



**Saskatchewan
Ministry of
Municipal
Affairs**

A Guide to the Municipal Planning Process in Saskatchewan

**A look at the municipal development permit
and the subdivision approval process in Saskatchewan**

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I. Introduction

In Saskatchewan, the primary responsibility for managing community planning, development issues, land use and municipal services rests with the local municipalities. To manage these interests, municipalities have the authority to carry out planning, establish zoning controls, require development permits, require servicing agreements or development levies, and other such authorities to manage land use and development issues.

As such, it is important to understand the municipal processes which involve the development and servicing of land. This guideline is intended to:

- highlight the planning and development authority and processes available to municipalities as prescribed by *The Planning and Development Act, 2007*;
- describe the types of municipal bylaws available for use by municipalities to manage land use and development issues; and
- describe the municipal development permit process and avenue for appeal.

II. Planning and Development Authority

The Planning and Development Act, 2007 (The Act), establishes the planning and land use authority in Saskatchewan for:

- the Minister of Municipal Affairs
- Councils of urban, rural and northern municipalities
- municipal planning commissions
- districts planning authorities

A. Municipal Authority

Municipalities can through an Official Community Plan and Zoning Bylaw:

- set out the desired framework for future development by defining goals, objectives and policies
- inform the members of the community how Council intends to direct and manage the community's needs and expectations
- help clarify the municipal role in the development process

- provide Council with the guidance needed to make municipal decisions;
- empower Council to enforce land use decisions;
- reduce land use conflicts;
- provide opportunities for input by all affected interests in community planning; and
- establish a framework for land use, growth and development for all parties to follow, thereby, creating certainty for the developer.

B. Ministerial Authority

The Act provides powers to the Minister of Municipal Affairs to co-ordinate the multitude of land use planning issues within the province. This includes the authority to:

- establish statements of provincial interest and provincial land use policies
- establish municipal planning commissions

- authorize the adoption of official community plans, zoning bylaws for municipalities
- undertake any study pertaining to land use. (See Flowchart 1.0)

Saskatchewan Municipal Affairs provides a coordinating role between municipal and provincial interests to ensure:

- provincial interests are incorporated within the local management tools such as zoning bylaws
- municipal bylaws do not conflict with provincial interests
- municipal interests are considered or incorporated within provincial initiatives

C. Municipal Planning Commissions & District Planning Authorities

The legislation in Saskatchewan provides rural municipalities with significant authority to control their community, municipal servicing, development interests and even subdivision approval.

Municipalities have the ability to establish advisory district planning commissions to assist and advise them on managing land use and development interests between jurisdictions. The commission provides a formal process for inter-municipal discussions of mutual interest and creates opportunity for consistent land use policies and zoning between the affiliated municipalities.

Municipalities also have the ability to establish district planning authorities to manage land use, development, and upon fulfilling the requirements of Section 13 of the Act, gain subdivision authority. Planning authorities are formalized commissions under The Act with adopted intermunicipal official community plans and zoning bylaws. The members of the district planning authority may delegate the responsibility for making land use and development decisions to the authority.

Like a municipality, the Council for a district planning authority may apply to the Minister of Municipal Affairs for recognition as a subdivision approving authority. This requires the District to employ or retain the services of a professional community planner.

III. Municipal Planning Bylaws

The Planning and Development Act, 2007 enables municipalities throughout Saskatchewan to address local land use and development issues through the adoption of an official community plan and zoning bylaw. The legislative authority established under the Act for municipal management of local land use and development interest clearly emphasizes the importance of local decision making regarding municipal and community interests.

It should be noted that the Crown, under Section 5 of the Act, is also bound by the municipal bylaws. This means that the Crown must obtain a development permit from the rural municipality prior to the development. Municipalities need to be aware that without an official community plan and zoning bylaw the municipality has no ability to participate in a planning or development process.

The Act allows municipalities to adopt various planning bylaws as follows:

A. Official Community Plans

An official community plan identifies Council's objectives for development and growth within the municipality and it is typically broad in scope. The plan is intended to provide a comprehensive policy framework to guide physical, environmental, economic, social and cultural development within all or any part of the municipality. It is suitable for both urban and rural municipalities examining any number of development proposals or development issues calling for regulation of land uses. An official community plan must be consistent with any provincial land use policy, statements of provincial interest and must contain policies respecting:

- sustainable current and future land use and development in the municipality;
- current and future economic development;
- the general provision of public works;
- the management of lands that are subject to natural hazards, including flooding, slumping and slope instability;
- the management of environmentally sensitive lands;
- source water protection; and
- the means of implementing the official community plan.

