

Chapter 21

PLANNING ACT

(Assented to September 18, 2025)

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PLANNING ACT

The Commissioner, by and with the advice and consent of the Legislative Assembly, enacts as follows:

PART 1

INTERPRETATION, APPLICATION AND ADMINISTRATION

Definitions

1. (1) In this Act,

"bonusing" means a provision in a general plan that allows for variances under zoning by-laws or amendments to planning by-laws for the purpose of permitting the construction of a building of a higher density than would otherwise be permitted under applicable planning by-laws, in exchange for providing or funding a public amenity; (*bonification*)

"building" means any structure, erection, stockpile, sign or fixture built or placed on land; (*bâtiment*)

"compliance order" means a compliance order issued under section 38; (*ordre de se conformer*)

"council" means the council of a municipal corporation; (*conseil*)

"development" means, unless the context indicates otherwise,

- (a) the carrying out of
 - (i) any construction, including the placement or movement of a building,
 - (ii) any excavation, or the deposit or movement of soil or other materials, or
 - (iii) other related operations,
- (b) the product of development, as the term is defined in paragraph (a), such as a building or a developed site, or
- (c) the making of any change in the use or the intensity of the use of any land or building; (*aménagement*)

"development agreement" means a development agreement entered into under section 40; (*entente d'aménagement*)

"development appeal board" means a development appeal board established under a zoning by-law; (*commission d'appel de l'aménagement*)

"development officer" means

- (a) a development officer or acting development officer appointed under a zoning by-law, or

- (b) an alternate municipal officer performing the functions of a development officer in accordance with a zoning by-law; (*agent d'aménagement*)

"development permit" means a development permit issued under a zoning by-law; (*permis d'aménagement*)

"Director" means the Director of Planning appointed under section 3; (*directeur*)

"general plan" means a general plan adopted under section 4; (*plan directeur*)

"Inuit Owned Lands" has the same meaning as in the Nunavut Agreement; (*terres inuites*)

"land administration by-law" means a land administration by-law adopted under the *Cities, Towns and Villages Act* or the *Hamlets Act*; (*règlement municipal sur l'administration de biens-fonds*)

"land titles office" means a land titles office established under the *Land Titles Act*; (*bureau des titres de biens-fonds*)

"outpost camp" has the same meaning as in Article 7 of the Nunavut Agreement; (*camp éloigné*)

"planning by-law" means

- (a) a by-law adopting a general plan or secondary plan, or
- (b) a zoning by-law; (*règlement d'urbanisme*)

"public consultation" means public consultations, including public hearings, carried out in accordance with section 14, the regulations and general plans; (*consultation publique*)

"public notice" means a notice that is posted

- (a) if applicable and subject to subsection (3), on the development site,
- (b) at at least three public places in the municipality, other than the development site, except in the case of a development permit approved by a development officer,
- (c) at the online location specified in the general plan, and
- (d) at any other location specified in the general plan; (*avis public*)

"secondary plan" means a secondary plan adopted under section 7; (*plan secondaire*)

"serve" means serve in accordance with the regulations; (*signifier*)

"zoning by-law" means a zoning by-law adopted under section 11. (*règlement de zonage*)

References

(2) In this Act, unless otherwise specified, a reference to a council, development officer, development appeal board or municipal corporation is a reference to the council, development

officer, development appeal board or municipal corporation or other person or entity that has jurisdiction or is located in the municipality in question.

Public notice – safety exception

- (3) A public notice is deemed to be posted on a development site if
- (a) it is not posted on the development site because, in the opinion of a development officer, it is not safe to post it on the development site; and
 - (b) a development officer has served a copy of the notice on all owners, lessees and occupants of buildings and properties within 100 metres of the perimeter of the development site.

Application

2. This Act applies only in municipalities.

Appointment of Director

3. The Minister must appoint a public servant as Director of Planning.

Annual report

- 3.1. (1) Within six months after the end of each fiscal year, the Minister must prepare an annual report on the administration of this Act by the Government of Nunavut.

Tabling

- (2) The Minister must table the annual report in the Legislative Assembly during the first sitting of the Assembly after the report is prepared that provides a reasonable opportunity for tabling the report.

PART 2

MUNICIPAL PLANNING AND ZONING

General plans

Purpose

4. (1) The purpose of a general plan is to provide a framework for how development in a municipality is organized and carried out, having regard to sustainable development, the environment and the economic, social and cultural development of the municipality.

Requirement for general plan

- (2) A council must adopt a general plan by by-law.

Requirement to review

- (3) A council must, no later than 10 years after the adoption of a general plan or its most recent review under this subsection,
- (a) review the general plan; and

- (b) if necessary to implement the conclusions of the review,
 - (i) adopt amendments to the general plan, or
 - (ii) adopt a new general plan.

Name

- (4) A by-law adopting a general plan
 - (a) must indicate it is adopting a general plan for the purposes of this Act; but
 - (b) may otherwise use any of the following designations to refer to the general plan:
 - (i) community plan,
 - (ii) development plan,
 - (iii) master plan,
 - (iv) municipal development plan,
 - (v) official plan.

Persons preparing general plan

- 5.** (1) A general plan must be prepared on behalf of a council by or under the direction of planning officers or planning consultants who
- (a) have the qualifications prescribed by regulation; and
 - (b) are appointed by and responsible to the council.

Basis for general plan

- (2) A general plan must be based on surveys and studies of
 - (a) land use in the municipality, including estimated land needs for the following 20 years;
 - (b) population growth forecasts for the following 20 years;
 - (c) the economic base of the municipality;
 - (d) the needs of the municipality relating to transportation, communications, public services and social services; and
 - (e) any other factors that the council determines are relevant to the preparation of the general plan.

General requirements

- 6.** (1) A general plan must
- (a) for greater certainty, comply with sections 11.7.1 to 11.8.2 of the Nunavut Agreement;
 - (b) for greater certainty, comply with all relevant laws, including those related to environmental protection and the conservation of local cultural heritage, archaeological sites and palaeontological sites;
 - (c) comply with the regulations; and
 - (d) not propose or permit development that would
 - (i) disturb archaeological or palaeontological sites in contravention of the *Nunavut Archaeological and Palaeontological Sites Regulations* (Canada), or

- (ii) be contrary to the requirements of a by-law adopted under section 106 of the *Cities, Towns and Villages Act* or section 106 of the *Hamlets Act*.

Required provisions

(2) A general plan must

- (a) include a map showing the division of all land in the municipality by land use;
- (b) describe what will be included in the zoning by-law, including which optional provisions under subsections 12(2) and (5) will be included in the zoning by-law;
- (c) describe how municipal roads, rights-of-way, services, infrastructure, public buildings, schools, parks and recreation areas will be provided, and how land for these and other public and municipal purposes will be reserved;
- (d) describe how the principles of land use planning set out in Article 11 of the Nunavut Agreement, including the protection and promotion of the existing and future wellbeing of Inuit and Inuit Owned Lands, will be implemented;
- (e) include a schedule setting out the sequence in which specified areas of land may be developed or redeveloped, including with respect to the provision of public services and facilities referred to in paragraph (c);
- (f) describe how public development projects and capital works to be undertaken by the municipal corporation will be financed and programmed;
- (g) include temporary use provisions, including
 - (i) under what circumstances and for what duration they may be used, and
 - (ii) where they may be located;
- (h) include provisions respecting approval of outpost camps;
- (i) list natural features which must be protected from development;
- (j) include provisions about protecting watersheds of municipal drinking water sources;
- (k) include any other written statements, reports, charts or drawings that are necessary to express and illustrate the content of the general plan;
- (l) include provisions respecting public consultations on proposed planning by-laws, including
 - (i) subject to subsection 14(6), the manner of submitting representations respecting proposed planning by-laws,
 - (ii) additional methods, if any, for engaging with members of the public respecting proposed planning by-laws, and
 - (iii) the format of public hearings respecting proposed planning by-laws; and
- (m) include requirements for the online publication of public notices, which must include publication on at least one of the following:
 - (i) the public website of the municipal corporation,

- (ii) specified online news sources,
- (iii) specified social media sites that are accessible without registering or signing in.

