

Bill No. 65 of 1948.

A BILL TO AMEND THE TOWN PLANNING ACT

NOTE.

This Bill amends *The Town Planning Act*.

Under *The Town Planning Act* the Council of a city, town, village or municipal district may make zoning regulations applicable to its own territory and may make provision for the enforcement of these regulations. The purpose of certain of the amendments proposed in this Bill is to give the Minister of Municipal Affairs the same powers to make and enforce zoning by-laws in respect of improvement districts as the Council has in respect of a city, town, village or municipal district.

Accordingly, section 2 is amended by adding a new definition of Council. "Council" is defined as meaning the Minister of Municipal Affairs in the case of an improvement district.

Paragraph (h) defining "rural authority" is amended so that the rural authority in respect of lands in an improvement district is the Minister of Municipal Affairs rather than the Minister of Public Works.

Two new paragraphs are added to section 2 defining "zoning by-law" and "zoning regulation". A zoning by-law is defined as meaning in the case of an improvement district a zoning order made by the Minister of Municipal Affairs. The effect of the amendments to these definitions is that wherever there is a reference to powers given to the Council of a municipality, the Minister of Municipal Affairs has the same powers in respect of an improvement district.

Section 7 is amended. The section presently requires the removal of a structure within seven days of service of a notice. This is changed to require the removal within a time to be specified in the notice which enables more leeway in the enforcement of the section.

The first portion of subsection (1) of section 22 has been amended slightly to conform with the changes made in the definitions in the interpretation section.

Subsection (1) of section 22 is also amended by adding certain new paragraphs. Paragraph (cc) specifically authorizes a municipality when making a zoning by-law to introduce a system of building permits.

Paragraph (*gg*) enables the municipality to prescribe building regulations under its zoning by-law in respect of any zone.

Paragraph (*hh*) enables the zoning by-law to provide for condemning dilapidated or unsafe buildings which may constitute a danger to life or to property.

Paragraph (*k*) enables the zoning by-law to prescribe penalties for infraction of the by-law.

A new section 24*a* is added immediately after section 24. This enables the Minister of Municipal Affairs to delegate to a person or persons designated by him any of his powers and duties respecting the holding of meetings and the hearing and receiving of objections under sections 23 and 24 of the Act.

Subsection (3) of section 26 is amended. Under this subsection a building existing at the time of the passing of a zoning by-law does not have to conform to the use prescribed under the by-law. The purpose of the amendment is to prevent enlargements of or additions to non-conforming buildings. It is not desirable that a comparatively small existing building which does not conform to the by-law should be very greatly enlarged.

Six new sections are added immediately after section 29 which provide for interim zoning regulations in new subdivisions. In any new subdivision which is being made where there is no zoning by-law enacted by the municipality, the Minister of Public Works may make interim zoning regulations. Where such regulations are made, the Director of Town Planning is required to prepare and sign a zoning caveat which is applied to all lands in the new subdivision subject to the zoning regulations made by the Minister. The zoning regulations are in force from the time of the registration of the zoning caveat. The Registrar of Land Titles indorses a notification upon the certificate and duplicate certificate of title of the owner of every lot or parcel subject to the zoning regulations. The Minister of Public Works is given the same power of enforcement of the zoning regulations as a Council has under sections 32 and 33 in respect of a zoning by-law. Upon the enactment by the Council of any municipality of a zoning by-law which applies to any subdivision in respect of which the Minister of Public Works has made zoning regulations and filed a zoning caveat, the zoning regulations and the zoning caveat cease to have any force or effect. Provision is made that all zoning regulations heretofore made and zoning caveats heretofore prepared and shall have the same force and effect as if made and registered under these new sections and the Minister is given the same powers of enforcement in respect of them as if they had been made under these sections.

A new section is added after section 35. A good deal of trouble has been caused by owners of land selling small parcels without first obtaining a proper survey and filing plans of subdivisions. When a subdivision and survey has eventually been made, there is great difficulty in locating streets, lanes and property boundaries due to the uneven shapes of parcels already sold. The new section 35a enables any local or rural authority to require the owner to register a plan of subdivision in respect of land occupied by two or more occupiers of separate premises thereon. The local or rural authority may serve a notice on the owner to have a subdivision made. This notice is registered in the Land Titles Office and no disposition of the land covered by the notice may be made until a plan of subdivision is filed. If the owner refuses to have a survey and plan of subdivision made, the local or rural authority may do so, charging the cost to the owner of the land. This cost may be added to the taxes and may be recovered and collected as part of the general municipal taxes.

W. S. GRAY,
Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 65 of 1948.

An Act to amend The Town Planning Act.

(Assented to _____, 1948.)

