

1970 Bill 58



Third Session, 16th Legislature, 19 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 58

An Act to amend The Planning Act

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Third Reading

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BILL 58

1970

An Act to amend The Planning Act

(Assented to _____, 1970)

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. Section 2 is amended
 - (a) by striking out clause (*h*) and by substituting the following:
 - (*h*) “highway” means a controlled highway designated as such pursuant to *The Public Highways Development Act*;
 - (b) by striking out clause (*p*) and by substituting the following:
 - (*p*) “public roadway” means any street, avenue, service roadway, residential collector roadway, lane or a rural road as defined in *The Public Highways Development Act*, intended to be used by the public generally, but does not include a highway as defined in clause (*h*);
3. Section 9 is amended by striking out clause (*g*).
4. Section 14 is amended
 - (a) as to subsection (2) by adding the following clauses:
 - (*d*) may appoint standing or special advisory committees consisting of not less than three of its members and may delegate to any such committee
 - (i) any matter for consideration and inquiry, and
 - (ii) any of the duties and powers conferred upon the commission by this Act, and

Explanatory Notes

1. This Bill will amend chapter 43 of the Statutes of Alberta, 1963.

2. Section 2(h) and (p) presently read:

- (h) "highway" means a controlled highway designated as such pursuant to The Public Highways Act or a major roadway designated as a highway by a regional or municipal planning commission or shown as a highway on a general or regional plan;
- (p) "public roadway" means any public highway, street, avenue, arterial or limited access roadway, local access roadway, service roadway, boulevard, square, bridge, lane, alley, walkway, sidewalk or any other class of thoroughfare used or intended to be used by the public generally, but does not include a highway as defined in clause (h);

3. Section 9(g) reads:

9. The Lieutenant Governor in Council, by order, may establish a regional planning commission and may provide for
.....
(g) the organization of the commission, the holding of its meetings and the transaction of its business in general.

4. Section 14(2)(c) and (3) presently read:

- (2) A regional planning commission
.....
(c) shall exercise such rights and powers and perform such duties relating to the planning and control of development that are
(i) vested in it by the Lieutenant Governor in Council, or
(ii) assigned to it by order of the Board in connection with the administration of The Subdivision and Transfer Regulations made under this Act, or
(iii) delegated to it by resolution of the council of a municipality represented on the commission.
- (3) The Lieutenant Governor in Council, upon the advice of the Board, may make regulations concerning the salaries, pensions, leave and other terms of service of persons employed by regional planning commissions.

- (e) may delegate to its director the authority to approve applications to subdivide only when the application conforms in every respect with the requirements of The Subdivision and Transfer Regulations and with the provisions of any preliminary regional plan, regional plan or general plan that may be in effect.
- (b) by striking out subsection (3) and by substituting the following:
 - (3) The Lieutenant Governor in Council, upon the advice of the Board, may make regulations to be known as the Regional Planning Commission Regulations for the purpose of
 - (a) governing the operations of a regional planning commission, the holding of its meetings and the transaction of its business, and
 - (b) regulating the salaries, pensions, leave and other terms of service of persons employed by a regional planning commission.

5. Section 16 is amended by adding the word “and” at the end of clause (d) and by adding the following clause after clause (d):

- (e) all outstanding property taxes on it have been paid to the municipality in which the land is situated or arrangements satisfactory to the municipality have been made for the payment thereof.

6. Section 20 is amended by striking out subsection (6).

7. Section 21 is amended by renumbering the section as subsection (1) and by adding the following subsection after the renumbered subsection (1):

(2) Where the Board is of the opinion that compliance with a requirement of The Subdivision and Transfer Regulations is impracticable or undesirable because of circumstances peculiar to a proposed subdivision, the Board, in its discretion, may order that an applicant be relieved in whole or in part from compliance with the requirement.

8. Section 22 is amended

- (a) as to subsection (1) by adding after the words “date of approval,” the words “or within such longer period not exceeding 12 months as the approving authority may allow,”
- (b) as to subsection (2) by adding after the words “of the application,” the words “or within such longer period of time as the approving authority has allowed,”.

5. Section 16(d) reads:

16. Land shall not be subdivided unless
.....

(d) the person proposing the subdivision provides, if required by the municipality, for the installation and construction at his own expense of all necessary public roadways, sidewalks, curbs, culverts, drainage ditches, utility systems, and other public facilities that may be required of him under The Subdivision and Transfer Regulations.

