EXPLANATORY NOTES
B I L L
No. 113 of 2017

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

1 ***The Planning and Development Amendment Act, 2017***

2 ***The Planning and Development Act, 2007***

3 **Existing Provision**

Interpretation

2(1) In this Act:

…

(b) "board of education" means a board of education of a school division designated or established pursuant to The Education Act, 1995;

…

(e) "conseil scolaire" means the conseil scolaire as defined in *The Education Act, 1995*;

…

(h) "Crown" means the Crown in right of Saskatchewan;

…

(rr) "provincial highway" means a public highway, or a proposed public highway:

(i) with respect to which there is a plan that is in the department over which the minister responsible for *The Highways and Transportation Act, 1997* presides; and

(ii) that the Lieutenant Governor in Council has designated as a provincial highway;

…

(xx) "rural municipality" means a rural municipality within the meaning of *The Municipalities Act*;

…

(2) The provisions of *The Cities Act*, *The Municipalities Act* and *The Northern Municipalities Act, 2010* with respect to conflict of interest and financial interests apply, with any necessary modification, to a member of a Development Appeals Board, a municipal planning commission, a district planning commission, a district planning authority, a northern planning commission or a northern planning authority.

(3) In subsection (2):

(a) "closely connected person" means the agent, business partner, family or employer of a member mentioned in subclause (2);

(b) "controlling interest" means an interest that a person has in a corporation if the person beneficially owns, directly or indirectly, or exercises control or direction over shares of the

corporation carrying more than 25% of the voting rights attached to all issued shares of the corporation;

(c) "family" means the spouse, parent, or child of a member mentioned in subsection (2);

(d) "senior officer" means the chairperson or vice-chairperson of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs the functions of the corporation similar to those normally performed by a person occupying any of those offices.

2007, c.P-13.2, s.2; 2010. c.N-5.2, s.460; 2012, c.28, s.3; 2013, c.23, s.3; 2014, c.19, s.47; 2015, c.30, s.5-2.

Explanation

The proposed addition of clause 2(1)(xx.1) makes clauses 2(1)(b) and (e) unnecessary.

The creation of a definition for "day" with clause 2(1)(h.1) provides clarity through the Act that all time references to "days" means calendar days and not business days.

The addition of "the administration of" after "the minister responsible for" in subclause 2(1)(rr)(i) will achieve consistency with other similar phrases in the Act.

The creation of a definition for "school division" in new clause 2(1)(xx.1) will make it simpler to refer to a board of education or a conseil scolaire throughout the Act.

The amendments to subsection 2(2) are necessary to ensure the conflict of interest provisions apply to members of any District Development Appeals Boards and members of any Regional Planning Authorities.

Existing subsection 2(3) needs to be removed as it is now redundant as a result of *The Municipal Conflict of Interest Amendment Act, 2015*.

4 Existing Provision

Approving authority

…

13(6) If a council, district planning authority or regional planning authority ceases to employ or retain a registered professional planner, the municipal administrator or development officer shall immediately provide written notice of that fact to the minister.

2013, c.23, s.6; 2013, c.C-21.1, s.59.

Explanation

Ten cities in Saskatchewan have been granted approving authority status. From time to time, there may be situations where the minister must modify the terms of the order granting approving

authority status to achieve a provincial interest. This amendment is necessary to clarify the minister's authority to do so.

5 Existing Provision

Publication in the Gazette

14 The minister shall cause to be published in the Gazette:

(a) every order made pursuant to subsections 13(1) and (4); and

(b) every notice mentioned in subsection 13(5).

2007, c.P-13.2, s.14.

Explanation

Amendment to this section ensures that any minister's order issued under subsection 13(7) is published in the Gazette.

6 Existing Provision

Site plan control

19(1) An approving authority may, in its official community plan, adopt policies respecting site plan control for commercial or industrial development.

(2) If an approving authority has adopted policies mentioned in subsection (1), it may in its zoning bylaw, prescribe conditions and performance standards for specific industrial or commercial development with respect to any or all of the following:

(a) traffic operations and access to public streets to and from the site;

(b) the circulation of traffic within the site;

(c) the placement of buildings and other structures within the site;

(d) the placement of landscaping within the site.

(3) The conditions and performance standards pursuant to subsection (2):

(a) are limited to development if, in the opinion of council, there are high volumes of vehicular traffic expected to and from the site and potential public safety concerns; and

(b) shall not require a reduction in the intensity of the proposed use.

…

2007, c.P-13.2, s.19.

Explanation

Currently, the ability to apply policies for site plan control is limited to only commercial and industrial developments. During consultation, some stakeholders indicated their desire to have this authority extended to additional forms of development; specifically institutional and mixed use development. Amendments to subsections 19(1) and (2) respond to requests from stakeholders.

All modes of transportation have the potential to impact safety. By removing the reference to "vehicular", the amendment to subsection 19(3) clarifies that additional types of traffic, such as cycling and pedestrian, can be planned for using this section.

