

BILL

No. 113

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, 2017*.

SS 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 (b);**

(b) **by repealing clause (e);**

(c) **by adding the following clause after clause (h):**

“(h.1) ‘**day**’ means calendar day”;

(d) **in subclause (rr)(i) by adding “the administration of” after “the minister responsible for”; and**

(e) **by adding the following clause after clause (xx):**

“(xx.1) ‘**school division**’ means a board of education or the conseil scolaire within the meaning of *The Education Act, 1995*”.

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

(a) **by adding “District Development Appeals Board,” after “Development Appeals Board,”; and**

(b) **by adding “a regional planning authority,” after “a district planning authority,”.**

(3) **Subsection 2(3) is repealed.**

Section 13 amended

4 **The following subsection is added after subsection 13(6):**

“(7) The minister may, by order, amend, suspend or revoke any order issued pursuant to subsection (1) if the minister considers it appropriate to do so”.

Section 14 amended

5 **Clause 14(a) is repealed and the following substituted:**

“(a) every order made pursuant to subsections 13(1), (4) and (7)”.

Section 19 amended

6(1) Subsection 19(1) is repealed and the following substituted:

“(1) An approving authority may, in its official community plan, adopt policies respecting site plan control for commercial, industrial, institutional or mixed use development”.

(2) Subsection 19(2) is amended in the portion preceding clause (a) by striking out “specific industrial or commercial development” and substituting “the specific development”.

(3) Clause 19(3)(a) is amended by striking out “vehicular”.

Section 23 amended

7 Subsection 23(2) is amended by striking out “minister” and substituting “director”.

Section 24 amended

8 Subsection 24(6) is amended by striking out “minister” and substituting “director”.

Section 30 amended

9 Subsection 30(1) repealed and the following substituted:

“(1) Notwithstanding section 29, in order to achieve consistency with a provincial land use policy or statement of provincial interest, the minister may, after consultation with the council, direct the council to prepare and adopt for all or part of the municipality:

(a) an official community plan, and the council shall adopt that plan within two years from the date of the direction or any other period the minister may require as set out in the direction; or

(b) an amendment to an official community plan, and the council shall adopt that amendment within six months after the date of the direction or any other period that the minister may require as set out in the direction”.

Section 32 amended

10(1) Subsection 32(2) is amended:

(a) by striking out “and” after clause (h); and

(b) by adding the following after clause (i):

“(j) the provision of municipal reserve for school purposes, including policies that:

(i) ensure the creation of municipal reserve sites suitable in size to be used for school purposes;

(ii) designate the locations of municipal reserve sites to be used for school purposes; and

(iii) provide for the dedication of land or money-in-lieu of land through the subdivision process that supports equity for all subdivision applicants and municipalities within the region; and

“(k) the management of lands that are in proximity to existing or proposed railway operations”.

(2) The following subsection is added after subsection 32(3):

“(4) The policies mentioned in clause (2)(j) must be developed in consultation with:

- (a) the minister responsible for the administration of *The Education Act, 1995*;
- (b) any school division whose boundaries include land within the municipality; and
- (c) any municipality that may be affected by the policies if the consultation is determined to be necessary by the minister responsible for the administration of *The Education Act, 1995*”.

Section 32.1 amended

11(1) Clause 32.1(1)(c) is amended by striking out “specific”.

(2) Subsection 32.1(3) is amended in the portion preceding clause (a) by striking out “minister” and substituting “director”.

(3) Subsection 32.1(4) is amended by striking out “minister” and substituting “director”.

Section 49 amended

12 Section 49 is amended by adding the following after clause (j):

“(j.1) regulating development in proximity to existing or proposed railway operations; and”.

Section 51 amended

13 Subsection 51(5) is repealed and the following substituted:

“(5) The municipal administrator shall file with the director a certified copy of the fee bylaw and the document mentioned in subsection (2.1) within 15 days after the date on which the bylaw is passed”.