6. Section 20(6) reads:

(6) An order under subsection (5) is valid for a period of 12 months from the date on which it is issued.

7. Section 21 reads:

21. Where an approving authority is of the opinion that compliance with a requirement of The Subdivision and Transfer Regulations is impracticable or undesirable because of circumstances peculiar to a proposed subdivision, the approving authority shall report the circumstances to the Board, and the Board, in its discretion, may order that the applicant be relieved in whole or in part from compliance with the requirement.

8. Section 22(1) and (2) presently read:

22. (1) When an application for a proposed subdivision has been approved, the applicant, within 12 months after the date of approval, shall submit to the proper approving authority a plan of subdivision or a registerable instrument drawn in conformity with the approved application, and upon being satisfied that the plan or instrument so conforms, the approving authority shall endorse it with a certificate of approval.

(2) If the plan of subdivision or registerable instrument is not submitted within 12 months after the date of approval of the application, the approval is void.

9. Section 23*a*, subsection (2) is amended by adding the following clause after clause (b) :

- (b1) apply to the Board for an order waiving a requirement of The Subdivision and Transfer Regulations, or

10. Section 33 is amended by adding the following after subsection (3) :

(4) Notwithstanding anything in this section, where, in the case of a municipality other than a city, land forming any part of a public roadway (whether open or closed) will be affected by a replotting scheme, the scheme shall not be approved by the council without the prior approval of the Minister of Highways and Transport.

11. Section 79 is struck out and the following is substituted:

79. When a preliminary regional plan or a regional plan comes into effect the council of every municipality situated in the regional planning area shall

- (a) forthwith enact and maintain in effect a development control by-law or a zoning by-law to give effect to the preliminary regional plan or the regional plan, and
- (b) take immediate action to amend any general plan previously adopted under Part 4 or any by-law affecting the land within the municipality so that they are consistent with and give effect to the provisions of the preliminary regional plan or regional plan.

12. Section 82 is amended by striking out subsections (2) and (3) and by substituting the following:

(2) A commission may of its own motion propose an amendment to a regional plan or preliminary regional plan.

13. Section 99, clause (a) is amended by striking out the words “within any areas of land” and by substituting the words “over all or part of the land”.

14. Section 102, clause (a) is amended by striking out the words “suspend the operation” and by substituting the words “authorize the repeal”.

9. Section 23a (2) presently reads:

(2) If an instrument referred to in subsection (1) would have the result of creating a separate certificate of title for a parcel which does not conform to the requirements of The Subdivision and Transfer Regulations, the approving authority may

- (a) require compliance with The Subdivision and Transfer Regulations as a condition of approval of the instrument, or
- (b) refuse to approve the instrument.

10. Section 33, subsection (1) reads:

33. (1) When a replotting scheme has been prepared, the council, by resolution passed by the affirmative vote of not less than two-thirds of all its members, may approve the replotting scheme.

11. Section 79 presently reads:

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

- (a) forthwith enact and maintain in effect a development control by-law or a zoning by-law to give effect to the regional plan as it affects the territory of its municipality, and
- (b) take any other action within its powers that may be necessary to give effect to the regional plan or to remove any inconsistency between any general plan previously prepared and adopted under Part 4 or any by-law affecting the territory of its municipality.

12. Section 82 presently 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.

(2) On or before the date of the second regular meeting of a commission following the receipt of a request for an amendment, the commission shall either adopt or refuse to adopt the proposed amendment and, if no action is taken by the commission by that date or such later date as may be agreed to by the council making the request, the request shall be deemed to be refused and an appeal may be made to the Board under section 85.

(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.

13. Section 99(a) presently reads:

99. When a general plan is adopted, the council

- (a) may, at any time thereafter, exercise or continue to exercise development control within any areas of land included in the general plan, in which case section 100 to 113 apply, and

14. Section 102(a) presently reads:

102. The Minister, upon the report of the Board made under section 95, 100 or 101, may make an order, to be known as a development control order which shall

- (a) suspend the operation of any existing zoning by-law within the area over which development control is to be exercised, and

15. Section 103 is amended by striking out clause (a) and by substituting the following:

- (a) the date upon which the operation of any existing zoning by-law ceases to have any effect, and

16. Section 109 is amended by striking out subsection (1) and by substituting the following:

109. (1) A development control by-law may provide for the establishment of a development appeal board.

