



Province of Alberta

# **HISTORICAL RESOURCES ACT**

Revised Statutes of Alberta 2000  
Chapter H-9

Current as of March 31, 2020

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

## Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20\_\_.\*

\*The year of first publication of the legal materials is to be completed.

### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Historical Resources Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Historical Resources Act</b>		
Archaeological and Palaeontological Research Permit .....	254/2002 .....	93/2007, 183/2008, 133/2013
Dispositions (Ministerial).....	101/98 .....	251/2001, 182/2002, 12/2010, 133/2010, 2/2015, 21/2020
Fort Macleod Provincial Historic Area Establishment .....	158/84	
Old Strathcona Provincial Historic Area Establishment .....	13/2007	

# HISTORICAL RESOURCES ACT

## Chapter H-9

### *Table of Contents*

1 Definitions

#### **Part 1**

#### **Historical Resources Generally**

2 Duty re historic resources

3 Staff

4 Experts and advisors

5 Acquisition of property

6 Minister's powers

7 Grants

8 Committees

9 Museum objects

10 Copies as evidence

#### **Part 3**

#### **Historic Resource Management**

16 Powers re historic sites

17 Historic Sites Co-ordinating Committee

18 Geographical names

19 Designation as Registered Historic Resource

20 Designation as Provincial Historic Resource

21 Service of notice

22 Crown owned historic resource

23 Maintenance and repair

24 Provincial Historic Area

25 Registration of notice of Provincial Historic Area regulation

26 Designation as Municipal Historic Resource

27 Designation as Municipal Historic Area

28 Compensation

29 Condition or covenant on land

30 Excavation permit

- 31 Notice of discovery of historic resource
- 32 Title to archaeological property
- 33 Transport of historic resources out of Alberta
- 34 Damage prohibited
- 35 Regulations
- 36 Effect of issue of research permit
- 37 Right of entry

## **Part 5**

### **General**

- 49 Temporary Stop Order
- 50 Compensation
- 51 Exemption from building code
- 52 Offence and penalty
- 53 Act binds Crown

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

### **Definitions**

**1** In this Act,

- (a) “archaeological resource” means a work of humans that
  - (i) is primarily of value for its prehistoric, historic, cultural or scientific significance, and
  - (ii) is or was buried or partially buried in land in Alberta or submerged beneath the surface of any watercourse or permanent body of water in Alberta,and includes those works of humans or classes of works of humans designated by the regulations as archaeological resources;
- (b) “donation” includes any gift, testamentary disposition, deed of trust or other form of contribution;
- (c) repealed 2019 c15 s23;
- (d) “historic object” means any historic resource of a movable nature including any specimen, artifact, document or work of art;
- (e) “historic resource” means any work of nature or of humans that is primarily of value for its palaeontological, archaeological, prehistoric, historic, cultural, natural,

scientific or esthetic interest including, but not limited to, a palaeontological, archaeological, prehistoric, historic or natural site, structure or object;

- (f) “historic site” means any site that includes or consists of an historical resource of an immovable nature or that cannot be disassociated from its context without destroying some or all of its value as an historical resource and includes a prehistoric, historic or natural site or structure;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “palaeontological resource” means a work of nature consisting of or containing evidence of extinct multicellular beings and includes those works of nature or classes of works of nature designated by the regulations as palaeontological resources;
- (i) “Provincial Historic Resource” means an historic resource that is designated under section 20(1) as a Provincial Historic Resource;
- (j) “Registered Historic Resource” means an historic resource that is designated under section 19(1) as a Registered Historic Resource.

RSA 2000 cH-9 s1;2019 c15 s23

## **Part 1 Historical Resources Generally**

### **Duty re historic resources**

**2** The Minister is responsible for

- (a) the co-ordination of the orderly development,
- (b) the preservation,
- (c) the study and interpretation, and
- (d) the promotion of appreciation

of Alberta’s historic resources.

RSA 1980 cH-8 s2

**Staff**

**3** In accordance with the *Public Service Act*, there may be appointed the employees necessary for the administration of this Act.

RSA 1980 cH-8 s3;1991 c17 s2;1997 c12 s2

**Experts and advisors**

**4(1)** The Minister may from time to time engage the services of experts or persons having special technical or other knowledge to advise the Minister or to inquire into and report to the Minister on matters under this Act.

**(2)** A person whose services are engaged under this section may be paid the remuneration and expenses that the Minister may prescribe.

RSA 1980 cH-8 s4

**Acquisition of property**

**5(1)** The Minister may

- (a) acquire by purchase, gift, bequest, devise, loan, lease or otherwise any historic object, building or historic site;
- (b) sell, lease, exchange or otherwise dispose of any historic object, building or historic site so acquired;
- (c) lend or lease any historic objects or any other objects acquired under this Act;

on any terms the Minister considers appropriate.

**(2)** The Minister may acquire by gift, devise, bequest or loan, any building, site or other thing of historic, scientific or artistic interest whether or not having a bearing on the heritage of Alberta.

