

PART IX

SUBDIVISION

Requirements for subdivision approval

268 (1) An application for subdivision approval shall

(a) be made to the development officer; and

(b) include a plan of subdivision prepared by a Nova Scotia land surveyor.

(2) Subdivision approval is not required for a subdivision

(a) where all lots to be created, including the remainder lot, exceed ten hectares in area;

(b) resulting from an expropriation;

(c) resulting from an acquisition or disposition of land by Her Majesty the Queen in right of the Province or in right of Canada or by an agency of Her Majesty;

(d) of a cemetery into burial lots;

(e) resulting from an acquisition of land by a municipality for municipal purposes;

(ea) resulting from an acquisition of land by a village for village purposes;

(f) resulting from the disposal, by a municipality, of a street or part of a street resulting from the disposal, by a municipality or Her Majesty the Queen in right of the Province, of a street or part of a street or a former street or part of a former street, including the consolidation of a street or part of a street or a former street or part of a former street with adjacent land;

(fa) resulting from the disposal of a trail or part of a trail, including the consolidation of a trail or part of a trail with adjacent land;

(g) of an abandoned railway right of way;

(h) that is a consolidation of a part of an abandoned railway right of way with adjacent land;

(i) resulting from a lease of land for twenty years or less, including any renewal provisions of the lease;

(ia) resulting from the acceptance for registration by the Registrar of Condominiums of a phase of a phased-development condominium that meets the requirements, if any, prescribed by the regulations made pursuant to the Condominium Act;

(ib) resulting from the quieting of a title;

(j) resulting from a devise of land by will executed on or before January 1, 2000.

(3) An affidavit of the person making a disposition or encumbrance of land that would create a subdivision that specifies the exemption from the requirement for approval and the facts that entitle the subdivision to the exemption is sufficient proof that approval of the subdivision is not required, unless the person to whom the disposition or encumbrance is made has notice to the contrary.

Common Ownership of lots

268A (1) Two or more lots that are and have been in common ownership and used together since April 15, 1987, or earlier are deemed to be consolidated if the owner or the owner's agent registers a statutory declaration in the appropriate registry of deeds or records a statutory declaration in the land registration office stating that the lots were in common ownership and used together on or before April 15, 1987, and have continued to be so owned and used, and including the facts that support the statement, the present descriptions of the lots including any property identifiers assigned by Service Nova Scotia and Municipal Relations and the description of the consolidated single lot.

(2) Registration or recording of the statutory declaration referred to in subsection (1) is deemed to consolidate the lots as of the date of registration or recording.

(3) Subdivision approval of the consolidation is not

required.

Instrument of subdivision

269 (1) Notwithstanding clause 268(1)(b), in a county or district municipality where so provided in the provincial subdivision regulations or a subdivision by-law, an application for subdivision approval may be made by instrument of subdivision rather than by a plan of subdivision.

(2) This Section applies only where the subdivision does not create a street or private road and results in

(a) each lot created being at least one hundred thousand square feet in area and having dimensions that would permit it to contain a two hundred and fifty foot diameter circle within its boundaries; or

(b) an increase in size of an existing lot by the addition of a part, *or all* of, an abutting lot, if the lot reduced in area, *if any*, complies after the subdivision with the frontage and area requirements set out in the provincial subdivision regulations or municipal subdivision by-law, as the case may be.

(3) An instrument of subdivision shall be in the form prescribed in the provincial subdivision regulations.

(4) Except as otherwise provided in this Act, the procedure and requirements for approval of a subdivision apply to subdivision by instrument and a reference to a plan of subdivision includes an instrument of subdivision.

(5) For greater certainty, no instrument of subdivision that adds or consolidates parcels or areas of land *in different ownerships* may be approved by a development officer until the development officer is provided with

(a) executed deeds suitable for registering to effect the addition or consolidation; and

(b) the fees for registering the deeds,

and the development officer shall register the deeds with the approved instrument.

Provincial subdivision regulations

270 (1) The Minister shall prescribe provincial subdivision regulations.

(2) Provincial subdivision regulations shall include

(a) procedures for preliminary evaluation and tentative and final approvals;

(b) requirements for preliminary evaluation and tentative and final approvals;

(c) the form of a notice of approval of subdivision;

(d) provisions for the repeal of a subdivision; and

(e) provisions for the referral of an application to a department or agency of the Province or of a municipality.