Optional provisions

- (3) A general plan may include provisions related to
- (a) interim prohibitions of specified development to allow for technical studies or consultations with the public to be undertaken with respect to the development;
 - (b) bonusing allowed by the regulations, which must include
 - (i) eligibility criteria,
 - (ii) the manner of evaluating requests for bonusing,
 - (iii) the types of public amenities that can be required in exchange for bonusing, and
 - (iv) a requirement that bonusing does not result in undue demand on municipal infrastructure;
 - (c) required housing forms and architectural designs that reflect Inuit and northern needs and lifestyles;
 - (d) local economic development;
 - (e) the condition of current infrastructure;
 - (f) future infrastructure needs;
 - (g) sustainable development;
 - (h) energy conservation;
 - (i) good building practices that are recommended to be used;
 - (j) climate change adaptation;
 - (k) protection of traditional harvesting and recreational land uses and areas, including for
 - (i) hunting,
 - (ii) fishing,
 - (iii) berry picking,
 - (iv) clam digging,
 - (v) slaughtering wildlife and defeathering birds,
 - (vi) keeping dog teams,
 - (vii) camping,
 - (viii) launching boats,
 - (ix) storing boats, all-terrain vehicles, trailers, qamutiit and their accessories,
 - (x) obtaining water from informal drinking water sources, and
 - (xi) accessing the land and waters using trails, pathways and waterfront areas;
 - (l) protection of views of scenery and of natural and artificial landmarks;
 - (m) pedestrian safety, mobility and accessibility;
 - (n) mapping landscape hazards that may impede land development, such as areas with a risk of landslides, flooding, marine ice build-up, periglacial landforms, permafrost thaw subsidence or frost jacking;
 - (o) managing wind conditions, snow drifting and snow removal;

- (p) managing cabins and storage sheds;
- (q) the operation and maintenance of outpost camps, including the provision of municipal services to outpost camps;
- (r) areas subject to secondary plans;
- (s) supporting plans, including for transportation, infrastructure and wellness;
- (t) identification and protection of mineral and granular resources;
- (u) consultations with the public related to the approval of subdivisions of land;
- (v) an alternate name for public hearings respecting planning by-laws that does not exclude, explicitly or implicitly, any members of the public; and
- (w) places where public notices must be posted in addition to those provided under paragraph (2)(m).

Alternative dispute resolution

(4) A general plan may provide for an alternative dispute resolution system for applications for development permits and subdivisions of land, which must include

- (a) procedures for requesting a resolution through the alternative dispute resolution system; and
- (b) a requirement that a decision following the alternative dispute resolution procedure must be made within a specified period of time, not to exceed 40 days from the date of the request for alternative dispute resolution.

Secondary plans

Purpose

7. (1) The purpose of a secondary plan is to
- (a) ensure that any policy of the general plan will be carried out, or carried out in a particular manner; or
 - (b) provide more detail of any policy contained in the general plan.

Adoption of secondary plan

- (2) A council may adopt a secondary plan by by-law.

Requirement to review

(3) Every time the general plan is amended or a new general plan is enacted, the council must ensure that

- (a) secondary plans are reviewed to determine their continued conformity with the general plan; and
- (b) any amendments to secondary plans that are necessary to re-establish conformity with the general plan are adopted as soon as practicable.

Required provisions

8. (1) A secondary plan must include
- (a) a description of the manner in which the secondary plan is intended to implement a policy, or part of a policy, contained in the general plan;

- (b) a description of the land affected by the secondary plan, as well as the names and addresses of
 - (i) the owners of that land, and
 - (ii) the lessees of that land, in the case of
 - (A) land owned by the municipality,
 - (B) Commissioner's land, and
 - (C) Crown land;
- (c) the description of land, if any, that is to be reserved under the secondary plan for
 - (i) municipal roads,
 - (ii) public services or buildings,
 - (iii) schools, and
 - (iv) parks or other open spaces; and
- (d) the details of
 - (i) the development to be carried out under the secondary plan, and
 - (ii) the manner in which reservations under paragraph (c), if any, are to be effected.

Optional provisions

- (2) A secondary plan may include provisions related to
 - (a) the acquisition, assembly, consolidation, subdivision, sale or lease of land or buildings by the municipal corporation for the purpose of carrying out the secondary plan;
 - (b) the manner in which any particular area of land is to be used, subdivided or developed;
 - (c) regulating or prohibiting the construction of buildings that would interfere with the carrying out of the secondary plan; and
 - (d) making land available for residential, commercial, recreational, institutional, industrial or other uses.

Maps, plans and drawing

(3) A secondary plan may include maps, plans and drawings that describe the contents of the secondary plan.

Acquisition of land and buildings – general

9. (1) When a secondary plan is in force, a council may acquire land or buildings, including by expropriation under the *Expropriation Act*, that are, in whole or in part, necessary for carrying out the secondary plan.

Acquisition of land and buildings

(2) When a secondary plan is in force, a council may acquire land or buildings that may be injuriously affected by the secondary plan.

Disposal of land

(3) Subject to any restrictions set out in a secondary plan, a council may dispose of any land acquired for the purposes of the secondary plan.

Capital development

10. (1) The Minister may, in writing, request the council of the City of Iqaluit to adopt a secondary plan for the development of the capital of Nunavut.

Development

(2) A secondary plan for the development of the capital of Nunavut requested under subsection (1)

- (a) must be developed in good faith in coordination with the Minister; and
- (b) may only be adopted with the approval of the Minister.

Zoning by-laws

Requirement for zoning by-law

11. (1) A council must adopt a zoning by-law.

General plan

(2) A zoning by-law must be based on the general plan.

Combining general plan and zoning by-law

(3) If authorized by the Minister, a council may adopt one single by-law that includes both the general plan and the zoning by-law.

Requirement to review

(4) Every time the general plan is amended or a new general plan is enacted, the council must ensure that

- (a) the zoning by-law is reviewed; and
- (b) any amendments to the zoning by-law that are necessary to ensure the zoning by-law continues to be based on the general plan are adopted as soon as practicable.

Required provisions – general

12. (1) A zoning by-law must

- (a) divide the area included in the general plan into one or more land use zones of the number, shape and area that the council considers advisable;
- (b) include a map of the area included in the general plan which shows the zones;
- (c) include any other written statements, reports, charts or drawings that are necessary to express and illustrate the content of the zoning by-law;
- (d) for each zone, subject to the other provisions of the by-law, specify the uses of land and buildings that are permitted, conditionally permitted or prohibited in the zone;
- (e) provide for building and property setbacks, including those that are required by the laws of Nunavut and Canada;
- (f) provide for at least one place of access to each lot from an adjoining municipal road;

- (g) provide for the enforcement of temporary use provisions; and
- (h) if the zoning by-law provides for an amount of money to be paid for off-street parking exemptions, provide that those monies may only be used for the development of municipal off-street parking facilities.

Optional provisions – general

(2) A zoning by-law may

- (a) provide that a zone is to be used for the purposes of the municipal corporation, if all of the land in the zone is
 - (i) owned by the municipal corporation, or
 - (ii) to be acquired by the municipal corporation;
- (b) for each zone, regulate or prohibit
 - (i) the excavation or filling in of land,
 - (i.1) the removal of topsoil from land,
 - (ii) changes in the use of land or a building, and
 - (iii) the erection, construction, placement, moving in, enlargement, alteration, repair, removal, or demolition of a building;
- (c) for each zone, regulate
 - (i) the ground area, floor area, height and bulk of buildings,
 - (ii) the placement, location, arrangement, and maintenance of buildings,
 - (iii) the relationship of buildings to
 - (A) other buildings, and
 - (B) roads, rights-of-way and property boundaries,
 - (iv) the design, character and appearance of buildings,
 - (v) the minimum site area and dimensions of parcels required for particular
 - (A) sizes of buildings, or
 - (B) uses of land or buildings,
 - (vi) the maximum and minimum densities of population, on the basis of habitable rooms or dwelling units in a specified area,
 - (vii) the height of fences, walls and hedges,
 - (viii) where necessary to maintain proper visibility for the safe movement of traffic, the placement, height and maintenance of
 - (A) fences,
 - (B) walls,
 - (C) signs,
 - (D) hedges, shrubs and trees, and
 - (E) other objects,
 - (ix) the depth, dimensions, area and maintenance of
 - (A) yards,
 - (B) courts,
 - (C) off-street parking, and
 - (D) other open spaces around buildings,
 - (x) the nature and amount of the access to sites that may be required or allowed or not allowed from adjoining municipal roads,

