

1980 BILL 74

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 74

THE PLANNING AMENDMENT ACT, 1980

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 74

1980

THE PLANNING AMENDMENT ACT, 1980

(Assented to , 1980)

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

1 The Planning Act, 1977 is amended by this Act.

2 Section 1 is amended

(a) in clause 7

(i) by repealing subclause (ii) and substituting the following:

(ii) where a municipal planning commission or a joint municipal planning commission is authorized to act as a development officer, the municipal planning commission or the joint municipal planning commission, as the case may be, or

(ii) in subclause (iii) by adding "or joint municipal planning commission" after "commission".

(b) by adding the following after clause 13:

13.1 "joint municipal planning commission" means a joint municipal planning commission established by 2 or more councils under this Act;

3 Section 28 is amended

(a) by adding the following after subsection (1):

(1.1) A council may pass a by-law authorizing the council to enter into an agreement with one or more other councils to establish a joint municipal planning commission.

Explanatory Notes

1 This Bill will amend chapter 89 of the Statutes of Alberta, 1977.

2 Consequential to section 3 of this Bill. Section 1 clause 7 presently reads in part:

7 “development officer” means

(ii) where a municipal planning commission is authorized to act as a development officer, the municipal planning commission, or

(iii) where a municipal planning commission is authorized to act as a development officer in addition to a person appointed as a development officer, either or both of them;

3 Section 28 presently reads:

28(1) A council may by by-law establish a municipal planning commission.

(2) A municipal planning commission shall be composed of not less than three persons.

(b) in subsection (2) by adding “or joint municipal planning commission” after “commission”.

4 Section 29 is amended

(a) in subsection (1) by striking out “where a council establishes a municipal planning commission, it shall by by-law prescribe its functions and duties and may in the by-law” and substituting “where a municipal planning commission is established by by-law or a joint municipal planning commission is established pursuant to an agreement between one or more councils, the by-law or agreement shall prescribe the functions and duties of the municipal planning commission or the joint municipal planning commission and may”;

(b) in subsection (2) by striking out “appointed by it” and substituting “established by it or to a joint municipal planning commission established under an agreement pursuant to section 28(1.1) to which the council is a party”;

(c) in subsection (3) by adding “or a joint municipal planning commission” after “commission”.

5 Sections 30 and 31 are amended by adding “or a joint municipal planning commission” after “commission”.

6 Section 32 is amended

(a) in subsection (2) by striking out “appointed by it” and substituting “established by it or to a joint municipal planning commission established under an agreement pursuant to section 28(1.1) to which the council is a party”;

(b) by adding the following after subsection (3):

(4) A joint municipal planning commission to whom the power to act as a subdivision approving authority has been delegated may, with the consent of the councils that are parties to the agreement under section 28(1.1) that established the joint municipal planning commission, delegate its power, with or without conditions, to one or more of its members and thereupon the power may be exercised or performed by the one or more members in addition to the commission.

7 The following is added after section 43:

43.1(1) If a council of a municipality is of the opinion that an action taken under this Act by another council has or may have a detrimental effect within the boundaries of the first municipality, it may refer the matter to the Board whether or not the

4 Consequential to section 2 of this Bill.

5 Consequential to section 2 of this Bill.

6 The amendment to subsection (2) is consequential to section 2 of this Bill. Proposed subsection (4) will allow a joint municipal planning commission to delegate its power to its members.

7 Inter-municipal disputes.

action is one that comes within the purview of a regional plan or ministerial regional plan.

(2) The Board shall decide any matter referred to it under subsection (1) and the decision is binding, subject to the right of either council under section 146 to appeal.

8 Section 53 is amended

(a) in subsection (2) by adding “, joint municipal planning commission” after “municipal planning commission”;

(b) by adding the following after subsection (3):

(4) If there is a dispute between a regional planning commission and a local authority as to whether there has been a contravention of subsection (1) or (2), the regional planning commission or the local authority may refer the dispute to the Board.

(5) If the Board receives a referral pursuant to subsection (4), the Board shall decide the dispute and the decision is binding, subject to the right of the regional planning commission or the local authority under section 146 to appeal.