**(3)** Any property acquired by the Minister under this section by gift, devise, bequest or loan is subject to any terms and conditions stipulated by the person giving, devising, bequeathing or lending the property.

RSA 1980 cH-8 s5

**Minister's powers**

**6(1)** The Minister may

- (a) exhibit and display the property acquired under this Act, including exhibitions outside Alberta, as the Minister considers desirable;
- (b) classify, preserve, index and catalogue the historic resources and other property acquired under this Act;

- (c) for the purpose of public sale
  - (i) cause to be prepared or acquired books, pamphlets, souvenirs, photographs, reproductions and similar items, and
  - (ii) cause information and studies to be compiled or prepared;
- (d) fix the sale price of items sold under this Act and establish fees or charges for services provided under this Act;
- (e) undertake, support or sponsor educational or research programs relevant to the purposes of this Act;
- (f) provide assistance, advisory services and training programs to individuals, institutions, agencies and organizations in Alberta having aims and objectives similar to those of this Act;
- (g) do or authorize to be done all other things that are incidental to or conducive to the attainment of the purposes and objects of this Act.

**(2)** The Minister may make regulations

- (a) fixing the times, terms and conditions of public access to collections, property and locations under the Minister's control;
- (b) respecting the use and protection of property under the Minister's control;
- (c) generally for the operation, conduct and management of properties under the Minister's control;
- (d) governing the conditions on which research permits may be issued under section 30;
- (e) prescribing the standards of curatorship to be maintained in institutions to which the Minister has given custody of historic resources.

RSA 1980 cH-8 s6;1991 c17 s3

**Grants**

**7(1)** The Minister may make grants if

- (a) the Minister is authorized to do so by regulations under this section, and

- (b) there is authority available in a supply vote for the purpose for which the grant is to be made.
- (2)** The Lieutenant Governor in Council may make regulations
- (a) authorizing the Minister to make grants;
  - (b) prescribing the purposes for which grants may be made;
  - (c) governing applications for grants;
  - (d) prescribing the persons or organizations or classes of persons or organizations eligible for grants;
  - (e) specifying the conditions required to be met by any applicant for a grant to render that person eligible for the grant;
  - (f) prescribing the conditions on which a grant is made and requiring the repayment of it to the Government if the conditions are not met;
  - (g) providing for the payment of any grant in a lump sum or by instalments and prescribing the time or times at which the grant or the instalments may be paid;
  - (h) limiting the amount of any grant or class of grant that may be made;
  - (i) authorizing the Minister to delegate in writing to any employee of the Government any duty, power or function respecting the payment of any grant;
  - (j) requiring any person receiving a grant to account for the way in which the grant is spent in whole or in part;
  - (k) authorizing the Minister to enter into an agreement with respect to any matter relating to the payment of a grant.
- (3)** A regulation under subsection (2) may be specific or general in application.

RSA 1980 cH-8 s7

**Committees**

- 8(1)** The Minister may appoint committees from time to time as the Minister considers advisable or necessary for the purposes of this Act.
- (2)** The Minister may, with respect to any committee established under this section,

- (a) appoint or provide for the manner of appointment of its members,
- (b) prescribe the term of office of any member,
- (c) designate a chair, vice-chair and secretary, and
- (d) authorize, fix and provide for the payment of remuneration and expenses to members.

RSA 1980 cH-8 s8

**Museum objects****9** The Minister may

- (a) provide for the operation, maintenance and development of The Provincial Museum of Alberta;
- (b) cause to be exhibited and displayed specimens, artifacts, documents and works of art depicting the history of Alberta, or any other subjects that may be of public interest from time to time;
- (c) receive from other institutions, produce, exchange and display loan and circulating exhibits for use both in and out of Alberta;
- (d) undertake, support or sponsor educational and research programs relevant to the purposes of this Part;
- (e) publish information and studies;
- (f) co-operate with other agencies and societies and, in particular, provide advisory services, training, grants and assistance to museums in Alberta;
- (g) maintain and operate museums placed under the Minister's care and custody and enter into agreements with other institutions, agencies and organizations for the operation of museums;
- (h) provide for the operation, maintenance and development of the Provincial Archives of Alberta for
  - (i) the preservation, storage, publication and public exhibition of public records, and
  - (ii) the acquisition, preservation, publication and public exhibition of documents, parchments, manuscripts, records, books, maps, plans, photographs, magnetic

tapes or other materials, regardless of physical form, the preservation of which is in the public interest.

RSA 1980 cH-8 s9;1983 cD-25.5 s23

#### **Copies as evidence**

**10** A copy of any original public record or other document in the custody of the Provincial Archives of Alberta, certified by the Provincial Archivist to be a true copy, shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the authenticity and correctness of the document and of the contents of the original without proof of the signature or appointment of the Provincial Archivist.

