

BILL

No. 90

An Act to amend *The Planning and Development Act, 2007*

(Assented to _____)

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

Short title

1 This Act may be cited as *The Planning and Development Amendment Act, 2013*.

S.S. 2007, c.P-13.2 amended

2 *The Planning and Development Act, 2007* is amended in the manner set forth in this Act.

Section 2 amended

3(1) **Subsection 2(1) is amended:**

(a) **by repealing clause (cc) and substituting the following:**

“(cc) **‘municipal administrator’** means:

- (i) the administrator of an urban municipality, a rural municipality or any other municipal corporation;
- (ii) the clerk or administrator of a northern municipality; or
- (iii) any person performing a similar function to the officers mentioned in subclause (i) for a district planning authority as described in section 108, or a regional planning authority”; **and**

(b) **by adding the following clauses after clause (uu):**

“(uu.1) **‘regional plan’** means a regional plan prepared pursuant to section 119.8;

“(uu.2) **‘regional planning authority’** means a regional planning authority established pursuant to section 119.1”.

(2) **Subsection 2(2) is repealed and the following substituted:**

“(2) A member of a Development Appeals Board, a municipal planning commission, a district planning commission, a district planning authority, a regional planning authority, a northern planning commission or a northern planning authority has a pecuniary interest if:

- (a) the member or someone in the member’s family has a controlling interest in, or is a director or senior officer of, a corporation that could profit financially from or be adversely affected financially by a decision of the board, commission or authority of which the member is a part; or
- (b) the member or a closely connected person could profit financially from or be adversely affected financially by a decision of the board, commission or authority of which the member is a part”.

New section 8

4 Section 8 is repealed and the following substituted:

“Consistency with land use policies and statements of provincial interest

8 Every district plan, official community plan, regional plan, subdivision bylaw or zoning bylaw adopted or amended pursuant to this Act must be consistent with the provincial land use policies and statements of provincial interest mentioned in section 7”.

Section 12 amended

5 Clause 12(a) is repealed and the following substituted:

“(a) **‘approving authority’** means a council, district planning authority or regional planning authority that has been declared an approving authority pursuant to subsection 13(1)”.

New section 13

6 Section 13 is repealed and the following substituted:

“Approving authority

13(1) Subject to subsection (3), the minister may, by order, declare that on or after the date specified in the order, a council, district planning authority or regional planning authority is an approving authority within the area under its jurisdiction.

(2) In an order made for the purposes of subsection (1), the minister may impose any terms and conditions that the minister considers appropriate.

(3) To be eligible to be declared an approving authority pursuant to subsection (1), the council, district planning authority or regional planning authority must:

- (a) employ or retain a professional community planner; and
- (b) have adopted:
 - (i) in the case of a council, an official community plan;
 - (ii) in the case of a district planning authority, a district plan; or
 - (iii) in the case of a regional planning authority, a regional plan.

(4) Subject to subsection (5), if a council, district planning authority or regional planning authority fails to employ or retain a professional community planner during any period lasting longer than six consecutive months, the minister shall, by order, declare that the council, district planning authority or regional planning authority has ceased to be an approving authority.

(5) If the minister considers it appropriate to do so, the minister may:

- (a) issue a written notice to a council, district planning authority or regional planning authority authorizing the council, district planning authority or regional planning authority to continue as an approving authority for a period extending beyond the period mentioned in subsection (4); and
- (b) if the minister issues a written notice pursuant to clause (a), impose any terms and conditions on the written notice that the minister considers appropriate.

(6) If a council, district planning authority or regional planning authority ceases to employ or retain a professional community planner, the municipal administrator or development officer shall immediately provide written notice of that fact to the minister”.

New section 15

7 Section 15 is repealed and the following substituted:

“Delegation of authority

15(1) A council, district planning authority or regional planning authority that is an approving authority may, by bylaw, delegate to the development officer the responsibility to exercise or carry out all or any of the powers and duties conferred or imposed on the council, district planning authority or regional planning authority as an approving authority.

