

No. 75

7 Elizabeth II, 1959
5th Session, 13th Legislature, Alberta

BILL 75

A Bill to amend The Town and Village Act

HON. MR. HOOKE

Explanatory Note

2. (a) The use of the term "felony" is being removed. See clause 3 *infra*. Clause (d) of section 2 reads:

"(d) "felony" means an indictable offence that under the Criminal Code is punishable with death or imprisonment for a period of five years or over;".

(b) Defines new term.

3. The expression "felony" is archaic in the context of Canadian criminal law and clause (a) is substituted. Section 63 (1) (a) presently reads:

"63. (1) If, after his election as a member of the council, a person

(a) is convicted of felony,
his seat in the council becomes vacant and the council shall forthwith declare it vacated."

4. This section refers to section 63 (1) (a) (see amending clause above) and in view of clause (g) of this section 108 is unnecessary now. Section 108, clauses (g) and (j) presently read, as relevant.

"108. The following are not eligible to be elected mayor or a member of the council, or entitled to sit or vote therein:

.....
(g) a person who has been convicted of a criminal offence punishable by imprisonment for more than two years or by death;
.....

(j) a person whose seat on the council has been declared vacant by reason of clause (a) or clause (f) of subsection (1) of section 63, until the expiration of three years from the date upon which his seat was so declared vacant."

5. Amended to remove doubt as to the qualification as voters of persons living on lands annexed within six months of an election. Section 110 (3) (c) presently reads:

"(3) The persons entitled to vote at an election held subsequent to the completion of the first voters' list of the village are those persons

.....
(c) who are Canadian citizens or British subjects and who have continuously resided in the village for a period of six months immediately preceding the first day of May, if such persons take the oath or affirmation set out in Form 3 in the Schedule, or".

BILL

No. 75 of 1959

An Act to amend The Town and Village Act

(Assented to _____, 1959)

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 Village Act*, being chapter 338 of the Revised Statutes, is hereby amended.

2. Section 2 is amended

- (a) by striking out clause (d),
- (b) by adding immediately after clause (n) the following new clause:
 - (n1) "mobile home" means any vacation trailer or house trailer that is
 - (i) designed for, or intended to be equipped with, wheels whether or not it is so equipped, and
 - (ii) constructed or manufactured to provide a domicile for one or more persons, but does not include a trailer otherwise designed;

3. Section 63, subsection (1) is amended by striking out clause (a) and by substituting the following:

- (a) has been convicted of a criminal offence punishable by imprisonment for more than two years or by death,

4. Section 108, clause (j) is amended by striking out the words and letter "clause (a) or".

5. Section 110, subsection (3), clause (c) is amended by adding after the word "village" the words "or on land annexed to the village".

6. Same amendment as in clause 5 above but in relation to towns. Section 111 (2) (c) presently reads:

"(2) The persons entitled to vote at an election held subsequent to the completion of the first voters' list of the town are those persons

.....
(c) who are Canadian citizens or British subjects and who have continuously resided in the town for a period of six months immediately preceding the first day of May, if such persons take the oath or affirmation set out in Form 3 in the Schedule, or".

7. This amendment is complementary to clauses 5 and 6 above. Section 112 (3) presently reads:

"(3) The enumerator, immediately upon his having taken the oath of office, shall complete a list in duplicate giving the names, addresses, and occupations of all persons whose names do not appear on the assessment roll of the town or village in respect of land or business, who are Canadian citizens or British subjects twenty-one years of age or over, and who have continuously resided in the town or village for a period of six months immediately preceding the first day of May in that year."

8. Complementary to clauses 5 to 7 above. Section 113 (4) (b) presently reads:

"(4) The secretary-treasurer shall also enter upon the voters' list, in a separate portion thereof, the names in alphabetical order, of all persons whose names do not already appear on the list and

.....
(b) who have continuously resided in the town or village for a period of six months immediately preceding the first day of May in that year, and".