7 Existing Provision

Exemptions relating to other bylaws and plans

…

23(2) The municipal administrator shall file with the minister a certified copy of the bylaw mentioned in subsection (1) within 15 days after the date that the bylaw is passed.

…

2007, c.P-13.2, s.23; 2012, c.28, s.8.

Explanation

Municipal planning bylaws are processed at the branch level. Most municipalities send bylaws directly to the branch. To improve clarity and streamline submissions, the reference is changed so bylaws are submitted to the Director of Community Planning instead of the Minister of Government Relations.

8 Existing Provision

Public notice policy

…

24(6) The municipal administrator shall file with the minister a certified copy of the bylaw mentioned in subsection (1) within 15 days after the date that the bylaw is passed.

2007, c.P-13.2, s.24; 2012, c.28, s.9.

Explanation

The Ministry of Government Relations keeps a record of municipal public notice policy bylaws. To improve clarity and streamline submissions, the reference is changed so bylaws are submitted to the Director of Community Planning instead of the Minister of Government Relations.

9 Existing Provision

Minister may require official community plan

30(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

(b) an amendment to an official community plan, and the council shall adopt that amendment within six months after the date of the direction.

…

2007, c.P-13.2, s.30.

Explanation

This section continues to provide the minister with the ability to require any municipality to amend their official community plan (OCP) to achieve consistency with provincial interests.

This amendment creates flexibility for the minister to alter the time period municipalities have to comply with the minister's direction.

10 Existing Provision

Contents of Plan

…

32(2) An official community plan must contain statements of policy with respect to:

…

(h) the co-ordination of land use, future growth patterns and public works with adjacent municipalities; and

(i) if the municipality has entered into an intermunicipal development agreement pursuant to section 32.1, the implementation of the intermunicipal development agreement.

…

2007, c.P-13.2, s.32; 2012, c.28, s.11.

Explanation

The province recognizes the need for municipalities, school divisions and the Ministry of Education to jointly plan for school purposes. New clause 32(2)(j) requires that a municipality, in conjunction with any applicable school division, must adopt policies in its OCP that:

- Ensure the creation of municipal reserve sites that are large enough to be used for schools;

- Identify the locations of these sites; and
- Provide for fair treatment of all subdivision applicants / land developers within a region through the land dedication process.

A new school will not be located in every subdivision. However, in municipalities where a school division has identified a need for a future school, the policies will ensure all land developers will be partners in the land assembly process by contributing towards future school sites via money-in-lieu of land or the dedication of municipal reserve land. These policies will also provide more certainty to that municipality's local development community on the location of future school sites.

The province has an interest in ensuring the safety and security of individuals, communities and property from human-induced threats. Clause 32(2)(k) would require all new OCPs contain a policy or policies respecting development in proximity to existing or proposed railway operations.

To ensure coordination between parties involved with school site planning, new subsection 32(4) would require municipalities to develop their school site policies collaboratively with the Minister of Education, any local school divisions, and any municipality(s) that the Ministry of Education determines is necessary for the municipality to consult with.

11 Existing Provision

Intermunicipal development agreements

32.1 (1) The councils of two or more municipalities may, by bylaw, enter into an intermunicipal development agreement that provides for:

…

(c) the specific services, infrastructure or facilities that are covered by the agreement;

…

(3) Within 30 days after an intermunicipal development agreement is entered into, the municipalities that are parties to the agreement shall file with the minister:

(a) a certified copy of the intermunicipal development agreement; and

(b) a certified copy of the bylaws of each municipality adopting the intermunicipal development agreement.

(4) Within 30 days after an intermunicipal development agreement is amended or terminated, the municipalities that are parties to the agreement shall file with the minister a certified copy of the bylaws of each municipality amending or terminating the intermunicipal development agreement.

2012, c.28, s.12.

Explanation

The amendment to clause 32.1(1)(c) is in response to concerns expressed to the ministry during stakeholder consultation that the word "specific" limited the items that could be covered in an intermunicipal development agreement. This amendment clarifies clause 32.1(1)(c) without changing its intent and demonstrates the ministry's commitment to ensure legislation is responsive to stakeholder needs.

The amendments to subsections 32.1(3) and (4) are necessary because knowledge of intermunicipal development agreements is needed at the branch level. To improve clarity and streamline submissions, the reference is changed so these agreements are submitted directly to the Director of Community Planning.

12 Existing Provision

Contents of zoning bylaw

49 A zoning bylaw must contain provisions:

…

(k) providing for any other matter that may be necessary to regulate and control the issuance of development permits as the council considers necessary.

2007, c.P-13.2, s.49.

Explanation

A municipality enacts policies contained within its OCP through standards contained within its zoning bylaw. This amendment will implement the policies required by new clause 32(2)(k) by ensuring all new zoning bylaws to contain provisions protecting development from existing or proposed railway operations.

13 Existing Provision

Fees

…

51(5) The municipal administrator shall file with the minister a certified copy of the fee bylaw and the document mentioned in subsection (2.1) within 10 business days after the date that the bylaw is passed.