(2) Without limiting the generality of subsection (1), a council, district planning authority or regional planning authority that is an approving authority may, in its zoning bylaw, delegate to the development officer the responsibility to exercise or carry out any or all of the powers and duties conferred or imposed on the council, district planning authority or regional planning authority as an approving authority respecting all or any of the following:

- (a) site plan control pursuant to subsection 19(2);
- (b) discretionary use applications pursuant to section 59;
- (c) the approval of plans and drawings in a direct control district pursuant to section 66”.

New section 94

8 Section 94 is repealed and the following substituted:

“Interpretation of Part

94 In this Part:

- (a) **‘affiliated municipality’** means a municipality that is a party to an agreement;
- (b) **‘agreement’**, except in section 109 and in Division 4, means an agreement entered into pursuant to section 97;
- (c) **‘included municipality’** means a municipality that is within a regional planning area and that is included in a regional planning authority;
- (d) **‘regional planning area’** means an area as designated by the minister pursuant to subsections 119.1(1) and (3)”.

Section 109 amended

9 Subsection 109(2) is amended by striking out “(d)” and substituting “(e)”.

New Division 4 of Part VI

10 The following Division is added after Division 3 of Part VI:

“DIVISION 4

Regional Planning Authorities

“Power to establish a regional planning authority

119.1(1) If the minister considers it to be appropriate to do so, or at the request of a municipality or municipalities to be included in a proposed regional planning area, the minister may, by order, establish a regional planning authority as a body corporate for a regional planning area that is specified in the order.

(2) If the minister establishes a regional planning authority pursuant to subsection (1) and if an included municipality has an official community plan or a zoning bylaw on the date the regional planning authority is established, the official community plan or zoning bylaw is continued subject to the other provisions of this Part.

(3) A regional planning area may consist of all or any portion of a city and its adjacent rural municipality or rural municipalities.

(4) An order mentioned in subsection (1) must contain the following:

- (a) a list of the included municipalities;
- (b) a description of the area to be included in the regional planning area and the name of the regional planning area.

(5) An order mentioned in subsection (1) may contain the following:

- (a) the number of members on the regional planning authority;
- (b) the funding arrangements that have been made with respect to the matters mentioned in section 119.2;
- (c) any terms and conditions that the minister considers appropriate in establishing a regional planning authority;
- (d) any other matters that the minister considers necessary with respect to the regional planning area and the regional planning authority.

(6) If the minister establishes a regional planning authority for all or part of an area that is designated as part of a planning district within the meaning of section 97, the minister may, by order, do all or any of the following:

- (a) terminate the inclusion of that area in the planning district;
- (b) terminate the planning district;
- (c) make any other modification to the planning district and the planning district agreement that the minister considers necessary;
- (d) distribute the assets and liabilities of a terminated area of the planning district, or the terminated planning district in any manner determined by the minister.

(7) After undertaking any consultations with the regional planning authority and included municipalities that the minister considers appropriate, the minister may, by order, do all or any of the following:

- (a) amend, revoke or replace any order establishing a regional planning authority;
- (b) add all or part of any municipality to a regional planning area;
- (c) terminate the representation of an included municipality on a regional planning authority and distribute the assets and liabilities of the regional planning authority between the departing municipality and remaining municipalities in any manner determined by the minister;
- (d) dissolve a regional planning authority and distribute any assets or liabilities of the authority in any manner determined by the minister.

(8) Subject to subsection (9), if a regional planning authority applies to the minister requesting that all or part of any municipality be added to the regional planning authority, the minister may amend the minister's order establishing the regional planning authority in any manner that the minister considers advisable.

(9) Before amending the minister's order establishing a regional planning authority pursuant to subsection (8), the minister shall consult with:

- (a) the affected regional planning authority;
- (b) the municipality, all or a part of which is proposed to be added to the regional planning area; and
- (c) each included municipality.

(10) If the minister amends an order establishing a regional planning authority pursuant to subsection (8), any official community plan and any zoning bylaw of the included municipality or part of the municipality that is being added to the regional planning authority are continued to the extent that they are not inconsistent with the regional plan.

(11) If the minister amends an order establishing a regional planning authority pursuant to subsection (8), section 119.91 applies, with any necessary modification, to the municipality or part of the municipality that is being added to the regional planning authority.