(3) Provincial subdivision regulations may include

(a) requirements for access to a lot;

(b) requirements respecting the shape of a lot;

(c) where they are not prescribed in a land-use by-law, requirements for minimum lot frontage and minimum lot area;

(d) provisions allowing a waiver of any requirements of the regulations and the circumstances in which a waiver may be allowed;

(e) the fee for the processing of applications for approval or repeal of a subdivision, including *registration*, recording and filing fees;

(f) procedures and requirements for concept plans;

(g) procedures for the approval of, form of and requirements for approval and registration of instruments of subdivision in a county or district municipality;

(h) requirements for private roads;

(i) any other matter relating to the division of land.

(4) At least thirty days before prescribing or amending provincial subdivision regulations, the Minister shall

(a) send a copy of the proposed regulations to the clerk of every municipality that will be affected by the regulations and invite written comments; and

(b) place a notice in a newspaper circulating in the area that will be affected by the regulations stating where the proposed regulations may be inspected and invite written comments.

(5) Where, on the coming into force of this Act, a municipality has not adopted a subdivision by-law, the municipality is deemed to have adopted the provincial subdivision regulations applicable to the municipality as its subdivision by-law.

(6) A subdivision by-law that is inconsistent with the provincial subdivision regulations is deemed to be amended by the subdivision regulations applicable to the municipality, unless the by-law provisions are more stringent, implement the municipal planning strategy or, with respect to the regulations concerning instruments of subdivision, do not provide for instruments of subdivision.

Subdivision by-law

271 (1) A subdivision by-law applies to the whole of a municipality, but the by-law may contain different requirements for different parts of the municipality.

(2) A subdivision by-law shall include

(a) any requirements prescribed by the provincial subdivision regulations applicable to the municipality unless

(i) the municipality adopts more stringent requirements, or

(ii) the municipal requirements implement the municipal planning strategy;

(b) procedures for preliminary evaluation and tentative and final approvals;

(c) requirements for preliminary evaluation and tentative and final approvals;

(d) the form of a notice of approval of subdivision;

(e) provisions for the repeal of a subdivision; and

(f) provisions for the referral of an application to a department or agency of the Province or of the municipality.

(3) A subdivision by-law may include

(a) requirements for access to a lot;

(b) requirements respecting the shape of a lot;

(c) where they are not prescribed in a land-use by-law, minimum lot frontage and minimum lot area;

(d) provisions allowing a waiver of certain requirements of the by-law and the circumstances in which a waiver may be allowed;

(e) procedures for the approval of, form of and requirements for approval and registration of instruments of subdivision in a county or district municipality;

(f) the fee for the processing of applications for approval or repeal of a subdivision, including *registration*, recording and filing fees;

(g) requirements for the design and construction of streets, private roads, wastewater facilities, stormwater systems, water systems and other services;

(ga) requirements for part of a system for the supply or distribution of electricity or other source of energy or a telecommunications system to be placed underground;

(h) requirements for the transfer to the municipality of useable land, or equivalent value, for *trails*, park, playground and similar public purposes, ***and a requirement that, if the land being subdivided has frontage on the ocean, a river or a lake, the land transferred include land with frontage on the ocean, river or lake or land to provide public access to the ocean, river or lake***, provided that the land required to be transferred does not exceed

(i) five per cent of the area of the lots shown to be approved on the final plan of subdivision, or

(ii) ten per cent of the area of the lots shown to be approved on the final plan of subdivision, if the requirement and the reasons for it are provided for in a municipal planning strategy;

(i) procedures and requirements for concept plan approval;

(j) the identification of transportation reserves and requirements that lots be designed so as not to impede a transportation reserve;

(k) regulate the width of streets or private road rights-of-way on which subdivisions are permitted.

(4) Where a municipal planning strategy so provides, a subdivision by-law may

(a) regulate or prohibit new municipal streets in all, or part, of the municipality where, in the opinion of the council, the streets would be premature;

(b) regulate or prohibit subdivisions on private roads in all, or part, of the municipality;

(c) limit the number of lots that may be created from an area of land in a calendar year.

(5) A subdivision by-law may require that prior to approval of a final plan of subdivision the applicant shall

(a) install water systems, wastewater facilities, stormwater systems and other services in the area of land being subdivided to the standards prescribed by the municipality;

(b) install trees for streets, bus bays, sidewalks and pathways; and

(c) lay out, construct, grade and pave, in whole or in part, any street in the area of land being subdivided to the standards prescribed by the municipality,

or in the alternative, enter into a bond or other security satisfactory to the municipality to

(d) install and provide the water systems, wastewater facilities, stormwater systems and other services in the area of land being subdivided to the standards prescribed by the municipality;

(e) install the trees along streets, bus bays, sidewalks and pathways required by the by-law; and

(f) lay out, construct, grade and pave, in whole or in part, any street in the area of land being subdivided to the standards prescribed by the municipality,

and in either case provide a bond or other security, satisfactory to the

municipality, for the maintenance of the services for a maximum of two years from the date the services are accepted by the municipality as having been installed to the standards prescribed by the municipality.