2007, c.P-13.2, s.51; 2012, c.28, s.13

Explanation

Currently, there are only two timelines in the Act making reference to "business days". All other timelines are specified in "days". This change is being made to achieve consistency in the legislation. Fifteen (15) calendar days is roughly equal to ten (10) business days.

In addition, the Ministry of Government Relations keeps a record of municipal planning fee bylaws. To improve clarity and streamline submissions, the reference is changed so these bylaws are submitted to the Director of Community Planning instead of the Minister of Government Relations.

14 Existing Provision

Holding provision

…

71 (3)

If a holding symbol has been removed pursuant to subsection (2), the municipal administrator shall file with the minister a certified copy of the amendment of the bylaw within 15 days after the date that the amendment is adopted.

…

2007, c.P-13.2, s.71.

Explanation

The Ministry of Government Relations keeps a record of municipal zoning bylaw amendments to remove the holding symbol from a zoning district or districts. To improve clarity and streamline submissions, the reference is changed so these types of zoning bylaw amendments are submitted to the Director of Community Planning instead of the Minister of Government Relations.

15 Existing Provision

Waiver of ministerial approval

…

78 (3) The minister shall cause every order made pursuant to subsection (1) to be published in the Gazette.

(4) If the requirements of the approval of the minister with respect to an amendment of a bylaw are waived pursuant to subsection (1), the municipal administrator shall file with the minister a certified copy of the amendment of the bylaw within 15 days after the date that the amendment is adopted.

2007, c.P-13.2, s.78.

Explanation

The amendment to subsection 78(4) is necessary because the Ministry of Government Relations keeps a record of amendments to urban municipalities' zoning bylaws. To improve clarity and streamline submissions, the reference is changed so bylaws are submitted to the Director of Community Planning instead of the Minister of Government Relations.

All urban municipalities in Saskatchewan have been granted the authority to amend their zoning bylaw without requiring approval from the minister. In the event there is a situation where the minister must consider modifying this waiver to achieve a provincial interest, the addition of subsection 78(5) is necessary to clarify the minister's authority to do so.

16 Existing Provision

Notice of bylaw

83 No notice or hearing is required before the passing of an interim development control bylaw, but the municipality shall, within 30 days after the date that a bylaw is approved by the minister:

(a) give notice of the bylaw in a newspaper circulating in the municipality published at least once each week for two consecutive weeks; and

(b) file a copy of the notice with the minister.

2007, c.P-13.2, s.83.

Explanation

The Ministry of Government Relations keeps a record of public notices issued by municipalities once an interim development control bylaw has been approved. To improve clarity and streamline submissions, the reference is changed so these notices are submitted to the Director of Community Planning instead of the Minister of Government Relations.

17 Existing Provision

Conflict of interest

96 No member of a municipal planning commission 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).

2007, c.P-13.2, s.96.

Explanation

This amendment is to ensure consistency with conflict of interest provisions resulting from *The Municipal Conflict of Interest Amendment Act, 2015*.

18 Existing Provision

Agreement for establishment of planning district

97 (1) Subject to section 98, the councils of two or more municipalities may, by bylaw, enter into an agreement respecting the establishment of a planning district.

(2) An agreement entered into pursuant to subsection (1):

(a) must provide for the following:

…

(iv) the proportion of any funds that each affiliated municipality is required to contribute to meet the expenses of the district planning commission and, without restricting the generality of the foregoing, providing for the manner in which office space and facilities are to be provided to the commission by any of those municipalities;

(v) mechanisms for resolving disputes between the affiliated municipalities; and

(vi) a process and procedure for:

(A) amending the agreement;

(B) withdrawing the affiliation of a municipality; and

(C) distributing any assets and liabilities of the district planning commission; and

(b) may provide for a process and procedure for passing amendments to the district plan in accordance with subsections 102(16) to (19) if the proposed amendment affects only land within one municipality.

2012, c.28, s.15

Explanation

Amendments are proposed to section 108 that will allow municipalities to establish as a District Planning Authority (DPA) without first having to be a District Planning Commission (DPC). This will improve the flexibility of the legislation. To accomplish this, minor amendments are necessary to broaden the scope of section 97.

The amendment to subclause 97(2)(a)(vi) will clarify that the planning district must also have a process for adding a municipality to the district.

19 Existing Provision

Conflict of interest

101 No member of a district planning commission or a district 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).

2007, c.P-13.2, s.101; 2012, c.28, s.18.

Explanation

This amendment is to ensure consistency with conflict of interest provisions resulting from *The Municipal Conflict of Interest Amendment Act, 2015*.

20 Existing Provision

District plan

…

102 (19) If the minister approves the bylaw adopting the amendment pursuant to subsection (16):

(a) the affiliated municipality shall forward a certified copy of the bylaw to the district planning commission or district planning authority within 10 business days after the date the affiliated municipality received the minister's approval; and

(b) the bylaw that amends the district plan is effective on the date of the minister's approval.