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

1. *The Town Planning Act*, being chapter 169 of the Revised Statutes of Alberta, 1942, is hereby amended as to section 2,—

(a) by adding immediately after paragraph (a) thereof the following new paragraph:

“(aa) ‘Council’ means the council of any city, town, village or municipal district and in the case of an improvement district means the Minister of Municipal Affairs;”;

(b) by striking out the words “Public Works”, where the same occur in paragraph (h) thereof and by substituting therefor the words “Municipal Affairs”;

(c) by adding immediately after paragraph (i) thereof the following new paragraphs:

“(j) ‘Zoning by-law’ means a zoning by-law passed by the council of any city, town, village or municipal district, and in the case of an improvement district means a zoning order made by the Minister of Municipal Affairs;

“(k) ‘Zoning regulation’ means an interim zoning regulation made by the Minister in respect of a new subdivision which is applicable only until the enactment of a zoning by-law by the council of the municipality.”.

2. The said Act is further amended as to section 7 by striking out the words “seven days from the date of the affixing of”, where the same occur therein, and by substituting therefor the words “such time as may be specified in”.

3. The said Act is further amended as to section 22,—

(a) by striking out the first nine lines of subsection (1) thereof and by substituting therefor the following:

“**22.**—(1) The Council of any municipality from time to time by by-law to be known as a zoning by-law, may make regulations,—

- “(a) dividing the municipality or any portion thereof into districts or zones of such number, shape and area as the Council considers advisable, and describing such districts and zones by detailed description or by the use of plans, or partly by one method and partly by the other;”;
- (b) by renumbering the present paragraph (a) of subsection (1) thereof as paragraph (aa);
- (c) by adding immediately after paragraph (c) of subsection (1) thereof the following new paragraph:
 “(cc) requiring and prescribing a system of building permits and prescribing the terms and conditions under which any permit may be issued or revoked, and prescribing forms for permits and applications therefor, and prohibiting the excavation, erection, construction, enlargement, alteration, repair, removal or demolition of any building until a permit has been granted or after a permit has been revoked;”;
- (d) by adding immediately after paragraph (g) of subsection (1) thereof the following new paragraph:
 “(gg) prescribing as to any district, building regulations, the type of construction which shall be followed and minimum standards which shall be observed, and prohibiting any building not in conformity with such regulations, type of construction or minimum standards;”;
- (e) by adding immediately after paragraph (h) of subsection (1) thereof the following new paragraph:
 “(hh) providing for the condemnation, removal, demolition, alteration or repair of any building which by reason of its dilapidated state, faulty construction or otherwise unsafe condition, may constitute a danger to life or to property, or a fire hazard;”;
- (f) by adding immediately after paragraph (j) of subsection (1) thereof the following new paragraph:
 “(k) prescribing penalties for any infraction of any regulation or zoning by-law, made pursuant to this section.”;
- (g) by striking out the words “or any regulations made by the Minister, as the case may be,” where the same occur in subsection (2) thereof.

4. The said Act is further amended by adding immediately after section 24 thereof the following new section:

“24a.—(1) In any case where the Minister of Municipal Affairs proposes to make a zoning order applicable to an improvement district, he may delegate to a person or persons designated by him any of his powers and duties respecting

the holding of meetings and the hearing and receiving of objections under subsections (3) and (4) of section 23 and under subsections (2) and (3) of section 24.

“(2) Any person or persons so delegated shall report to the Minister of Municipal Affairs and thereupon the said Minister may confirm, amend or repeal the zoning order in whole or in part.”.

5. The said Act is further amended as to section 26 by adding immediately after the words “may be extended throughout the building, but”, where the same occur in subsection (3) thereof, the words “such building shall not be enlarged or added to and”.

6. The said Act is further amended by adding immediately after section 29 thereof the following new heading and sections:

“INTERIM ZONING REGULATIONS IN NEW SUBDIVISIONS.

“**29a.**—(1) For the purpose of providing interim control of development in any proposed subdivision located in an area which is not subject to the provisions of any zoning by-law made pursuant to the provisions of section 22, the Minister may make regulations for any or all of the purposes specified in section 22 and may divide the proposed subdivision into zones or districts, each of which shall be subject to such of the said regulations as the Minister may designate.

“(2) The Director of Town Planning shall prepare and sign a caveat to be known as a zoning caveat which shall set out the zones or districts into which any such proposed subdivision is divided and the regulations made by the Minister applicable thereto.

“(3) The owner of the proposed subdivision or his duly authorized agent shall sign the zoning caveat in the presence of a witness who shall swear an affidavit of execution to be attached to the zoning caveat.

“(4) The owner of the proposed subdivision shall register the zoning caveat in the Land Titles Office at the time he registers the plan of subdivision.

“(5) The zoning regulations made by the Minister shall be in force from the time of the registration of the zoning caveat.

“(6) If the owner of the subdivision refuses or neglects to sign or register the zoning caveat the Director of Town Planning may register the same.

“(7) Any owner of a subdivision who neglects or refuses to comply with the provisions of this section shall be guilty of an offence against this Act.