RSA 1980 cH-8 s10

**Part 2** Repealed 2019 c15 s23.

### **Part 3 Historic Resource Management**

#### **Powers re historic sites**

**16** The Minister may

- (a) designate and protect historic resources;
- (b) undertake programs of research into and documentation of matters relating to the heritage of Alberta and maintain records of Registered Historic Resources and Provincial Historic Resources;
- (c) place markers, signs, cairns or other interpretive facilities in any suitable location for the interest and guidance of the public;
- (d) administer, maintain, restore, record, conduct research and educational services, provide interpretive exhibits and carry out any functions required in the proper management and interpretation of Provincial Historic Resources that are owned by the Crown or wholly located on Crown lands;
- (e) carry out surveys, investigate, document and excavate any site in Alberta;
- (f) report on the investigation, documentation or excavation of any site;
- (g) enter into agreements with persons to carry out surveys and excavations and prepare reports on them;

- (h) co-operate with other agencies, societies or persons in carrying out any program likely to promote or enhance the preservation, protection and interpretation of historic sites;
- (i) provide programs for the information and benefit of persons interested in archaeology or the conservation of historic sites.

RSA 1980 cH-8 s11

**Historic Sites Co-ordinating Committee**

**17(1)** The Minister may appoint an Historic Sites Co-ordinating Committee composed of a chair and any other persons the Minister considers appropriate.

**(2)** The Historic Sites Co-ordinating Committee shall establish liaison between and co-ordinate the activities of departments in relation to actions and programs that may have effect on the preservation and development of historic sites.

RSA 1980 cH-8 s12

**Geographical names**

**18(1)** The name of any place or other geographical feature in Alberta that

- (a) was approved after March 31, 1949 and before January 1, 1975 by the Geographic Board of Alberta under *The Geographical Names Act*, RSA 1970 c159,
- (b) was approved or changed after December 31, 1974 by the Historic Sites Board pursuant to this Act,
- (c) was approved or changed before March 31, 2020 by the Alberta Historical Resources Foundation pursuant to this Act, or
- (d) is approved or changed by the Minister pursuant to subsection (2),

is the authorized name of that place or feature for all purposes.

**(2)** The Minister may approve a name for, or approve a change of the name for, any place or other geographical feature in Alberta.

**(3)** When the Minister approves the name or changes the name of any place or other geographical feature under this section, the Minister shall publish in *The Alberta Gazette* a notice setting out the name approved or the change of name and the location of the place or other geographical feature to which the name applies.

(4) Repealed 2019 c15 s23.

RSA 2000 cH-9 s18;2019 c15 s23

#### **Designation as Registered Historic Resource**

**19(1)** The Minister, after giving the owner 60 days' notice of the Minister's intention to do so, may by order designate any historic resource the preservation of which the Minister considers to be in the public interest, together with any land in or on which it is located and adjacent land that may be specified in the order, as a Registered Historic Resource.

(2) The Minister shall

- (a) serve a copy of the order on the owner of the historic resource and the owner of any land that will be subject to the order,
- (b) publish a notice of the designation, including a description of the historic resource, in The Alberta Gazette, and
- (c) if the order relates to or includes any land, cause a certified copy of the order to be registered in the appropriate land titles office.

(3) On the registration of a certified copy of the order in the appropriate land titles office, the Registrar of Land Titles shall endorse a memorandum of the registration on the certificate of title to any land affected by the order.

(4) An order under subsection (1) is effective

- (a) as against the owner of the historic resource and the owner of any land that is subject to the order, when the owner is served with a copy of the order or when the notice under subsection (2)(b) is published in The Alberta Gazette, whichever occurs first, and
- (b) as against all other persons, when the notice under subsection (2)(b) is published in The Alberta Gazette.

(5) Notwithstanding any other Act, no person shall

- (a) destroy, disturb, alter, restore or repair any historic resource or land that has been designated under this section, or
- (b) remove an historic object from an historic resource that has been designated under this section

until the expiration of 90 days from the date that notice of the person's proposed action is served on the Minister, unless the Minister sooner consents to the proposed action.

(6) On the service of a notice of intention under subsection (1), subsection (5) applies to the historic resource and land as if an order under subsection (1) had been made and was effective under subsection (4), until the time the Minister makes the order or revokes the notice of intention or until the expiry of 120 days from the receipt of the notice.

(7) Notwithstanding subsection (6), a person who has been served with a notice of intention under subsection (1) may apply to the Court of Queen's Bench for an order shortening the period of 120 days mentioned in subsection (6).

(8) If the Minister rescinds an order made under subsection (1), the Minister shall

- (a) serve a copy of the rescinding order on the owner of the historic resource and the owner of any land that is subject to the order,
- (b) publish a notice of the rescinding order in The Alberta Gazette, and
- (c) if the order under subsection (1) was registered against the certificate of title to any land, cause a certified copy of the rescinding order to be registered in the appropriate land titles office.

(9) On the registration of a certified copy of a rescinding order in the appropriate land titles office, the Registrar of Land Titles shall endorse a memorandum on the certificate of title to any land concerned cancelling the registration of the order under subsection (1).