Section 71 amended

14 Subsection 71(3) is amended by striking out “minister” and substituting “director”.

Section 78 amended

15(1) Subsection 78(3) is amended by striking out “subsection (1)” and substituting “subsections (1) and (5)”.

(2) Subsection 78(4) is amended by striking out “minister” where it appears for the second time and substituting “director”.

(3) The following subsection is added after subsection 78(4):

“(5) The minister may, by order, amend, suspend or revoke any waiver given by the minister pursuant to subsection (1) if the minister considers it appropriate to do so”.

Section 83 amended

16 Clause 83(b) is amended by striking out “minister” and substituting “director”.

Section 96 amended

17 Section 96 is amended by striking out “pecuniary interest” and substituting “conflict of interest or financial interest”.

Section 97 amended

18 Clause 97(2)(a) is amended:

(a) in subclause (iv):

(i) by striking out “district planning commission” and substituting “planning district”; and

(ii) by striking out “the commission” and substituting “the planning district”; and

(b) by adding the following paragraph after paragraph (vi)(A):

“(A.1) adding the affiliation of a municipality”.

Section 101 amended

19 Section 101 is amended by striking out “pecuniary interest” and substituting “conflict of interest or financial interest”.

Section 102 amended

20 Clause 102(19)(a) is amended by striking out “10 business” and substituting “15”.

Section 103 amended

21 Subsection 103(1) is repealed and the following substituted:

“(1) Every municipality included in whole or in part in a planning district shall, in conjunction with the adoption of the district plan, pass or amend, in accordance with this Act, a zoning bylaw that is consistent with the plan for the portion of the municipality included within the district”.

Section 108 amended

22(1) Subsection 108(1) is repealed and the following substituted:

“(1) Subject to section 97, with any necessary modification, and on the request of the councils of two or more municipalities, the minister may, by order, establish a district planning authority as a body corporate to head the district”.

(2) Subsection 108(4) is repealed and the following substituted:

“(4) In making an order pursuant to subsection (1), the minister may:

(a) subject to clause (2)(a), provide for any of the matters set out in subclauses 97(2)(a)(iii) and (iv); and

(b) provide for any other matter that the minister considers necessary with respect to the planning district and its authority”.

New section 109**23 Section 109 is repealed and the following substituted:****“Power of district planning authorities**

109(1) A district planning authority described in section 108 may do any of the following:

- (a) exercise 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 plans and zoning bylaws for the area contained in the planning district;
- (b) exercise any of the powers mentioned in clauses 100(a) to (e) and 104(a) to (e), with any necessary modification;
- (c) employ or engage the services of any person that it considers necessary and fix their remuneration;
- (d) make any arrangements that it considers advisable to obtain suitable accommodation for its purposes;
- (e) enter into an agreement with one or more district planning authorities described in section 108 for the creation of a board, which is to be a body corporate, the sole function of which is to make arrangements to carry out the powers described in clauses (c) and (d) on behalf of the parties to the agreement that the parties may agree to;
- (f) by bylaw, provide municipal services either to the affiliated municipalities or directly to persons within the planning district, and, by agreement, outside the boundaries of the planning district to another municipality, organization, Provincial Health Authority, government or Indian band, according to the terms and conditions set by the district planning authority;
- (g) 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;
- (h) enter into development levy and servicing agreements pursuant to Part VIII of this Act;
- (i) 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.

(2) The powers outlined in subsection (1) of any district planning authority may be exercised:

- (a) only subject to the terms of the minister’s order establishing the planning district;
- (b) only subject to the agreement of the affiliated members of the planning district; and
- (c) notwithstanding clause 127(b) of *The Municipalities Act* or clause 101(1)(b) of *The Cities Act*, as the case may be.

(3) Notwithstanding subsection (1), no district planning authority may exercise the powers of a council mentioned in sections 41 to 43.

(4) If a district planning authority described in section 108 has been delegated any authority pursuant to subsection (1) for matters with respect to which appeals may be made, it shall establish a District Development Appeals Board pursuant to Part XI for the purpose of hearing any appeal of decisions made by the district planning authority.