- (xi) requirements for off-street parking based on the uses of land or buildings and the sizes of buildings, expressed in terms of
 - (A) a minimum number of parking or loading stalls, or
 - (B) a minimum area for parking or loading facilities, and
- (xii) the use, location, design and construction of off-street parking and loading facilities;
- (d) provide that off-street parking required under the zoning by-law may, with the approval of the council,
 - (i) be provided on land other than the land to be developed, or
 - (ii) be subject to an exemption in return for a sum of money on terms that the council considers reasonable in return for equivalent public parking space to be provided by the municipal corporation elsewhere in the zone;
- (e) regulate or prohibit the public display of signs and other advertising devices, including with respect to placement, construction, height, size and character;
- (f) provide for conditions under which prohibited or dilapidated signs and other advertising devices may be required to be renovated or removed by resolution of the council;
- (g) regulate or prohibit the erection of buildings
 - (i) within a specified distance of any river, lake, sea, ocean or other watercourse or body of water,
 - (ii) on land that is subject to or at risk of
 - (A) flooding,
 - (B) landslides or other mass movements of soil,
 - (C) marine ice build-up,
 - (D) permafrost thaw subsidence, or
 - (E) frost jacking, or
 - (iii) on land that is low-lying, marshy or unstable;
- (h) require the following, or provide for the circumstance in which the following may be required, to ensure that development is conducted and completed in accordance with any time limits and standards required in a development permit or a development agreement:
 - (i) letter of credit,
 - (ii) performance bond,
 - (iii) any other form of assurance, including an interest that can be registered under the *Land Titles Act*;
- (i) if applicable, provide for procedures for the release of letters of credit, performance bonds or other form of assurance; and
- (j) provide that development officers are authorized officers for the purposes of Part 5.

Limitation – zones for municipal purposes

(3) A provision of a by-law made under paragraph (2)(a) ceases to have effect six months after the provision comes into force if, at the expiration of the six months, the municipal corporation does not own all of the land within the zone.

Required provisions – development permits, variances and subdivisions

(4) A zoning by-law must

- (a) provide for the appointment of development officers;
- (b) authorize development officers to receive applications for development permits and variances;
- (c) require the posting of a public notice of the approval of each development permit and subdivision of land;
- (d) if development permits are required under the zoning by-law, provide for the manner in which a development permit may be issued, suspended, reinstated, or revoked;
- (e) prohibit the issuance of development permits if the proposed development contravenes the zoning by-law or any law of Nunavut or Canada;
- (f) provide for the approval of variances;
- (g) require that applications for variances be made and considered separately from the corresponding development permit application, if any; and
- (h) provide for the continued lawful use of land and use and construction of buildings that were lawfully used, constructed or under construction immediately before the coming into force of the zoning by-law or an amendment to the zoning by-law, whether or not the existing use or construction conforms with the provisions of the zoning by-law.

Optional provisions – development permits and variances

(5) A zoning by-law may

- (a) provide for the appointment of acting development officers or designation of alternate municipal officers to perform the functions of development officers in the absence of appointed development officers;
- (b) authorize a development officer to approve and deny development permits and variances;
- (c) require consultations with the public prior to the council or a development officer deciding to approve or deny a development permit application;
- (d) require development permits, including for activities regulated under paragraph (2)(b);
- (e) provide for the denial of a development permit if, in the opinion of the council or a development officer, satisfactory arrangements have not been made by the applicant to supply the building with water, electric power, sewage, or street access, including failure to arrange payment for the costs of installing or constructing them;
- (f) permit the council, by resolution, to enact an interim prohibition that prohibits development specified in the resolution for a non-renewable period not exceeding two years;
- (g) permit the council or a development officer to determine whether a specific use of land or a building that is not provided for in the zoning by-law with respect to a zone is allowed because it is similar in character and purpose to a use that has been provided for;

- (h) require that any work undertaken without a development permit, with a suspended development permit or in contravention of a prohibition in the zoning by-law be
 - (i) discontinued on notice being issued by a development officer, and
 - (ii) not continued until a development permit authorizing the work has been issued or reinstated;
- (i) provide for application fees for
 - (i) development permit applications,
 - (ii) applications for variances,
 - (iii) requests for resolution through an alternative dispute resolution procedure, and
 - (iv) appeals to the development appeal board;
- (j) provide for the recovery of development costs prior to the issuance of a development permit, on a cost-recovery basis for local infrastructure that serves the development; and
- (k) provide for the recovery of development charges prior to the issuance of a development permit, on a cost-recovery basis for financing the expansion of municipal infrastructure necessitated by the development.

Fees, costs and charges in other by-law

(5.1) A zoning by-law may provide for application fees, development costs and development charges under paragraphs (5)(i) to (k) by reference to another by-law of the municipality that sets out the fees, costs and charges or the manner of calculating the fees, costs and charges.

Variances – deemed allowance

(6) A zoning by-law is deemed to permit variances.

Variances – definition

(7) For the purposes of this section, a variance is a permission to derogate from the requirements of a zoning by-law that, in the opinion of the council or a development officer authorized to approve variances,

- (a) has an appropriate rationale;
- (b) meets the spirit and intent of the general plan;
- (c) does not and will not negatively impact
 - (i) immediate neighbours of the development, or
 - (ii) local infrastructure; and
- (d) does not create a condition that is dangerous or injurious to the health or safety of any person.

Development appeal board

13. (1) A zoning by-law must

- (a) require the council to establish a permanent development appeal board composed of a chairperson and at least two other members who are appointed by resolution of the council;

- (b) provide for the appointment of a secretary of the development appeal board; and
- (c) provide for the holding of meetings, keeping of minutes, signing authority and any other matters related to the development appeal board.

Term of office

(2) The chairperson and other members of a development appeal board are appointed for three-year terms and may not be dismissed except for cause.

Vacancy

(3) If there is a vacancy on a development appeal board, the council must appoint a new member to serve the remainder of the term of the vacant position.

Prohibited appointees

(4) Members of the council, development officers and employees of the municipal corporation must not serve as members of the development appeal board in their municipality.

Filing of appointments

(5) A council must ensure that every resolution appointing a member of a development appeal board is filed with the Director.

Funding

(6) A municipal corporation must fund and provide administrative support to the development appeal board.

Rules

(7) Subject to the zoning by-law establishing it, a development appeal board may make rules regulating its practice and procedure and generally for the conduct and management of its affairs.

Process for enacting planning by-laws

Public notice

14. (1) A council must give public notice of a proposed planning by-law after first reading but before second reading.

Contents of public notice

- (2) A public notice of a proposed planning by-law must include
- (a) the purpose for which the council proposes to pass the planning by-law;
 - (b) the places where a copy of the proposed planning by-law may be inspected by the public, which must include the office of the municipal corporation during office hours;
 - (c) the website address where a copy of the proposed planning by-law may be accessed;

- (d) the times, dates and locations at which the council will hold public hearings on the proposed planning by-law, which must be at least 10 days after the first public notice that included the time, date and location;
- (e) if the public hearings can be accessed online, the manner of access;
- (f) the manner of and deadline for making representations respecting the proposed planning by-law, other than by participation at the public hearing; and
- (g) any other requirements respecting public consultations that are provided for in the general plan or a resolution made under subsection (4).

Location may be online only if required

(3) If a temporary restriction on gatherings prevents the holding of a public hearing at a physical location within the municipality, the public hearing may be held exclusively at an online location that

- (a) is accessible without registering or signing in; and
- (b) allows for simultaneous video and audio communication.