RSA 2000 cH-9 s19;2009 c53 s81

### **Designation as Provincial Historic Resource**

**20(1)** The Minister may by order designate any historic resource the preservation of which the Minister considers to be in the public interest, together with any land in or on which it is located and adjacent land that may be specified in the order, as a Provincial Historic Resource.

(2) The Minister shall

- (a) serve notice of the Minister's intention to make an order under subsection (1) on the owner of the historic resource

and on the owner of any land that will be subject to the order, and

- (b) publish notice of the Minister's intention to make an order under subsection (1) in The Alberta Gazette

at least 60 days prior to the date on which the Minister proposes to make the designation.

**(3)** A notice under subsection (2) shall contain a description of the historic resource that the Minister proposes to designate and shall state the reasons for the proposed designation.

**(4)** Any interested person may, within 30 days after the publication of the notice in The Alberta Gazette, advise the Minister that the person wishes to make representations concerning the proposed designation.

**(5)** At the conclusion of the 30-day period, the Minister shall notify all persons who have advised the Minister of their intention to make representations of a date fixed by the Minister for the hearing of the representations, which must be not fewer than 15 days prior to the date on which the Minister proposes to make the designation.

**(6)** The Minister, after considering any representations made at the hearing referred to in subsection (5), may make an order under subsection (1) and as soon as possible after making the order the Minister shall

- (a) serve a copy of the order on the owner of the historic resource and on the owner of any land that is subject to the order,
- (b) publish a notice of the designation, including a description of the historic resource and any land that is subject to the order, in The Alberta Gazette, and
- (c) if the order relates to or includes any land, cause a certified copy of the order to be registered in the appropriate land titles office.

**(7)** On the registration of a certified copy of an order in the appropriate land titles office, the Registrar of Land Titles shall endorse a memorandum on the certificate of title to any land affected by the order.

**(8)** An order under subsection (1) is effective

- (a) as against the owner of the historic resource and the owner of any land that is subject to the order, when the owner is served with a copy of the order or when the notice under subsection (6)(b) is published in The Alberta Gazette, whichever occurs first, and
- (b) as against all other persons, when the notice under subsection (6)(b) is published in The Alberta Gazette.

**(9)** Notwithstanding any other Act, no person shall

- (a) destroy, disturb, alter, restore or repair any historic resource or land that has been designated under this section, or
- (b) remove an historic object from an historic resource that has been designated under this section

without the written approval of the Minister.

**(10)** The Minister, in the Minister's absolute discretion, may refuse to grant an approval under subsection (9) or may make the approval subject to any conditions the Minister considers appropriate.

**(11)** The owner of an historic resource that is subject to an order under subsection (1) shall, at least 30 days before any sale or other disposition of the historic resource, serve notice of the proposed sale or other disposition on the Minister.

**(12)** When a person inherits an historic resource that is subject to an order under subsection (1), that person shall notify the Minister of the inheritance within 15 days after the historic resource is transferred to the person.

**(13)** On service of a notice of intention under subsection (2), subsections (8) to (12) apply to the historic resource and land as if an order under subsection (1) had been made and was effective under subsection (8), until the time the Minister makes the order or revokes the notice of intention or until the expiry of 120 days from service of the notice.

**(14)** Notwithstanding subsection (13), a person who has been served with a notice of intention under subsection (2) may apply to the Court of Queen's Bench for an order shortening the period of 120 days mentioned in subsection (13).

**(15)** If the Minister rescinds an order made under subsection (1), the Minister shall

- (a) serve a copy of the rescinding order on the owner of the historic resource and the owner of any land that is subject to the order,
- (b) publish a notice of the rescinding order in The Alberta Gazette, and
- (c) if the order under subsection (1) was registered against the certificate of title to any land, cause a certified copy of the rescinding order to be registered in the appropriate land titles office.

**(16)** On the registration of a certified copy of a rescinding order in the appropriate land titles office, the Registrar of Land Titles shall endorse a memorandum on the certificate of title to any land concerned cancelling the registration of the order under subsection (1).

RSA 2000 cH-9 s20;2009 c53 s81;2019 c15 s23

#### **Service of notice**

**21** A notice, order or other document under section 19 or 20 may be served by personal service or registered mail or in any other manner as the Court of Queen's Bench may direct.

RSA 1980 cH-8 s17

#### **Crown owned historic resource**

**22** If the historic resource that is the subject of an order under section 20(1) is an historic resource that is owned by the Crown or wholly situated on Crown land,

- (a) section 20(2), (4), (5), (6)(a), (11) to (14) and (15)(a) do not apply with respect to that historic resource,
- (b) at least 60 days prior to the date of making an order under section 20(1), the Minister shall give notice of the Minister's intention to make the order to the Minister of the Crown who has the administration of the land or historic resource,
- (c) no sale or other disposition of property that is the subject of an order under section 20(1) may be made without giving the Minister at least 60 days' notice, and
- (d) the Minister may
  - (i) restore, alter or demolish any structure located within the area designated as a Provincial Historic Resource, and

- (ii) make regulations governing the management and development of the Provincial Historic Resource.

