



Alberta Land Stewardship Act

Rules of Practice for Conducting Reviews of Regional Plans

March 2014

Section 19.2 of the *Alberta Land Stewardship Act*, SA 2009, A-26.8, as amended, and sections 5-11 of the *Alberta Land Stewardship Regulation*, AR 179/2011, establish the statutory requirements for requesting and conducting a review of a regional plan. The review of a regional plan must be conducted by a Panel. Section 10(1) of the *Alberta Land Stewardship Regulation* permits the Stewardship Minister to establish rules respecting the conduct of a review by a Panel.

Definitions

1. In these Rules,

- a) "Act" means the *Alberta Land Stewardship Act*, SA 2009, A-26.8, as amended;
- b) "administrative body" means the Secretariat or another body that provides administrative support to the Panel;
- c) "applicant" has the same meaning as in section 5(1)(a) of the Regulation;
- d) "application" has the same meaning as in section 5(1)(b) of the Regulation;
- e) "application form" means the application form for a request for review as posted on the Secretariat's website;
- f) "Chair" means the Panel member who is designated as the Chair in accordance with section 16 of the Rules;
- g) "Code of Conduct" means a code of conduct for members of a Panel;
- h) "Crown" means the Crown in right of Alberta;
- i) "directly and adversely affected" has the same meaning as in section 5(1)(c) of the Regulation;

- j) “electronic” has the same meaning as in the *Electronic Transactions Act*, SA 2001, c E-5.5, as amended;
- k) “electronic agent” has the same meaning as in the *Electronic Transactions Act*, SA 2001, c E-5.5, as amended;
- l) “information request” has the same meaning as those questions set out in section 29 of the Rules;
- m) “Minister” means Stewardship Minister as defined in section 2(1)(cc) of the Act;
- n) “party” means the applicant or the Crown;
- o) “Panel” has the same meaning as in section 5(1)(d) of the Regulation;
- p) “recorded mail” means a form of document delivery by mail or courier in which receipt of the document must be acknowledged in writing;
- q) “Regulation” means *Alberta Land Stewardship Regulation*, AR 179/2011, as amended;
- r) “review” means a review pursuant to section 19.2 of the Act;
- s) “Rules” means these rules respecting the conduct of a review by a Panel;
- t) “Secretariat” has the same meaning as in section 2(1)(x) of the Act; and
- u) “written submissions” means those documents referred to in section 24 of the Rules.

Dispensing with or varying the Rules

2. At any time where considerations of fairness so require, the Minister may supplement, dispense with or vary these Rules or any part thereof. Where the Minister supplements, dispenses with or varies the Rules, the Minister must issue directions in respect of the appropriate procedure or new timelines.

Computation of Time

3. Unless otherwise specified, where reference is made to a number of days, it means calendar days.

4. Where a time fixed for taking action expires or falls on a day that is not a business day, the action may be taken on the next business day.
5. When counting to or from an event or activity in days, the date on which the event or activity occurs is not counted.

Service of Documents

6. A document may be served by electronic method on the administrative body or on a party who has specifically provided an address to which information or data in respect of a review may be transmitted, if the document is sent to the administrative body or party at the specified address, and
 - a) the electronic agent receiving the document at that address receives the document in a form that is usable for subsequent reference, and
 - b) the sending electronic agent obtains or receives a confirmation that the transmission to the address of the administrative body or the party to be served was successfully completed.
7. Service is effected under section 6 when the sending electronic agent obtains or receives confirmation of the successfully completed transmission.
8. A document may be served on the administrative body or on a party by being sent by recorded mail, addressed to the administrative body or the party at the address for service provided to the administrative body for the purposes of a review.
9. Service is effected under section 8 on the earlier of
 - a) the date acknowledgment of receipt is signed, or
 - b) 7 days after the date on which the recorded mail is sent.

Complete applications

10. An application is not deemed complete until all the applicable information required under section 7(1) of the Regulation and the application form has been provided to the satisfaction of the Minister.

11. Subject to section 22, the Minister must serve notice to each party once an application is deemed complete, and must forward the application to the Panel once the Panel has been established.
12. The Minister may require an applicant to submit any additional information he considers necessary for the application to be deemed complete within a specified time period.
13. If an applicant fails to submit the information required under section 12 within the specified time period, the Minister may deem the application to be incomplete and must not forward the incomplete application to the Panel. The Minister must serve notice to the applicant that the application has been deemed incomplete and will not be forwarded to the Panel.

Establishing a Panel

14. The Minister must establish a Panel to conduct a review after determining that the application is complete in accordance with section 7(1) of the Regulation.
15. In establishing a Panel in accordance with section 6(1) of the Regulation, the Minister must
 - a) with respect to section 6(1)(a), appoint Panel members from a roster of individuals selected through a competition conducted by the Secretariat,
 - b) with respect to section 6(1)(b), appoint Panel members from members of the board or other body to which the Minister referred the request for review,
 - c) appoint one or three Panel members, and
 - d) set the remuneration of the Panel members which will be paid by the Secretariat.
16. If three Panel members are appointed, the Minister must designate one of the Panel members as the Chair of the Panel.
17. The Chair's duties may include
 - a) calling or arranging meetings of the Panel members,
 - b) requesting administrative or legal support for the Panel in conducting the review,

- c) permitting a party to correct typographical errors or similar clerical errors in a written submission,
- d) issuing information requests and receiving responses to information requests,
- e) ensuring the review is conducted in a timely manner, and
- f) submitting the Panel's report and any recommendations to the Minister.