9. The new clause (b) extends the present section 273 (3), which reads:

"(3) Subject to the approval of the Lieutenant Governor in Council, a council may, by by-law, authorize the purchase or other acquisition of land within or without the town or village for the purpose of subdivision for building sites."

10. Self-explanatory.

11. There is doubt as to the validity of this provision as infringing upon criminal law. Section 306 (d) presently reads:

"306. A council, by by-law, may provide

(d) for preventing loitering, disorderly or unseemly conduct, or the use of obscene or offensive language on any street, lane or other public place."

12. Section 327 presently reads:

"327. The fee payable in respect of a licence issued pursuant to a by-law shall be reasonable in amount, and the licence fee shall not be imposed for the purpose of exacting revenue."

6. Section 111, subsection (2), clause (c) is amended by adding immediately after the word "town" the words "or on land annexed to the town".

7. Section 112, subsection (3) is amended by inserting immediately before the words "for a period" the words ", or on land annexed to the town or village,".

8. Section 113, subsection (4), clause (b) is amended by adding immediately after the word "village" the words "or on land annexed to the town or village".

9. Section 273 is amended by striking out subsection (3) and by substituting the following:

(3) Subject to the approval of the Lieutenant Governor in Council, a council may, by by-law, authorize the purchase or other acquisition of

- (a) lands within or without the town or village, for the purpose of subdivision for building sites, and
- (b) subdivided lands within or without the town or village, for the purpose of using them as building sites, if the lands to be acquired are contained in a plan of subdivision and had been registered in accordance with *The Land Titles Act* at least ten years before the date of the first reading of the by-law.

10. The following section is added immediately after section 304:

304a. For the purpose of regulating and controlling animals within the town or village, the council of the town or village may pass by-laws prohibiting the keeping by any person of any species of wild or domestic animal or poultry in any specified part or parts of the town or village, where in the opinion of the council a nuisance is likely to be caused thereby.

11. Section 306 is amended by striking out clause (d).

12. Section 327 is struck out and the following is substituted:

327. (1) A licence fee may be in the nature of a tax for the privilege conferred by the licence or for the purpose

13. Authority to license mobile homes is here given to the towns and villages.

14. A reference to a repealed Act removed and provision rewritten. Section 334 (2) presently reads:

"(2) Nothing in this section deprives a town or village of the rights and privileges conferred by The Industries Assessment Act or any other Act or statute of the Province respecting the encouragement of industry."

15. Power of council to order closing of shops extended. Section 339 (3) presently reads:

"(3) The council by by-law may require that during the whole or a part of the year any class of shops are to be closed and remain closed on any one day of the week after the hour of twelve o'clock noon or such later hour as may be deemed advisable."

of raising revenue and may be computed in any manner adopted by the council by by-law.

(2) Notwithstanding subsection (1) the licence fee shall not exceed a maximum of one hundred dollars except where this Act specifically authorizes a licence fee in excess of one hundred dollars.

13. The following section is added immediately after section 329a:

329b. (1) A council may pass by-laws providing for the licensing of mobile homes situate in the town or village.

(2) The licence fee to be imposed in respect of a mobile home pursuant to a by-law under this section shall not exceed ninety dollars per year or seven dollars and fifty cents per month for each calendar month or part thereof during which the mobile home is within the boundaries of the town or village.

(3) Where a mobile home licence fee is imposed pursuant to a by-law under this section, the full amount of the annual licence fee is due and payable as soon as a mobile home is used as a residence in the town or village, but where an agreement has been entered into between the town or village and the owner of the mobile home the licence fee may be made payable on a monthly basis as agreed upon.

(4) Where the owner of a mobile home has paid the full annual licence fee imposed pursuant to this section and the mobile home is moved from the town or village or ceases to be occupied as a residence, the owner upon application therefor shall be refunded one-twelfth of the annual licence fee for each full calendar month or part thereof remaining in the year and during which the mobile home is not within the town or village or the mobile home is not occupied as a residence.

(5) A licence is not required in respect of a vacation trailer occupied by a *bona fide* tourist.

(6) A mobile home licensed under this section is not liable to assessment pursuant to the provisions of *The Assessment Act*.