9 Section 82(3)(c) is amended by striking out “municipality if it” and substituting “municipality or a joint municipal planning commission established under an agreement pursuant to section 28(1.1) to which the municipality is a party if the commission”.

10 Section 85(a)(ii) is amended by adding “or a joint municipal planning commission” after “municipal planning commission”.

11 Section 89(1)(b)(iii) is amended by striking out “areas” wherever it occurs and substituting “facilities”.

12 Section 90 is amended

(a) by repealing subsection (3)(a.1);

8 Disputes regarding regional plans.

9 Consequential to section 2 of this Bill.

10 Consequential to section 2 of this Bill.

11 Section 89(1)(b)(iii) presently reads:

89(1) A subdivision approving authority may impose the following conditions or any other conditions permitted to be imposed by the subdivision regulations on a subdivision approval issued by it:

(iii) to construct or pay for the construction of

(A) off-street or other parking areas, and

(B) loading and unloading areas,

12 Section 90 presently reads in part:

(3) Copies of the decision shall be sent to

(b) by repealing subsection (4) and substituting the following:

(4) If the subdivision approving authority approves an application for subdivision approval, it shall, within 14 days after making its decision, publish a notice of the decision at least once in a newspaper having general circulation in the municipality in which the proposed subdivision is located.

(5) The notice referred to in subsection (4) shall contain the legal description of the lands to be subdivided and any other information that the notice is required to contain under the subdivision regulations.

13 Section 100 is amended by striking out "subsection (1)" and substituting "section 99(1)".

14 Section 103 is repealed and the following is substituted:

103(1) An appeal from the decision of a subdivision approving authority, or any condition imposed by it under this Act or the regulations, may be commenced by

- (a) the applicant for subdivision approval,
- (b) the council of the municipality within which the land is proposed to be subdivided, if the council is not the subdivision approving authority, or
- (c) a school authority with respect to
 - (i) the allocation of municipal reserve and school reserve or money in place thereof,
 - (ii) the location of school reserve allocated to it, or
 - (iii) the amount of school reserve or money in place thereof,

by filing written notice of the appeal with the Board within 30 days of the date of receipt of the written decision of the subdivision approving authority.

(2) For the purpose of subsection (1), the date of receipt of notice shall be deemed to be 5 days from the date of mailing the decision.

(3) An appeal from a decision of approval of a subdivision approving authority, or any condition imposed by it, that is not an appeal only against a proposed use of land that has been established in a land use by-law adopted by a municipality pursuant to this Act, may be commenced by the owner of adjacent

(a.1) the owner of adjacent land,

(4) In this section, "adjacent land" means land or a portion of land that is contiguous to the parcel of land that is the subject of the application for subdivision approval and includes land or a portion of land that would be contiguous if not for a public roadway, river or stream.

13 Corrects a cross-reference.

14 Section 103 presently reads:

103(1) An appeal from a subdivision approving authority or a condition imposed by it under this Act or the regulations may be commenced by

(a) the applicant for subdivision approval, or

(b) the council of the municipality within which the land is proposed to be subdivided, where the council is not the subdivision approving authority, or

(c) a school authority with respect to

(i) the allocation of municipal reserve and school reserve or money in place thereof, or

(ii) the location of school reserve allocated to it, or

(iii) the amount of school reserve or money in place thereof,

or

(d) the owner of adjacent land,

by filing a written notice of the appeal with the Board within 30 days of the date of the receipt of the approval, order or decision of the subdivision approving authority.

(1.1) In this section, "adjacent land" means land or a portion of land that is contiguous to the parcel that is the subject of the application for subdivision approval and includes land or a portion of land that would be contiguous if not for a public roadway, river or stream.

(1.2) Where the appellant is within a class referred to in subsection (1)(b), (c) or (d), the appellant shall give notice of the appeal to the applicant for subdivision approval within the same period of time that the notice of appeal is to be filed with the Board.

land by filing written notice of the appeal with the Board within 14 days from the date on which the decision was first published under section 90(4).

(4) In subsection (3) “adjacent land” means land that is contiguous to the parcel that is the subject of the application for subdivision approval and includes land or a portion of land that would be contiguous if not for a public roadway, river or stream.

