

1969 Bill 46

Second Session, 16th Legislature, 18 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 46

An Act to amend The Planning Act

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Third Reading

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An Act to amend The Planning Act

(Assented to _____, 1969)

HER 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. Sections 9, 10 and 11 are struck out and the following are substituted:

9. The Lieutenant Governor in Council, by order, may establish a regional planning commission and may provide for

- (a) the name to be given to the commission,
- (b) the municipalities that are to be represented on the commission,
- (c) the addition or withdrawal of a municipality to or from the commission,
- (d) the area, to be known as the regional planning area, within which the commission may exercise its powers,
- (e) the alteration of the area of the regional planning area,
- (f) the proportion in which the funds required to meet the annual expenses of the commission are to be contributed by the Province and by the municipalities represented on the commission or by the municipalities situated in the regional planning area which are not represented on the commission, and
- (g) the organization of the commission, the holding of its meetings and the transaction of its business in general.

10. (1) A regional planning commission may be composed of

Explanatory Notes

- 1.** This Bill amends chapter 43 of the Statutes of Alberta, 1963.
- 2.** Sections 9 to 11 which relate to the establishment and operation of regional planning commissions are revised. Section 11a (2) is new.

- (a) not more than two members to represent the public to be appointed by the Board upon the recommendation of the commission,
 - (b) not more than three members to represent a city to be appointed by the city council,
 - (c) not more than one member to represent each improvement district to be appointed by the Minister,
 - (d) one member and one alternate member to represent any other municipality to be appointed by the municipal council, and
 - (e) not more than five members to represent the Government to be appointed by the Board.
- (2) A person appointed to a commission
- (a) to represent the public may only be a resident of the regional planning area,
 - (b) to represent a municipality other than an improvement district may only be a member of the municipal council, and
 - (c) to represent an improvement district or the Government may only be an employee of the Government.
- (3) An alternate member appointed to a commission may be a member of a municipal council, or a resident or municipal secretary of a municipality represented on the commission.
- (4) Two or more municipalities may be represented on a commission by the same member who shall be appointed jointly by the councils of those municipalities.

11. (1) The financial year of a regional planning commission is the 12-month period beginning on January 1st in each year.

(2) On or before April 1st in each year, a regional planning commission shall submit to the municipalities situated in the regional planning area and to the Board

- (a) a report on its operations and activities during the preceding financial year concerning regional planning, municipal planning, subdivision approvals and any major developments, projects or transactions that have required the attention of the commission, and
- (b) in such standard form as the Board may prescribe, a statement of the income and expenditures and assets and liabilities of the commission for the preceding financial year.

11a. (1) The council of a municipality represented on a regional planning commission shall

- (a) annually appoint, by resolution, the members to represent it on the commission, and
- (b) pay to the commission the funds required of it to meet the expenses of the commission.

(2) The council of a municipality situated in a regional planning area which is not represented on the regional planning commission shall pay to the commission

- (a) the funds required of it to meet its portion of the annual expenses of the commission, and
- (b) the cost of any planning service performed by the commission upon the request of the municipality.

3. Section 12 is amended by striking out subsection (1) and by substituting the following:

12. (1) The council of a municipality situated in a regional planning area may petition the Board concerning

- (a) the financing of the regional planning commission,
- (b) the allocation of services by the regional planning commission to that municipality, and
- (c) the funds required to be paid by that municipality to the regional planning commission.

4. Section 15 is struck out and the following is substituted:

15. (1) A municipal council may, by by-law, establish a municipal planning commission, the members of which shall not be members of the council.

(2) The commission shall be composed of,

- (a) in the case of a city, not less than five members, at least one-half of whom shall be appointed officials of the city, and
- (b) in all other cases, not less than three members.

(3) The commission shall

- (a) serve as a subdivision approving authority where authorized by this Act, and
- (b) perform on behalf of the council such functions under a development control by-law or a zoning by-law as the council in accordance with this Act may assign to it.

(4) The commission may

- (a) advise and assist the council and co-ordinate the

3. Section 12 (1) presently reads:

12. (1) The council of a municipality represented on a regional planning commission may petition the Board concerning

- (a) the financing of the commission,
- (b) the allocation of services by the commission to that municipality,
and
- (c) the funds required to be paid by that municipality to the commission.

4. Section 15 relating to the establishment and functions of a municipal planning commission is revised.

activities of the various departments and agencies of the municipality with regard to the planning of orderly and economical development within the municipality, and

- (b) advise a subdivision approving authority with respect to a proposed subdivision where the land is situated within or near the boundary of the municipality.