(5) No district planning authority described in section 108 has the power to enter into agreements described in section 235 with the exception of those agreements authorized pursuant to clause (1)(h) or unless otherwise authorized by the terms of the minister's order".

Section 112 amended

24 Section 112 is amended by striking out "pecuniary interest" and substituting "conflict of interest or financial interest".

Section 119.1 amended

25 Subsection 119.1(3) is repealed and the following substituted:

"(3) A regional planning area may consist of all or any portion of any municipality that the minister considers appropriate".

New section 119.6

26 Section 119.6 is repealed and the following substituted:

"Other duties of a regional planning authority

119.6(1) A regional planning authority may:

- (a) exercise 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 plans and zoning bylaws for the regional planning area;
- (b) exercise any of the powers mentioned in clauses 100(a) to (e), with any necessary modification;
- (c) employ or engage the services of any person that it considers necessary and fix that person's remuneration;
- (d) make any arrangements that it considers advisable to obtain suitable accommodation for its purposes;
- (e) 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, Provincial Health Authority, government or Indian band, according to the terms and conditions set by the regional planning authority;
- (f) 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;
- (g) hold public meetings and publish information for the purposes 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;
- (h) enter into development levy and servicing agreements pursuant to Part VIII of this Act;

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- (i) 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;
 - (j) investigate and study proposed subdivisions or developments within and adjacent to the regional planning area and submit to the council of any included municipality reports and recommendations in that respect;
 - (k) identify the social and economic implications of the regional planning authority's recommendations made pursuant to clause (j);
 - (l) prepare and submit to the included municipalities an operating budget for the next fiscal year;
 - (m) 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
 - (n) perform any other duties that the minister may require.
- (2) The powers outlined in subsection (1) of any regional planning authority may be exercised:
- (a) only subject to any terms of the minister's order establishing the regional planning authority; and
 - (b) notwithstanding clause 127(b) of *The Municipalities Act* or clause 101(1)(b) of *The Cities Act*, as the case may be.
- (3) Notwithstanding subsection (1), no regional planning authority may exercise the powers of a council mentioned in sections 41 to 43.
- (4) The minister may direct the establishment of a District Development Appeals Board pursuant to Part XI for the purpose of hearing any appeal of decisions made by a regional planning authority.
- (5) If the minister does not direct the establishment of a District Development Appeals Board pursuant to subsection (4), all appeals of decisions made by the regional planning authority must be made to the Saskatchewan Municipal Board.
- (6) No regional planning authority described in this Part has the power to enter into agreements described in section 235 with the exception of those agreements authorized pursuant to clause (1)(h) or unless otherwise authorized by the terms of the minister's order".

Section 119.7 amended

27 Section 119.7 is amended by striking out "pecuniary interest" and substituting "conflict of interest or financial interest".

Section 120 amended

28 The following clause is added after clause 120(1)(d):

"(d.1) '**encroachment agreement**' means an agreement between two parties for the act of encroaching whereby an overhang advances beyond the parcel boundaries but, for the purposes of this Act, does not include an agreement for the encroachment of any footprint of any building or structure beyond the parcel boundaries except for those buildings or structures encroaching into a road right of way".

Section 122 amended

29 Clause 122(1)(i) is amended:

- (a) by striking out “and” after subclause (ii);
- (b) by adding “and” after subclause (iii); and
- (c) by adding the following subclause after subclause (iii):

“(iv) all remaining parcels created by the subdivision conform with the provision of legal and physical access as required by clause 128(1)(d)”.