18. If one Panel member is appointed, that Panel member must perform the duties of the Chair in sections 17(b), (c), (d), (e) and (f) of the Rules.

Code of Conduct

19. Each Panel member must review and adhere to the Code of Conduct when conducting a review.

20. The Minister may repeal the appointment of any Panel member who does not comply with the Code of Conduct or any of these Rules. The Minister must appoint a new Panel member to replace a removed Panel member.

Combining applications

21. In accordance with section 9(2) of the Regulation, the Minister may appoint one Panel to conduct a review of more than one application.

22. If the Minister combines applications in accordance with section 21, the Minister may serve notice to all applicants once all the applications to be heard by one Panel are deemed complete, and may forward all completed applications being combined to the Panel together.

23. If a Panel conducts a review of more than one application, the Panel must prepare and submit a separate report and any recommendations for each application.

Written submissions

24. Subject to section 28, the Panel must conduct the review based only on the written submissions of each party, specifically

- a) the applicant's application,

- b) a written response by the Crown, and
- c) a written reply by the applicant, if submitted.

25. The Crown must serve its written response on the administrative body and the applicant within 90 days of receiving notice from the Minister that the application has been deemed complete under section 11 of these Rules.

26. If the applicant decides to provide a written reply, the applicant must serve its written reply on the administrative body and the Crown within 60 days of being served with the Crown's written response. If the applicant submits a written reply, the reply must be limited to addressing only matters raised by the Crown in its written response.

27. Once the timelines in sections 25 and 26 have lapsed or if a party serves notice on the administrative body that it will not be providing a written submission, the Panel must, subject to section 28, proceed with the review based on the written submissions before it.

Information Request

28. After the Panel has received and reviewed the written submissions, the Panel may request that a party provide further information necessary to permit a full and satisfactory understanding of the matters in the review.

29. An information request by a Panel under section 28 must

- a) be in writing,
- b) be directed to the party from whom a response is sought,
- c) contain specific questions for clarification about the party's evidence, documents or other material that may be in the possession of the party and relevant to the proceeding, and
- d) set out the date on which a response is required.

30. The administrative body must serve the information request on the party from whom a response is sought, and provide a copy of the information request to the other party.

31. The party receiving the information request must respond in writing with a full and adequate written response to each information request, or provide reasons why the information cannot be provided. The response must be limited only to the issues in the information request and must not raise new issues. The response must be served on the administrative body and the other party.

32. The other party may respond to the information request submitted under section 31 within the period of time set by the Panel.

Conducting the review

33. The Panel must conduct the review based only on the written submissions and responses to information requests, if applicable, of each party.

34. For additional clarity, the Panel must not consider any submissions from any person or entity other than a party in conducting a review.

35. The Panel has no authority to retain its own experts or to seek additional information from any party except in accordance with sections 17(b), (c) and (d), 18, 28 and 29 of the Rules.

36. In conducting a review, the Panel must provide advice on whether the applicant is directly and adversely affected by either

a) a specific provision or provisions in a regional plan, or

b) a specific provision or provisions in an amendment to a regional plan.

37. If the Panel's advice is that the applicant is not directly and adversely affected in accordance with either sections 36(a) or (b) of the Rules, the Panel must issue its report to the Minister with its advice on this issue alone.

38. If the Panel's advice is that the applicant is directly and adversely affected in accordance with either sections 36(a) or (b) of the Rules, the Panel must, in its report to the Minister

a) identify and explain how the specific provision or provisions in the regional plan or in an amendment to a regional plan directly and adversely affects the applicant, and

- b) explain the adverse effects with respect to health, property, income or quiet enjoyment of property, or some combination of them, that the applicant is suffering or expects to suffer as a result of the specific provision(s) identified.

39. The Panel may, in its report to the Minister, include recommendations specific to the provision(s) identified in section 38(a) of the Rules that may mitigate the adverse effects identified in section 38(b) of the Rules. Any recommendations made by the Panel must have regard to the purposes of the Act.

40. The Panel must submit its report and any recommendations to the Minister within one year less one day from being appointed or on a shorter timeline as directed by the Minister.

41. The Panel's report and any recommendations must reflect a consensus of the Panel members.

Communicating with the Panel

42. No party must contact the Panel or any Panel members directly. All communications to the Panel must be through the administrative body.

Costs

43. The Panel has no authority to consider or award costs in relation to a review.

Term of Panel Appointment

44. The appointment of a Panel member expires

- a) one year less one day from the date of initial appointment, or
 - b) upon the Panel submitting its report to the Minister,
- whichever date occurs first.

Public Record

45. Subject to section 46, the Secretariat must post the following documents on its website

- a) all written submissions,
- b) information requests and responses to information requests, and

c) the Panel's report and any recommendations.

46. A party may request in writing that the Panel keep a document or a portion of a document confidential. The Panel may grant such a request if, in the opinion of the Panel, the document or portion of document contains information contains sensitive business or personal information.

47. The other party may view a document kept confidential under section 46 by filing an undertaking with the administrative body that the opposing party will hold in confidence any evidence disclosed in a confidential document.

Records

48. Notwithstanding the involvement of an administrative body, the Secretariat must retain a copy of all written submissions, correspondence involving a party and the administrative body related to a review, and any Panel reports and recommendations.

General

49. In the event of any conflict or ambiguity between these Rules and the Act or Regulations, the Act or Regulations prevail over these Rules. For additional clarity, the Act prevails over the Regulations.

50. Words importing male persons including female persons, words importing female persons include male persons.

51. The headings preceding each section of these Rules are included for convenience only and do not form part of the Rules.