(5) A notice of appeal under this section shall contain

(a) the legal description and municipal location, where applicable, of the lands proposed to be subdivided,

(b) the name and address of the applicant for subdivision approval,

(c) the name and address of the appellant,

(d) the reasons for appeal, and

(e) where the appeal is commenced under subsection (3), the name and date of publication of the newspaper in which the notice of approval appeared.

(6) The reasons for appeal shall identify the issues in the decision of the subdivision approving authority, or in any conditions imposed by it, as they relate to the act of subdivision, against which the appeal is lodged.

(7) If an appeal is commenced pursuant to subsection (1)(b) or (c) or subsection (3) a copy of the notice of appeal shall be sent to the applicant for subdivision approval within the same period of time that the notice of appeal is to be filed with the Board.

103.1(1) If a subdivision approving authority fails or refuses to make a decision on an application for subdivision approval within the time prescribed by the regulations, the applicant may, within 30 days after the expiration of the time prescribed,

(a) treat the application as refused and appeal to the Board by notice in writing, or

(b) enter into an agreement with the subdivision approving authority to extend the time prescribed in the regulations.

(2) If an agreement to extend is entered into pursuant to subsection (1)(b) and the subdivision approving authority fails or refuses to make a decision within the time prescribed in the agreement, the applicant may, within 30 days after the expiration of the extended period, treat the application as refused and appeal to the Board by notice in writing.

(1.3) A notice of appeal under this section shall set out

(a) the name and address of the applicant for subdivision approval and any other information that is necessary to identify the approval or decision to which the notice of appeal relates,

(b) the name and address of the appellant, and

(c) the reason for the appeal.

(2) Where a subdivision approving authority fails or refuses to make a decision on an application for subdivision approval within the time prescribed by the regulations, the applicant may, within 30 days of the expiration of the time prescribed,

(a) treat the application as refused and appeal to the Board by notice in writing, or

(b) enter into an agreement with the subdivision approving authority to extend the time prescribed in the regulations.

(3) Where an agreement to extend is entered into pursuant to subsection (2), clause (b) and the subdivision approving authority fails or refuses to make a decision within the time prescribed in the agreement, the applicant may, within 30 days of the expiration of the extended period, treat the application as refused and appeal to the Board by notice in writing.

(4) A subdivision approving authority shall not deal with an application for subdivision approval after the expiration of the period of time prescribed in the regulations for making the decision unless an agreement is entered into pursuant to subsection (2), clause (b).

(3) A subdivision approving authority shall not deal with an application for subdivision approval after the expiration of the period of time prescribed in the regulations for making the decision unless an agreement is entered into pursuant to subsection (1)(b).

15 Section 104(1)(a.2) is repealed.

16 Section 105(1)(a) is amended by adding “the uses of land referred to in” after “conform with”.

17 Section 136 is amended by adding the following after subsection (2):

(3) A member of council is eligible to vote on a proposed by-law notwithstanding that the member of council was not present at the public hearing held under section 135 with respect to the proposed by-law.

18 Section 141(1) is amended by adding the following after clause (g):

(g.1) prescribing the information that shall be contained in a notice under section 90(4);

15 Section 104(1)(a.2) presently reads:

104(1) The Board shall hold a hearing into the appeal and shall give reasonable notice of the hearing to

(a.2) the owners of the adjacent land, as defined in section 103(1.1),

16 Section 105(2)(a) presently reads:

(2) In determining an appeal the Board

(a) shall have regard to any regional plan, ministerial regional plan and statutory plan and shall conform with a land use by-law or the land use regulations;

17 Section 136 presently reads:

136(1) At the public hearing referred to in section 135, the council shall hear

(a) any person or group of persons, or person acting on his or their behalf, who

(i) has complied with the procedures outlined by the council, and

(ii) claims to be affected by the proposed by-law,

and

(b) any other person that wishes to make representations and that the council agrees to hear.

(2) The council, after considering the representations made to it concerning the proposed by-law, may

(a) make such amendments or changes as it considers necessary to the proposed by-law, if any, and proceed to pass the proposed by-law, or

(b) defeat the proposed by-law.

18 Consequential to section 12 of this Bill.

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