2012, c.28, s.19

Explanation

Currently, there are only two timelines in the Act making reference to "business days". All other timelines are specified in "days". This change is being made to achieve consistency in the legislation. Fifteen (15) calendar days is roughly equal to ten (10) business days.

21 Existing Provision

Zoning bylaw

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

…

2007, c.P-13.2, s.103; 2012, c.28, s.20.

Explanation

The existing wording of subsection 103(1) could be interpreted that members of a planning district must pass a new zoning bylaw in conjunction with the adoption of a district plan. In the event a municipality has an existing zoning bylaw, this amendment clarifies that a municipality may keep their existing bylaw, provided they make amendments to ensure consistency with the district plan.

22 Existing Provision

District planning authorities

108 (1) On the request of the councils of the municipalities that are included in whole or in part within a planning district established pursuant to section 97, the minister may, by order, establish a district planning authority as a body corporate to head the district.

…

(4) In making an order pursuant to subsection (2), the minister may:

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

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

…

2007, c.P-13.2, s.108; 2012, c.28, s.24

Explanation

Amendments to subsection 108(1) will remove the requirement that municipalities must first establish themselves as a DPC before they can become a DPA. This will improve the flexibility of the legislation for municipalities who wish to plan regionally.

The amendment to clause 108(4)(a) adds the ability for the minister's order to address matters of funding for the planning district. With the amendments to subsection 108(1) that remove the requirement that municipalities must first establish as a DPC, this amendment is necessary.

23 Existing Provision

Powers of district planning authorities

109 (1) Subject to subsections (2) and (3), only a district planning authority described in section 108 has and may exercise with respect to the area contained in the planning district 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 and zoning bylaws, notwithstanding clause 127(b) of *The Municipalities Act*, except those powers set out in sections 41 to 43.

(2) Subject to the terms of the minister's order, a district planning authority described in section 108 may exercise any of the powers mentioned in clauses 100(a) to (e).

(3) Subject to the approval of the minister, a district planning authority described in section 108 may do one or more of the following:

(a) employ or engage the services of any persons that it considers necessary and fix their remuneration;

(b) make any arrangements that it considers advisable for the purpose of obtaining suitable accommodation for its purposes;

(c) 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 shall be to make arrangements to carry out the powers described in clauses (a) and (b) on behalf of the parties to the agreement that the parties may agree to;

(d) 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, health region, government or Indian band, according to terms and conditions set by the district 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) 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.

(4) Any person hired by the board mentioned in clause (3)(c) as the development officer for the respective planning districts is deemed to be the development officer for each of those planning districts.

(5) Notwithstanding clause 49(j), a district planning authority described in section 108 is not required to provide for the establishment of a Development Appeals Board in preparing its zoning bylaw.

(6) If an appeal from a decision of a municipality is normally heard by a Development Appeals Board and if such a decision has been made by a district planning authority described in section 108, an appeal from that decision must be made, instead, to the Saskatchewan Municipal Board.

(7) No district planning authority described in section 108 has the power to enter into agreements described in section 235.

2007, c.P-13.2, s.109; 2012, c.28, s.25; 2013, c.23, s.9.

Explanation

Repeal and replacement of section 109 will make it easier for municipalities to utilize the DPA tool. A DPA is a corporate body for municipalities to address regional issues. Throughout consultation, a number of stakeholders requested that the ministry improve the clarity and flexibility of this section.

These amendments will:

- Improve clarity on the roles and responsibilities of DPAs;
- Allow member municipalities of a DPA to delegate powers one-by-one to the DPA. This allows the tool to be customized for each situation and improves the efficiency and potential use of this section;
- Remove existing subsection 109(4) that contained provisions already covered in other parts of the Act;
- Establish a District Development Appeals Board process to provide appeal oversight to any appeal-eligible decisions made by the DPA. Currently, all appeal-eligible decisions made by a DPA would be sent directly to the Saskatchewan Municipal Board (SMB). This amendment ensures the first appeal process would be heard at the local level before being escalated to the SMB; and
- Provide clarity that a DPA has the legal authority to enter into development levy and servicing agreements.

24 Existing Provision

Conflict of interest

112 No member of a northern planning commission 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).

2007, c.P-13.2, s.112.

Explanation

This amendment is to ensure consistency with conflict of interest provisions resulting from *The Municipal Conflict of Interest Amendment Act, 2015*.

25 Existing Provision

Power to establish a regional planning authority

119.1 (3) A regional planning area may consist of all or any portion of:

(a) a city; and

(b) its adjacent:

(i) rural municipality or rural municipalities; or

(ii) municipal district or municipal districts.

2013, c.23, s.10; 2014, c.19, s.47.

Explanation

The current provisions for composition of a Regional Planning Authority (RPA) are restricted to a city and adjacent rural municipalities or municipal districts. During consultation, a number of municipal stakeholders expressed their desire to possibly use the RPA tool. Expanding the scope of subsection 119.1(3) is in response to these stakeholder requests and provides flexibility for any municipalities to be included within a RPA.

26 Existing Provision

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.