(1a) The development appeal board shall be composed of a chairman and at least two other members to be appointed for a one year term of office by resolution of a council and who shall not be dismissed except for cause.

17. Sections 120 to 124 are struck out and the following sections are substituted:

120. A zoning by-law

- (a) shall be based upon a general plan or upon a survey of the existing land uses and conditions of land and buildings in the municipality,
- (b) shall prescribe for each zone established, the uses of lands and buildings that are permitted or conditionally permitted or prohibited therein, subject only to such regulations as may be contained in the by-law, and
- (c) shall not establish a zone in which the land therein is used or is intended to be used only for parks, playgrounds, schools, recreation grounds or public buildings unless all the land in the zone
 - (i) is owned by the municipality or by a public authority at the time the zone is established, or
 - (ii) is acquired by the municipality or by a public authority within six months from the date of the establishment of the zone.

121. (1) A zoning by-law may contain provisions for the purpose of regulating as to any zone:

1. the minimum site area and dimensions of parcels required for particular uses of lands or of buildings;
2. the ground area, floor area, height and bulk of buildings;
3. the depth, dimensions and area of yards, courts and other open spaces to be provided around buildings;

15. Section 103(a) presently reads:

103. A development control order shall prescribe

- (a) the date upon which the suspension of the operation of any existing zoning by-law comes into effect, and

16. Section 109(1) presently reads:

109. (1) A development control by-law may provide for the establishment of a development appeal board, which shall be composed of a chairman and at least two other members to be appointed concurrently for a three-year term of office by resolution and who shall not be dismissed except for cause.

17. Sections 120 to 124 presently read:

120. (1) A zoning by-law

- (a) shall be based upon a general plan or upon a survey of the existing land uses and conditions of land and buildings in the municipality, and
- (b) shall prescribe for each zone the uses of land and buildings that are permitted or conditionally permitted therein, or prohibited therein, subject only to such regulations as may be contained in the zoning by-law.
- (c) Repealed.

(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 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.

121. (1) A zoning by-law may contain provisions for the purpose of

- (a) regulating as to any zone, amongst other things,
 - (i) the ground area, floor area, height and bulk of buildings, and the height of fences, walls and hedges,
 - (ii) the depth, dimensions and area of yards, courts, off-street parking areas and other open spaces to be provided around buildings, and the maintenance of such spaces,
 - (iii) the placement, location, arrangement and maintenance of buildings on their sites and their relationship to other buildings and to streets and property lines,
 - (iv) the placement, height and maintenance of fences, walls, hedges, shrubs, trees and other objects where their regulation is necessary to maintain good visibility for the safe movement of traffic,

4. the placement and arrangement of buildings on their sites and their relationship to other buildings and to streets and property lines;
5. the placement, height and maintenance of fences, walks, hedges, shrubs and trees and other objects where their regulation is necessary to maintain good visibility for the safe movement of persons and traffic;
6. maximum and minimum permissible densities of population which may be expressed in the by-law as a ratio of habitable rooms per acre or as a number of dwelling units per site area or in a similar manner;
7. the design, character and appearance of buildings;
8. the outdoor storage of goods, machinery, vehicles, building materials, waste materials and other items and requiring outdoor storage sites to be screened by fences, hedges or buildings;
9. the location and amount of the access to sites from adjoining highways or public roadways, but allowing at least one place of access to a site from an adjoining public roadway;
10. the facilities to be provided for off-street parking or the loading of vehicles for particular uses of land or buildings which may be expressed in the by-law in terms of the minimum number of parking or loading stalls or the minimum area for parking or loading on the site or on another site;
11. the placement, construction, height, size and character of signs and advertising devices or their prohibition;
12. the conditions under which dilapidated signs and advertisements may be required by resolution of council to be renovated or removed;
13. the erection of buildings
 - (i) within a specified distance of any lake, river or watercourse,
 - (ii) within a specified distance from the boundaries of any airfield or airport,
 - (iii) on land that is subject to flooding or subsidence or is low-lying, marshy or unstable;
14. the placement, moving in, enlargement, alteration, repair, removal or demolition of buildings or the prohibition thereof;
15. the excavation or filling in of land or the removal of topsoil from land or the prohibition thereof.

