

No. 96

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2nd Session, 15th Legislature, Alberta  
13 Elizabeth II

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**BILL 96**

A Bill to amend The Planning Act

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HON. MR. HOOKE

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## Explanatory Note

1. This Bill amends chapter 43 of the Statutes of Alberta, 1963.
2. Section 5 which establishes the Provincial Planning Board is amended.

**3. Section 16, clause (b) presently reads:**

16. Land shall not be subdivided unless

- .....
- (b) the proposed subdivision conforms to any existing or proposed general plan, preliminary regional plan, regional plan, replotting scheme, development scheme or zoning by-law affecting the land or adjacent land or is in conformity with a logical extension thereof,

**4. Section 18 presently reads:**

18. The Subdivision and Transfer Regulations do not apply when the subdivision is effected by the purchase or acquisition of land pursuant to any law of the Province or of Canada whereby the purchaser has a right to expropriate the land.

# BILL

No. 96 of 1965

An Act to amend The Planning Act

(Assented to \_\_\_\_\_, 1965)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Planning Act* is hereby amended.

**2.** Section 5 is amended by adding the following subsections:

(3) In the absence of the chairman at a meeting, the members present may nominate one of their members to be chairman of the meeting.

(4) When the Board is hearing appeals pursuant to section 110, the Board shall not consist of employees appointed under *The Public Service Act, 1962*, other than the Director.

**3.** Section 16 is amended by striking out clause (b) and by substituting the following:

(b) the proposed subdivision conforms to any existing general plan, preliminary regional plan, regional plan, replotting scheme, development scheme or zoning by-law affecting the land,

(b1) the proposed subdivision conforms to any proposed general plan, preliminary regional plan, regional plan, replotting scheme, development scheme or zoning by-law which will affect the land or adjacent land or is in conformity with a logical extension thereof,

**4.** Section 18 is struck out and the following is substituted:

**18.** This Act and The Subdivision and Transfer Regulations do not apply when the subdivision is effected solely for the purposes of providing for

(a) public roadways, highways, highway maintenance garages and sites, government weigh scales, or

(b) drainage ditches, irrigation ditches and irrigation canals, or

**5. Section 19, subsection (1) reads:**

19. (1) A person who proposes to carry out a subdivision of land shall apply for approval of the proposed subdivision in the manner prescribed by The Subdivision and Transfer Regulations.

and see clause 6 of this Bill.

**6. Section 22, subsection (3) reads:**

(3) Before the endorsement of a plan of subdivision or an instrument, the applicant shall pay such approval fees as are prescribed by The Subdivision and Transfer Regulations.

and see clause 5 of this Bill.

**7. Section 23, clause (a) presently reads:**

23. Where an instrument

(a) granting a lease for more than three years of only part of a parcel, or  
.....

has the effect or may have the effect of subdividing the parcel, the Registrar shall not accept the instrument unless it is approved in accordance with this Act and The Subdivision and Transfer Regulations.

The section is amended to make it consistent with the definition of "subdivision" in section 2 of the Act.

**8. Section 23a, which deals with the transfer of substandard vacant lots is repealed.**

**9. Section 25 deals with the provision of reserves on subdivisions of land. Subsection (3) presently reads:**

(3) Where the provision of a reserve in part or in full is deferred, the Director may file a caveat respecting the deferred reserve against the title to the affected land in the land titles office.

**10. Section 26, subsection (1) presently reads:**

26. (1) A reserve shall be used by a municipality or other public authority only for the purposes of a school, a public park or recreation area, but if it appears that a reserve will not be required for any of those purposes, the Board, upon application by the municipality may authorize the lease of the reserve or its sale by tender or public auction.

**11. Section 56, subsection (1) is amended to conform to the amendments to sections 19 and 22—see clauses 5 and 6 of this Bill.**

**12. Section 59, subsection (2), clauses (a) and (b) read:**

(2) A zoning caveat shall

(a) set out a list of zones of permitted land use classes into which the land comprising the subdivision is divided,

(b) prescribe, prohibit and regulate uses of land and buildings within each zone in the same manner as may be done by means of a zoning by-law under this Act,

- (c) wells or batteries within the meaning of *The Oil and Gas Conservation Act*, or
- (d) pipe lines within the meaning of *The Pipe Line Act, 1958*, or
- (e) rights of way for public utilities within the meaning of *The Public Utilities Board Act*, or
- (f) any other thing that the Lieutenant Governor in Council may determine.