An official community plan may also:

- address the co-ordination of municipal programs relating to development;
- address the co-ordination of land use and development, future growth patterns, and public works with adjacent municipalities;
- contain statements of policy regarding the use of dedicated lands;
- contain concept plans, pursuant to Section 44 of the Act;

- contain a map or series of maps that denote current or future land use or policy areas;
- if a Council has been declared an approving authority, it may contain policies respecting site plan controls for specific commercial or industrial development pursuant to section 19 of the Act; and
- contain any other statements of policy relating to the physical, environmental, economic, social or cultural development of the municipality that the Council considers advisable.

B. Zoning Bylaws

The primary legal and administrative means of implementing an official community plan is the zoning bylaw. It divides a municipality into zoning districts and regulates the development and use of land in those districts. A zoning bylaw permits a Council to set local standards for the subdivision and use of land, and helps manage the delivery of municipal services and resources to new development.

A zoning bylaw usually has the following components:

- an **Introduction** to establish the legal authority of the bylaw;
- an **Interpretation** section which contains definitions;
- an **Administration** part that:
 - authorizes an officer to process development applications;
 - establishes development permit procedures;
 - establishes a Development Appeals Board;
 - provides for minor variances;
 - prescribes fees for permits and amendments; and
 - provides penalties.
- **General Regulations** that apply in every zoning district such as restrictions for building on hazard land, development standards, and requirements for only one principal building or use per site; and

- **Zoning Districts** that divide the municipality into areas of land with common development standards or regulations. The regulations for each district may specify which land uses are prohibited, permitted, or permitted only at the discretion of a Council in conformity with the policy plan.

Each zoning district may also have regulations specifying:

- the area and dimensions of new lots or parcels of land;
- architectural details;
- the size, location, dimensions, and types of buildings;
- the provision of parking spaces or payments in lieu;
- outdoor storage and landscaping;
- the size and location of signs and lighting;
- the removal of soil or vegetation; and
- acceptable noise levels.

Amending a zoning bylaw requires the same steps as the adoption of the original bylaw.

If Council believes that the zoning bylaw should be amended to accommodate development, it shall take the following actions:

- authorize preparation of the amendment to the zoning bylaw;
- prepare the amendment;
- Council proceed with first reading of the bylaw amendment;
- advertise in a similar fashion as the original bylaw and a notice is prepared in accordance with Section 207 of the Act;
- Council holds a public hearing to consider representations concerning the bylaw;
- if required, changes are made to the bylaw. Major changes must be re-advertised pursuant to Section 207 of the Act, but for minor changes the Minister may waive the requirement; and

- give three readings to the bylaw and formally adopts it.

Where a municipality has a zoning bylaw in effect, all development as required by the bylaw must obtain a development permit prior to the commencement of the project. *(See Flowchart 1.0)*

C. Concept Plans

Concept plans are prepared to form part of an official community plan, to provide a framework for the subsequent subdivision and development of a specified area. Concept plans may describe:

- the land use proposed for the area, either generally or with respect to specific parts of the area;
- the density of development proposed for the area, either generally or with respect to specific parts of the area;
- the general location of services proposed for the area; and
- the phasing of development proposed for the area.

Council must ensure that the concept plan is consistent with its official community plan. A municipality that is also an approving authority, pursuant to Section 13 of the Act, may adopt a concept plan by resolution.