(6) A subdivision by-law may require that an applicant have, or permit an applicant to have, a qualified professional certify to the municipality that the services have been designed and installed to the standards prescribed by the municipality, and the municipality may rely on the certificate so given.

(7) A subdivision by-law may authorize the municipality to require an applicant for subdivision approval to provide water systems, wastewater facilities, stormwater systems and other services, including streets, in the area of land being subdivided with a capacity exceeding the anticipated requirements of the applicant's subdivision, if the municipality reimburses the applicant for any costs incurred with respect to the excess capacity.

(8) Any cost to a municipality pursuant to subsection (7) may, at the option of the council, be recovered by the municipality in the same manner as an infrastructure charge or in another manner.

(9) The procedure for the adoption, amendment, repeal, approval and publication of a subdivision by-law is the same as the procedure prescribed for planning documents.

(10) Notwithstanding the Public Utilities Act and for greater certainty, any by-law made pursuant to this Section and any transfer, bond, security, cost, charge or requirement, fixed or imposed pursuant to this Section, do not require approval by the Board.

Contents of subdivision by-law

272 (1) A council may, in the subdivision by-law, require a person applying for final approval of a subdivision to

(a) provide, at no cost to the municipality, easements for the drainage of stormwater in those circumstances specified in the subdivision by-law on the land that is proposed to be subdivided or outside that land;

(b) transfer to the municipality land, including easements, that may be necessary to operate and maintain stormwater systems;

(c) enter into an agreement to carry out a drainage plan or grading plan required by a subdivision by-law and to provide security satisfactory to the engineer to secure performance of the agreement.

(2) A subdivision by-law may

(a) specify standards and requirements for an easement required by the subdivision by-law;

(b) set standards and requirements respecting drainage master plans, drainage plans and grading plans;

(c) prescribe when drainage master plans, drainage plans and grading plans are required.

Land or cash-in-lieu

273 (1) In this Section, "equivalent value" includes cash or facilities, services or other value in kind, related to parks, playgrounds and similar public purposes or any combination thereof, determined by the municipality to be equivalent to the value of the land as determined by the assessor pursuant to this Section.

(2) Where a subdivision by-law provides for the transfer to the municipality of useable land, the applicant may provide land, equivalent value or a combination of land and equivalent value equal to the amount of the transfer required by the subdivision by-law.

(3) The subdivision by-law may specify the cases in which land only, equivalent value only, or land and equivalent value in a specified combination shall be transferred.

(4) Where equivalent value is to be provided in lieu of transferring land, the amount required shall be determined by an assessor based on the market value of the proposed lots excluding streets, easements and the residue of the land of the applicant, and this valuation may be

appealed in the same manner as an assessment.

(5) Where cash is paid in lieu of transferring land, the council shall use the funds for the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes and may use the interest on any funds not expended for those purposes for the operation and maintenance costs of parks, playgrounds and similar public purposes.

(5A) *Notwithstanding subsection ~~(5)~~ subsections (5) and (13), the council may transfer*

(a) the funds referred to in subsection ~~(5)~~ subsections (5) and (13) to a village or non-profit organization that is providing parks, playgrounds or other recreational facilities in the municipality to be used for the acquisition of and capital improvements to those parks, playgrounds or other recreational facilities; and

(b) the interest on the funds referred to in subsection ~~(5)~~ subsections (5) and (13) to a village or non-profit organization that is providing parks, playgrounds or other recreational facilities in the municipality to be used for the operation or maintenance of those parks, playgrounds or other recreational facilities.

(6) A subdivision by-law may include a definition of useable land, which may specify a minimum area, minimum dimensions, location and a method of establishing a minimum quality of the land.

(7) Useable land does not include any streets or easements conveyed to the municipality.

(8) The area of useable land to be conveyed to the municipality is calculated on the area of the lots to be approved, as shown on the final plan of subdivision, excluding streets and the residue of the land of the applicant.

(9) A development officer shall accept any land offered by an applicant that meets the definition of useable land contained in the subdivision by-law.