- (v) the design, character and appearance of buildings,
 - (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,
 - (vii) the outdoor storage of goods, machinery, vehicles, building materials, waste materials and other items and requiring outdoor storage sites to be screened by fences, buildings or hedges as may be prescribed or approved by the council,
 - (viii) the use, location, design and construction of off-street parking and loading facilities, and
 - (ix) the public display of signs and advertisements and prohibiting or controlling the placement, construction, height, size and character of signs and advertising devices,
 - (b) Repealed 1967, c. 60, s. 16.
 - (c) prescribing conditions under which dilapidated signs and advertisements may be required by resolution of council to be renovated or removed,
 - (d) prescribing as to any zone
 - (i) the minimum site area and dimensions of parcels required for particular sizes of buildings or uses of lands or of buildings,
 - (ii) maximum and minimum permissible densities of population, which may be expressed in the zoning by-law as a ratio of habitable rooms per acre or as a number of dwelling units per site area or in a similar manner, and
 - (iii) the facilities to be provided for off-street parking or loading of vehicles, which may be expressed in the by-law in terms of the minimum number of parking or loading stalls or the minimum area for parking or loading required to be provided for particular sizes of buildings or uses of land or of buildings,
 - (e) regulating the erection of buildings
 - (i) within a specified distance of any lake, river or watercourse,
 - (ii) on land that is subject to flooding or subsidence or is low-lying, marshy or unstable, and
 - (iii) within a specified distance from any airfield or airport, and
 - (f) prescribing building regulations or adopting and constituting as building regulations the regulations published under the titles of The National Building Code of Canada 1960, or The Uniform Building Code 1953 Edition of the Pacific Coast Building Official Conference, or any specified part, provision or amendment of the regulations either in place of or in addition to any other regulations made under this clause.
- (2) In prescribing the facilities to be provided for off-street parking under subsection (1), a zoning by-law may provide that an owner of land to be developed may, subject to the approval of the council,
- (a) provide the required off-street parking on land other than that to be developed, or
 - (b) at his option and in lieu of providing off-street parking, pay to the municipality such amount of money on such terms as the council considers reasonable in return for equivalent public parking space to be provided by the municipality elsewhere in the zone, and any money so received by the municipality shall be used only for the development of municipal off-street parking facilities.

(2) A zoning by-law may contain provisions for the purpose of prescribing building regulations or adopting as building regulations the National Building Code of Canada or any part or parts thereof.

(3) In regulating the facilities to be provided for off-street parking under subsection (1), a zoning by-law may provide that an owner of land to be developed may, subject to the approval of the council,

- (a) provide the required off-street parking on land other than that to be developed, or
- (b) at his option and in lieu of providing off-street parking, pay to the municipality such amount of money on such terms as the council considers reasonable in return for equivalent public parking space to be provided by the municipality elsewhere in the zone, and any money so received by the municipality shall be used only for the development of municipal off-street parking facilities.

122. A zoning by-law shall

- (a) provide for a system of development permits and building permits, and the terms and conditions under which a permit may be issued, refused, suspended, reinstated and revoked, and
- (b) require that any prohibited use being made of land or a building or any work thereon undertaken without a permit or after a permit has been suspended or revoked be discontinued upon notice issued by an authorized official of the municipality and be not resumed until a permit therefor has been issued or reinstated.

123. A zoning by-law shall

- (a) provide for the appointment of a development officer who shall be an official of the municipality,
- (b) authorize the development officer or a municipal planning commission to receive, consider and decide on applications for a development permit, subject to a council assigning the authority in part to a municipal planning commission as provided in section 15, and
- (c) authorize the development officer or a municipal planning commission when deciding 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.

122. (1) A zoning by-law shall

- (a) provide for the appointment of a development officer, who shall be an official of the municipality,
- (b) authorize the development officer to receive, consider and decide on applications for a development permit, unless the council assigns the authority in part to a municipal planning commission as provided in section 15, and
- (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.

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

- (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 who may be affected, 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) When an application is approved for a permissible use of land or buildings, notification pursuant to subsection (2) is not required.

123. (1) A zoning by-law may prohibit the erection of a building on any site where it would otherwise be permitted under the by-law when, in the opinion of the municipal planning commission or the development officer, satisfactory arrangements have not been made by the developer for the supply to the building of water, electric power, sewerage and street access, or any of them, including payment of the costs of installing or constructing any such utility or facility by the developer.

(2) A zoning by-law may provide that when an application for a development permit is refused, another application for a permit on the same parcel of land and for the same or similar use of land may not be submitted by the same or any other applicant until at least six months after the date of the previous refusal.