D. Interim Development Controls

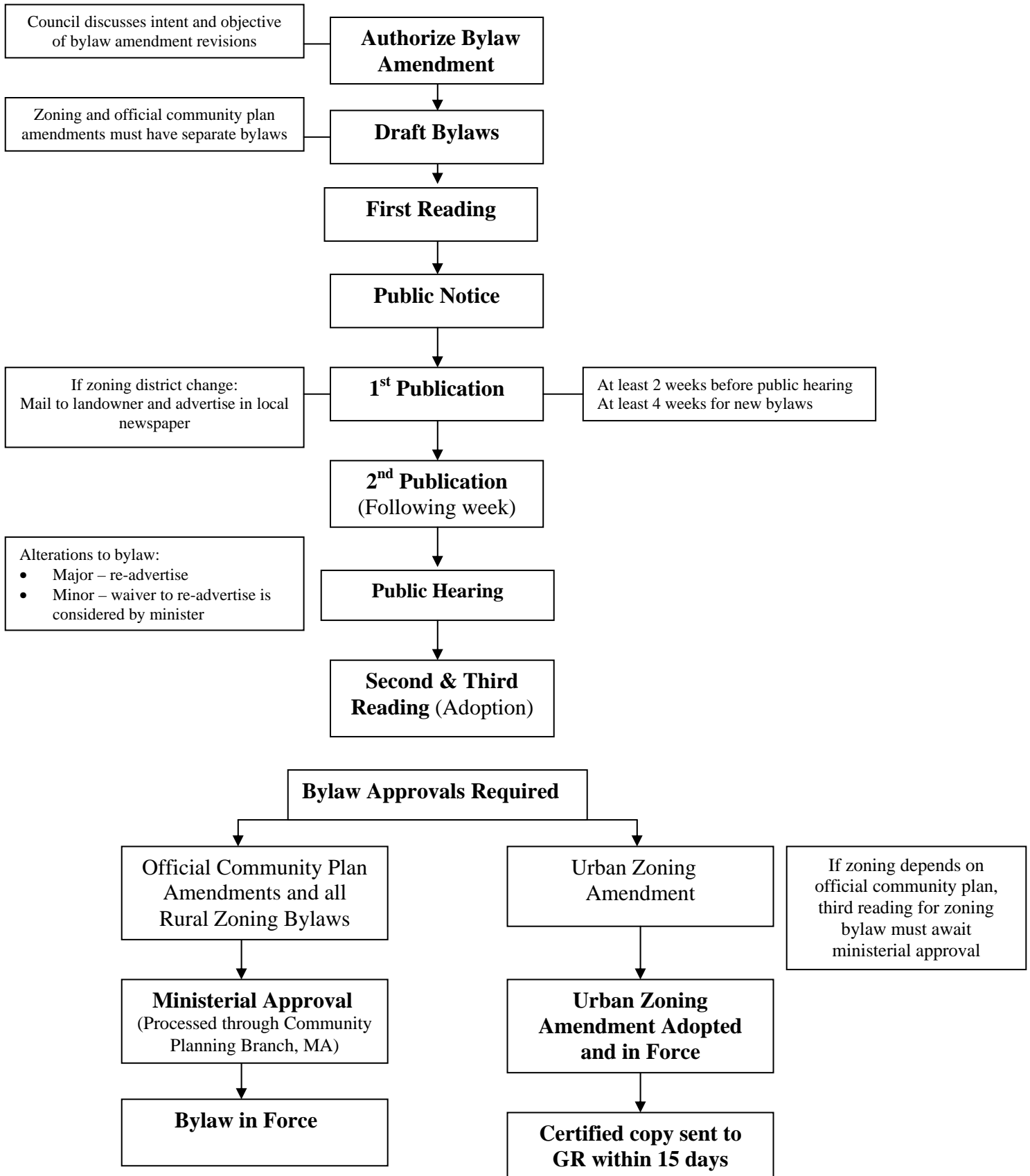
The purpose of interim development control is to enable a Council to regulate development within the municipality while it prepares and adopts an official community plan and a zoning bylaw. Interim development control allows a Council to review and either approve or refuse development proposals. All interim development control bylaws require ministerial approval except for a Council that has been declared an approving authority.

If a Council adopts interim development control before any official community plan or zoning bylaw are in effect, Council may use it as a basis to make decisions. Land use policies and development regulations are available in the sample interim development control bylaw available under Sample Bylaws & Forms on the Community Planning website:

<http://www.municipal.gov.sk.ca/div/cpb/index.html>

If a zoning bylaw and an official community plan are in effect when Council adopts interim development control, Council's decision must be consistent with the existing zoning bylaw and official community plan. If the intent is to change provisions within an existing zoning bylaw or official community plan, rather than using an interim development control, Council should simply amend the bylaws in accordance with the bylaw amendment procedures. (as outlined in Flowchart 1.0)

Flowchart 1.0 Planning Bylaw Amendments



IV. Development Permit Process

Development as defined by *The Planning and Development Act, 2007* means "... the carrying out of any building, engineering, mining or other operations in, on or over land or the making of any material change in the use or intensity of the use of any building or land."