Section 128 amended

30 Clause 128(1)(b) is amended by adding “in effect at the time of the decision” after “zoning bylaw”.

Section 130 amended

31(1) Subsection 130(1) is repealed and the following substituted:

“(1) If an application for subdivision approval is with respect to land that the approving authority considers to be potentially hazardous or unstable, the approving authority may do one or both of the following, in consultation with the minister responsible for the administration of *The Environmental Management and Protection Act, 2010*, the Water Security Agency, or any other agency the approving authority consults:

- (a) direct that any development on that land must comply with specific development standards formulated by the approving authority for that purpose;
- (b) notify landowners of the risks associated with the identified potentially hazardous land”.

(2) Subsection 130(2) is repealed and the following substituted:

“(2) In order to ensure compliance with the standards or notification mentioned in subsection (1), the approving authority may register against title in the land registry an interest based on the requirement to comply with standards or notification mentioned in subsection (1)”.

Section 169 amended

32(1) The following subsection is added after subsection 169(2):

“(2.1) If the subdivision of land is involved, development levies must not be used as a substitute for servicing agreement fees”.

(2) The following subsection is added after subsection 169(8):

“(8.1) Notwithstanding subsection (8), a development levy bylaw adopted by a council that has been declared an approving authority pursuant to subsection 13(1) may delegate to a development officer the power to enter into development levy agreements with an applicant or owner”.

Section 172 amended

33 Subsection 172(3) is amended:

- (a) **in clause (b) by adding** “if council can reasonably demonstrate costs associated with the proposed subdivision,” **before** “the payment by the applicant”;
- (b) **by striking out “and” after clause (f);**
- (c) **by adding “and” after clause (g); and**
- (d) **by adding the following clause after clause (g):**

“(h) if the provision of service requires capital costs to connect the development to a provincial highway:

- (i) the applicant to enter into a transportation partnership agreement with the minister responsible for the administration of *The Highways and Transportation Act, 1997*; or
- (ii) the payment of fees based on a transportation partnership agreement between the municipality and the minister responsible for the administration of *The Highways and Transportation Act, 1997*”.

Section 174 amended

34 Subsection 174(2) is amended:

- (a) **by striking out “or” after clause (b);**
- (b) **by adding “or” after clause (c); and**
- (c) **by adding the following clause after clause (c):**

“(d) in the case of fees collected pursuant to clause 172(3)(h) by a municipality, to pay those fees to the minister responsible for the administration of *The Highways and Transportation Act, 1997*, in accordance with any agreement with that minister”.

Section 183 amended

35 Clause 183(f) is amended by striking out the portion preceding subclause (i) and substituting “the land to be subdivided is intended solely for the purpose of:”.

Section 187 amended

36(1) Subsection 187(3) is repealed and the following substituted:

“(3) For the purposes of this section, the value of the land must be equivalent to the value of the land that would have been dedicated”.

(2) Subsection 187(4) is repealed.

(3) Subsection 187(5) is amended in the portion preceding clause (a) by striking out “market value” and substituting “value of the land”.

Section 190 amended

37 Clause 190(4)(a) is repealed.

New section 195**38 Section 195 is repealed and the following substituted:****“Agreement for use of municipal reserve, public reserve**

195(1) In accordance with the municipality’s official community plan statements of policy described in clause 32(2)(j), any municipality and a school division may enter into an agreement providing for the joint use and maintenance of all or any part of:

- (a) a municipal reserve;
- (b) a public reserve that has been leased to a municipality or a school division; or
- (c) any buildings or improvements located on land mentioned in clause (a) or (b).

(2) Notwithstanding subsection (1), a municipality and a school division shall enter into an agreement mentioned in subsection (1) if required to do so by the minister responsible for the administration of *The Education Act, 1995*.

(3) Pursuant to subsection (2), the minister responsible for the administration of *The Education Act, 1995* shall consult with all affected parties before requiring a municipality and a school division to enter into an agreement mentioned in subsection (1).

(4) If a municipality and a school division are not able to conclude an agreement pursuant to subsection (1) or (2) and the minister, in consultation with the minister responsible for the administration of *The Education Act, 1995*, considers it advisable, the minister may, after consultation with the affected parties:

- (a) refer all affected parties to dispute resolution as determined appropriate by the minister; or
- (b) by order, specify the terms and conditions pursuant to which all or part of the municipal or public reserve described in clause (1)(a) or (b) that is located within the municipality must be leased to any school division for school purposes”.