Establishing procedures

(4) Subject to any requirements in its general plan, a council may, by resolution, establish the procedure to be followed by persons who wish to submit representations respecting a proposed planning by-law, including

- (a) subject to subsection (6),
 - (i) requiring the submission of representations to the council prior to the public hearing, and
 - (ii) regulating the submission of representations respecting the proposed planning by-law, other than by participation at the public hearing; and
- (b) regulating the presentation of oral submissions at the public hearing.

Exception

(5) Procedures established under subsection (4) only apply to a public consultation if they are included in a public notice for the public consultation under subsection (2)(f).

Oral representations by individuals

(6) If a council requires the submission of written representations to the council as part of public consultations, the council must make provision for

- (a) individuals who wish to make submissions orally; and
- (b) the accurate recording of those oral submissions.

Holding public hearing

(7) A council must hold a public hearing respecting a proposed planning by-law at the time, date and location stated in the most recent public notice of the proposed planning by-law that complies with paragraph (2)(d).

Additional public hearings

(8) A council may schedule additional public hearings respecting a proposed planning by-law by issuing a new public notice in accordance with subsection (2).

Representations

- (9) At a public hearing respecting a proposed planning by-law, the council must hear
- (a) every person who wishes to make representations concerning the manner in which any provision of the proposed by-law may affect the person or an owner or lessee of land whom the person represents;
 - (b) every local group of residents or property owners or lessees that wishes to be heard;
 - (c) members of the public that wish to be heard; and
 - (d) at the Director's discretion, the Director, or an expert witness designated by the Director in writing.

Exception

(10) If the Director certifies that a proposed planning by-law only amends an existing planning by-law for the purpose of clarifying an existing provision, this section and section 15 do not apply to the proposed planning by-law.

Considering representations

- 15.** (1) Following public hearings on a proposed planning by-law, a council must
- (a) consider all representations respecting the proposed planning by-law made at the public hearings as well as those submitted in writing;
 - (b) determine whether and, if applicable, the manner in which the proposed planning by-law is to be amended following that consideration of representations; and
 - (c) if applicable, make the necessary amendments to the proposed planning by-law prior to submitting it to the Director for approval under subsection (2).

Application

(1.1) Subsections (2) to (5) and paragraph (1)(c) do not apply with respect to a proposed zoning by-law if

- (a) it only deals with application fees, development costs or development charges; or
- (b) it has been prepared by or under the direction of planning officers or planning consultants who have the qualifications prescribed by regulation.

Submission for approval

(2) Prior to third reading of a proposed planning by-law, a council must submit to the Director

- (a) a copy of the proposed planning by-law; and
- (b) a statutory declaration by a development officer or the senior administrative officer of the municipal corporation attesting to

- (i) the contents of the public notice or notices respecting the proposed planning by-law,
- (ii) the publication of the public notice or notices respecting the proposed planning by-law, including the date they were first published in each location,
- (iii) the holding of a public hearing, and
- (iv) the nature of the representations made respecting the proposed planning by-law and the manner they were dealt with by the council.

Approval by Director

(3) The Director must, with respect to a proposed planning by-law submitted under subsection (2) or (4),

- (a) consent to the adoption of the proposed planning by-law;
- (b) refuse to consent to the adoption of the proposed planning by-law if
 - (i) it does not comply with the requirements of the *Official Languages Act* or the *Inuit Language Protection Act*, or
 - (ii) unless the matter can be resolved under subparagraph (c)(i), the proposed planning by-law
 - (A) imposes undue restraint on the legal rights of any person affected by the proposed planning by-law,
 - (B) is inconsistent with any provision of the municipality's general plan, unless the general plan is being accordingly amended to alter the inconsistent provision, or
 - (C) is inconsistent with any provisions of this Act, a land administration by-law or any other applicable law; or
- (c) require
 - (i) the alteration or deletion of any provision that, in the opinion of the Director,
 - (A) imposes undue restraint on the legal rights of any person affected by the proposed planning by-law,
 - (B) is inconsistent with any provision of the municipality's general plan, unless the general plan is being accordingly amended to alter the inconsistent provision, or
 - (C) is inconsistent with any provisions of this Act, a land administration by-law or any other applicable law, or
 - (ii) the addition or alteration of any provision that, in the opinion of the Director, is necessary for clarification of the purposes or application of the proposed planning by-law.

Amendment by council

(4) If the Director requires any alteration, deletion or addition under paragraph (3)(c), the council may submit to the Director a copy of the proposed planning by-law as amended to give effect to those requirements.

Third reading

(5) A council must not adopt a proposed planning by-law that has not been approved by the Director.

Copies

- 16.** A council that has adopted a planning by-law must
- (a) post the planning by-law on a website maintained by or for the municipal corporation; and
 - (b) make paper copies available to the general public at reasonable cost.

No right to compensation

- 17.** No person is entitled to compensation by reason only of
- (a) the adoption of a planning by-law;
 - (b) any provision contained in a planning by-law; or
 - (c) any lawful action taken under a planning by-law.

PART 3

SUBDIVISION OF LAND

Conditions for subdivision of land

- 18.** Land may be subdivided only if
- (a) the land is suited for the intended purpose of the subdivision;
 - (b) the subdivided land is reasonably expected to be used for its intended purpose within a reasonable time after the registration of the plan of subdivision or other instrument effecting the subdivision;
 - (c) the proposed subdivision conforms to the general plan, secondary plan, if any, and zoning by-law that applies to the land or any land adjacent to land to be subdivided;
 - (d) sufficient provisions have been made to convey land for municipal roads, public utilities and other municipal or public purposes under section 22;
 - (e) the subdivision complies with the requirements of this Act and the regulations;
 - (f) the subdivision is approved in accordance with this Act and the regulations; and
 - (g) if required by the municipal corporation, the person proposing the subdivision provides for the installation and construction, at their own expense, of any infrastructure or facilities required under the regulations.

Application for subdivision of land

- 19.** (1) An application to subdivide land may be submitted to the council.

Contents of application

- (2) An application to subdivide land must include

- (a) a labeled and scaled map or sketch of the proposed subdivision of land, with boundary distances and area measurements; and
- (b) if applicable, proof of the authorization required under subsection (3).

Owner's authorization

(3) An application in respect of

- (a) a proposed subdivision of Commissioner's land must be authorized by the Commissioner or the Commissioner's authorized agent under the *Commissioner's Land Act*; and
- (b) a proposed subdivision of any other land except land owned by the municipal corporation must be authorized by the owner of the fee simple estate in the land.

Consent of council

(4) After considering an application to subdivide land in accordance with its planning by-laws, the council may, by resolution,

- (a) consent to the subdivision of land; or
- (b) refuse to consent to the subdivision of land.

Requiring infrastructure and facilities

(5) The council

- (a) may make its consent contingent on the person proposing the subdivision providing for the installation and construction, at their own expense, of any infrastructure or facilities prescribed by regulation; but
- (b) may not refuse to consent to the subdivision of land for failure to provide for the installation or construction of any other infrastructure or facilities.

Content of resolution

(6) A resolution under subsection (4) must

- (a) be made as soon as is reasonably practicable following the application; and
- (b) indicate that the council considered the contents of the application, including the proposed subdivision of land.

Forwarding to Director

(7) The council must forward to the Director an application to subdivide land

- (a) that has been consented to by the council, at the end of the appeal period under subsection 23(3), if no appeal has been made; or
- (b) that has been consented to by the development appeal board, at the end of the judicial review period under subsection 27(2), if no application for judicial review has been made.

Forwarding consent

(8) When forwarding an application to subdivide land to the Director, the council must include, if applicable,

- (a) the signed minutes of the council meeting at which consent was provided;

- (b) any decision or agreement following alternative dispute resolution; and
- (c) the decision of the development appeal board.

Director's decision

- (9) After considering an application to subdivide land, the Director must
 - (a) approve the application if it complies with the requirements of section 18;
 - (b) with the consent of the council, approve the application with minor corrections, if it
 - (i) complies with the requirements of section 18, and
 - (ii) retains the spirit and intent of the proposed subdivision of land; or
 - (c) refuse to approve the application if it does not comply with the requirements of section 18.