14. Section 334 is amended by striking out subsection (2) and by substituting the following:

(2) Nothing in this section deprives a town or village of the rights and privileges conferred thereon by any Act of the Legislature respecting the encouragement of industry.

15. Section 339, subsection (3) is amended by striking out the words "twelve o'clock noon" and by substituting the words "six o'clock in the forenoon".

16. Wider powers in respect of recreational programs are here given towns and villages. Sections 340 and 341 presently read:

- "340.** (1) A council, by by-law, may appoint a recreation board
- (a) to exercise such powers in the control, supervision and management of any playground as the council may determine, and
 - (b) either alone or in co-operation with other bodies, to take such measures as may be deemed advisable for the encouragement and development of amateur athletic and aquatic sports.
- (2) The members of a recreation board may hold office during the pleasure of the council.
- 341.** (1) A council, by by-law, may appoint a recreation supervisor and such other employees as may be deemed necessary.
- (2) The recreation supervisor and employees may be paid such remuneration, if any, as the council may determine."

17. Cf. section 331 (3) of this Act. Section 366 presently reads:

- "366.** (1) The council, by by-law, may provide for the imposition of taxes upon transient traders.
- (2) The by-law may
- (a) group transient traders into classes and may fix the tax payable by all transient traders, or a class or classes of transient traders, at such amount, either by the day or the week, as may be prescribed in the by-law but not exceeding ten dollars for a tax by the day and twenty-five dollars for a tax by the week,
 - (b) prohibit a transient trader from commencing to carry on business in the town or the village unless he has previously deposited with the secretary-treasurer a sum equal to that which would be payable if he had then carried on business for one week, or from continuing to carry on business at any time at which the tax by the day or week, as the case may be, payable in respect of his business, has not been paid in advance, and
 - (c) provide that a transient trader who at any time carries on business without having paid the tax payable for so doing is to be guilty of an offence in respect of every day during which he carries on business without paying the tax and to be liable on summary conviction to a penalty of not more than fifty dollars and costs, and in default of payment to imprisonment for a term of not more than thirty days for each day in respect of which an offence has been committed."

18. Authorizes towns and villages to tax oil well drilling equipment.

16. Sections 340 and 341 are struck out and the following substituted:

340. A council by by-law may

- (a) provide a recreation program in such manner and on such conditions as may be deemed advisable,
- (b) expend such sums as may be required to provide for the recreation program,
- (c) appoint a recreation board to administer the program, and
- (d) authorize agreements with other municipalities to provide for the joint operational cost, control and management of a recreational program.

17. Section 366 is amended by adding immediately after subsection (2) the following:

(3) In any prosecution of a person as a transient trader who is in contravention of a by-law passed pursuant to this section, the onus of proof that the defendant is not a transient trader within the meaning of this Act is upon the defendant.

18. The following section is added immediately after section 366:

366a. (1) The council by by-law may provide for the imposition of a tax on persons who are in legal possession of equipment when the equipment is engaged in the drilling of any well for which a licence is required under *The Oil and Gas Conservation Act*.

(2) The tax shall be computed in accordance with a schedule which may be established by the Lieutenant Governor in Council.

(3) The secretary-treasurer in writing may require any owner, conditional owner or lessee of drilling equipment to supply such information as may be necessary to compute the tax.

(4) The tax may be imposed at any time during a calendar year and becomes due and payable upon cessation of the drilling operation and may be recovered with costs and with interest as a debt due to the town or village from the owners, conditional owners or lessees of the equipment.

(5) When a tax imposed by a by-law passed pursuant to this section remains unpaid for a period of thirty days after the cessation of the drilling operation, the secretary-

19. This clause would authorize councils to remit taxes on improvements destroyed in any year for which they have already been assessed. Cf. section 545 of The City Act.