(5) The by-law shall provide for the appointment of a chairman of the commission and the terms of office of its members, the filling of vacancies caused by the retirement or resignation of members, the holding of meetings, the keeping of minutes and any other matters pertaining to the transaction of its business.

(6) The chairman of the commission shall sign all notices of decisions and other documents on behalf of the commission relative to any jurisdiction or powers of the commission and any document which has been signed by the chairman shall be deemed as having been signed on behalf of and with the approval of the commission.

(7) In the case of absence or disability of the chairman, any document of the commission may be signed by any one member and where so signed shall have the like effect as though signed by the chairman.

(8) A commission has no power to raise money or expropriate land, but may be authorized to expend such funds as may be furnished it by the council.

(9) A commission may retain the services of such special consultants as are necessary for any of its purposes.

5. Section 18, clause (d) is amended by striking out the words "pipe lines" and by substituting the words "oil lines or gas lines".

6. Section 24, subsection (3) is amended by striking out the word "Board" wherever it occurs and by substituting the words "approving authority".

7. Section 25 is amended by striking out subsection (1) and by substituting the following:

25. (1) Where it appears to an approving authority that the provision of a reserve would serve no practical purpose or for any other reason would be unnecessary or undesirable, the approving authority may require that the provision of a reserve in part or in full

- (a) be deferred until a further subdivision is made, or

5. Section 18 (d) presently reads:

(d) pipe lines within the meaning of The Pipe Line Act, 1958, or

6. Section 24 (3) presently reads:

(3) Notwithstanding subsection (2), where the land to be subdivided contains swamps, gullies, ravines or natural drainage courses or other land which in the opinion of the Board is unsuitable for building sites or private use, the Board may require that these areas be provided as reserves in addition to the reserves to be provided under subsection (2).

7. Section 25 (1) presently reads:

25. (1) Where it appears to the approving authority that the provision of a reserve would serve no practical purpose or for any other reason would be unnecessary or undesirable, the approving authority may require that the provision of a reserve in part or in full be deferred until a further subdivision is made or may recommend to the Board and the Board may order

- (a) that the provision of a reserve in part or in full be waived, or
- (b) that in lieu thereof the applicant be required to pay to the municipality a sum of money in an amount equivalent to the value of the land that would otherwise have been provided as a reserve.

- (b) be waived and that in lieu thereof the applicant be required to pay to the municipality a sum of money in an amount equivalent to the value of the land that would otherwise have been provided as a reserve, or
- (c) be referred to the Board with its recommendation, and the Board may order that the provision of the reserve be abandoned.

8. Section 26, subsection (1) is amended by adding after the words "lease of the reserve" the words "or its exchange for another parcel of similar value".

9. Section 69, clause (c) is amended

- (a) as to subclause (i) by adding after the words "permitted land use classes" the words "or permitted densities of population, or both,"
- (b) as to subclause (ii) by adding after the words "lands and buildings" the words "or population densities, or both,"

10. Section 72 is amended

- (a) as to clause (a) by adding after the words "permitted land use classes" the words "or permitted densities of population, or both,"
- (b) by striking out clause (b) and by substituting the following:
 - (b) a schedule prescribing the uses of lands and buildings or population densities, or both, permitted within each area in the same manner as may be prescribed in a zoning by-law,

11. Section 79, clause (a) is amended by adding after the words "maintain in effect" the words "a development control by-law or".

12. Section 104 is amended by striking out subsection (3) and by substituting the following:

(3) A development control by-law may provide that when a development permit is approved or conditionally approved, the permit may include conditions as to the construction of a public roadway required to give access to the development and the installation of utilities and other necessary services that are necessitated by the development.

8. Section 26 (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 in such manner and on such terms as the Board specifies.

9. Section 69 (c) (i) and (ii) presently read:

(c) shall include

- (i) a map showing the division of all or part of the land in the regional planning area into areas of permitted land use classes as the commission considers necessary for the purposes of the regional plan,
- (ii) a schedule prescribing the uses of lands and buildings to be permitted within each of those areas,

10. Section 72 presently reads:

72. A preliminary regional plan shall consist of

- (a) a map showing the regional area or part thereof divided into such areas of permitted land use classes as the commission considers necessary for the purposes of the preliminary regional plan, and
- (b) a schedule prescribing the uses of lands and buildings to be permitted within each area in the same manner as such uses may be prescribed in a zoning by-law,

and may include general proposals for the development and improvement of public roadways in the regional planning area.