Alterations following refusal

- (10) If the Director refuses to approve an application to subdivide land,
 - (a) the Director may recommend significant alterations to the proposed subdivision of land; and
 - (b) the applicant may resubmit a new application to the council that incorporates the alterations recommended by the Director.

Applications following refusal

(11) Except as allowed under paragraph (10)(b), if the Director refuses to approve an application to subdivide land, a person must not submit a new application to subdivide the same land for the same use within six months after the refusal.

Surveys

20. (1) When an application to subdivide land has been approved by the Director, the applicant must arrange for a provisional plan of subdivision or other registrable instrument drawn in conformity with the approved application to be

- (a) prepared by a Canada Lands Surveyor; and
- (b) submitted to the Surveyor General of Canada or a designate of the Surveyor General of Canada.

Timing

(2) An approval for the subdivision of land is void if the provisional plan of subdivision or other registrable instrument is not submitted under paragraph (1)(b) within 24 months after the approval or any additional time approved under subsection (3).

Extensions

(3) Subject to subsection (4), the Director may extend the 24-month deadline in subsection (2) by 12 months at a time.

Limits of extensions

(4) If the council resolution consenting to the application for a subdivision of land stipulates that the Director may not provide any extensions to the 24-month deadline in

subsection (2), the Director may only provide an extension under subsection (3) for the purpose of facilitating remedial survey fieldwork that

- (a) corrects a survey error that prevents registration of the proposed plan of subdivision or other instrument in a land titles office; and
- (b) does not alter the proposed plan of subdivision.

Notification

(5) The Director must notify the council of any extension granted in accordance with this section.

Administrative endorsement

21. If authorized to do so, the Director must, on behalf of the Commissioner, provide an endorsement acceptable to the Surveyor General of Canada for the purposes of section 29 of the *Canada Lands Surveys Act* (Canada) if the Director is satisfied that a provisional plan of subdivision or other registrable instrument conforms with the approved application for subdivision of land.

Land for municipal and public purposes

22. (1) As a condition of approval for an application to subdivide land that is not owned by a municipal corporation, and subject to subsection (5) and the regulations, the owner of the land must agree to convey to the municipal corporation from the land to be subdivided, without compensation,

- (a) land for municipal roads and public utilities, for the purpose of providing suitable access and public services to all lots or other parcels of land in the subdivision;
- (b) land for schools, public parks and recreation areas, comprising no more than 10% of the area of the land to be subdivided; and
- (c) if required by the municipal corporation, land that is unsuitable for building sites or private uses, such as wetlands, gullies, ravines or natural drainage courses.

Exception

(2) Paragraph (1)(c) does not apply to Inuit Owned Lands.

Conveyance

(3) The land to be conveyed to the municipal corporation under subsection (1) must be conveyed to the municipal corporation no later than

- (a) immediately following registration of the plan of subdivision or other registrable instrument in a land titles office; or
- (b) a later time that the council agrees to by resolution.

Caveat

(4) Prior to conveyance, the municipal corporation may register a caveat against the land in a land titles office respecting its rights to land referred to in subsection (1).

Waiver

(5) If a council determines that land specified in subsection (1) is not required by the municipal corporation or for a school, the council may waive the requirement as part of their consent to the application for subdivision of land.

Disposition

(6) If any land conveyed to a municipal corporation under this section is no longer required for the purposes for which it was conveyed, the municipal corporation may dispose of the land in accordance with its land administration by-laws.

PART 4

DISPUTE RESOLUTION

Appeals

Appeals – service

23. (1) A person who claims to be affected by a decision of a council or a development officer made under a general plan, a secondary plan, a zoning by-law or respecting a subdivision of land or a compliance order may appeal to the development appeal board by serving a written notice of appeal on the secretary of the development appeal board.

Appeals – alternative dispute resolution

(2) If a general plan provides for an alternative dispute resolution system, only a decision made through the alternative dispute resolution system may be appealed.

Appeals – timing

- (3) An appeal under this section must be served no more than
- (a) if the decision was served on the person, 14 days after service;
 - (b) if the decision was not served on the person, 14 days after public notice of the decision was made; or
 - (c) a further time, not exceeding an additional 46 days, that the chairperson of the development appeal board may allow for just cause.

Deemed refusal

(4) For the purposes of this section, an applicant for a development permit or a subdivision of land who has not received a decision is deemed to have been served a decision to refuse the application

- (a) if the general plan provides for an alternative dispute resolution system, 40 days after the applicant's request to initiate the alternative dispute resolution; or
- (b) otherwise,
 - (i) if no planning by-law requires consultations with the public respecting the application, 40 days after the date of the application, or

- (ii) if a planning by-law requires consultations with the public respecting the application, 60 days after the date of the application.

Consultation by development appeal board

24. (1) If a planning by-law requires consultations with the public respecting an application that is the subject of an appeal, but the consultations with the public have not been conducted, the development appeal board must, subject to subsection (2), conduct the consultations with the public prior to hearing the appeal.

Request to Director

(2) If the municipal corporation does not provide the development appeal board with the necessary resources and funding to carry out consultations with the public under subsection (1), the development appeal board must request the Director to conduct the consultations with the public.

Consultation by Director

(3) The Director must conduct consultations with the public requested under subsection (2).

Expenses

(4) All the expenses of the Director in conducting consultations with the public under this section must be paid by the municipal corporation and is a debt owing to the Government of Nunavut.

Hearing

- 25.** (1) A development appeal board must hold a hearing
- (a) if consultations with the public are required under section 24, within 30 days after the conclusion of the consultations with the public; or
 - (b) otherwise, within 30 days after being served a notice of appeal.

Notice of hearing

(2) The development appeal board must give reasonable notice of the hearing to the appellant and all persons who, in the opinion of the development appeal board, may be affected by the decision being appealed.

Right to be heard

(3) The development appeal board must provide the following persons with an opportunity to be heard, submit evidence, hear the evidence and cross-examine others:

- (a) the appellant;
- (b) a development officer;
- (c) any person the development appeal board considers necessary for hearing the appeal.

Decision

- (4) A development appeal board
- (a) must consider an appeal with due regard to

- (i) the circumstances and merits of the appeal, and
- (ii) the purpose, scope and intent of the general plan, the zoning by-law and any applicable secondary plan;
- (b) must not make a decision that is incompatible with the general plan;
- (c) may confirm, reverse or vary the decision being appealed; and
- (d) may impose conditions or limitations on its decision that it considers proper and desirable in the circumstances.

Timing

(5) A development appeal board must serve its written decision on the appellant within 60 days after the date of the hearing, but no decision of the development appeal board is invalid for being served late.

Decision binding

(6) A decision of a development appeal board is final and binding, subject only to judicial review under this Part.

Publication of decisions

(7) A development appeal board must publish each of its decisions on a website maintained by or for the municipal corporation, within 14 days after the date of the decision.

Written record

26. (1) A development appeal board must keep a written record of its proceedings, including a summary of the evidence presented to it at hearings.

Report

(2) A development appeal board must make a complete report of each appeal proceeding to the Director, including a summary of all representations made at the hearing, within 15 days after the date of the decision in the proceeding.

Judicial review

Question of law

27. (1) Subject to this section, the following decisions are subject to judicial review before the Nunavut Court of Justice only on questions of law, in accordance with the Rules of the Nunavut Court of Justice:

- (a) a decision of a development appeal board under this Act;
- (b) a decision of the Director respecting an application to subdivide land.

Timeliness

(2) An application for judicial review under this section must be filed and served within 30 days after the decision of the development appeal board or the Director, as the case may be, has been served.

No extension

(3) The Nunavut Court of Justice may not extend the 30 day period under subsection (2).

PART 5

INSPECTIONS AND SEARCHES

Definitions

28. In this Part,

"authorized officer" means, in a municipality,

- (a) a member of the council,
- (b) a development officer, if authorized under a zoning by-law, or
- (c) a person authorized by the council, in writing, to conduct inspections and searches under this Part; (*agent autorisé*)

"enforceable compliance order" means a compliance order whose deadline for compliance has expired and that

- (a) is no longer subject to appeal to the development appeal board, or
- (b) has been confirmed or varied by a development appeal board. (*ordre de se conformer à caractère exécutoire*)

Powers of peace officers

29. An authorized officer has all the powers of a peace officer when performing their functions under this Part.

Right to enter and inspect

30. (1) An authorized officer may, at any reasonable time and in accordance with subsection (2), enter and inspect any place in the municipality for the purpose of

- (a) ensuring compliance with any provision of this Act, the regulations, a zoning by-law, a development permit, a development agreement or an enforceable compliance order; or
- (b) preparing a general plan, secondary plan or zoning by-law.