Section 202 amended

39 Subsection 202(4) is amended by adding “the administration of” after “the minister responsible for”.

Section 213 amended**40 Clause 213(b) is repealed and the following substituted:**

“(b) a District Development Appeals Board if municipalities have authorized an agreement pursuant to subsection 214(3) or are required to do so by subsection 214(5)”.

Section 214 amended**41 The following subsection is added after subsection 214(4):**

“(5) Notwithstanding subsection (3), a district planning authority described in section 108 or a regional planning authority described in Part VI shall establish a District Development Appeals Board if required to do so by subsection 109(4) or subsection 119.6(4)”.

Section 215 amended

42(1) Subsection 215(2) is amended by striking out “councillors” wherever it appears and in each case substituting “members of council”.

(2) Subsection 215(3) is amended:

- (a) by striking out “councillor” and substituting “member of council”; and**
- (b) by striking “councillor’s” and substituting “member’s”.**

Section 218 amended

43 Section 218 is amended by striking out “pecuniary interest” and substituting “conflict of interest or financial interest”.

Section 220 amended

44 Subclause 220(1)(d)(ii) is amended by striking out “\$50” and substituting “\$300”.

Section 225 amended

45 Subsection 225(5) is amended by striking out “minister” and substituting “director”.

Section 226 amended

46 Subsection 226(1) is repealed and the following substituted:

“(1) The minister, the council, the appellant or any other person may, within 30 days after the date of receipt of a copy of the decision of the board, file with the Saskatchewan Municipal Board a notice of appeal, in the form and manner established by the Saskatchewan Municipal Board, setting out all the grounds of appeal”.

New sections 227 and 227.1

47 Section 227 is repealed and the following substituted:

“Notification of filing and submission of material

227(1) As soon as is practicable after a notice of appeal is filed with the Saskatchewan Municipal Board, the secretary of the Saskatchewan Municipal Board shall provide a copy of the notice of appeal to:

- (a) the secretary of the board; and**
- (b) every party to the appeal other than the appellant.**

(2) The secretary of the board shall, within 10 days after receiving a copy of the notice of appeal, forward to the secretary of the Saskatchewan Municipal Board:

- (a) a copy of the application for appeal to the board;**
- (b) copies of supporting materials filed with the board before the hearing;**
- (c) copies of supporting materials entered at the board hearing;**
- (d) a copy of the written record of proceedings that took place at the board hearing; and**
- (e) a copy of the written decision of the board.**

“New evidence

227.1(1) The Saskatchewan Municipal Board shall not allow new evidence to be called on appeal unless it is satisfied that:

- (a) through no fault of the person seeking to call the new evidence, the supporting materials and written record of proceedings mentioned in clauses 227(2)(b) and (d) are incomplete, unclear or do not exist;
- (b) the board has omitted, neglected or refused to hear or decide an appeal; or
- (c) the person seeking to call the new evidence has established that relevant information has come to the person’s attention and that the information was not obtainable or discoverable by the person through the exercise of due diligence at the time of the board hearing.

(2) If the Saskatchewan Municipal Board allows new evidence to be called pursuant to subsection (1), it may use any power or authority vested in it pursuant to *The Municipal Board Act* to seek and obtain further information”.

Section 228 amended

48 Subsection 228(1) is amended by striking out the portion preceding clause (a) and substituting the following:

“Subject to subsection (3), an applicant may appeal the following by filing a notice of appeal with the Saskatchewan Municipal Board in the form and manner established by the Saskatchewan Municipal Board:”.

Coming into force

49 This Act comes into force on assent.

SECOND SESSION

Twenty-eighth Legislature

SASKATCHEWAN

B I L L

No. 113

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

Received and read the

First time

Second time

Third time

And passed

Honourable Larry Doke
