize, fix or provide for the payment of expenses to its members and remuneration to its members who are not employees of the Government,
- (d) prescribe the number of members of the advisory panel that constitutes a quorum,
- (e) prescribe timelines for the delivery of its report and recommendations, and
- (f) establish rules for the conduct of its proceedings.

(3) Before making a decision on the application, the Stewardship Minister shall consider, but is not bound by, any recommendations of the advisory panel.

*Alta. Reg. 179/2011 s34 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

## **SECTION 35**

### *Application of Act and Division 1*

35(1) For the purpose of applying for and the determination of compensation under this Division,

- (a) section 43(1)(b), (c), (g) and (h) of the Act apply, and
- (b) subject to subsection (2), sections 26 to 32 of this Regulation apply.

(2) An application to the Compensation Board or the Court of Queen's Bench under section 30(1) in respect of an application under this Division must be made within 2 years after the decision of the Stewardship Minister is received by the applicant under section 29(4).

*Alta. Reg. 179/2011 s35 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

**Part 4****SECTION 36****Expiry and Coming into Force***Expiry*

36 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on August 31, 2016.

*Alta. Reg. 179/2011 s36 effective September 1, 2011 (Alta. Gaz. September 15, 2011)*

**SECTION 37***Coming into force*

37 This Regulation comes into force on September 1, 2011.

*Alta. Reg. 179/2011 s37 (Alta. Gaz. September 15, 2011)*

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