RSA 1980 cH-8 s18;1989 c17 s10;1992 c16 s6

#### **Maintenance and repair**

##### **23** The Minister may

- (a) make regulations governing standards of maintenance of Provincial Historic Resources,
- (b) make regulations governing signs and billboards on Provincial Historic Resources, and
- (c) by order require specific repairs or other measures to be made or taken to preserve any particular Provincial Historic Resource.

RSA 1980 cH-8 s19

#### **Provincial Historic Area**

**24(1)** The Lieutenant Governor in Council may by regulation establish any area of Alberta as a Provincial Historic Area.

**(2)** If the Lieutenant Governor in Council establishes a Provincial Historic Area, the Lieutenant Governor in Council may, with respect to the Area, by regulation

- (a) prohibit or regulate and control the use, development or occupation of land or buildings;
- (b) prohibit or regulate and control the exercise of any power specified in the regulations by
  - (i) a specified Minister of the Crown, or
  - (ii) a government agency;
- (c) prohibit or regulate and control the demolition, removal, repair, construction or reconstruction of buildings or other things;
- (d) authorize the acquisition by purchase or expropriation by a specified Minister of the Crown of any estate or interest in the land;
- (e) authorize any specified Minister of the Crown, government agency or any other person to consent to or approve any particular kind of use, development or occupation of land or to exempt any particular kind of use, development or occupation from the operation of any provision of the regulations made under this section;

- (f) regulate and control the construction, height, location or size of buildings;
- (g) make any or all of the provisions of the *Surface Rights Act* inapplicable to land of the Crown;
- (h) prohibit, with respect to any land of the Crown in the area, any expropriation to which the *Expropriation Act* applies;
- (i) confer on any specified Minister of the Crown, with or without conditions, any power or duty under the regulations.

**(3)** In this section, “government agency” means a corporation that is an agent of the Crown in right of Alberta, a government official and any corporation, commission, board or other body empowered to perform quasi-judicial or governmental functions and whose members are appointed by an Act of the Legislature, the Lieutenant Governor in Council or a Minister of the Crown or any combination of them.

**(4)** Unless the contrary is expressly declared in regulations made under this section, the regulations operate notwithstanding Part 17 of the *Municipal Government Act*.

RSA 1980 cH-8 s20;1995 c24 s100

#### **Registration of notice of Provincial Historic Area regulation**

**25(1)** If a Provincial Historic Area is established pursuant to section 24, the Minister shall file a notice to that effect, together with a certified copy of the regulation, with the Registrar of Land Titles, and the Registrar shall endorse a memorandum of the notice on each certificate of title pertaining to land within the Area.

**(2)** If a regulation made pursuant to section 24 is amended,

- (a) the Minister shall file a further notice respecting the amending regulation together with a certified copy of the amending regulation,
- (b) the Registrar of Land Titles shall keep the further notice with the original notice and shall treat them as one document, and
- (c) subject to subsections (3) and (4), the Registrar of Land Titles shall not make any further endorsement on any certificate of title in respect of the further notice.

**(3)** If a regulation made pursuant to section 24 is amended and the effect of the amendment is to add land to the Area, the Registrar shall, on receiving the further notice under subsection (2), endorse on each certificate of title for the additional land a memorandum of

the original notice under subsection (1) and the further notice under subsection (2).

**(4)** If a regulation made pursuant to section 24 is amended and the effect of the amendment is to remove any land from the Area, the Registrar of Land Titles shall, on receiving the further notice under subsection (2), cancel the memorandum of the original notice under this section on each certificate of title to the land so removed.

**(5)** If a regulation made under section 24 is rescinded and not replaced, the Minister shall file a notice to that effect and a copy of the rescinding regulation with the Registrar of Land Titles who shall cancel the memorandum of the original notice on each certificate of title to the land previously within the Area.

**(6)** If a regulation made pursuant to section 24 is rescinded and replaced by another regulation under this section, the Minister shall file with the Registrar of Land Titles a notice to that effect and a certified copy of the new regulation and the Registrar shall,

- (a) with respect to land that was subject to the rescinded regulation and is also subject to the new regulation, cancel the memorandum on the certificate of title for the land of the notice pertaining to the rescinded regulation and endorse a memorandum on the certificate of title of the notice pertaining to the new regulation, which shall be then treated as a notice under subsection (1),
- (b) with respect to land that was subject to the rescinded regulation but is not subject to the new regulation, cancel the memorandum of the notice on the certificate of title for the land, and
- (c) with respect to land that was not subject to the rescinded regulation but is subject to the new regulation, treat the notice as a notice under subsection (1) and act accordingly.

**(7)** On the filing with a Registrar of a notice under subsection (1), (2), (5) or (6), the Registrar of Land Titles shall send a notification respecting the filing of the notice, but without sending a copy of the regulation, amending regulation or rescinding regulation to which the notice relates, by mail or otherwise, to each registered owner on whose title a memorandum of the notice is endorsed.