**5.** Section 19 is amended by adding the following subsection after subsection (2) :

(2a) An application for approval shall be accompanied by the application fee prescribed by The Subdivision and Transfer Regulations and no application shall be considered until the fee is paid.

**6.** Section 22 is amended by striking out subsection (3).

**7.** Section 23, clause (a) is amended by striking out the words "for more than three years".

**8.** Section 23a is repealed.

**9.** Section 25, subsection (3) is amended by adding after the words "the Director" the words ", as caveator,".

**10.** Section 26, subsection (1) is amended by striking out the words "by tender or public auction" and by substituting the words "in such manner and on such terms as the Board specifies".

**11.** Section 56, subsection (1) is amended by striking out the words "approval fees" and by substituting the words "application fee".

**12.** Section 59, subsection (2) is amended by striking out clauses (a) and (b).

**13. Section 66 presently reads:**

66. Upon the coming into effect of a development control by-law or a zoning by-law affecting a parcel in respect of which a zoning caveat has been registered,

- (a) the zoning caveat ceases to have any effect, and
- (b) the Director shall forthwith register in the land titles office a discharge of the caveat, and thereupon the Registrar shall cancel from the certificate of title to the parcel the notification of the zoning caveat endorsed thereon.

**14. Section 70 presently reads:**

70. Where a commission resolves to prepare and adopt a regional plan, each council having jurisdiction over any part of the regional planning area to which the regional plan is to apply shall

- (a) exercise control over development in accordance with the terms of any existing development control by-law enacted under Part 4, or
- (b) in the absence of such a by-law, apply to the Minister for authority to exercise development control in the manner provided by Part 4.

**15. Section 74, subsection (2) presently reads:**

(2) A preliminary regional plan, as originally prepared or as amended, may be adopted only after the commission has considered any representations with respect to the plan that are submitted to it by the public authorities mentioned in clause (b) of subsection (1) within ten weeks from the date on which copies of the proposed plan were sent to them.

**16. Section 82, subsection (1) reads:**

82. (1) A council may submit to a commission a written request for an amendment to a regional plan or a preliminary regional plan, together with a statement of the particulars of the proposed amendment and the reason the amendment is requested.

**17. Section 92 presently reads:**

92. No person is entitled to compensation by reason of the adoption or the carrying out of a provision of a regional plan or a preliminary regional plan if the provision is one that may be contained in or enforceable by means of a zoning by-law.

**18. Section 94 reads:**

94. The Board may make regulations, not inconsistent with this Part, prescribing the forms to be used and the procedure to be followed in carrying out the intent of this Part.

See clause 35 of this Bill.

**19. Section 95, subsection (1) reads:**

95. (1) A council may resolve to prepare a general plan describing the manner in which the future development or re-development of the municipality may best be organized and carried out, having regard to considerations of orderliness, economy and convenience.

Sections 100 to 113 govern the exercise of development control in the municipality pending the completion and adoption of the general plan.

**20. Section 96, clause (a) presently reads:**

96. A general plan
- (a) shall be prepared under the direction of qualified planning officers or qualified planning consultants, who shall be appointed by the council and be responsible to it,

**13.** Section 66 is amended by striking out the words “a development control by-law or”.

**14.** Section 70, clause (a) is amended by adding after the words “development control by-law” the words “or zoning by-law”.

**15.** Section 74, subsection (2) is amended by striking out the word “ten” and by substituting the word “six”.

**16.** Section 82 is amended by adding the following subsection:

(3) A commission may of its own motion propose an amendment to a regional plan or a preliminary regional plan and on or before the date of the second regular meeting following the motion, the commission shall either adopt or refuse to adopt the proposed amendment and if no action is taken by the commission by that date, the proposal shall be deemed to be refused.

**17.** Section 92 is amended by striking out the words “if the provision is one that may be contained in or enforceable by means of a zoning by-law”.