Requirement for consent or warrant

(2) An authorized officer may enter and inspect a place under this Part

- (a) in the case of a building, including any part of a dwelling, only if
 - (i) the occupant or person in charge of the building consents, or
 - (ii) the inspection is authorized by a warrant; or
- (b) in any other case, without a warrant or consent.

Show identification

(3) An authorized officer must, on request, show their official identification to the occupant or person in charge of the place they are entering and inspecting under this Act.

Inspection powers

(4) During an inspection of a place referred to in subsection (1), an authorized officer may, for the purpose of ensuring compliance with any provision of this Act, the regulations, a

zoning by-law, a development permit, a development agreement or an enforceable compliance order,

- (a) open or cause to be opened any container whose contents may be relevant for the purpose of ensuring compliance;
- (b) inspect any thing;
- (c) make audio, photo or video recordings of the place or any thing; and
- (d) require any person to produce any record or data for inspection in whole or in part.

Assistance

(5) The owner or the person in charge of a thing or place being inspected under this Act, and every person found in the place, must

- (a) give the authorized officer all reasonable assistance to enable them to perform their functions; and
- (b) provide the authorized officer with any information in relation to the administration of or compliance with this Act, the regulations, a zoning by-law, a development permit, a development agreement or an enforceable compliance order that the authorized officer may reasonably require.

Searches

Searches

31. If an authorized officer believes, on reasonable grounds, that an offence under this Act or a zoning by-law has been committed, the authorized officer may enter any place and search any thing or place for the purpose of obtaining evidence in relation to that offence under this Act or a zoning by-law if

- (a) the owner or person in possession of the thing or the occupant or person in charge of the place, as the case may be, consents; or
- (b) the search is authorized by a warrant.

Limitation on powers

Information, records or data

32. The powers under sections 30 and 31 may not be used with respect to information, records or data except to the extent that doing so is

- (a) necessary for the purposes of an inspection or search; or
- (b) authorized by a warrant.

Warrants

Inspection warrant

33. (1) A justice or judge may issue a warrant authorizing a person named in the warrant to enter in or on a place and exercise any of the powers referred to in subsection (2), if the justice or judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that

- (a) there is likely to be found there evidence that is required for the purpose of ensuring compliance with any provision of this Act, the regulations, a zoning by-law, a development permit, a development agreement or an enforceable compliance order; and
- (b) the occupant or person in charge of the place or thing does not or will not consent or that the evidence may be lost if an attempt at obtaining consent is made.

Powers under inspection warrant

(2) A warrant issued under subsection (1) may authorize the person named in the warrant to do any or all of the following:

- (a) inspect the place;
- (b) perform or cause to be performed any relevant test;
- (c) require that any machinery, equipment or device be operated, used, stopped or set in motion;
- (d) question a person on any relevant matter;
- (e) demand the production of any thing or record;
- (f) require any person present in the place to give all reasonable assistance to the person named in the warrant to enable them to exercise powers and perform duties under this Act.

Search warrant

(3) A justice or judge may issue a warrant authorizing a person named in the warrant to enter in or on a place and exercise any of the powers referred to in subsection (4), if the justice or judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that

- (a) there is likely to be found there evidence of an offence under this Act or a zoning by-law; and
- (b) the occupant or person in charge of the place or thing does not or will not consent or that the evidence may be lost if an attempt at obtaining consent is made.

Powers under search warrant

(4) A warrant issued under subsection (3) may authorize the person or persons named in the warrant to do any or all of the following:

- (a) search the place;
- (b) perform or cause to be performed any relevant test;
- (c) require that any machinery, equipment or device be stopped;
- (d) demand the production of any thing or record;
- (e) require that a person named or specified in the warrant provide assistance specified in the warrant and required to give effect to the warrant.

Application without notice

(5) A warrant under this section may be issued, with conditions, on an application made without notice and in the absence of the owner or occupant of the place.

Time of execution

34. (1) A warrant must be executed at a reasonable time, or as specified in the warrant.

Expiration and extension

(2) A warrant must state the date on which it expires, and a justice or judge may extend the date on which the warrant expires for such additional periods as the justice or judge considers necessary.

Use of force

(3) A person named in a warrant may use such force as is reasonable and necessary to make the entry and exercise any power specified in the warrant.

Call for assistance

(4) A person named in a warrant may call on any other person they consider necessary to execute the warrant.

Providing assistance

(5) A person called upon under subsection (4) may provide a person named in the warrant any assistance that is necessary to execute the warrant.

Identification

(6) On the request of an occupant or person in charge of the place, a person executing a warrant must identify themselves, provide a copy of the warrant and explain the purpose of the warrant.

Telewarrants

Telewarrants

35. (1) If an authorized officer believes that an offence under this Act or a zoning by-law has been committed and that it would be impracticable to appear personally before a justice or judge to apply for a warrant, the authorized officer may submit an information on oath or affirmation to a justice or judge by telephone or other means of telecommunication.

Authority of telewarrant

(2) A justice or judge referred to in subsection (1) may issue a warrant conferring the same authority respecting a search as may be conferred by a warrant issued by a justice or judge before whom the authorized officer appears personally under this Act, and section 487.1 of the *Criminal Code* applies with such modifications as the circumstances require.

Same

(3) A warrant as provided for in this section is sufficient authority to the authorized officer and to any other named person to execute the warrant.

Assistance

Request for assistance

36. (1) An authorized officer may request the assistance of the following persons in enforcing this Part or the regulations respecting this Part and give them instructions for that purpose:

- (a) a peace officer;
- (b) a by-law officer.

Powers and protections

(2) The powers and protections of the authorized officer apply to and may be exercised by the persons referred to in paragraphs (1)(a) or (b) while acting under the instructions of the authorized officer.

Oaths and affirmations

Power to administer oaths and affirmations

37. An authorized officer may administer an oath or affirmation as if the authorized officer were a commissioner for oaths to a person making a written declaration or affidavit in respect of any matter relating to the administration of this Act or a zoning by-law.

PART 6

ENFORCEMENT AND OFFENCES

Compliance orders

Compliance order

38. (1) A development officer who determines that a development or a use of land or a building contravenes this Act, the regulations, a zoning by-law, a development permit or a development agreement may serve a compliance order on

- (a) the owner of the land or building; or
- (b) the person who the development officer determines is responsible for the contravention.

Contents of order

(2) A compliance order must

- (a) specify the contravention;
- (b) direct the person to whom it is issued to do one or more of the following:
 - (i) stop the development in whole or in part as specified in the order,
 - (ii) alter the development,
 - (iii) demolish, remove or replace any building or other thing used for or created by the development,
 - (iv) restore the land or building to the condition it was in immediately before the development was undertaken,
 - (v) stop the use of the land or building in whole or in part as specified in the order,

- (vi) take any other actions required by the order to ensure conformity with this Act, the regulations, a zoning by-law, a development permit or a development agreement;
- (c) fix a deadline for complying with a direction under paragraph (b); and
- (d) advise of the right of appeal to the development appeal board.

Application for court order

(3) A council may apply to the Nunavut Court of Justice for an order requiring a person to comply with

- (a) a compliance order, if
 - (i) the person on whom the compliance order is served fails to comply before the deadline fixed in the compliance order, and
 - (ii) the compliance order is no longer subject to appeal to the development appeal board; or
- (b) a compliance order that is confirmed or varied by a development appeal board, if the person on whom the decision of the development appeal board is served fails to comply.

Court order

(4) The Nunavut Court of Justice

- (a) may make an order requiring a person to comply with a compliance order, or part of a compliance order; and
- (b) must specify in the order the deadline for complying with it.

