

1997 BILL 208

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First Session, 24th Legislature, 46 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 208

**KANANASKIS PARK ACT.**

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MR. MITCHELL

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 208*  
*Mr. Mitchell*

## **BILL 208**

1997

### **KANANASKIS PARK ACT**

*(Assented to , 1997)*

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

Definitions

**1** In this Act,

- (a) "commercial tourism facility" includes hotels, motels and other fixed roofed accommodation, recreational vehicle parks, restaurants, winter and summer camps, golf courses, downhill ski runs, helicopter facilities and any infrastructures associated with any of the foregoing;
- (b) "Crown" means Her Majesty in right of Alberta;
- (c) "disposition" means an instrument entered into or issued by which an estate, right or interest in land in the Park under the administration of the Minister is conveyed by or on behalf of the Crown to any person;
- (d) "Kananaskis Park Management Plan" means a plan with respect to the conservation and management of the Park;
- (e) "land" means land of the Crown;
- (f) "Minister" means the Minister of Environmental Protection;
- (g) "Park" means Kananaskis Park established by this Act.

Kananaskis  
Park

**2(1)** All land located within the area described in the Schedule to this Act is hereby established as a park to be known as "Kananaskis Park".

**(2)** References in the Schedule to this Act to the boundaries of any sections, townships or ranges that are not surveyed shall be deemed to be references to the boundaries of the sections, townships or ranges that would exist if the land were surveyed under the system of township surveys prescribed by the *Surveys Act* existing as of the coming into force of this Act.

**(3)** The Park is under the administration of the Minister except that land in the Park that, on the coming into force of this Act, is under the administration of another Minister or of a Crown corporation by virtue of an order of the Lieutenant Governor in Council or the provisions of any Act other than section 2(2) of the *Public Lands Act*.

Purpose

**3** The Park is dedicated to the use of the people of Alberta and shall be developed and maintained

- (a) for the conservation of biodiversity and perpetuation of natural processes,
- (b) for the preservation of specified areas and objects therein that are of geological, cultural, ecological or other scientific interest,
- (c) to facilitate its use and enjoyment for outdoor recreation, and
- (d) to ensure it is left unimpaired for the enjoyment of future generations.

Kananaskis  
Park  
Management  
Plan

**4(1)** The Minister must establish a Kananaskis Park Management Plan within 18 months after the coming into force of this Act.

**(2)** Maintenance of ecological integrity shall be the first priority in preparing the Kananaskis Park Management Plan.

**(3)** The Minister shall consult with the public during the development of the Kananaskis Park Management Plan.

(4) The Kananaskis Park Management Plan shall be implemented within 2 years after the coming into force of this Act.

(5) Upon the expiry of 5 years after the date of its implementation, the Kananaskis Park Management Plan may be reviewed and amended.

(6) Upon the expiry of 10 years after the date of its implementation, the Kananaskis Park Management Plan shall be reviewed and, if determined to be necessary, amended.

(7) The Minister shall consult with the public during any review of the Kananaskis Park Management Plan that is conducted pursuant to subsection (5) or (6).

Restrictions

**5** The Park, or any part thereof, shall not be disposed of or settled on, and no persons shall use or occupy any part of the Park, except in accordance with this Act and its regulations.

Hunting

**6(1)** For the purposes of this section, "hunt" means "hunt" as defined in the *Wildlife Act*.

(2) Subject to subsection (3), no person may hunt animals in the Park unless that person hunts by means of the use of a trap or a bow and arrow.

(3) No person may hunt a bear or a wolf without the express written consent of the Minister.

Industrial activities

**7** No person may conduct any industrial activities, including, but not limited to, activities in connection with mining, geological and geophysical explorations, saw mills and other forestry related industries, within the Park.

Commercial tourism facilities

**8(1)** No person may

- (a) construct a commercial tourism facility within the Park, or
- (b) expand a commercial tourism facility located in the Park that was established prior to the coming into force of this Act.

(2) Subsection (1) does not prohibit the maintenance or replacement of a commercial tourism facility located in the Park that existed prior to the coming into force of this Act.

Prohibited dispositions

**9(1)** No person may be granted, in respect of land in the Park,

- (a) a disposition under the *Public Lands Act* and the regulations under that Act,
- (b) a timber disposition as defined in the *Forests Act*,
- (c) a disposition as defined in the *Mines and Minerals Act*,
- (d) any disposition, licence, permit or approval under any Act or regulation for the purpose of geophysical or geological exploration, or
- (e) an estate or interest in land under any other Act or regulation.