**18.** Section 94 is repealed.

**19.** Section 95 is amended by adding the following subsection:

(3) A municipality with a population of two thousand five hundred persons or less, need not comply with sections 100 to 113.

**20.** Section 96, clause (a) is amended by adding at the end thereof the words “or if the municipality is a member of a regional planning commission it may be prepared by the regional planning commission, who shall be responsible to the council”.

**21. Section 97, subsection (2) presently reads:**

- (2) Where a general plan includes areas of land outside the boundary of a city, town or village, either
- (a) each council within whose municipal territory such land lies may also adopt the general plan by by-law passed in accordance with sections 129 to 136, or
  - (b) development control shall continue to be exercised with respect to those areas in the manner provided by this Part.

**22. An error in cross-reference is corrected.**

**23. Section 110, subsections (1) and (5) presently read:**

110. (1) A person affected by a decision of a municipal planning commission or a development control officer made pursuant to section 105 may appeal
- (a) to the development appeal board, or
  - (b) where no development appeal board is established, to the council.
- (5) A decision of a council made under this section is final and binding upon all parties, subject only to appeal under section 146.

**24. Section 120, clauses (a) and (c) presently read:**

120. A zoning by-law
- (a) shall be based upon a survey of the existing land uses and conditions of land and buildings in the municipality,
  - (c) shall not establish a zone in which parks, playgrounds, schools, public recreation grounds or public buildings are permitted unless, at the time the zone is established, the lands in the zone intended to be used for parks, playgrounds, schools, public recreation grounds or public buildings are owned by the municipality or by a public authority.



**21.** Section 97, subsection (2), clause (b) is amended by striking out the words "shall continue to" and by substituting the word "may".

**22.** Section 107, subsection (1) is amended by striking out the words "section 105" and by substituting the words "section 106".

**23.** Section 110 is amended

- (a) as to subsection (1) by adding after the words "pursuant to section 105 may" the words ", within ten days of the receipt by him of the decision,"
- (b) by striking out subsection (5) and by substituting the following:

(5) A person claiming to be affected by a decision of a council under this section may appeal the decision to the Board within ten days of the receipt by him of the decision.

(6) In determining an appeal under this section, the Board shall have regard to the general scope and intent of the general plan under preparation, the development control order and the development control by-law, but the Board is not bound thereby.

(7) The Board may confirm, reverse or vary the decision appealed from and may impose any conditions it sees fit.

(8) The decision of the Board is final and binding upon all parties, subject only to appeal under section 146.

**24.** Section 120 is amended

- (a) by renumbering the section as subsection (1),
- (b) as to the renumbered subsection (1)
  - (i) by adding in clause (a) after the words "based upon" the words "a general plan or upon",
  - (ii) by striking out clause (c),
- (c) by adding the following subsection after the renumbered subsection (1):

(2) A zoning by-law may establish a zone in which land is to be used for the purposes of the municipality or other public authority if all the land in the zone

(a) is owned by the municipality or a public authority, or

(b) is to be acquired by the municipality or a public authority,

but if any of the land in the zone is not owned by the municipality or a public authority by the end of

**25. Section 121, subsection (1), clause (a), subclauses (i) and (vi) presently read:**

121. (1) A zoning by-law may contain provisions for the purpose of
- (a) regulating as to any zone
    - (i) the ground area, floor area, height and bulk of buildings,  
.....
  - (vi) the provision of access to sites from adjoining streets or lanes,

**26. Section 122 presently reads:**

122. A zoning by-law may provide that a municipal planning commission or an official of the municipality may be authorized by resolution of the council to act on its behalf in respect of the matters referred to in sections 123 and 126.

**27. Section 123, subsections (1) and (2) presently read:**

123. (1) A zoning by-law may prohibit the erection of a building on any site where it would otherwise be permitted under the zoning by-law when, in the opinion of the council, satisfactory arrangements have not been made for the supply to such building of water, electric power, sewerage, street access or other services or facilities or any of them.

(2) A zoning by-law may provide that the council, in its discretion and in any particular circumstances of proposed land use to be set out in the by-law, shall determine the manner in which any regulation made under section 121 shall apply in specific cases.