By definition, most land use activities are deemed a development and therefore, require a municipal development permit from any municipality with a zoning bylaw. The municipalities with zoning bylaws in place generally follow a similar development permit review process as described below.

A. Development Permit Application

The applicant must contact the municipal administrator and submit a development permit application to the municipality. The development permit application is required. It should include as much information as possible to assist in making an informed decision.

Information, which may be required, includes:

- dimensions and size of sites;
- location of development on the site;
- location of utilities;
- any environmental considerations and mitigative measures;
- access management information
- municipal road impacts and resolution opportunities; and
- any reclamation considerations.

Developers are advised to discuss their project with a municipality's Council and administrator prior to making an application in order to minimize delays. Councils and administrators are generally willing to provide assistance, information, and help solve any potential problems to saving time and potential costs. Rural municipalities are helpful in planning and managing development that impacts municipal

services. The development permit process provides the opportunity to understand the development, the actual implications for the community and to work cooperatively with industry to promote development opportunity.

The municipality has a responsibility to consider the suitability of the proposal with respect to:

- infrastructure needs (roads, sewer, water, housing, etc);
- essential community services (fire, policing, recreation, health, etc.); and
- land use compatibility.

B. Permitted and Discretionary Uses

The time frame for receiving a permit decision may vary dependent upon the extent of technical information required to properly assess the development. As such, it is recommended that the development permit application be submitted well in advance of the project start date.

The development officer of a municipality reviews the proposal in context with the bylaw. A proposal may be classified in the local zoning bylaw as either:

a) Permitted Use

Where a development proposal is identified by the municipal zoning bylaw as a permitted use, the development officer for the municipality may be able to issue the permit provided all information and relevant forms are completed and attached.

b) Discretionary Use

Where a development proposal is identified by the municipal zoning bylaw as a discretionary use, the application must be advertised pursuant to section 55 of the Act and presented to the Council at its next Council meeting for review and decision. Therefore, it is important to

coordinate any presentations with the municipal Council meetings. Developers should request time on the Council agenda if they wish to present information on behalf of their development application.

c) Neither Permitted nor Discretionary

Where a development proposal is not identified within the municipal zoning bylaw as a permitted or a discretionary use, the development is considered prohibited. In such a case, the proponent may apply to Council for a zoning bylaw amendment. The proposed development is then presented to Council at the next Council meeting for review and decision following an approved amendment to the zoning bylaw.

C. Municipal Development Permit Decision

Once the development has been assessed, the development officer may issue his or her decision:

a) Permit Approval

If an application complies with the municipality’s official community plan and zoning bylaw, it should be approved. In the case of a permitted use, the development officer may approve the development permit application and issue the permit. In the case of a discretionary use, the Council will provide a decision on the discretionary use permit based on the criteria established within the zoning bylaw. If the permit is approved, Council will direct the development officer to issue the permit at the next Council meeting.

The approval of a development may be conditional and subject to **development standards**. Within most municipal zoning bylaws, a municipality has established its authority to require development standards to ensure the project will meet specific development criteria (e.g. flood proofing where

the land may be subject to flooding, or environmental mitigative measures where the land is environmentally sensitive).

b) Refusal of a Development Permit

Where a permit application is refused, the municipality is required to provide reasons why the application was refused and did not satisfy the criteria, if applicable, outlined within the zoning bylaw. In the case of a permitted use, an avenue of appeal exists for applicants to appeal the decision to a local Development Appeals Board, and if necessary to the provincial Planning Appeals Committee of the Saskatchewan Municipal Board. In the case of a discretionary use, an applicant may not appeal a refusal, but may appeal conditions of an approval.

D. Seeking a Bylaw Amendment

Should a development not comply with the zoning bylaw, the applicant may ask Council to amend its bylaw. *The Planning and Development Act, 2007* allows a Council to amend its zoning bylaw to add or up-date regulations, or to rezone the land for development.