“Power to direct funding

119.2(1) Subject to any order or directives of Treasury Board, the minister may:

- (a) determine the amount of funding for the regional planning authority to be provided by the Government of Saskatchewan in any fiscal year of the Government of Saskatchewan; and
- (b) provide the funding mentioned in clause (a) to the regional planning authority in the manner and at the times determined by the minister.

(2) The included municipalities in a regional planning area shall provide any funding required by the regional planning authority in addition to the funding mentioned in clause (1)(a) in the proportion determined by the minister.

“Power to direct a regional planning authority

119.3(1) The minister may, by order, direct the regional planning authority to do all or any of the things mentioned in section 119.5.

(2) After undertaking any consultations with the regional planning authority that the minister considers appropriate, the minister may direct the regional planning authority to undertake or address a matter on any terms and conditions that the minister considers appropriate.

(3) If the regional planning authority fails to comply with a direction of the minister pursuant to subsection (1) or (2) within the period specified in the minister’s order, the minister may exercise all of the powers of the regional planning authority in completing the direction.

“Composition of a regional planning authority

119.4(1) After undertaking any consultations with the regional planning authority and included municipalities that the minister considers appropriate, the minister may, by order, with respect to the regional planning authority:

- (a) appoint or reappoint members to the authority;
- (b) determine tenure of office of members of the authority;
- (c) determine the remuneration and expenses, if any, payable to members of the authority; or
- (d) determine the manner in which a chairperson and any acting chairperson are to be designated from among the members of the authority.

(2) Pursuant to subsection (1), the minister may, by order, appoint the following persons as members of a regional planning authority:

- (a) one council member from each included municipality;
- (b) one or more representatives of the Government of Saskatchewan; and
- (c) any other persons that the minister is satisfied have an interest or expertise pertaining to community planning.

“Duties of a regional planning authority

119.5(1) Subject to the terms of the order establishing the regional planning authority, a regional planning authority shall:

- (a) prepare a regional plan to address any matter outlined in the order; and
- (b) determine the proportion of any funds that each included municipality is required to contribute to meet the expenses of the regional planning authority and, without restricting the generality of the foregoing, provide for the manner in which office space and facilities are to be provided to the authority by any included municipalities.

(2) The minister may, by order, direct a regional planning authority to do any or all of the following:

- (a) undertake any study and analysis;
- (b) prepare any land use, development, infrastructure and other plan;
- (c) draft any zoning bylaw amendment pursuant to section 47;

- (d) draft any development levy bylaw amendment pursuant to section 169;
 - (e) draft any servicing agreement pursuant to section 172;
 - (f) prepare and provide reports to the minister and municipal councils within a specified period.
- (3) The regional planning authority is responsible for implementing the approved regional plan pursuant to section 119.91.

“Other duties of a regional planning authority

119.6(1) Subject to subsection (2), only a regional planning authority has and may exercise with respect to the regional planning area any of the powers vested in a council by this Act with respect to the preparation, adoption, administration and enforcement of official community plans, district plans, regional plan and zoning bylaws, notwithstanding clause 101(1)(b) of *The Cities Act* and clause 127(b) of *The Municipalities Act*, except those powers set out in sections 28 to 34 of *The Cities Act* and sections 41 to 43 of *The Municipalities Act*, as the case may be.

- (2) Subject to the terms of the minister’s order, a regional planning authority may:
- (a) exercise any power mentioned in clauses 100(a) to (e), with any necessary modification;
 - (b) employ or engage the services of any person that it considers necessary and fix his or her remuneration;
 - (c) make any arrangements that it considers advisable to obtain suitable accommodation for its purposes;
 - (d) by bylaw, provide municipal services either to the included municipalities or directly to persons within the regional planning area and, by agreement, outside the boundaries of the regional planning area to another municipality, organization, health region, government or Indian band, according to terms and conditions set by the regional planning authority;
 - (e) expend funds, charge fees for its services, and, by bylaw, set terms and conditions respecting any charges, fees, discounts or penalties associated with providing a municipal service;
 - (f) hold public meetings and publish information for the purpose of obtaining the participation and cooperation of the residents within the regional planning area in determining the solutions to problems or matters affecting the development of any part of the regional planning area;
 - (g) suggest to the council of any included municipality ways and means of financing works to be carried out by public authorities over a specified period;
 - (h) investigate and study proposed subdivisions or developments within and adjacent to the regional planning area and submit to the council of an included municipality reports and recommendations in that respect;
 - (i) identify the social and economic implications of the regional planning authority’s recommendations made pursuant to clause (h);

(j) prepare and submit to the included municipalities an operating budget for the next fiscal year;

(k) do all other things that it considers necessary, incidental or conducive to exercising its powers or fulfilling its functions or providing the municipal services it is authorized to provide; and

(l) perform any other duties that the minister may require.