“**29b.**—(1) The Minister may from time to time amend any zoning regulations made by him.

“(2) When any such amendment is made the Director of Town Planning shall forthwith prepare, sign and register a

zoning caveat amending the original zoning caveat to conform to the amended regulations.

29a.—(1) Upon the registration of a zoning caveat the Registrar of the Land Titles Office shall indorse a notification of the same upon the certificate and duplicate certificate of title of the owner of every lot or parcel which is then or thereafter subject to the regulations notified by the zoning caveat.

“(2) The Registrar may refuse to register any transfer, disposition, or other instrument affecting any lot or parcel which is presented for registration if in his opinion the use of such lot or parcel is not in compliance with the zoning regulations applicable thereto until the transfer, disposition or other instrument is approved by the Director of Town Planning.

29d.—(1) The owner of the subdivision and each subsequent owner or occupier of any lot or parcel included in the subdivision shall comply with the zoning regulations made by the Minister and notified by the zoning caveat.

“(2) Any person who violates any provision of the zoning regulations shall be guilty of an offence against this Act.

“(3) The Minister shall have the same powers of enforcement of the zoning regulations made by him as a Council has under sections 32 and 33 in respect of a zoning by-law.

“(4) The provisions of section 26 shall apply to lands in a subdivision subject to zoning regulations made by the Minister as if the zoning regulations were a zoning by-law passed by a Council, and the Minister shall have the same power of approval as is vested in a Zoning Appeal Board by subsection (4) of section 26.

29e.—(1) Upon the enactment by the council of any municipality of a zoning by-law pursuant to section 22 which is applicable to any subdivision in respect of which zoning regulations have been made by the Minister and notified by a zoning caveat, the zoning regulations and the zoning caveat shall cease to have any force or effect.

“(2) The Director of Town Planning shall forthwith register with the Registrar of the Land Titles Office a discharge of the zoning caveat, and thereupon the Registrar shall cancel from each certificate of title where the same appears, the notification of the zoning caveat indorsed thereon.

29f.—(1) All zoning regulations heretofore made by the Minister and all zoning caveats heretofore prepared and signed by the Director of Town Planning and registered in the proper Land Titles Office are hereby validated and confirmed and shall have the same force and effect as if made and registered pursuant to sections 29a to 29e inclusive.

“(2) Any person who violates any provisions of such zoning regulations or zoning caveats shall be guilty of an offence against this Act.

“(3) The Minister shall have the same powers of enforcement of such zoning regulations and zoning caveats as he

has in respect of zoning regulations and zoning caveats made under sections 29a to 29e inclusive.”.

7. The said Act is further amended by adding immediately after section 35 thereof the following new section.

“35a.—(1) If an unsubdivided parcel of land is occupied by two or more occupiers of separate premises thereon, the local or rural authority within whose jurisdiction such parcel is situate may serve upon the registered owner thereof a notice in writing requiring him to register a plan of subdivision of such parcel in the proper Land Titles Office within such period of time as may be specified in the notice.

“(2) A certified copy of such notice shall be filed by the local or rural authority in the proper Land Titles Office and a memorandum thereof shall be indorsed by the Registrar upon the certificate of title of the parcel to which the notice pertains.

“(3) From and after indorsement on any certificate of title of a notice as aforesaid, the Registrar shall not register any instrument purporting to convey or claim any interest in the parcel to which the notice pertains unless and until such registration is consented to or the notice is withdrawn or cancelled by the local or rural authority.

“(4) Upon the registration of a plan of subdivision as required by the notice, the indorsement of the memorandum upon the owner’s certificate of title shall be of no further effect and the same shall forthwith be cancelled by the Registrar.

“(5) If upon the expiry of the period specified in the notice the registered owner of the parcel described therein has refused or neglected to register a plan of subdivision thereof, the local or rural authority may, on his behalf and with or without his consent, have any necessary survey of the parcel made and may register a plan of subdivision thereof.

“(6) The costs of making the survey and registering the plan of subdivision under the provisions of subsection (5) shall be a debt due by the registered owner of the parcel to the local or rural authority and shall be a charge upon the land included in the said parcel and shall be added to and become part of the taxes payable on the said parcel, and the local or rural authority may recover the same as part of the general municipal taxes.

“(7) Any subdivision of a parcel made under the provisions of this section need not be confined to those portions thereof which are occupied as separate premises at the time of the making of the survey but may, if the local or rural authority so requires and subject to the approval of the Board, include the whole parcel or such portion or portions thereof as may suitably be subdivided for future separate occupancy.”.

8. This Act shall come into force on the day upon which it is assented to.

FIFTH SESSION
TENTH LEGISLATURE
12 GEORGE VI
1948

BILL

An Act to amend The Town
Planning Act.

Received and read the

First time

Second time

Third time.....

HON. MR. FALLOW.

EDMONTON:
A. Shnitka, King's Printer
1948