(3) A zoning by-law may provide that a municipal planning commission or a development officer may determine that a specific use of land or a building that is not provided for in any zone in the by-law is similar in character and purpose to another use of land or a building that is included in the list of permissible uses prescribed for that zone in the by-law.

(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) the council may determine that the whole or any part of the application fee be returned to the applicant.

124. (1) A zoning by-law shall provide that

- (a) when an application for a development permit is approved for a conditional use of land or buildings or as authorized under section 124, subsection (3),
 - (i) 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
 - (ii) a notice in writing shall be immediately mailed to all assessed owners of land who in the opinion of the council may be affected, or
 - (iii) 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,

and

- (b) when an application for a development permit is approved for a permissible use of land or buildings, notification pursuant to clause (a) is not required.

(2) A zoning by-law may provide that when an application for a development permit is refused, another application for a permit on the same parcel of land and for the same or similar use of land may not be submitted by the same or any other applicant until at least six months after the date of the previous refusal.

(3) A zoning by-law may provide that a development officer or a municipal planning commission may determine that a specific use of land or a building that is not provided for in a zone in the by-law is similar in character and purpose to another use of land or a building that is included in the list of permissible or conditional uses prescribed for that zone in the by-law.

(4) A zoning by-law may prohibit the erection of a building on any site where it would otherwise be permitted under the by-law when, in the opinion of the development officer or the municipal planning commission, satisfactory arrangements have not been made by the developer for the supply to the building of water, electric power, sewerage and street access, or any of them, including payment of the costs of installing or constructing any such utility or facility by the developer.

(5) 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) the cost of advertising for the public hearing on the matter shall be borne by the applicant, and

124. A zoning by-law may

- (a) regulate and prohibit
 - (i) the excavation or filling in of land, or the removal of top soil from land,
 - (ii) changes in the use of a building or of land, and
 - (iii) the erection, construction, placement, moving in, enlargement, alteration, repair, removal and demolition of a building, and may require that a permit therefor is first obtained,
- (b) prescribe a system of development permits and building permits, the terms and conditions under which a permit may be issued, suspended, reinstated and revoked, and
- (c) require that
 - (i) any work undertaken without a permit or after a permit has been suspended or revoked, or
 - (ii) any prohibited use being made of land or of a building, be discontinued upon notice issued by an authorized officer of the municipality and be not resumed until a permit therefor has been issued or reinstated.

- (c) the council may determine that the whole or part of the application fee be returned to the applicant if the proposed amendment is adopted.

18. Section 128 is amended

- (a) as to subsection (3)
 - (i) by striking out clause (b) and by substituting the following:
 - (b) shall ensure that notice of the hearing is mailed at least seven (exclusive of Saturday, Sunday and other holidays) days prior to the date of the hearing to the appellant and to all assessed owners of land who, in the board's opinion, are affected,
 - (ii) by adding the word "and" at the end of clause (c) and by adding the following clause after clause (c):
 - (d) shall not allow the permanent 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.
- (b) as to subsection (6) by adding after the words "all parties" the words "and all persons".

19. Section 130, subsection (7) is amended

- (a) as to clause (c) by adding the word "and" at the end of subclause (iii) and by adding the following subclause:
 - (iv) the submission of the by-law to the official designated in subsection (1), clause (a), (b) or (c),and
- (b) by adding the following clause after clause (c):
 - (d) submit to the director of the regional planning commission one copy of the by-law when the municipality is situated in a regional planning area.

20. Section 151a is struck out and the following is substituted:

151a. (1) Only upon the application of a municipality, the Lieutenant Governor in Council may make regulations providing for any matter not provided for or insufficiently provided for in this Act, and any regulation so made ceases to have any effect after the last day of the next ensuing session of the Legislature.

18. Section 128(3)(b) and (6) presently read:

(3) The development appeal board

.....

(b) shall ensure that reasonable notice of the hearing is given to the appellant and all persons who in its opinion may be affected, and

(6) A decision of the development appeal board is final and binding on all parties subject only to appeal under section 146 and is valid for a period of 12 months from the date of its issue.

19. Section 130(7)(c)(iii) reads:

(7) The council shall

.....

(c) submit to the Board two copies of the by-law, together with a statutory declaration by the proper officer of the municipality deposing as to

.....

(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.

20. Section 151a presently reads:

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.

(2) The Minister may make regulations prescribing forms to be used under this Act.

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