Compliance with court order

(5) A person must comply with a court order made under subsection (4) before the deadline specified in the court order.

Failure to comply with court order

(6) If a person fails to comply with a court order made under subsection (4) before the deadline specified in the court order, the council may

- (a) serve a notice on the owner or occupant of the land or building subject to the court order; and
- (b) after service, enter the land or the building and take any necessary action to carry out the court order, or authorize an officer of the municipal corporation to do so.

Use of reasonable force

(7) In carrying out an order under subsection (6), a council or an officer of the municipal corporation authorized by the council may

- (a) use reasonable force to execute the court order; and
- (b) request a peace officer to assist in the execution of the court order.

Caveat

(8) The municipal corporation may register a caveat against land affected by a court order made under subsection (4) in a land titles office.

Effect of caveat

- (9) While a caveat is registered against land under subsection (8),
- (a) the court order related to the caveat binds the owner of the land; and
 - (b) a person must not use or develop the land or building located on the land, except in accordance with the court order.

Withdrawal of caveat

(10) A council must withdraw a caveat registered under subsection (8) as soon as practicable after the court order related to it has been complied with.

Expenses and costs

(11) All expenses and costs incurred by a council in obtaining and enforcing a court order made under subsection (4) are a debt owing to the municipal corporation by the person required to comply with the court order.

Recovery of expenses and costs

- (12) Expenses and costs referred to in subsection (11) may be recovered
- (a) by civil action for debt; and
 - (b) if the land subject to the court order is taxable property under the *Property Assessment and Taxation Act*, by the taxing authority under that Act deeming the expenses and costs to be arrears of property taxes on the taxable property under that Act.

Request to taxation authority

(13) If the municipal corporation is not a taxing authority under the *Property Assessment and Taxation Act*, it may request the taxing authority to deem the expenses and costs under subsection (11) to be arrears of property taxes under that Act.

Remittance

(14) If the Collector of Taxes or a taxing authority other than the municipal corporation under the *Property Assessment and Taxation Act* collects monies for the expenses and costs deemed to be arrears of property taxes under that Act, they must remit the collected amount to the municipal corporation.

Service

(15) A decision under subsection (12) to deem expenses and costs to be arrears of property taxes is effective when it is served on the assessed owner, as defined in the *Property Assessment and Taxation Act*.

Refusal to issue new development permits

39. If a person is subject to a court order under subsection 38(4), or has not paid expenses and costs required to be paid under section 38 in full, the council may refuse, and require a development officer to refuse, the issuance of any development permits

- (a) with respect to the land subject to the order; or
- (b) to the person subject to the order.

Development agreements

Development agreements

40. (1) If a development permit or consent for the subdivision of land is subject to requirements or limitations in accordance with this Act, the regulations or a zoning by-law, the council may enter into a development agreement with the following persons with respect to the observance of the requirements or limitations:

- (a) the owners of that land; and
- (b) the lessees of that land, in the case of
 - (i) land owned by the municipality,
 - (ii) Commissioner's land, or
 - (iii) Crown land.

Covenant

(2) A development agreement may be registered against the land or the leasehold, as the case may be, in a land titles office and, while registered, is a covenant running with that land or leasehold.

Ministerial enforcement of municipal planning

Inquiries respecting municipal planning

41. (1) The Minister may enquire into the following matters:

- (a) the failure of a council to adopt a general plan or zoning by-law in accordance with this Act;
- (b) the failure of a municipal corporation to conform to, enforce or administer provisions of a general plan, secondary plan or zoning by-law.

Order following inquiry

(2) If, following inquiries under subsection (1), the Minister is satisfied that a failure referred to in that subsection is occurring, the Minister may notify the council in writing of the Minister's intention to issue an order to the council to prepare, adopt, enact, conform to, enforce or administer a general plan, secondary plan or zoning by-law.

Council representations before order

(3) Within 30 days after a notification under subsection (2), the council may make representations to the Minister about why the intended order should not be issued.

Ministerial order

(4) If, after considering any representations made by the council, the Minister continues to be of the opinion that a failure referred to in subsection (1) is occurring, the Minister may issue an order, with reasons, requiring the council to prepare, adopt, enact, conform to, enforce or administer a general plan, secondary plan or zoning by-law within a timeframe specified in the order.

Council representations during order

(5) A council may, at any time when an order under subsection (4) is in effect, make representations to the Minister about why the council should not be required to comply with the order.

Minister's response

(6) Within 30 days after receiving a representation under subsection (5), the Minister must consider the representations and either

- (a) rescind the order; or
- (b) provide the council with written reasons as to why the order will not be rescinded.

Court order

(7) If a council fails to comply with an order issued under subsection (4), the Minister may apply to the Nunavut Court of Justice for a declaration confirming that the order

- (a) does not impinge on municipal authority under Article 11 of the Nunavut Agreement; or
- (b) is required to maintain conformity with the law despite impinging on municipal authority under Article 11 of the Nunavut Agreement.

Carrying out order

(8) If, following a court order under subsection (7) confirming an order of the Minister under subsection (4), the council continues to fail to comply with the order of the Minister, the Minister may, to the extent that is minimally necessary to implement the order, exercise for and in the name of the council any powers related to municipal planning conferred on the council under this Act.

Offences and punishment

Obstruction of authorized officers

42. (1) While an authorized officer under Part 5 is performing functions under that Part, a person must not

- (a) knowingly make any false or misleading statement, either orally or in writing, to the authorized officer; or
- (b) otherwise obstruct or hinder the authorized officer, other than by refusing entry to a place where the authorized officer requires a warrant to enter the place.

Disobeying or contravening a warrant

(2) A person must not wilfully disobey or contravene a warrant issued under this Act.

Subdivision without approval

43. (1) A person must not subdivide land except in accordance with this Act.

False or misleading information

(2) A person must not provide false or misleading information in an application respecting subdivision of land.

Offences

44. (1) A person who contravenes the following provisions is guilty of an offence and liable, on summary conviction, to the penalty provided for under subsections (2) and (3):

- (a) section 42 or 43;
- (b) a provision of the regulations, the contravention of which is stated in the regulations to be an offence.

Penalties

(2) The penalty for a contravention listed in subsection (1) is

- (a) in the case of a corporation, a fine not exceeding the combination of
 - (i) \$100,000, and
 - (ii) an additional \$5,000 for each day or part of a day during which the offence continues; or
- (b) in the case of an individual, a fine not exceeding the combination of
 - (i) \$5,000, and
 - (ii) an additional \$1,000 for each day or part of a day during which the offence continues.

Imprisonment for failure to pay

(3) An individual who is capable of paying a fine imposed under paragraph (2)(b) within a time frame established by the convicting justice or judge, but fails to do so, is additionally liable for imprisonment for a term not exceeding six months.

Limitation period for offences

45. (1) A proceeding for an offence under this Act or a zoning by-law may be commenced up to two years after the time of the alleged offence.

Limitation period of continuing offence

(2) In the case of a continuing offence, the two-year limitation period is calculated from the last day the continuing offence continued, whether or not the continuing offence commenced or is alleged to have commenced more than two years before the commencement of the proceeding.

Liability of corporate officers

46. (1) If a corporation commits an offence under this Act or a zoning by-law, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the offence is guilty of the offence and is liable to the punishment provided for the offence as an individual, whether or not the corporation has been prosecuted.

Employees or agents

(2) In a prosecution for an offence under this Act or a zoning by-law, it is sufficient proof of the offence to establish that it was committed by any employee or agent of the accused person, even if the employee or agent is not identified or is not prosecuted for the offence.

Additional fine

47. If a person is convicted of an offence and the justice or judge is satisfied that monetary benefits accrued or could have accrued to the person as a result of the commission of the offence,

- (a) the justice or judge may order the person to pay an additional fine in an amount equal to the amount of the monetary benefits;
- (b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act or a zoning by-law; and
- (c) the additional fine is to be added to any other fine or amount of money ordered to be paid under this Act or a zoning by-law.