**(8)** The Minister shall send, by mail or otherwise, to each person shown on a certificate of title as having an estate or interest in the land affected by any regulation, amending regulation or rescinding regulation referred to in subsection (1), (2), (5) or (6), at the last reasonably ascertainable address of the person, a copy of the

regulation, amending regulation or rescinding regulation, as the case may be, together with a notification relating to it containing the information that the Minister considers necessary.

**(9)** The validity or operation of a regulation made pursuant to section 24 is not dependent on the filing of any notice by the Minister with a Registrar under this section.

RSA 1980 cH-8 s21;1996 c32 s5(34)

### **Designation as Municipal Historic Resource**

**26(1)** In this section and in sections 27 and 28,

- (a) “council” means the council of a city, town, village, summer village or municipal district;
- (b) “municipality” means a city, town, village, summer village, municipal district, improvement district or special area.

**(2)** A council of a municipality, after giving the owner 60 days’ notice, may by bylaw designate any historic resource within the municipality whose preservation it considers to be in the public interest, together with any land in or on which it is located that may be specified in the bylaw, as a Municipal Historic Resource.

**(3)** A council that designates an historic resource as a Municipal Historic Resource under subsection (2) shall

- (a) cause a copy of the bylaw to be served on the owner of the historic resource and on the owner of any land that will be subject to the bylaw, and
- (b) if the bylaw relates to or includes any land, cause a certified copy of the bylaw to be registered at the appropriate land titles office.

**(4)** On the registration of a certified copy of the bylaw at the appropriate land titles office, the Registrar of Land Titles shall endorse a memorandum on the certificate or certificates of title to any land affected by the bylaw.

**(5)** A bylaw under subsection (2) is effective when it is passed.

**(6)** Notwithstanding any other Act, no person shall

- (a) destroy, disturb, alter, restore or repair an historic resource that has been designated under this section, or
- (b) remove any historic object from an historic resource that has been designated under this section,

without the written approval of the council or a person appointed by the council for the purpose.

(7) The council or the person appointed by the council, in its or the appointee's absolute discretion, may refuse to grant an approval under subsection (6) or may make the approval subject to any conditions it or the appointee considers appropriate.

(8) On the service of a notice of intention under subsection (2), subsection (6) applies to the historic resource and land as if a bylaw under subsection (2) had been passed until the council passes the bylaw or revokes the notice of intention or until the expiry of 120 days from the receipt of the notice.

(9) Notwithstanding subsection (8), a person who has been served with a notice of intention under subsection (2) may apply to the Court of Queen's Bench for an order shortening the period of 120 days mentioned in subsection (8).

(10) If the council repeals a bylaw made under subsection (2), it shall

- (a) cause a copy of the repealing bylaw to be served on the owner, and
- (b) if the bylaw under subsection (2) was registered against the certificate or certificates of title to any land, cause a certified copy of the repealing bylaw to be registered in the appropriate land titles office.

(11) On the registration of a certified copy of the repealing bylaw in the appropriate land titles office, the Registrar of Land Titles shall endorse a memorandum on the certificate or certificates of title to the land concerned cancelling the registration of the bylaw under subsection (2).

(12) A notice or bylaw under this section may be served on the owner by personal service or registered mail or in any other manner as the Court of Queen's Bench may direct.

RSA 2000 cH-9 s26;2009 c53 s81

#### **Designation as Municipal Historic Area**

**27(1)** If it is of the opinion that the preservation of the historical character of any part of the municipality is in the public interest, a council may by bylaw

- (a) designate that part of the municipality as a Municipal Historic Area, and

(b) prohibit or regulate and control the use and development of land and the demolition, removal, construction or reconstruction of buildings within the Municipal Historic Area.

(2) A bylaw under subsection (1) is deemed to form part of the land use bylaw of the municipality and Part 17 of the *Municipal Government Act* relating to a land use bylaw applies to the bylaw under subsection (1).

(3) Notwithstanding subsection (2), if the municipality has no land use bylaw, Part 17 of the *Municipal Government Act* is nevertheless applicable to the bylaw under subsection (1) as though a land use bylaw for the municipality were in existence and the bylaw under subsection (1) were part of that land use bylaw.

RSA 1980 cH-8 s23;1995 c24 s100

### Compensation

**28(1)** If a bylaw under section 26 or 27 decreases the economic value of a building, structure or land that is within the area designated by the bylaw, the council shall by bylaw provide the owner of that building, structure or land with compensation for the decrease in economic value.

(2) If the council and the owner can not agree on the compensation payable under subsection (1), the owner or the council may apply to the Land Compensation Board established under the *Expropriation Act* to determine the amount of compensation payable by the council to the owner for the decrease in economic value.

(3) When an application is made to the Land Compensation Board pursuant to subsection (2), the *Expropriation Act* and the regulations made under it respecting the determination of compensation, hearings and procedures, including interest, costs and appeals, apply to the application with all necessary modifications.

(4) The council may, with the agreement of the owner, provide the compensation under subsection (1) by grant, tax relief or any other means.

(5) This section does not apply with respect to a Municipal Historic Resource that is designated as part of a TDC scheme under the *Alberta Land Stewardship Act*.