(2) Notwithstanding subsection (1), the Crown may

- (a) grant registered fur management licences under the *Wildlife Act* and any dispositions to assist in trapping,
- (b) grant a disposition, licence, permit or approval under any Act or regulation if it relates to commercial trail riding, guiding or outfitting operations,
- (c) grant a disposition required for the right-of-way of telephone, telegraph or electrical transmission lines.

Rights of third parties

**10(1)** Nothing in this Act changes or otherwise affects the rights of third parties relating to the land comprising the Park provided these rights existed prior to the coming into force of this Act.

(2) Notwithstanding subsection (1), Approval No. 2 granted to Kan-Altá Golf Management Ltd. by the Natural Resources Conservation Board, authorized by Order in Council numbered O.C. 534/92 pursuant to section 9 of the *Natural Resources Conservation Board Act*, shall be rescinded, and any right or benefit arising, acquired or created thereto, shall be withdrawn, cancelled or otherwise terminated, on the coming into force of this Act.

Residence in  
Park

**11(1)** No person shall make or attempt to make a place of residence in the Park other than persons who are employed by the Government and who are engaged in the development, maintenance or supervision of the Park.

(2) If, in the opinion of the Minister, a person is making or attempting to make a place of residence in the Park, other than when permitted to do so under subsection (1), the Minister may, by written notice served on that person, require that person to cease making or attempting to make a place of residence on that land.

(3) If within 14 days of being served with a notice under subsection (2) a person fails to comply with the notice, the Minister may apply to the Court of Queen's Bench by originating notice for an order directing that person to cease making or attempting to make a place of residence on the land.

(4) A notice under this section may be served personally or by registered or certified mail.

(5) Any person who lives in a residence located in the Park that was established prior to the coming into force of this Act shall be exempt from this section.

Powers of the  
Minister

**12** The Minister may by order

- (a) close all or any part of the Park for any periods he considers necessary;
- (b) zone any portion of the Park so as to regulate or confine the various uses of land resources and water within the Park;
- (c) authorize the doing of any other acts, matters and things relating to the purpose and administration of this Act;
- (d) designate areas within the Park where camping is permitted.

Control of  
roads

**13** Except for a highway designated as a primary highway under the *Public Highways Development Act*, every public highway, road,

street and lane in the Park is subject to the direction, management and control of the Minister.

Use of aircraft,  
off-highway  
vehicles

**14** Unless authorized to do so by the Minister for reasons of public safety, no person shall

- (a) take off or land an aircraft
  - (i) in the Park, or
  - (ii) on water that is located in or that comprises part of the Park;
- (b) operate off-highway vehicles in the Park.

Staff

**15** In accordance with the *Public Service Act*, there may be appointed park rangers and any other persons necessary for the administration of this Act.

Powers of the  
Rangers

**16(1)** For the purposes of administering this Act and the regulations, a park ranger may

- (a) enter on and inspect any land, road, highway, structure or work in the Park;
- (b) order the repair, alteration, improvement, evacuation or removal of or addition to any unauthorized structure or work in the Park;
- (c) order any person in the Park to cease or refrain from any action, omission or conduct that in the opinion of the park ranger is dangerous to life or property or detrimental to the use and enjoyment of the Park by other persons;
- (d) require any person in the Park to inform the park ranger of
  - (i) the name, address and occupation of the person, and
  - (ii) any fact or intention relating to the use by the person of the Park;

- (e) remove from the Park
  - (i) any person making an unauthorized use of the Park,
  - (ii) any person failing to comply with any provisions of this Act or the regulations, or
  - (iii) any person creating a nuisance or disturbance or committing a trespass or any undesirable act.

(2) If a motor vehicle, off-highway vehicle, aircraft, boat, trailer, equipment, appliance, article or object

- (a) is abandoned,
- (b) remains in an area after the authorization to be in that area has expired, or
- (c) is located in a prohibited area,

a park ranger may remove, store and dispose of that item in accordance with the regulations.

(3) The Minister may by order, subject to any conditions prescribed in the order, exempt a park ranger from any provision of this Act or the regulations.

(4) A park ranger in the exercise and discharge of his powers and duties is a person employed for the preservation and maintenance of the public peace.

Seizure

**17(1)** A park ranger may seize any motor vehicle, off-highway vehicle, aircraft, boat, trailer or any equipment, appliance or other article or object that is being used in the Park in contravention of this Act or the regulations, or in contravention of any other Act or the regulations made thereunder, whether it is found in the possession of the person alleged to have committed the contravention or not.

