

Bill No. 48 of 1955

A BILL TO AMEND THE TOWN AND RURAL
PLANNING ACT, 1953

NOTE

This Bill amends *The Town and Rural Planning Act, 1953*, being chapter 113 of the Statutes of Alberta, 1953.

Section 2, clauses (l) and (m) define a "non-conforming building" and the "non-conforming use" of land or a building, as a building constructed or under construction, and as the use being made of land or a building, at the date of the publication of a notice of a proposal to pass a zoning by-law. Such a building and such use are protected under the provisions of the Act, but the definitions are now being amended to make it clear that the protection does not extend to a building that has been built unlawfully or to the unlawful use of land or a building.

Section 91 is struck out and a new section 91 is substituted. This section contains provisions enabling a council to enforce a zoning by-law or development scheme by entering upon the property which does not conform thereto and doing whatever is required to be done. At present, section 91 does not give this power to a council when the non-conformity consists in a use as distinct from non-conforming construction or the failure to alter, repair, or demolish a building. Further, the section does not extend to the failure to comply with a building permit, nor to the failure to comply with a by-law or development scheme made before the Act came into force. The scope of the section is therefore being extended accordingly.

Section 92, which deals with civil proceedings for the enforcement of zoning by-laws and development schemes, is being amended to include by-laws and development schemes made before the Act came into force.

Section 93, which makes it an offence to contravene a by-law or development scheme, is being amended to make it an offence also to contravene the conditions of a building permit or to contravene a zoning by-law or development scheme made before the Act came into force.

This Bill comes into force upon assent.

J. W. RYAN,
Acting Legislative Counsel.

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

BILL

No. 48 of 1955

An Act to amend The Town and Rural Planning Act, 1953

(Assented to , 1955)

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

1. *The Town and Rural Planning Act, 1953*, being chapter 113 of the Statutes of Alberta, 1953, is hereby amended.

2. Section 2 is amended

Section 2
amended

- (a) as to clause (l) by adding immediately after the words "means a building" the word "lawfully",
- (b) as to clause (m) by striking out the words "that use", where they occur in subclauses (i) and (ii), and by substituting the words "the lawful use".

3. Section 91 is struck out and the following is substituted:

Section 91
amended

"91. (1) Where an excavation in connection with, or erection, construction, enlargement, alteration, repair, removal or demolition of a building is being carried out, or any land or building is being used, otherwise than in accordance with the provisions

Unauthor-
ized
construction

"(a) of this Part,

"(b) of any zoning by-law, interim development by-law or development scheme in effect pursuant to this Part or section 98, or

"(c) of any building permit issued in accordance with such a by-law or scheme as is referred to in clause (b),

the council, by written notice either served personally upon or sent by registered mail to the owner of the property involved, may require the removal, demolition, or alteration of the building, the filling in of the excavation, or the cessation of the use to which the land or building is being put, as the case may be.

"(2) The notice shall state

"(a) the grounds upon which the removal, demolition, alteration, filling in, or cessation of use is required, and

"(b) that the removal, demolition, or alteration of the building, the filling in of the excavation, or the cessation of the use of the land or building, as

the case may be, shall be carried out or effected within the period stated in the notice, which period shall be more than two months computed from the date of the notice.

"(3) If an owner of property to whom notice has been given pursuant to subsection (1) fails to comply with the requirements of the notice, the council, by its agents or servants, may enter upon the property and carry out or effect such removal, demolition, alteration, filling in, or cessation of use as the notice requires to be done or effected, and may recover the expense thereof from the owner by an action in any court of competent jurisdiction, and the expenses, until paid by the owner, shall be a charge and lien upon the property in respect of which the notice was given."

Section 92
amended

4. Section 92 is amended by adding immediately after the words "this Part" the words and figures "or section 98".

Section 93
amended

5. Section 93 is struck out and the following is substituted:

Penalties

"93. (1) A person who

"(a) contravenes

"(i) a provision of a by-law or development scheme in force pursuant to this Part or section 98, or

"(ii) a condition of a building permit granted pursuant to a by-law or development scheme in force pursuant to this Part or section 98,

or

"(b) suffers or permits an act or thing to be done in contravention

"(i) of a provision of a by-law or development scheme in force pursuant to this Part or section 98, or

"(ii) of a condition of a building permit granted pursuant to a by-law or development scheme in force pursuant to this Part or section 98,

or

"(c) neglects or fails

"(i) to do any act or thing required to be done by a by-law or development scheme in force pursuant to this Part or section 98, or

"(ii) to comply with a condition of a building permit granted pursuant to a by-law or development scheme in force pursuant to this Part or section 98,

is guilty of an offence and liable on summary conviction to a penalty not exceeding one hundred dollars and costs, and in addition thereto to a penalty not exceeding twenty dollars for every day the default continues and in default to imprisonment for a period not exceeding thirty days, unless the fine, penalty and costs are sooner paid.

“(2) The conviction of a person under the provisions of this section does not operate as a bar to further prosecution under this section for the continued neglect or failure on the part of a person to comply with the provisions of a by-law or development scheme in force pursuant to this Part or section 98, or with the conditions of a building permit issued in accordance with any such by-law or development scheme.”.

6. This Act comes into force on the day upon which it is assented to. Coming into force

No. 48

THIRD SESSION
TWELFTH LEGISLATURE
4 ELIZABETH II
1955

BILL

An Act to amend The Town and
Rural Planning Act, 1953

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HINMAN