Other orders

48. When convicting a person for an offence under this Act or a zoning by-law, the justice or judge may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order requiring the person to

- (a) pay any fee or charge that would have been payable in respect of any permit or other document that should have been obtained by the person under this Act or a zoning by-law;
- (b) pay costs related to the offence;
- (c) take any action that the justice or judge considers appropriate to remedy or avoid any harm that resulted or may result from the commission of the offence; and
- (d) for a period specified in the order not exceeding one year,
 - (i) not do any act or engage in any activity that could, in the opinion of the justice or judge, result in the continuation or repetition of the offence, and
 - (ii) comply with any other conditions that the justice or judge considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences.

By-law offences

- 49.** (1) A by-law providing for offences under a by-law made under this Act may
- (a) despite subsection 182(2) of the *Cities, Towns and Villages Act* or subsection 182(2) of the *Hamlets Act*, provide for fines and imprisonment not exceeding the fines and imprisonment provided for under section 44;
 - (b) provide for additional fines and other orders to the same extent as is provided for under sections 47 and 48; and
 - (c) provide for the filing of a notification of illegal development against the affected land in a land titles office.

Other remedies

(2) For greater certainty, in enforcing a requirement of a general plan, secondary plan, zoning by-law, development permit or development agreement, a council may exercise any of the powers conferred on it by the *Cities, Towns and Villages Act* or the *Hamlets Act* in addition to the powers conferred on it by this Part.

Immunity

Immunity

50. The Director, a council, a member of a council, a municipal corporation, a member of a development appeal board, a development officer or any other person or body is not liable for any loss or damage suffered by reason of anything done or not done by them in good faith in performing their functions under this Act or a zoning by-law.

PART 7

REGULATIONS

Regulations

- 51.** (1) The Minister may make regulations
- (a) respecting the required qualifications of planning officers and planning consultants;
 - (b) for the purpose of regulating the subdivision of land, including
 - (i) respecting the procedure and criteria for applications to subdivide land,
 - (ii) prescribing rules governing
 - (A) graphical standards and minimum content requirements for proposed subdivisions of land,
 - (B) the laying out and dimensions of lots, parcels or other units of land,
 - (C) the laying out and minimum widths, lengths and maximum grades of municipal roads and rights-of-way,
 - (D) the location, areas and shapes of land referred to in section 22, and
 - (E) the locations where subdivisions of land intended for specific types of development and use are permitted or prohibited,
 - (iii) respecting the forms to be used, the consents and approvals to be obtained and the fees to be paid for applications to subdivide land, and
 - (iv) prescribing infrastructure and facilities for the purposes of paragraph 19(5)(a);
 - (c) prescribing requirements for sustainable development and practices that support climate change adaptation;
 - (d) prescribing development and building requirements that reflect Inuit and northern needs and styles of living;

- (e) prescribing development and building requirements that promote public safety, mobility, and accessibility;
- (f) prescribing requirements for public consultation and participation;
- (g) prescribing the manner and form in which secondary plans must be prepared;
- (h) prescribing the content and form of site plans and other submission requirements for development permit applications;
- (i) prescribing the contents of forms to be used for the purposes of this Act;
- (j) regulating the criteria and procedures for applications for approval by the Director;
- (k) regulating locations, dimensions, and laying out of infrastructure in municipalities, including
 - (i) power poles and lines,
 - (ii) street lighting,
 - (iii) drainage infrastructure,
 - (iv) water and sewage infrastructure,
 - (v) fuel pipelines,
 - (vi) waste disposal sites,
 - (vii) borrow pits,
 - (viii) parks and playgrounds,
 - (ix) municipal roads,
 - (x) walking trails, and
 - (xi) cemeteries;
- (l) regulating signage;
- (m) regulating the nature and form of temporary use provisions, interim prohibitions, and variance evaluation criteria;
- (n) respecting bonusing, including
 - (i) the types of bonusing that are allowed,
 - (ii) the circumstances in which bonusing is allowed,
 - (iii) restrictions and conditions on bonusing, and
 - (iv) refunds of funds collected through bonusing;
- (o) regulating the terms and conditions that may be imposed by municipalities on development permits;
- (p) regulating development permit fees and development charges;
- (q) respecting the service of orders, notices and other instruments under this Act;
- (r) prescribing the provisions of the regulations for the purposes of subsection 44(1); and
- (s) respecting any other matter that the Minister considers necessary to carry out the purposes of this Act.

Discount on certain residential development permit fees

(2) Regulations made under paragraph (1)(p) must provide for development permit fees for fences, decks, accessory buildings and similar additions for residential purposes to be lower than development permit fees for other types of development.

PART 8

FINAL PROVISIONS

Transitional

Definition

52. (1) In this section, "former Act" means the *Planning Act*, C.S.Nu.,c.P-90 as it read immediately before its repeal by this Act.

Continuance of general plans

(2) A general plan, development scheme or zoning by-law adopted under the former Act remains valid, despite any inconsistency with this Act and the regulations, until the later of

- (a) ten years since the last review of the general plan under section 5 of the former Act; or
- (b) two years after the repeal of the former Act by this Act.

Appeals

(3) A proceeding before a development appeal board commenced before the repeal of the former Act continues as if the former Act had not been repealed.

Members of development appeal boards

(4) Members of a development appeal board established by a municipality under the former Act, other than the members referred to in subsection 13(4) of this Act, continue as members of the development appeal board established by the municipality under this Act for the remainder of their term of appointment, unless, in accordance with this Act, their appointment ends earlier.

Consequential and related amendments

Condominium Act

53. Paragraph 6(5)(a) of the *Condominium Act* is repealed and replaced by:

- (a) has been approved by the Director of Planning appointed under the *Planning Act*; and

Land Titles Act

54. (1) This section amends the *Land Titles Act*.

(2) Subparagraph 90(1)(b)(ii) is repealed and replaced by

- (ii) in the case of land within a municipality, approved under Part 3 of the *Planning Act*;

(3) Subsection 93(2) is repealed and replaced by:

Dealing of less than whole lot

(2) Subject to subsection (3), a Registrar must not accept a dealing by an owner of land whose interest has been registered on a certificate of title where the land description in the dealing describes a parcel of land that is

- (a) less than a lot or other parcel created by a plan of survey that has been filed or registered; and
- (b) less than the land of the owner of the interest as registered on the certificate of title.

Exception – land outside municipalities

(3) The Registrar may accept a dealing described in subsection (2) for land outside municipalities if the Registrar approves a land description in the dealing that refers to a lot or other parcel created by

- (a) an administrative plan that has been
 - (i) prepared under section 31 of the *Canada Lands Surveys Act* (Canada), and
 - (ii) filed in a land titles office; or
- (b) a descriptive plan.

(4) Section 94 is amended by replacing "subsection 93(2)" with "subsection 93(3)".

(5) Sections 236 to 238 are repealed.

Property Assessment and Taxation Act

55. (1) This section amends the *Property Assessment and Taxation Act*.

(2) Subsection 91(1) is amended by deleting "and" at the end of paragraph (c), replacing the period at the end of paragraph (d) with ", and" and adding the following after paragraph (d);

- (e) fifth, in payment of amounts deemed to be arrears of property taxes under the *Planning Act*.

(3) Subsection 95(1) is repealed and replaced by:

Certificate of tax arrears

95. (1) The collecting authority may prepare a certificate of tax arrears in the form prescribed by regulation if

- (a) a person liable to pay property taxes fails or refuses to do so by December 31 in any year, unless an appeal is pending under section 69 in respect of those taxes; or
- (b) there are amounts deemed to be arrears of property taxes under the *Planning Act*.

(4) The definition of "arrears of property taxes" in subsection 97.1(1) is repealed and replaced by:

"arrears of property taxes" means, at any given time,

- (a) all property taxes listed on a tax roll in respect of a taxable property for the immediately preceding year and for any other preceding year that have not been paid as of December 31 of the immediately preceding year, and includes any interest payable at the given time on such property taxes, and
- (b) all amounts deemed to be arrears of property taxes under the *Planning Act*; (*arriérés d'impôt foncier*)

Repeal

56. The *Planning Act*, C.S.Nu.,c.P-90, is repealed.

Coming into force

57. This Act comes into force on a day to be fixed by order of the Commissioner in Executive Council.