(2) The park ranger shall, on seizing any thing under subsection (1),

- (a) give a receipt for it to the person, if any, having possession or custody of the thing, and



- (b) furnish a provincial judge with an affidavit
  - (i) stating that he has reason to believe that an offence has been committed in respect of the thing seized, and
  - (ii) setting out the name of the person, if any, having possession or custody of the thing seized at the time it was seized.

(3) When a thing is seized under the authority of this section, the provincial judge may

- (a) order the thing seized to be confiscated to the Crown when he is satisfied that its owner is unknown and that it has been used in connection with a contravention of this Act or the regulations,
- (b) order the thing seized to be confiscated to the Crown on a conviction for any offence under this Act or the regulations, or
- (c) return the thing seized to the person from whom it was seized.

(4) When a provincial judge orders the return of something seized after a trial in which a not guilty plea was entered, the provincial judge may order the person to whom the article is returned

- (a) to hold the thing as bailee for the Crown during the time limited for appeal, or any extension thereof, and
- (b) to produce the thing if it is required in an appeal.

Offence

**18(1)** A person who contravenes this Act or the regulations is guilty of an offence and is liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than 6 months or to both a fine and imprisonment.

(2) If a motor vehicle, off-highway vehicle, aircraft, boat or trailer is involved in a contravention of this Act or the regulations, the owner of that motor vehicle, off-highway vehicle, aircraft, boat or trailer is guilty of an offence and liable to a fine of not more than \$2000 unless he proves to the satisfaction of the court that at the time of the offence the motor vehicle, off-highway vehicle, aircraft,

boat or trailer was not being operated or used by him.

Regulations

**19** The Lieutenant Governor in Council may, with respect to the Park, make regulations

- (a) varying, substituting, adding to or making inapplicable to it any or all of the provisions of the following Acts or regulations:
  - (i) the *Public Lands Act* and regulations under it;
  - (ii) the *Forests Act* and regulations under it;
  - (iii) the *Wildlife Act* and regulations under it;
  - (iv) any Act or regulation that relates to
    - (A) the prevention or suppression of fire for the purpose of public safety,
    - (B) the removal or destruction of forest growth for the purpose of public safety,
    - (C) the prevention of soil erosion, or
    - (D) the conservation of water or water-power;
- (b) governing the establishment of reservoirs and the use of or release of water stored in them;
- (c) controlling domestic or other animals not defined as wildlife under the *Wildlife Act*;
- (d) governing the use of firearms, pellet, dart, arrow or other projectile shooting equipment, explosives, explosive devices and fireworks;
- (e) governing uses of and activities in the Park;
- (f) governing commercial, scientific and research activities that may be carried on;
- (g) governing the use of motor vehicles, off-highway vehicles, boats, trailers and equipment;

- (h) governing standards respecting the provision or utilization of services in respect of the public;
- (i) governing standards respecting buildings and other structures;
- (j) governing the setting, use and extinguishing of fires;
- (k) governing the treatment and feeding of wildlife;
- (l) governing the dressing or hanging of big game;
- (m) governing the issuing of permits allowing special activities to be carried on;
- (n) controlling or prohibiting noise, unruly behaviour and nuisances;
- (o) governing the removal, storage and disposal under section 16(2) of motor vehicles, off-highway vehicles, aircraft, boats, trailers, equipment, appliances, articles or objects;
- (p) governing dispositions with respect to the Park;
- (q) governing the fees payable
  - (i) for the use of or the carrying out of an activity in the Park;
  - (ii) for the use of any facility provided under this Act;
  - (iii) for the provision of any goods or services provided under this Act;
- (r) considered necessary to carry out the purposes for which this Act is enacted.

Non-  
appropriation

**20** No payment shall be made out of the General Revenue Fund to defray any expense necessary for the implementation of this Act without the authority of an appropriation made by the Legislature for such purpose.

## Coming Into Force

Coming into  
force

**21** This Act comes into force on Proclamation.

## **SCHEDULE**

### **FIRST:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-first (21) township, the ninth (9) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land north and east of the Peter Lougheed Provincial Park boundary and west of the Elbow-Sheep Wildland Provincial Park Boundary, being sections fifteen (15), twenty-one (21), twenty-two (22), twenty-seven (27), twenty-eight (28), thirty-two (32), thirty-three (33) and thirty-four (34) and all those portions of section three (3), section four (4), section nine (9), section ten (10), section eleven (11), section sixteen (16), section seventeen (17), section twenty (20), section twenty-nine (29), section thirty (30) and section thirty-one (31), as shown outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