(10) An applicant may, with the approval of the council,

convey to the municipality an area of land in the municipality of equal value outside the area being subdivided, in lieu of land in the subdivision.

(11) An applicant may, ~~with the approval of the council,~~ provide a bond or other security acceptable to the council for the conveyance to the municipality of land in a future phase of the subdivision rather than conveying land from the approved phase of the subdivision or equivalent value.

(12) Any land conveyed to a municipality pursuant to this Section shall be

(a) free and clear of all encumbrances except an easement or right of way that does not materially interfere with the use and enjoyment of the land; and

(b) used for parks, playgrounds and similar public purposes.

(13) Where council determines that any land transferred pursuant to this Section might no longer be needed for parks, playgrounds or similar public purposes, the council may sell the land, after notifying the owners of lots in the subdivision with respect to which the land was conveyed to the municipality, by notice published in a newspaper circulating in the municipality at least fourteen days prior to the council meeting at which a decision to sell will be made, and the proceeds shall be used for parks, playgrounds and similar public purposes.

Infrastructure charges

274 (1) A municipal planning strategy may authorize the inclusion of provisions for infrastructure charges in a subdivision by-law.

(2) Infrastructure charges for

(a) new or expanded water systems;

(b) new or expanded wastewater facilities;

(c) new or expanded stormwater systems;

(d) new or expanded streets;

(da) new or expanded solid-waste management facilities;

(e) ~~upgrading intersections, new traffic signs and signals and new transit bus bays~~ *new or expanded transit facilities,*

may be imposed in a subdivision by-law to recover all, or part, of the capital costs incurred, or anticipated to be incurred, by a municipality by reason of the subdivision and future development of land and infrastructure charges for land, planning, studies, engineering, surveying and legal costs incurred with respect to any of them.

(3) The subdivision by-law shall set out the infrastructure charge areas in which infrastructure charges are to be levied, the purposes for which infrastructure charges are to be levied and the amount of, or method of calculating, each infrastructure charge.

(4) Infrastructure charges may be set at different levels related to the proposed land use, zoning, lot size and number of lots in a subdivision and the anticipated servicing requirements for the infrastructure charge area.

(5) Infrastructure charges may not be imposed if an infrastructure charge has been paid with respect to the area of land, unless further subdivision of the land will impose additional costs on the municipality.

(6) An infrastructure charge may only be used for the purpose for which it is collected.

(7) Final approval of a subdivision shall not be granted unless the infrastructure charges are paid or the applicant has entered into an agreement with the municipality securing the payment of the infrastructure charges.

(8) Infrastructure charges are a first lien on the land being subdivided and may be collected in the same manner as taxes.

(9) A by-law in effect on the date this Act comes into force that provides for a trunk sewer tax imposed on each lot in a new or existing subdivision is deemed to be a by-law made pursuant to this Section.

(10) Notwithstanding the Public Utilities Act and for greater certainty, any by-law made pursuant to this Section and any charge set, levied or imposed pursuant to this Section do not require the approval of the Board.

Infrastructure charges agreement

275 (1) An applicant and a municipality may enter into an infrastructure charges agreement that may

(a) provide for the payment of infrastructure charges in installments;

(b) permit the applicant to provide certain services or extended services in lieu of the payment of all, or part, of the charge;

(c) provide for security to ensure that the infrastructure charges are paid when due;

(d) provide for any other matter necessary or desirable to effect the agreement.

(2) A subdivision by-law may prescribe the circumstances in which an infrastructure charges agreement may be entered into and the general terms that such an agreement shall contain.

Effect of infrastructure charges agreement

276 An infrastructure charges agreement

(a) is binding on the land that is subdivided;

(b) shall be registered in the registry *or, in the case of land registered pursuant to the Land Registration Act, shall be recorded in the land registration office in the register of each parcel created or altered by the subdivision*, and shall be indexed as a conveyance to and from the owner of the land that is subdivided; and

(c) is binding on each individual lot in a subdivision, to the extent specified in the agreement.

Time limits for subdivision approval application

277 (1) Within fourteen days of receiving an application for subdivision approval, the development officer shall

(a) determine if the application is complete; and

(b) where the application is incomplete, notify the applicant in writing, advising what is required to complete the application.

(2) A completed application for subdivision approval that is neither approved nor refused within ninety days after it is received is deemed to be refused, unless the applicant and the development officer agree *in writing* to an extension.

(3) The development officer shall inform the applicant of the reasons for a refusal in writing.