2013, c.23, s.10.

Explanation

Repeal and replacement of section 119.6 will make it easier for municipalities to utilize the RPA tool. A RPA is a corporate body for municipalities to address regional issues. Throughout consultation, a number of stakeholders requested that the ministry improve the clarity and

flexibility of this section.

These amendments will:

- Improve clarity on the roles and responsibilities of RPAs;
- Improve efficiency in the potential use of this section;
- Allow for the establishment of a District Development Appeals Board if directed by the minister. Currently, all appeal-eligible decisions made by a RPA would be sent directly to the SMB; and
- Provide clarity that a RPA has the legal authority to enter into development levy and servicing agreements.

27 Existing Provision

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).

2013, c.23, s.10.

Explanation

This amendment is to ensure consistency with conflict of interest provisions resulting from *The Municipal Conflict of Interest Amendment Act, 2015*.

28 Existing Provision

Purpose and interpretation

120 (1) In this Part and in Part IX:

…

(d) **"easement"** means any right, interest, estate or agreement affecting part of a parcel to create a right of way through which the owner of a parcel allows another person to install or maintain:

(i) a pipeline;

(ii) a power, electrical, telecommunication, television, fibre-optic cable or line; or

(iii) a drainage ditch or irrigation canal;

…

2007, c.P-13.2, s.120.

Explanation

A definition of "encroachment agreement" is needed to clarify when subdivision approval may be exempt by the approving authority in order to implement existing clause 122(1)(h) that allows for an exemption from subdivision approval when there is an encroachment agreement. This amendment ensures clarity and, for minor encroachments, simplifies the process between two land owners by exempting them from the subdivision approval process.

Including the extension of buildings or structures into a road right of way for this definition will recognize the approach taken by the Ministry of Highways and Infrastructure in assisting municipalities and the public to remedy existing development.

29 Existing Provision

Exemptions from approval

122 (1) Section 121 does not apply to:

…

(i) a plan or subdividing instrument that widens or extends the right of way of a railway if:

(i) the railway has been declared by the Parliament of Canada to be for the general advantage of Canada or for the general advantage of two or more provinces of Canada;

(ii) the widening or extension is contiguous with the limits of the railway; and

(iii) all remaining parcels created by the subdivision conform with any applicable site area or lot size requirements of any applicable statutory plan or zoning bylaw.

…

2007, c.P-13.2, s.122; 2010, c.N-5.2, s.460; 2012, c.28, s.26.

Explanation

The widening or extension of a railway is currently exempt from subdivision approval. However, there have been circumstances where the creation of railway parcels has had implications for remaining parcels affected by the subdivision. This amendment will require all railway parcels created without subdivision approval to comply with the access provisions within *The Planning and Development Act, 2007*.

30 Existing Provision

Criteria for approval

128 (1) No approving authority shall approve an application for subdivision approval unless:

…

(b) the proposed subdivision conforms to the provisions of any district plan, official community plan or zoning bylaw that affects the land proposed to be subdivided;

…

2007, c.P-13.2, s.128; 2012, c.28, s.27.

Explanation

When making a decision on a subdivision application, the approving authority is bound by the provisions of any municipal land-use planning bylaw.

In the event there is an amendment to an OCP or zoning bylaw during the review of a subdivision, this amendment ensures clarity that the provisions in effect at the time of decision shall apply over those that were in effect when the application was made.

31 Existing Provision

Development standards on hazardous lands

130 (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, in consultation with the minister responsible for the administration of *The Environmental Management and Protection Act, 2002*, with the Water Security Agency, or with any other agency the approving authority may determine, direct that any development on that land must comply with specific development standards formulated by the approving authority for that purpose.

(2) In order to ensure compliance with the standards 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 mentioned in subsection (1).

2007, c.P-13.2, s.130; 2013, c.32, s.11.

Explanation

During the review of a subdivision application, the approving authority may determine land is potentially hazardous and only permit development to occur if specific mitigation measures (i.e. development standards, flood proofing) are undertaken.

Recent decisions by the SMB called into question the approving authority's ability to notify landowners of risks associated with hazard lands if the approving authority was not also registering development standards on title. These amendments will clarify the approving authority's ability to register interests associated with potential hazard land.

32 Existing Provision

Development levy bylaw

…

169 (2) If a development does not involve the subdivision of land, a council may impose development levies for the purpose of recovering all or a part of the municipality's capital costs of providing, altering, expanding or upgrading the following services and facilities associated, directly or indirectly, with a proposed development:

(a) sewage, water or drainage works;

(b) roadways and related infrastructure;

(c) parks;

(d) recreational facilities.

…

(8) The development levy bylaw may delegate to a development officer the authority to exercise all or any part of the council's powers, and to carry out all or any of the council's duties, pursuant to this section, section 171, and sections 173 to 176 of this Act and the bylaw, other than the power to enter into development levy agreements with an applicant or owner.

…

2007, c.P-13.2, s.169; 2012, c.28, s.29.