(3) Notwithstanding clause 49(j), a regional planning authority is not required to provide for the establishment of a Development Appeals Board in preparing its zoning bylaw.

(4) If an appeal from a decision of a municipality is normally heard by a Development Appeals Board and if that decision has been made by a regional planning authority, an appeal from that decision must be made instead to the Saskatchewan Municipal Board.

(5) No regional planning authority has the power to enter into agreements described in section 235.

“Conflict of interest

119.7 No member of a regional planning authority may hear or vote on any decision that relates to a matter with respect to which the member has a pecuniary interest as described in subsection 2(2).

“Regional plan

119.8(1) Subject to subsection (2), a regional planning authority shall prepare a regional plan for the regional planning area in consultation with a professional community planner.

(2) A regional planning authority shall submit a regional plan prepared pursuant to subsection (1) to the included municipalities for adoption.

(3) The included municipalities shall adopt a regional plan for the regional planning area in accordance with this Act, and, for that purpose, sections 35 to 38 apply, with any necessary modification.

(4) Pursuant to subsection 119.3(3), if the council of an included municipality fails to adopt a regional plan for the regional planning area submitted to it pursuant to subsection (2), the minister may adopt the regional plan on its behalf.

(5) With consent of the minister, if the included municipalities agree and if the regional planning authority is preparing a new regional plan or amending an existing regional plan, the included municipalities may pass an interim development control bylaw in accordance with sections 80 to 87, and those sections apply, with any necessary modification, for the purposes of this subsection.

(6) A regional planning authority shall consult with the included municipalities during the preparation of the regional plan.

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- (7) A regional plan must contain statements of policy with respect to:
- (a) matters of intermunicipal and regional significance in the regional planning area;
 - (b) matters that are necessary to coordinate community and land use planning and services within the regional planning area; and
 - (c) matters that are necessary to ensure that the regional plan is consistent with any provincial land use policy or statement of provincial interest.
- (8) A regional plan may contain statements of policy with respect to:
- (a) any matter mentioned in section 32;
 - (b) sector-specific planning;
 - (c) regional public works;
 - (d) regional service delivery;
 - (e) regional public facilities, including the development and maintenance of educational, cultural, recreational and health care facilities;
 - (f) regional economic development;
 - (g) the coordination of approaches for stewardship of environmentally sensitive lands;
 - (h) matters dealing with significant transportation and municipal infrastructure within the regional planning area;
 - (i) regional settlement patterns;
 - (j) emergency management planning and mitigation; and
 - (k) any other matter that the minister determines to be appropriate.
- (9) An included municipality may also have an official community plan.
- (10) If an included municipality has an official community plan, the official community plan must be consistent with the regional plan.
- (11) If all the statements of policy mentioned in subsection 32(2) are addressed in a regional plan and the municipality does not have an official community plan, the regional plan is deemed to be an included municipality's official community plan for the purposes of this Act.
- (12) If all the statements of policy mentioned in subsection 32(2) are not addressed in a regional plan, an included municipality shall also have an official community plan and that official community plan must be consistent with the regional plan.

“Approval of a regional plan

119.9(1) The regional planning authority shall submit the regional plan to the minister for the minister's approval, and the regional plan has no effect until it is so approved.

(2) Sections 35 to 38 apply, with any necessary modification, to the approval of a regional plan.

“Official community plan and zoning bylaw to be consistent with a regional plan

119.91 Once the minister has approved the regional plan, each included municipality shall:

- (a) carry out its functions in accordance with the regional plan;
- (b) review its official community plan and zoning bylaw, and make amendments as necessary, to comply with the regional plan; and
- (c) submit to the minister, within six months after the minister approves the regional plan, a statutory declaration of the municipal administrator affirming that its official community plan and zoning bylaw comply with the regional plan.