Limitations on granting subdivision approval

278 (1) ~~As~~ *Subject to Section 283, an* application for subdivision approval shall be approved if the proposed subdivision is in accordance with the enactments in effect at the time a complete application is received by the development officer.

(2) An application for subdivision approval shall be refused where

(a) the proposed use of the lots being created is not permitted by the land-use by-law;

(b) the proposed lots do not comply with a requirement of the land-use by-law, unless a variance has been granted with respect to the requirement;

(c) the proposed lots would require an on-site sewage disposal system and the proposed lots do not comply with requirements established pursuant to the *Environment Act* for on-site sewage disposal systems, unless the owner has

been granted an exemption from technical requirements by the Minister of the Environment, or a person designated by that Minister;

(d) the development officer is made aware of a discrepancy among survey plans that, if either claimant were completely successful in a claim, would result in a lot that cannot be approved;

(e) the proposed access to a street does not meet the requirements of the municipality or the Province;

(f) the proposed subdivision does not meet the requirements of the subdivision by-law and no variance is granted; or

(g) the proposed subdivision is inconsistent with a proposed subdivision by-law or a proposed amendment to a subdivision by-law, for a period of one hundred and fifty days from the publication of the first notice advertising the council's intention to adopt or amend the subdivision by-law.

Lots not meeting requirements

279 Where a subdivision by-law or *a land use by-law* specifies minimum lot dimensions or lot area and the *subdivision* by-law so provides, the development officer may approve a plan of subdivision that shows not more than two lots that do not meet these requirements, provided that the lot dimensions and area are not less than ninety per cent of the required minimums.

Streets

280 (1) No plan of subdivision may be approved by a development officer where

(a) the plan shows a street to be owned by the municipality, unless the engineer has approved the design and construction standards of the street, and any intersection with a street, owned by the municipality;

(b) the plan shows a proposed intersection with a

street owned by the Province, unless the intersection has been approved by the Minister of Transportation and Public Works, or a person designated by that Minister; or

(c) the Minister of Transportation and Public Works, or a person designated by that Minister, or the engineer advises that the probable volume of traffic from the development will create unsafe conditions for which no remedial arrangements have been made.

(2) The owners of lots shown on a plan of subdivision as abutting on a private right of way are deemed to have an easement over the private right of way for vehicular and pedestrian access to the lot and for the installation of electricity, telephone and other services to the lot.

(3) The new streets and new extensions of streets shown on a plan of subdivision, excluding roads that are shown on the plan as private roads, are vested absolutely in the municipality in which they are situate when the final approved plan is filed in the registry.

Requirement to approve plan of subdivision

281 A development officer shall approve a plan of subdivision prepared to carry out a development agreement authorized by a municipal planning strategy and land-use by-law, notwithstanding that the plan does not comply with the subdivision by-law, if the plan complies with the terms of the agreement.

Consolidation of remainder lots

281A *Where a subdivision plan shows a remainder lot that is made up of the remainder of two or more underlying lots that have not been consolidated, the underlying lots are deemed to be consolidated before approval of the subdivision plan unless the application and plan indicate that they are not and if*

(a) *subsection 282(1) is complied with; and*

(b) *the remainder lot is ten hectares or less in area, the subdivision plan includes a survey of the entirety of the remainder lot,*

in which case, the development officer shall register the deeds respecting the remainder lot, if any, with the approved plan.

Subdivision that adds or consolidates

282 (1) No plan of subdivision that adds or consolidates parcels or areas of land *in different ownerships* may be approved by a development officer until the development officer is provided with

(a) executed deeds suitable for registering to effect the addition or consolidation; and

(b) the fees for registering the deeds.

(2) The development officer shall register the deeds with the approved plan.

Compliance with the Land Registration Act

282A (1) *No plan or instrument of subdivision that, under the Land Registration Act, is not acceptable for registration pursuant to the Registry Act, may be approved by a development officer unless the development officer is provided with proof that the parcels affected are all registered pursuant to the Land Registration Act.*

(2) *No plan or instrument of subdivision that adds or consolidates parcels or areas of land, that, under the Land Registration Act, is not acceptable for registration pursuant to the Registry Act, may be approved by a development officer unless the development officer is provided with proof that both the parcel from which land is taken and the parcel to which land is added are registered pursuant to the Land Registration Act.*

(3) *A deed to effect a consolidation provided to a development officer pursuant to Section 282 shall, where the deed is to be registered pursuant to the Land Registration Act, include a description of the consolidated parcel.*