Explanation

Development levies are intended to be used to collect the capital costs associated with redevelopment or intensification of land. In most situations, however, municipalities should use servicing agreements. The addition of new subsection 169(2.1) will remove confusion regarding which tool is appropriate for municipalities to use.

The addition of new subsection 169(8.1) will allow a development officer of an approving authority to enter into development levy agreements instead of having each application go before the municipal council. This amendment will streamline the development permit process, benefitting land owners and approving authorities alike.

33 Existing Provision

Servicing agreement

…

172 (3) Servicing agreements may provide for:

…

(b) the payment by the applicant of fees that the council may establish as payment in whole or in part for the capital cost of providing, altering, expanding or upgrading sewage, water, drainage and other utility services, public highway facilities, or park and recreation space

facilities, located within or outside the proposed subdivision, and that directly or indirectly serve the proposed subdivision;

…

(f) the amount and location of any land for a municipal utility pursuant to section 172.1 that the municipality may require for the location of a public work or public utility; and

(g) if the provision, alteration, expansion or upgrading of services mentioned in clause (b) will result in capital costs for facilities located outside the municipality in which the subdivision is to occur, a requirement that:

(i) payment will be made by the applicant to the other municipality that will bear those capital costs; and

(ii) there must be submitted to the municipality an agreement that specifies that the other municipality will bear those capital costs.

…

2007, c.P-13.2, s.172; 2012, c.28, s.30.

Explanation

Throughout consultation, stakeholders from both the municipal sector and the land development industry requested greater clarity for what can and cannot be included within the terms of a servicing agreement.

The authority to collect a fee is based on the municipality being able to show it will incur a capital cost. The amendment to clause 172(3)(b) confirms that the need to reasonably demonstrate expenditure is required to include it within a servicing agreement.

Amendments to clause 172(3)(h) are required because new development contributes to the demand for upgrades to the provincial highway network. The Ministry of Highways and Infrastructure currently has authority pursuant to section 4 of *The Highways and Transportation Act, 1997*, to enter into a transportation partnership agreement with a municipality or developer to cost share highway infrastructure.

The addition of clause 172(3)(h) will provide municipalities the ability to coordinate the collection of fees for future highway projects at the time of subdivision. It will do this by providing a link between the existing servicing agreement provisions and the current tool available to the Ministry of Highways and Infrastructure.

34 Existing Provision

Use of levies and fees

…

174 (2) A municipality shall use the funds received, and any accrued interest, only:

(a) to pay the capital cost of providing the services and facilities described in subsection 169(2) or 172(3);

(b) to pay a debt incurred by a municipality as a result of an expenditure described in subsection 169(2) or 172(3); or

(c) to reimburse an owner described in clause 173(d).

2007, c.P-13.2, s.174

Explanation

In the event a municipality collects fees pursuant to proposed clause 172(3)(h), the amendment to subsection 174(2) is necessary to ensure those fees are transferred to the Ministry of Highways and Infrastructure. The use of these funds would be in accordance with any transportation partnership agreement agreed to between land developers and the Ministry of Highways and Infrastructure.

35 Existing Provision

Exemptions from dedication

183 No approving authority shall require the owner of land that is the subject of a proposed subdivision to provide municipal reserve land or money in place of that reserve land if:

…

(f) the land is intended for:

(i) a drainage ditch or irrigation canal;

(ii) a line or transmission or distribution facility for electricity, natural gas, oil, radio, television, telecommunications, sewage or water;

(iii) a public highway, provincial highway or other government-owned roadway;

(iv) a publicly owned reservoir or facility for the storage, treatment or pumping of water or sewage;

(v) a cemetery, dedicated lands, a park, wildlife habitat and ecological lands or a historic or archaeological site; or

…

2007, c.P-13.2, s.183; 2010, c.36, s.14; 2013, c.R-9.11, s.39

Explanation

The amendment to clause 183(f) is intended to clarify exemptions from the dedication of municipal reserve. Periodically, applicants have challenged that roadways required as part of the subdivision should be excluded from the total land area requirement when calculating municipal reserve. This amendment is in line with the intent of the legislation to exempt those lands from contributing park space only when they are the sole purpose of the subdivision.

36 Existing Provision

Money in lieu of municipal reserve land

…

187 (3) For the purposes of this section, the value of the land shall be determined on the basis of its market value, on the basis that the land is in a subdivided unserviced state.

(4) Notwithstanding subsection (3), the calculation of the market value mentioned in subsection (3) must exclude servicing fees as a result of a servicing agreement pursuant to subsection 172(3).

(5) The market value mentioned in subsection (3) must be determined by a qualified appraiser selected and paid for by the municipality, unless the value of the land is:

(a) recommended by the municipality in which the land proposed for subdivision is located; and

(b) agreed to by the applicant and the approving authority.

2007, c.P-13.2, s.187.

Explanation

The current formula for calculating cash-in-lieu of municipal reserve land provides for the cost of services to be subtracted from the value of the land.