“Zoning bylaw

119.92(1) Every included municipality shall, in conjunction with the adoption of a regional plan, pass or amend, in accordance with this Act, a zoning bylaw to ensure that a zoning bylaw exists that is consistent with the plan for that portion of the municipality included within the regional planning area.

(2) Notwithstanding any other provision of this Act, every included municipality shall, before passing a zoning bylaw or an amendment to a zoning bylaw for the portion of the municipality included within the regional planning area, submit the zoning bylaw or amendment to the regional planning authority for its review and recommendation.

(3) The included municipality mentioned in subsection (1) may pass an interim development control bylaw pursuant to sections 80 to 87.

(4) A regional planning authority may:

- (a) assist the council of any included municipality in the preparation of a zoning bylaw or any other bylaw authorized by this Act;
- (b) review:
 - (i) any proposed zoning bylaw or amendment to a zoning bylaw submitted to it pursuant to subsection (2); or
 - (ii) any existing zoning bylaw or bylaw passed pursuant to this Act; and
- (c) after a review pursuant to clause (b), submit to the council suitable amendments to the bylaw with a recommendation that they be passed.

”Dispute resolution

119.93(1) In the event of a dispute between any included municipalities, the minister may direct the parties to follow any dispute resolution methods that the minister considers appropriate.

(2) If the matter mentioned in subsection (1) is not resolved after the dispute resolution methods mentioned in subsection (1) have been undertaken, the minister may make a decision that settles the matter.

(3) The minister’s decision pursuant to subsection (2) is binding.

(4) The minister’s decision pursuant to subsection (2) may be implemented by the minister issuing an order to the involved parties”.

New section 209**11 Section 209 is repealed and the following substituted:****“Written notice to owner**

209(1) In addition to the requirements of subsection 207(3):

(a) if a council proposes to amend its zoning bylaw with respect to districts provided for in that bylaw, it shall give written notice, in accordance with subsection 207(6), to each owner of land that is the subject of the proposed amendment; and

(b) if a council proposes to replace its zoning bylaw with a new bylaw, and the proposed use or intensity of use to be permitted on a parcel of land is substantially different than under the current bylaw, it shall give written notice, in accordance with subsection 207(6) respecting the proposed change in use or intensity of use permitted, to each owner of land that is the subject of the proposed new bylaw.

(2) The minister may, on the application of a council, exempt the council respecting compliance with any or all of the notice requirements to owners pursuant to subsection (1)”.

Section 215 amended**12 Subsection 215(1) is repealed and the following substituted:**

“(1) Subject to subsection (2), the following persons are not eligible to be appointed as a member of a Development Appeals Board for a municipality or to continue to be a member of that board:

(a) a member of the council of the municipality;

(b) an employee of the municipality;

(c) a member or employee of a municipal planning commission, district planning commission, district planning authority or regional planning authority of which the municipality is a member”.

New section 238**13 Section 238 is repealed and the following substituted:****“Restrictions re damages, etc.**

238 Notwithstanding any other Act or law, every person is deemed not to suffer any damages, and without restricting the generality of the foregoing, property is deemed not to be injuriously affected or suffer any diminution of value by reason of:

(a) the adoption of or amendment of a regional plan, a district plan, an official community plan, a subdivision bylaw or a zoning bylaw;

(b) the approval, cancellation or revocation of an approval of a proposed subdivision; or

(c) any other action taken pursuant to the authority of this Act or the regulations by the minister, the director, a municipality, a commission, a district planning authority, a regional planning authority, a northern planning authority, or any agent or person acting on his, her or its behalf”.

New section 239

14 Section 239 is repealed and the following substituted:

“Authorized persons not liable

239 No action or proceeding lies or shall be commenced against a member of a council, a commission, a municipality, a district planning authority, a regional planning authority, a northern planning authority, an employee of a municipality, a planning district, a regional planning area or a planning authority if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations”.

Coming into force

15 This Act comes into force on assent.

SECOND SESSION

**Twenty-seventh
Legislature**

SASKATCHEWAN

B I L L

No. 90

*An Act to amend *The Planning
and Development Act, 2007**

Received and read the

First time

Second time

Third time

And passed

Honourable Jim Reiter