11. Section 79 (a) presently reads:

79. When a regional plan comes into effect every council shall

- (a) forthwith enact and maintain in effect a zoning by-law to give effect to the regional plan as it affects the territory of its municipality, and

12. Section 104 (3) presently reads:

(3) A council may issue a development permit on conditions as to the construction of public roadways required to give access to the development and the installation of utilities that are necessitated by the development.

13. Section 105, clause (c) is amended by striking out subclause (ii) and by substituting the following:

- (ii) a notice in writing shall be mailed immediately to all property owners whose land is situated within a specified distance of the land to be developed as prescribed in the by-law, or

14. Section 109 is amended by striking out subsection (7).

15. Section 120, subsection (1), clause (b) is amended by adding after the words “are permitted” the words “or conditionally permitted”.

16. Section 122 is amended

- (a) by renumbering the section as subsection (1),
- (b) as to the renumbered subsection (1) by striking out clause (c) and by substituting the following:
 - (c) authorize the development officer or the municipal planning commission when making a decision on an application for a development permit to approve the application unconditionally, or impose conditions considered appropriate, permanently or for a limited period of time, or refuse the application.
- (c) by adding the following after the renumbered subsection (1):

(2) A zoning by-law shall require that when an application for a development permit is approved conditionally or is approved as authorized under subsection (3) of section 123,

- (a) an official of the municipality shall immediately post a notice of the decision conspicuously on the property for which the application has been made, or
- (b) a notice in writing shall be mailed immediately to all property owners whose land is situated within a specified distance of the land to be developed, as prescribed in the by-law, or
- (c) a notice shall be immediately published in a newspaper circulating in the municipality stating the location of the property for which the application has been made and the use approved.

(3) A zoning by-law may specify that a development permit is valid for a period of not more than 12 months after the date of its issue.

13. Section 105 (c) (ii) presently reads:

- (ii) a notice in writing shall be mailed immediately to all property owners who, in the opinion of the council, may be affected, or

14. Section 109 (7) presently reads:

- (7) A member of a council who has been appointed to a development appeal board as provided in subsection (2) is not precluded from discussing and voting on all matters brought before a council as provided in section 110 or 128.

15. Section 120 (1) (b) presently reads:

- (b) shall prescribe for each zone the uses of land and buildings that are permitted therein, or prohibited therein, subject only to such regulations as may be contained in the zoning by-law.

16. Section 122 (c) presently reads:

- (c) require that when an application for a development permit is approved
 - (i) an official of the municipality shall post a notice of the decision conspicuously on the property for which the application has been made, or
 - (ii) a notice in writing shall be mailed immediately to all property owners who, in the opinion of the council, may be affected, or
 - (iii) a notice shall immediately be published in a newspaper circulating in the municipality stating the location of the property for which the application has been made and the use approved of,except that when an application complies with the provisions of a zoning by-law for the zone in which the land is located, notification of the approval need not be given.

17. Section 123 is amended by adding the following after subsection (3) :

(4) A zoning by-law may provide that when an application is made to a council for an amendment to the by-law,

- (a) it shall be accompanied by an application fee not exceeding \$100 for each application,
- (b) that the cost of advertising for the public hearing on the matter shall be borne by the applicant, and
- (c) not more than 50 per cent of the application fee may be returned to the applicant if the council decides not to approve the application.

18. Section 128 is amended

- (a) by striking out subsection (1) and by substituting the following:

128. (1) A person claiming to be affected by a decision of a development officer or a municipal planning commission made under a development control or zoning by-law may, subject to subsection (1a), appeal to the development appeal board by serving written notice of appeal on the secretary of the board within 14 days after notice of the decision is mailed or posted on the site or published in a newspaper.

(1a) No appeal exists where a development permit has been issued in an area under a zoning by-law and

- (a) approved unconditionally, or
 - (b) approved for the reason that the proposed use complies with the provisions of the by-law relating to permissible uses.
- (b) as to subsection (3), clause (a) by striking out the figure "30" and by substituting the figure "40",
 - (c) as to subsection (6) by adding at the end thereof the words "and is valid for a period of 12 months from the date of its issue".

19. This Act comes into force on the day upon which it is assented to.

17. Self-explanatory.

18. Section 128 (1), (3) (a) and (6) presently read:

128. (1) A person claiming to be affected by a decision of a development officer or a municipal planning commission made under a development control or zoning by-law may appeal to the development appeal board by serving written notice of appeal on the secretary of the board within 14 days after notice of the decision is mailed to him.

(3) The development appeal board

(a) shall hold a hearing within 30 days from the receipt by it of the letter of appeal,

(6) A decision of the development appeal board is final and binding on all parties subject only to appeal under section 146.