The proposed amendment will be presented to Council. If Council wishes to approve the development, a resolution will be passed authorizing the administrator to prepare a draft amendment. Council must then undertake the steps outlined in Part III, Section C of this document.

It is Council’s discretion to determine whether the zoning bylaw needs to be amended.

E. Right of Appeal – Development Appeals Board

The decision of a municipality, concerning either existing or proposed development, may be appealed within 30 days of the development officer's decision. Affected persons may appeal the decision:

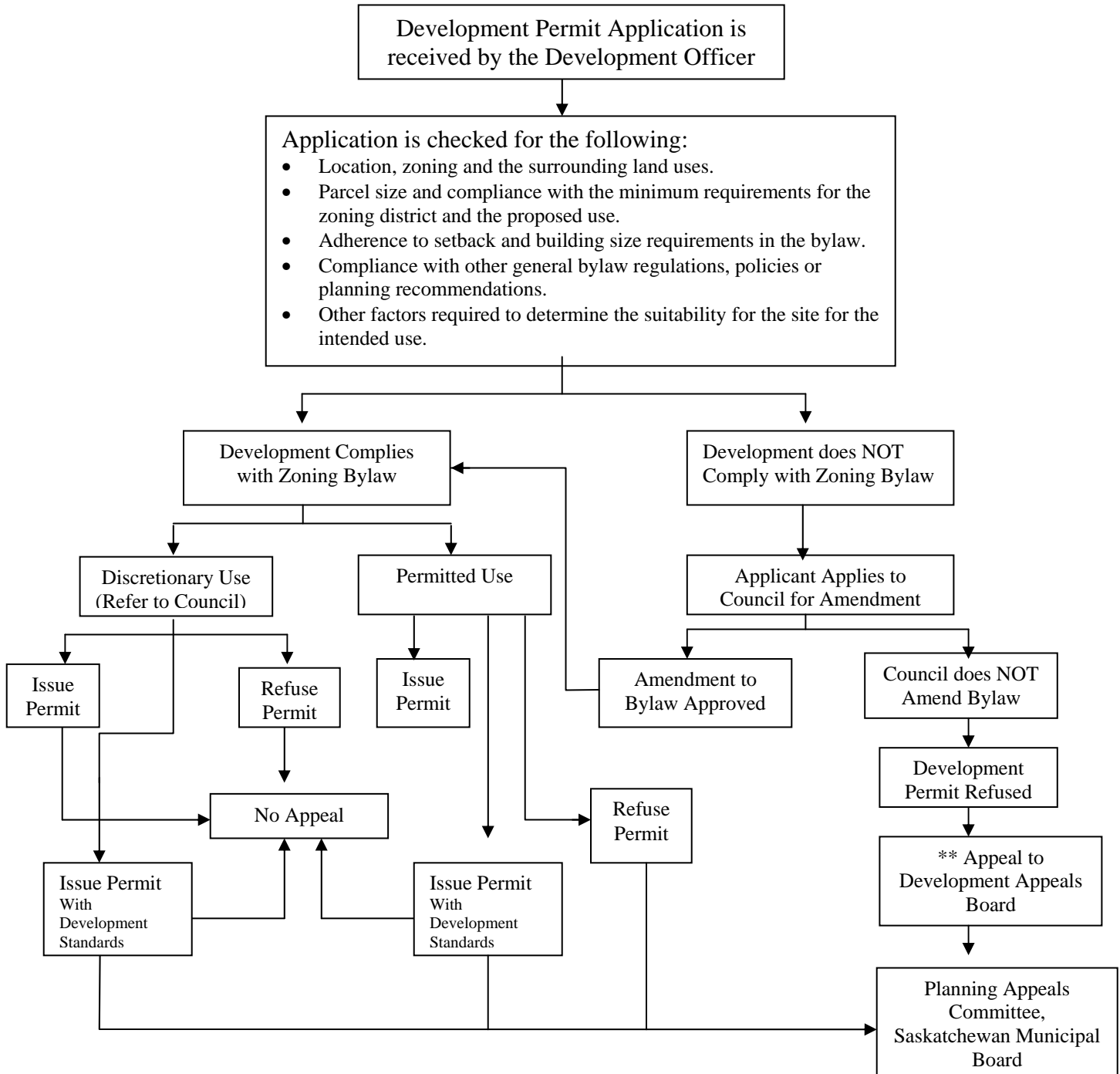
- where it is alleged that the development officer misapplied the zoning bylaw in approving the proposal;
- when the development officer refuses to issue a development permit because the proposal contravenes the zoning bylaw;
- when Council approves a discretionary use (or form of development) with special development standards (*Note: only the standards may be appealed*);
- where the permit was refused, approved with terms and conditions, or revoked for requiring a minor variance;
- under an Interim Development Control Bylaw, that permit is refused, approved with terms or development standards, or not decided on within 60 days;
- if a development agreement has not been entered into within 90 days after the date on which the plans or drawings are submitted to the municipality; or
- if they are subject to enforcement under Section 242 of the Act.