### **SECOND:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-first (21) township, the tenth (10) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land north of the Peter Lougheed Provincial Park boundary, being section thirty-one (31) and all those portions of section twenty-nine (29), section thirty (30) and section thirty-two (32), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

### **THIRD:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-first (21) township, the eleventh (11) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land east of the Banff National Park boundary, being all

those portions of section twenty-five (25), section thirty-five (35) and section thirty-six (36), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**FOURTH:**

All those parcels or tracts of land situate, lying and being in the partially surveyed twenty-second (22) township, the ninth (9) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land west of the Elbow-Sheep Wildland Provincial Park Boundary, being sections three (3) to ten (10) inclusive, sections fourteen (14) to thirty-six (36) inclusive, as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**FIFTH:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-second (22) township, the tenth (10) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land east of the Banff National Park boundary, being sections one (1) to twenty-nine (29) inclusive, sections thirty-two (32) to thirty-six (36) inclusive, and all those portions of section thirty (30) and section thirty-one (31), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**SIXTH:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-second (22) township, the eleventh (11) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land east of the Banff National Park boundary, being sections one (1), twelve (12) and thirteen (13) and all those portions of section two (2), section three (3), section ten (10), section eleven (11), section fourteen (14), section

fifteen (15), section twenty-three (23), section twenty-four (24), section twenty-five (25) and section thirty-six (36), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**SEVENTH:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-third (23) township, the eighth (8) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land east and west of the Elbow-Sheep Wildland Provincial Park Boundary, being sections nineteen (19), twenty (20), twenty-five (25), twenty-six (26), twenty-nine to thirty-two (29 - 32) inclusive, sections thirty-five (35) and thirty-six (36), the west half of the southwest and northwest quarters of section eighteen (18), the west half of section twenty-eight (28), the west half of section thirty-three (33), and all those portions of sections twenty-two (22), twenty-three (23), twenty-seven (27) and thirty-four (34), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**EIGHTH:**

All the land situate, lying and being in the partially surveyed twenty-third (23) township, the ninth (9) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land south of the Kananaskis Country Recreation Area boundary, being sections one (1) to thirty (30) inclusive, and sections thirty-two (32) to thirty-six (36) inclusive, and the east half and south west quarter of section thirty-one (31), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**NINTH:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-third (23) township, the tenth (10)

range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land east of the Banff National Park boundary, being sections one (1) to four (4) inclusive, sections nine (9) to seventeen (17) inclusive, sections twenty (20) to thirty-six (36) inclusive, and all those portions of section five (5), section seven (7), section eight (8), section eighteen (18) and section nineteen (19), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**TENTH:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-third (23) township, the eleventh (11) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land east of the Banff National Park boundary, being section thirty-six (36) and all those portions of sections twenty-four (24) to section twenty-six (26) inclusive, and section thirty-five (35), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**ELEVENTH:**

All those parcels or tracts of land situate, lying and being in the partially surveyed twenty-fourth (24) township, the eighth (8) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land south of the Bow Valley Provincial Park and Kananaskis Improvement District boundaries, being sections one (1) to twenty-one (21), inclusive, the south half of section twenty-two (22), and all those portions of section twenty-three (23), twenty-four (24) and section twenty-eight (28), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.



**TWELFTH:**

All those parcels or tracts of land situate, lying and being in the partially surveyed twenty-fourth (24) township, the ninth (9) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land south of the Kananaskis Improvement District boundary, being sections one (1) to five (5) inclusive, sections nine (9) to twelve (12) inclusive, and the east half of section eight (8), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**THIRTEENTH:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-fourth (24) township, the tenth (10) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All lands south of the Kananaskis Improvement District boundary, being sections three (3) to nine (9) inclusive, and sections seventeen (17) to nineteen (19) inclusive, as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.

**FOURTEENTH:**

All those parcels or tracts of land situate, lying and being in what would be if surveyed the twenty-fourth (24) township, the eleventh (11) range, west of the fifth (5) meridian, in the Province of Alberta, Canada, and being composed of:

All land east of the Banff National Park boundary and south of the Canmore Nordic Centre Provincial Recreation Area, being sections one (1), eleven (11) to fourteen (14) inclusive, section twenty-four (24) and the southwest quarter of section twenty-five (25), and all portions of section two (2), section three (3), section ten (10), section fifteen (15), section twenty-two (22), section twenty-three (23) and the south half of section twenty-six (26), as outlined on the map titled "Kananaskis Park Act 1997" on file in the Department of Environmental Protection at the City of Edmonton.