RSA 2000 cH-9 s28;2009 cA-26.8 s79

**Condition or covenant on land**

**29(1)** A condition or covenant, relating to the preservation or restoration of any land or building, entered into by the owner of land and

- (a) the Minister,
- (b) the council of the municipality in which the land is located, or
- (c) repealed 2019 c15 s23,
- (d) an historical organization that is approved by the Minister,

may be registered with the Registrar of Land Titles.

**(2)** When a condition or covenant under subsection (1) is presented for registration, the Registrar of Land Titles shall endorse a memorandum of the condition or covenant on any certificate of title relating to that land.

**(3)** A condition or covenant registered under subsection (2) runs with the land and the person or organization under subsection (1) that entered into the condition or covenant with the owner may enforce it whether it is positive or negative in nature and notwithstanding that the person or organization does not have an interest in any land that would be accommodated or benefited by the condition or covenant.

**(4)** A condition or covenant registered under subsection (2) may be assigned by the person or organization that entered into it with the owner to any other person or organization mentioned in subsection (1), and the assignee may enforce the condition or covenant as if it were the person or organization that entered into the condition or covenant with the owner.

**(5)** If the Minister considers it in the public interest to do so, the Minister may by order discharge or modify a condition or covenant registered under subsection (2), whether or not the Minister is a party to the condition or covenant.

**(6)** If the Minister discharges or modifies a condition or covenant under subsection (5), the Minister shall register a copy of the order with the Registrar of Land Titles and the Registrar of Land Titles shall endorse a memorandum discharging or modifying the condition or covenant on the certificate of title to the land.

**(7)** This section applies notwithstanding section 48 of the *Land Titles Act*.

(8) No condition or covenant under this section is deemed to be an encumbrance within the meaning of the *Land Titles Act*.

RSA 2000 cH-9 s29;2019 c15 s23

#### **Excavation permit**

**30(1)** Subject to subsection (2), no person shall make an excavation on any land in Alberta for the purpose of seeking or collecting historic resources unless the person is the holder of a valid permit issued under this section.

(2) The Minister may exempt any person from the requirements of subsection (1) on any conditions the Minister considers appropriate.

(3) The Minister may issue permits authorizing the person named in the permit to make excavations for the purpose of seeking or collecting historic resources on any land in Alberta described in the permit.

(4) A research permit shall be subject to the following conditions:

- (a) the holder shall, within any time that may be specified on the permit, furnish to the Minister a progress report on the work done in any detail that the Minister may require;
- (b) the holder shall, after completion of the excavation, restore the site to its normal condition insofar as it is reasonably possible to so do unless the Minister otherwise authorizes;
- (c) the holder shall deliver possession of all historic resources recovered while excavating pursuant to the research permit to any public institution that the Minister may designate;
- (d) any condition prescribed pursuant to the regulations;
- (e) any other conditions that the Minister may consider necessary.

(5) A research permit is valid for the period specified in the permit but may be sooner cancelled by the Minister if the Minister is of the opinion that the holder of the permit is not complying with the conditions specified in the permit or with this Act or the regulations.

RSA 1980 cH-8 s26

**Notice of discovery of historic resource**

**31** A person who discovers an historic resource in the course of making an excavation for a purpose other than for the purpose of seeking historic resources shall forthwith notify the Minister of the discovery.

RSA 1980 cH-8 s27

**Title to archaeological property**

**32(1)** Subject to subsections (2) and (3), the property in all archaeological resources and palaeontological resources within Alberta is vested in the Crown in right of Alberta.

**(2)** No sale or other disposition of land belonging to the Crown in right of Alberta shall operate as a conveyance of an archaeological resource or palaeontological resource situated on or under the land unless the sale or other disposition expressly states that it does so operate.

**(3)** The Minister may, in accordance with the regulations, sell, lease, exchange or otherwise dispose of any archaeological or palaeontological resource on any terms the Minister considers appropriate.

RSA 1980 cH-8 s28;1987 c26 s2

**Transport of historic resources out of Alberta**

**33(1)** Subject to subsection (2), no person shall transport any of the following out of Alberta without the written permission of the Minister:

- (a) archaeological resources;
- (b) palaeontological resources;
- (c) historic resources that are the subject of an order under section 19 or 20.

**(2)** Subsection (1) does not apply to an archaeological or palaeontological resource that has been sold, leased, exchanged or otherwise disposed of by the Minister pursuant to section 32(3).

RSA 1980 cH-8 s29;1987 c26 s3

**Damage prohibited**

**34(1)** Subject to subsection (2), no person shall alter, mark or damage an archaeological resource or palaeontological resource unless the person is the holder of a valid permit under section 30 or has the written permission of the Minister to do so.

(2) Subsection (1) does not apply to an archaeological or palaeontological resource that has been sold, leased, exchanged or otherwise disposed of by the Minister pursuant to section 32(3).