As an unintended consequence of the existing provisions, there is inequity between land owners who dedicate land (often with the majority of services provided or available to the municipal reserve parcel) and land owners who give cash-in-lieu of land instead.

Removing this inequity will provide fairness to developers and help assist municipalities as they assemble the municipal reserve parcels necessary to accommodate new school sites (see amendments to sections 32 and 195).

In addition, these amendments will make it easier for municipalities to calculate and, if necessary, appraise the value of any money in lieu of municipal reserve land.

37 Existing Provision

Deferral of dedication

…

190 (4) A direction for a deferment pursuant to subsection (1) must:

(a) state the name of the person applying for subdivision approval;

(b) describe the land that is the subject of the application for subdivision approval;

(c) describe the land to which the deferment relates; and

(d) state the area of land mentioned in clause (b).

…

2007, c.P-13.2, s.190

Explanation

Clause 190(4)(a) is being repealed because the name of the person applying for subdivision approval is not required by Information Services Corporation to defer dedication of municipal reserve.

38 Existing Provision

Agreement for use of municipal reserve, public reserve

195 (1) Any municipality may enter into an agreement with a board of education, with the conseil scolaire, or with a board of education and the conseil scolaire 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, a board of education, or the conseil scolaire; or

(c) any buildings or improvements located on land mentioned in clause (a) or (b).

(2) If a municipality and a board of education, a municipality and the conseil scolaire, or a municipality and a board of education and the conseil scolaire are not able to conclude an agreement pursuant to subsection (1) and the minister and the minister responsible for *The Education Act, 1995* consider it advisable, the minister may, by regulation, specify the terms and conditions whereby all or part of the municipal reserve or public reserve described in clause (1)(a) or (b) that is located within the municipality must be leased to the board of education, to the conseil scolaire, or to the board of education and the conseil scolaire, as the case may be, for school purposes.

2007, c.P-13.2, s.195

Explanation

The amendments to this section are intended to clarify the roles and responsibilities of municipalities, school division(s), and the Ministry of Education respecting the joint use and maintenance of dedicated lands. This ensures that municipal reserve will be available to use for school purposes.

Proposed new subsection 195(1) maintains that a municipality and a school division may enter into a joint use and maintenance agreement (see amendments to section 32).

Proposed new subsection 195(2) establishes authority for the Minister of Education to require a municipality and school division to enter into an agreement, without establishing what the terms of that agreement must be.

Proposed new subsection 195(3) states that consultation will occur before the Minister of Education requires parties to enter into an agreement outlined in subsection 195(2).

Currently, legislation allows the Minister of Government Relations to conclude an agreement between the municipality and any applicable school division through regulation. Amendments to section 195 through new subsection (4) will allow the minister, following consultation with the municipality and applicable school division, to do one of two things to help conclude an agreement:

1. Refer the parties to dispute resolution (e.g. mediation); or
2. Specify the terms and conditions by way of a Minister's Order.

New subsection 195(4) allows for the option of a more collaborative solution (mediation), clarifies the minister's authority, and expedites the process by having a Minister's Order as the available tool instead of regulation.

39 Existing Provision

Public roadways, utilities

…

202 (4) The authority to lease, exchange or sell dedicated lands assigned to another department of the Government of Saskatchewan pursuant to subsection (3) remains with the minister responsible for this Act.

2007, c.P-13.2, s.202; 2013, c.R-9.11, s.39; 2016, c P-31.1, s.11-21.

Explanation

The addition of "the administration of" after "the minister responsible for" will achieve consistency with other similar phrases in the Act.

40 Existing Provision

Interpretation of Part

213 In this Part, **"board"** means, unless otherwise specified:

(a) a local Development Appeals Board; or

(b) a District Development Appeals Board if municipalities have authorized an agreement pursuant to subsection 214(3).

2007, c.P-13.2, s.213.

Explanation

Amendments to section 213 clarify the definition of a "District Development Appeals Board," and are necessary as a result of amendments to sections 109, 119.6, and 214.

41 Existing Provision

Appointment of board

…

214 (4) Subsection (1) does not apply if a council that has been declared an approving authority pursuant to subsection 13(1) has included these matters in a bylaw pursuant to section 26.

2007, c.P-13.2, s.214.

Explanation

Amendments to section 214 clarify the procedures for the establishment of District Development Appeals Boards, and are necessary as a result of other amendments that pertain to establishment of District Development Appeals Boards for DPAs (see section 109) and RPAs (see section 119.6).

42 Existing Provision

Membership of board

…

215 (2) Notwithstanding clause (1)(a), a District Development Appeals Board may include a combination of councillors from municipalities that are parties to the agreement establishing the District Development Appeals Board and other persons but only if the councillors from a single municipality do not form the majority of the District Development Appeals Board.

(3) A councillor who is a member of the District Development Appeals Board shall not hear an appeal respecting a decision made by the councillor's municipality.

…

2007, c.P-13.2, s.215; 2012, c.28, s.37; 2013, c.23, s.11.