An appeal may not be made to a Development Appeals Board:

- when a permit is refused because a proposal contravenes the zoning bylaw, the proposed use is not a permitted use under the zoning bylaw, the use is a discretionary use, or a prohibited use under the zoning bylaw;
- when Council refuses to approve a land use rezoning application; or
- when the decision concerns a subdivision application where the municipal Council is not designated as a subdivision approving authority under the Act.

Within 20 days of the Development Appeals Board decision, the applicant or municipality, as the case may be, may appeal the decision to the Planning Appeals Committee, Saskatchewan Municipal Board.

2.0 Development Permit Process



**** Note: Where permits are issued with development conditions, the applicant may appeal to the Development Appeals Board.**

V. Subdivision Approval Process

Subdivision as defined by *The Planning and Development Act, 2007* means, “a division of land that will result in the creation of a surface parcel, or the rearrangement of the boundaries or limits of a surface parcel, as surface parcel is defined in *The Land Titles Act, 2000*.”

The Planning and Development Act, 2007 and *The Subdivision Regulations* provide the legal basis for subdividing land.

A. Subdivision Application

Unless the municipality is an approving authority, the developer must submit an application to subdivide to the Community Planning Branch. For this application to be processed, the following information must be included:

- a plan of proposed subdivision;
- for tie code removal, a parcel picture of the parcels to be subdivided;
- a copy of the title of the land to be subdivided;
- the appropriate fee; and
- any other information required by *The Subdivision Regulations* to aid in the decision process.