**28. Section 128, subsection (1), clause (b) and subsection (3) read:**

128. (1) An appeal to the development appeal board may be made by a person  
.....

(b) who is not satisfied with a decision resulting from the exercise of discretionary powers by the council, the municipal planning commission or an authorized official of the municipality under the zoning by-law, or

(3) The development appeal board shall consider and determine each appeal having due regard to the circumstances and merits of the particular case and the general purposes and intent of the zoning by-law and any general plan that has been adopted and, in the case of an appeal made under clause (a) of subsection (1), shall seek to relieve the appellant from unnecessary hardship to such extent as in its opinion will not be unduly adverse to the public interest.

six months from the date of establishment of the zone, the by-law ceases to be effective in regulating or prohibiting the use of that land and the buildings thereon in that zone.

- 25.** Section 121, subsection (1), clause (a) is amended
- (a) by adding after the words “regulating as to any zone” the words “, amongst other things,”,
  - (b) by adding at the end of subclause (i) the words “and the height of fences, walls and hedges,”,
  - (c) by striking out subclause (vi) and by substituting the following:
    - (vi) the nature and amount of the access to sites that may be required or allowed or not allowed from adjoining highways and public roadways but allowing at least one place of access to a site from an adjoining public roadway,

**26.** Section 122 is amended by striking out the words “by resolution of the council to act on its behalf” and by substituting the words “to act on behalf of the council”.

- 27.** Section 123 is amended
- (a) as to subsection (1) by adding at the end thereof the words “, including the payment of the costs of installing any such service or facility”,
  - (b) as to subsection (2) by striking out the words “regulation made under section 121” and by substituting the words “provision of the by-law”.

- 28.** Section 128 is amended
- (a) by adding the following subsection after subsection (1):
    - (1a) An appeal from a decision of the council, the municipal planning commission or an authorized official of the municipality under the zoning by-law shall be made within fourteen days after the person is given notice of the decision.
  - (b) by adding the following subsection after subsection (3):
    - (3a) Notwithstanding anything in this section, a development appeal board shall not allow the use of land or a building in a manner not permitted by the zoning by-law in the zone in which the building or land is situated.

**29. Section 130, subsections (1), (2) and (7) presently read:**

130. (1) A council, before giving a proposed by-law second reading, shall send two copies of the by-law to the Director, who shall advise the council as to the form and content of the by-law and its conformity with this Act.

(2) Upon being so advised, the council shall revise the by-law as may be necessary and shall publish in two issues of at least one newspaper or in at least one issue of each of two newspapers circulating in the municipality, an official notice stating

- (a) the purpose for which the council proposes to pass the by-law,
- (b) the place or places, one of which shall be the office of the municipality, where a copy of the proposed by-law may be inspected by the public during reasonable hours, and
- (c) the time and place at which the council will hold a public hearing on the proposed by-law, which shall be after the last publication of the official notice and not less than fourteen days after the first publication of the notice.

(7) The council shall

- (a) consider all representations made at the public hearing or submitted in writing pursuant to clause (a) of subsection (3) and rule upon them,
- (b) make such amendments of the by-law as are necessary to give effect to any ruling made under clause (a), and give the by-law second reading, and
- (c) submit to the Board two copies of any amendments so made, together with a statutory declaration by the proper officer of the municipality deposing as to
  - (i) the contents of the official notice and its publication pursuant to subsection (2),
  - (ii) the holding of the public hearing, and
  - (iii) the persons by whom representations were made, the nature of the representations and the manner in which they were dealt with by the council.

**30. Section 131 presently reads:**

131. (1) The Board

- (a) may approve the by-law as amended, or
- (b) may require the alteration or deletion of any provision of the by-law which in its opinion may
  - (i) impose under restraint upon the rights of any person claiming to be affected by the by-law, or
  - (ii) be inimical to the orderly and economical development or use of any land affected by the by-law, or
  - (iii) be inconsistent with any provision of this Act, or
- (c) may require the addition to the by-law of any provision which in the opinion of the Board is necessary for clarification of the full intent, purposes or application of the by-law.