(4) *The approval of a plan or instrument of subdivision contrary to subsection (1) or (2) shall be cancelled if the plan or instrument of subdivision is not accepted for registration pursuant to the Land Registration Act.*

Tentative plan of subdivision

283 Where a tentative plan of subdivision is approved pursuant to the subdivision by-law, a lot or lots shown on the approved tentative plan shall be approved at the final plan of subdivision stage, if

(a) the lots are substantially the same as shown on the tentative plan;

(b) any conditions on the approval of the tentative plan have been met;

(c) the services ~~to be constructed~~ *required by the subdivision by-law at the time of approval of the tentative plan* have been constructed and *any municipal service has been* accepted by the municipality or acceptable security has been provided to the municipality to ensure the construction of ~~them~~ *the service*; and

(d) the complete application for final subdivision plan approval is received within two years of the date of the approval of the tentative plan.

Appeals to the Board

284 The refusal to approve a concept plan or tentative or final plan of subdivision may be appealed to the Board by the applicant in accordance with the procedure for an appeal to the Board set out in Part VIII.

Filing of approved final plan of subdivision

285 (1) No final plan of subdivision shall be filed in the registry unless the plan has been approved by a development officer in accordance with this Part.

(2) A development officer, or a person acting for a development officer, shall ~~forward the approved final plan of subdivision to be filed in the registry within seven days of its approval, within seven days of the approval of a final plan of subdivision, forward two original copies of the approved plan to the registry, one of which is to be filed in the registry.~~

(3) At the same time as an approved final plan of subdivision is filed in the registry, a notice of the approved final plan of

subdivision shall be registered in the registry.

(4) A notice of the approved final plan of subdivision shall be indexed as a conveyance from the person whose land is divided.

(5) Where an approved final plan of subdivision effects an addition or consolidation, the notice of the plan shall be indexed as a conveyance from the person whose land is divided and from the person whose land is enlarged as a result of the addition or consolidation.

Lot crossing municipal boundary

286 Where a lot to be created by a plan of subdivision crosses a municipal boundary, an approval is required from each municipality in which the proposed lot is located.

When subdivision takes effect

287 (1) A subdivision of land takes effect when the plan of subdivision is filed in the registry.

(2) No deed, mortgage, lease or other instrument which would result in the subdivision of land for which subdivision approval is required has effect until the subdivision is approved and the plan is filed.

(3) A deed, mortgage, lease or other instrument, which purports to subdivide land and is executed before the approval and the filing of a plan of subdivision in the registry in accordance with this Part, is deemed

(a) to have been executed immediately after the filing of the plan of subdivision; and

(b) where the deed, mortgage, lease or other instrument has been registered in the registry, to have been duly registered at the time of the actual registration.

(4) Where two or more deeds, mortgages, leases or other instruments are deemed to have been executed at the same time, they are deemed to have been executed in the same order as they were actually executed.

(5) Where a deed, mortgage, lease or other instrument is

made which results in the subdivision of land in accordance with a plan or instrument of subdivision duly approved and filed in the registry, the amendment of the plan or instrument does not restrict the right of the owner, mortgagee, lessee or other holder to execute other deeds, mortgages, leases or instruments in which the property is described as it is described in the original deed, mortgage, lease or other instrument.

Amendment of approved final plan of subdivision

288 (1) An approved final plan of subdivision may be amended, provided the amendment does not materially alter the boundaries of a lot created by the approved plan.

(2) The provisions of this Act that apply to an approved final plan of subdivision apply to an amended plan of subdivision, except the *effective* date of the approval of the amended plan is the same as that of the approved final plan of subdivision.

Amendment or repeal of instrument of subdivision

289 An instrument of subdivision approved pursuant to this Act or the former *Planning Act* may be amended or repealed in the same manner, and with the same effect, as an approved final plan of subdivision.

Subdivision for which no approval required

290 Nothing in this Act prevents an application for approval of or the approval of, a subdivision for which no approval is required.

Title or interest not affected

291 (1) A failure to comply with

- (a) this Act; or
- (b) the former *Planning Act*,

or a regulation or by-law made thereunder does not affect the creation of a title or interest in real property conveyed, or purported to have been conveyed, by deed, lease, mortgage or other instrument before April 16, 1987.

202B

(2) Subsection (1) does not affect the rights acquired by a person from a judgment or order of a court given or made in litigation or proceedings commenced before April 16, 1987.

Former Planning Act

292 A subdivision by-law adopted pursuant to a former *Planning Act* is a subdivision by-law within the meaning of this Act, to the extent that it is consistent with this Act.

202C