Explanation

Amendments to section 215 will clarify that, consistent with the definition in *The Municipalities Act*, mayors, reeves and councillors of member municipalities are eligible to be appointed to a District Development Appeals Board.

43 Existing Provision

Conflict of interest

218 No member of a board 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).

2007, c.P-13.2, s.218.

Explanation

This amendment is to ensure consistency with conflict of interest provisions resulting from *The Municipal Conflict of Interest Amendment Act, 2015*.

44 Existing Provision

Application to appeal

220 (1) An application for appeal to the secretary of the board must be in writing and must:

…

(d) include either:

(i) the fee prescribed by the Lieutenant Governor in Council in the regulations; or

(ii) if no fee is prescribed pursuant to subclause (i), any sum that the board may specify not exceeding $50.

…

2007, c.P-13.2, s.220.

Explanation

Providing development appeal board hearings is a significant cost for many municipalities. While the proposed fee increase will not result in cost recovery for municipalities, it will provide some increase in appeal revenues. Increasing the appeal application fee may reduce frivolous appeals made to municipalities, thereby further reducing municipal appeal costs and allowing municipalities to focus resources on legitimate appeals.

The current maximum fee of $50 has not changed since 1973. The fee is proposed to increase to $300, which would reflect the cost of inflation.

45 Existing Provision

Decision of board

…

225 (5) Within 10 days after the date on which the decision is made, the board shall forward a

copy of its decision by personal service or registered mail to the appellant, the municipality, the minister and all persons who made representations at the public hearing.

…

2007, c.P-13.2, s.225.

Explanation

Decisions of local Development Appeals Boards are needed for record keeping at the branch level. To improve clarity and streamline submissions, the reference in section 225 is changed so bylaws are submitted to the Director of Community Planning instead of the Minister of Government Relations.

46 Existing Provision

Appeal from decision of board

226 (1) The minister, the council, the appellant or any other person may, within 20 days after the date of receipt of a copy of the decision, appeal a decision of the board, by written notice, to the Saskatchewan Municipal Board, with a copy of the notice to the board.

…

2007, c.P-13.2, s.226

Explanation

Proposed amendments to section 226 are two-fold:

1. An increase to the period of time when the minister, municipal council, appellant or any person may appeal the decision of the local Development Appeals Board to the Planning Appeals Committee (PAC) of the SMB from 20 days to 30 days, consistent with the timelines to submit a subdivision appeal to the PAC; and

2. Requiring that the 'notice of appeal' to be served on the PAC be in the form and manner established in regulations made by the SMB.

The proposed amendments are being recommended as a result of a review of the PAC conducted by the Ministry of Government Relations in 2013, which indicated that appellants were unsure of how to specifically provide notice of appeal to the PAC and when the notice of appeal was to be submitted to the PAC.

47 Existing Provision

Board to submit material

227 Within 10 days after the date that the board receives a copy of the notice of appeal, the secretary of the board shall forward to the secretary of the Saskatchewan Municipal Board a

certified copy of all the records of the board pertaining to the case.

2007, c.P-13.2, s.227

Explanation

Replacement of section 227 clarifies:

- who is to receive a copy of the notice of appeal form once it has been filed with the PAC; and
- the required information to be provided by the secretary of the local Development Appeals Board to the secretary of the PAC in order for the PAC to prepare for the appeal. This is intended to remove any confusion that the secretary of the local Development Appeals Board may have as to what information is required to be provided to the PAC.

New section 227.1 will legislate the PAC's current policy as it relates to the submission of new evidence at an appeal hearing. The current policy for the submission of new evidence is similar to the requirements outlined in legislation for an Assessment Appeals Committee hearing, but the requirements are not specifically outlined in legislation (i.e. new evidence may only be submitted if written materials are unclear/do not exist; no decision by the local board; or relevant information became available after the decision of the local board).

Amendments to section 227 and new section 227.1 are being recommended as a result of a review of the PAC conducted by the Ministry of Government Relations in 2013.

48 Existing Provision

Right of appeal

228 (1) Subject to subsection (3), an applicant may appeal the following by filing a written notice of appeal with the Saskatchewan Municipal Board:

(a) a refusal of an application for a proposed subdivision;

(b) an approval in part of an application for a proposed subdivision;

(c) an approval of an application for a proposed subdivision subject to specific development standards issued pursuant to section 130;

(d) a revocation of approval of an application for a proposed subdivision;

(e) a failure to enter into an agreement pursuant to subsection 172(3) within the specified time limit;

(f) an objection by the applicant for subdivision approval to producing any information requested by an approving authority, other than information that is required by the subdivision regulations to accompany the application;

(g) in the case of the circumstances described in clause (e), the matter of the terms and conditions of an agreement.

…

2007, c.P-13.2, s.228

Explanation

The proposed amendment to subsection 228(1) requires that the ‘notice of appeal’ with respect to subdivisions, to be filed with the PAC, be in the form and manner established by the SMB, consistent with the requirements for other planning appeals as per section 226.

49 Coming into Force

Explanation

The amendments come into force on assent.

Prepared by the Ministry of Government Relations