RSA 1980 cH-8 s30;1987 c26 s4

### Regulations

**35** The Minister may make regulations

- (a) respecting the sale, lease, exchange or disposition of archaeological and palaeontological resources;
- (b) exempting any person or class of person from the operation of section 33(1) or 34(1).

RSA 1980 cH-8 s31;1987 c26 s5

### Effect of issue of research permit

**36(1)** The issue of a research permit does not entitle any person to enter on the land that is the subject of the permit unless

- (a) the person has the permission of the owner and any person in possession or occupation of the land, or
- (b) when the land is owned by the Crown in right of Alberta, the person obtains the permission of, or a disposition from, the Minister responsible for the administration of that land.

(2) No liability attaches to the Crown by reason of the issue of a research permit.

RSA 1980 cH-8 s32

### Right of entry

**37(1)** The Minister may authorize any person to enter at any reasonable hour and after notice to the owner or occupant

- (a) any land for the purpose of
  - (i) making surveys for, or
  - (ii) inspecting
    - historic resources that the Minister has reason to believe may qualify as a Registered Historic Resource or a Provincial Historic Resource, or
- (b) any Provincial Historic Resource for the purpose of examining, surveying or recording the site or carrying out excavations and works required for the preservation or development of the site as an historic resource.

(2) When the Minister is of the opinion that any operation or activity that may be undertaken by any person will, or is likely to, result in the alteration, damage or destruction of historic resources, the Minister may order that person

- (a) to carry out an assessment to determine the effect of the proposed operation or activity on historic resources in the area where the operation or activity is carried on,
- (b) to prepare and submit to the Minister in accordance with the order, a report containing the assessment of the effect of the proposed operation or activity referred to in clause (a), and
- (c) to undertake all salvage, preservative or protective measures or take any other action that the Minister considers necessary.

(3) Notwithstanding anything in any other Act, when the Minister makes an order under subsection (2) the Minister may also require any municipality or other authority in Alberta, the issuance of whose licence, permit, consent or similar authorization is a condition precedent to the commencement or continuation of the operation or activity, to withhold or suspend the licence, permit, consent or other authorization until the Minister is satisfied that any assessment that the Minister has required under subsection (2)(a) or any measure or action that the Minister has required under subsection (2)(c) has been carried out to the Minister's satisfaction.

RSA 1980 CH-8 s33

**Part 4** Repealed 2019 c15 s23.

## **Part 5 General**

### **Temporary Stop Order**

**49(1)** When the Minister is of the opinion that a person is engaged in an activity that the Minister considers likely to result in damage to or destruction of an historic resource that could be designated as a Registered Historic Resource or as a Provincial Historic Resource, the Minister may issue an order called a "Temporary Stop Order" requiring that person to cease the activity or the portion of it that the Minister specifies in the Temporary Stop Order for a period not exceeding 15 days.

(2) When it appears that the historic resource qualifies for designation as a Provincial Historic Resource, the Lieutenant Governor in Council may, on the recommendation of the Minister,

order suspension of the activity or any part of it for a further specified period in order to allow salvage, recording or excavation of the historic resource and investigation of alternatives to its destruction including its designation as a Provincial Historic Resource.

(3) If a person feels himself or herself aggrieved by an order issued pursuant to this section, the person may appeal to the Court of Queen's Bench on 2 days' notice and the Court may confirm, vary or rescind the order appealed from.

RSA 2000 cH-9 s49;2009 c53 s81

### Compensation

**50(1)** The Minister may authorize the payment of compensation in accordance with the regulations to any person who has suffered loss as the result of the application of this Act, other than sections 26, 27 and 28, or the regulations.

(2) The Lieutenant Governor in Council may make regulations governing the manner of determining compensation paid by the Minister under subsection (1).

RSA 1980 cH-8 s46

### Exemption from building code

**51(1)** The Minister may make regulations exempting Registered Historic Sites or Provincial Historic Sites from the application of any provision contained in any building code that would otherwise be applicable pursuant to any Act, regulation or municipal bylaw when the enforcement of that provision would prevent or seriously hinder the preservation, restoration or use of all or any portion of the site or monument.

(2) A regulation under subsection (1) may be general or particular in application.

RSA 1980 cH-8 s47

### Offence and penalty

**52(1)** A person who contravenes this Act or the regulations, the conditions of a permit, or a direction of the Minister under this Act is guilty of an offence and liable to a fine of not more than \$50 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.

(2) When a Provincial Historic Resource is altered or destroyed in any way in contravention of this Act, the regulations or a direction of the Minister pursuant to this Act, the Minister may restore it and the Crown may recover the cost of that restoration from the person causing the alteration or destruction by an action in debt.

**(3)** When a Provincial Historic Resource is altered or destroyed in contravention of this Act, the regulations or an order of the Minister pursuant to this Act in a manner that it is not possible to effect restoration, the Crown may by action recover damages for the alteration or destruction from the person causing the alteration or destruction.

RSA 1980 cH-8 s48

**Act binds Crown**

**53** The Crown is bound by this Act except sections 26, 27 and 52.

RSA 1980 cH-8 s49







Printed on Recycled Paper 