(2) Any alteration, deletion or addition required by the Board under subsection (1) shall be made by the council, and the council may then pass the by-law but without further amendment.

(3) Upon final passage of the by-law, the council

- (a) shall deposit with the Director a certified copy of the by-law, if the by-law has been approved by the Board, or
- (b) if changes in the by-law have been required, shall send to the Board two copies of the by-law as so changed and finally passed, and the Board shall approve the by-law and return one copy to the council.

**29.** Section 130 is amended

- (a) as to subsection (1) by adding after the words “who shall” the word “immediately”,
- (b) by striking out subsection (2) and by substituting the following:
  - (2) Before giving the proposed by-law second reading, the council shall publish in two issues of a newspaper circulating in the municipality, an official notice stating
    - (a) the purpose for which the council proposes to pass the by-law,
    - (b) the place or places, one of which shall be the office of the municipality, where a copy of the proposed by-law may be inspected by the public during reasonable hours, and
    - (c) the time and place at which the council will hold a public hearing on the proposed by-law, which shall not be less than ten days after the publication of the official notice.
- (c) as to subsection (7)
  - (i) by striking out clause (a) and by substituting the following:
    - (a) consider the advice given by the Director under subsection (1) and all representations made at the public hearing or submitted in writing pursuant to clause (a) of subsection (3) and make a ruling thereon,
  - (ii) by adding in clause (b) after the word “second” the words “and third”,
  - (iii) by striking out of clause (c) the words “any amendments so made” and by substituting the words “the by-law”.

**30.** Section 131 is amended

- (a) as to subsection (1) by striking out clause (a) and by substituting the following:
  - (a) may approve or refuse to approve the by-law,  
or
- (b) by striking out subsections (2) and (3) and by substituting the following:
  - (2) When the Board requires any alteration, deletion or addition to the by-law, the council shall
    - (a) rescind the third reading of the by-law,
    - (b) make the required alteration, deletion or addition and give the revised by-law third reading, and
    - (c) submit two copies of the revised by-law to the Board for its approval.

**31. Section 135, subsection (2) presently reads:**

(2) No person is entitled to compensation by reason only of the passing or carrying out of a development control by-law or a by-law adopting a general plan or development scheme if the provisions contained in any of them are such as may be contained in or enforceable by means of a zoning by-law.

**32. Section 144, clause (a) reads:**

144. The Minister may upon the advice of the Board  
(a) make such regulations and prescribe such forms as may be necessary to carry out the intent of this Part, and

See clause 35 of this Bill.

**33. Section 145, clause (c) presently reads:**

145. In the conduct of hearings under section 110 or section 128 a development appeal board or a council is not bound by the technical rules of evidence, but

.....  
(c) shall keep a written record of its proceedings.

**34. Transfer of reserves on change of municipal boundaries.**

**35. Authority to make regulations. This section replaces sections 94 and 144 (a).**

**36. Commencement of Act.**

**31.** Section 135 is amended by striking out subsection (2) and by substituting the following:

(2) No person is entitled to compensation by reason only of the passing or carrying out of a development control by-law if the provisions contained therein are such as may be contained in or enforceable by means of a zoning by-law.

**32.** Section 144 is amended by striking out clause (a).

**33.** Section 145 is amended by striking out clause (c) and by substituting the following:

(c) shall make and keep a written record of its proceedings, which may be in the form of a summary of the evidence presented to it at hearings.

**34.** Section 151 is amended by adding the following subsection:

(3) Where any area of land is annexed or transferred to one municipality from another, the title to any reserves within that area shall, unless the Board otherwise orders, be transferred to the municipality acquiring jurisdiction over that area.

**35.** The following section is added after section 151:

**151a.** The Lieutenant Governor in Council may prescribe forms to be used under this Act and make such regulations as he considers necessary to carry out the intent of this Act.

**36.** (1) This Act, except section 23, comes into force on the day upon which it is assented to.

(2) Section 23 comes into force on the first day of June, 1965.

No. 96

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SECOND SESSION  
FIFTEENTH LEGISLATURE  
13 ELIZABETH II  
1965

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**BILL**

An Act to amend The Planning Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. HOOKE

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