B. Municipal Affairs Review of the Application

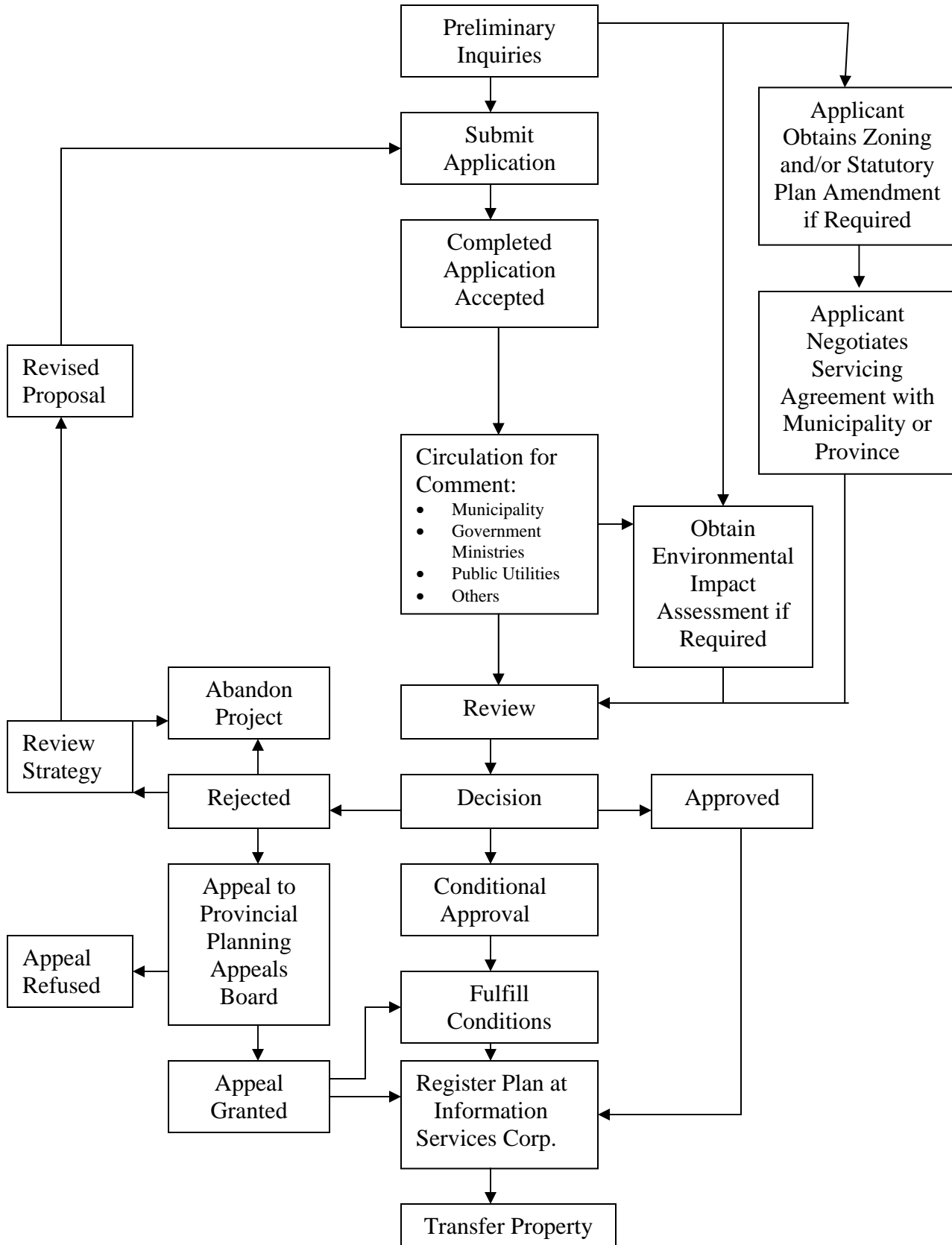
The Community Planning Branch will consider each proposed subdivision based on conformance with local, municipal, and provincial planning standards and land use policies, such as:

- site suitability;
- conformity to local land use policy plans and zoning bylaws;
- heritage potential;
- environmental considerations;
- utility servicing requirements;
- flood protection and slope stability;
- legal and physical access to a public roadway for each parcel; and
- other considerations outlined in the Act and its regulations.

The Community Planning Branch must also take into account the interests of other provincial agencies. This means that during the review process, referrals may be sent out to agencies responsible for health, environment, highways, and various public utilities (See chart 3.0).

All subdivision applications are also referred to the municipality in which the development is to be located. If a zoning amendment is required, the municipality will advise the Community Planning Branch and will state whether or not the amendment is being considered.

3.0 Subdivision Approval Process



C. Decisions

The Community Planning Branch, as the approving authority, has 90 days from the date the application is received in complete and final form to make a decision. All decisions are sent out in writing to the applicant, the municipal council and the applicable agencies. The approving authority may issue any of the following decisions:

- approved;
- approved in part;
- approved subject to a servicing agreement or development standards;
- revoked; or
- refused.

If the subdivision application is refused, approved in part, approved subject to conditions, revoked, or agreements have not been entered into within a specific time limit, the applicant may appeal the approving authority's decision.

Note that the subdivision approving authority has been delegated to the cities in Saskatchewan with the exception of Melfort, Melville and Humboldt.

D. Interests

There are a number of exceptions to requiring subdivision approval. For example:

- new rural roads and diversions if located more than 2.5 kilometres from small urban boundaries;
- easements or rights-of-way for major transmission lines for various utilities, etc., do not require subdivision approval if they are more than 2.5 kilometres from small urban boundaries;
- new rural roads and diversions if located more than 5 kilometres from a city's boundaries;
- easements or rights-of-way for major transmission lines for various utilities, etc., do not require subdivision approval if they are more than 5 kilometres from a city's boundaries;
- leases where the term is 10 years or less;
- surface leases for oil and gas development;
- leases in connection with granting the use of, or right to, part of a building; and
- easements or rights-of-way for minor distribution, service connection or collection lines for various utilities, etc.

Contact

For more information contact the Community Planning Branch of Saskatchewan Municipal Affairs.

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For more detail about the planning and development process visit:

www.municipal.gov.sk.ca