20. Section 396, clauses (d) and (e) presently read:

'396. The council of a town or a village may authorize a work of the following types to be undertaken as a local improvement:

- (d) the making, deepening, enlarging or extending of a common sewer;
- (e) the construction and installation of water mains;"

21. This amendment is to clarify the intent of the section in respect of appeals. Section 409 presently reads:

"409. An appeal may be made against an assessment made under the authority of a by-law respecting local improvements, in the same manner and by the same procedure, as nearly as possible, as in the case of an appeal from an ordinary assessment."

22. This amendment conforms to an amendment being proposed to The City Act. Section 411 read:

"411. Subject to an appeal to the Alberta Assessment Commission by the like procedure and as in like cases under the provisions of this Act, the decision of the council is final and conclusive upon all matters respecting the assessment and special rate, and the council and Commission respectively have power, in the event of the assessment of a party being decreased or increased on appeal, to raise or lower proportionately the assessment of the other parties assessed, without any further notice."

23. (a) See notes to clauses 5 to 7 of this Bill. The relevant paragraph of Form 3 reads:

"or

You do swear (or solemnly affirm) that you are of the full age of twenty-one years, and that on the fifteenth day of August last you were entitled to be placed upon the voters' list of the town (or village) of....., that you are a Canadian citizen or a British subject and have continuously resided in the town (or village) of.....for a period of six months immediately preceding the first day of May last and still continue to reside therein."

treasurer or any person appointed by him in writing may levy the same with costs by distress under section 381.

(6) This section does not apply in respect of any equipment licensed under *The Mobile Construction Equipment Licensing Act, 1957* or *The Seismographic Recording and Drilling Equipment Licensing Act, 1957*.

19. The following section is added immediately after section 395:

395a. (1) A person is not entitled to any abatement of the taxes imposed on improvements to land that subsequent to the assessment thereof have been damaged or destroyed by fire or otherwise.

(2) Where improvements are damaged or destroyed in any year so as to render them unfit for further use or occupation in that year, the council may, subject to the approval of the Minister, pass a by-law for the purpose of remitting such proportion of the taxes as the council deems proper.

20. Section 396 is amended

- (a) by adding at the end of clause (d) the words "and the making of service connections thereto",
- (b) by adding at the end of clause (e) the words "and service connections thereto".

21. Section 409 is amended

- (a) by renumbering the section as subsection (1),
- (b) by adding immediately after the renumbered subsection (1) the following:
 - (2) An appeal shall not be made under this section except upon the first imposition of the special assessment.

22. Section 411 is struck out and the following is substituted:

411. Subject to an appeal to the Alberta Assessment Appeal Board by the like procedure and as in like cases under this Act, the decision of the council is final and conclusive upon all matters respecting the assessment and the council may, in the event of the assessment of a party being decreased or increased on appeal, raise or lower proportionately, as the case may be, the assessment of the other parties assessed, without any further notice.

23. Schedule A is amended

- (a) as to Form 3 by inserting immediately before the words "for a period " the words "or on land annexed to the town (or village), (as the case may be)",

(b) See notes to clauses 5 to 7 of this Bill. The relevant paragraph of Form 8 reads:

“or

That I am a Canadian citizen or a British subject and I have resided within the town (or village) of.....continuously for a period of six months immediately preceding the first day of May in the present year.”.

(c) This paragraph reads:

“2. That I reside in the town (or village) of.....;”.

(d) Form 20 contains an error in placement of presiding Officer's witnessing signature to deponent's oath.

(e) Correcting errors in placement of witness's signature as in clause 23 (d) above.

24. Commencement. Clauses 18 and 19 to be given retroactive effect; clause 13 to be applicable on and after 1st April, 1959.

- (b) as to Form 8 by inserting immediately before the word "continuously" the words "or on land annexed to the town (or village) (as the case may be)",
- (c) as the Form 11 by adding immediately at the end of paragraph 2 of the Candidate's Acceptance (First Election) Form the words "or on lands annexed to the town (or village) (as the case may be)",
- (d) as to Form 20 by striking out the words "Officer presiding at the poll" and by adding immediately under the letters and figure "A.D. 19....." the following:
 "

 (Officer Presiding at Poll)",
- (e) as to Forms 30 and 31 by striking out the words "*Officer presiding at the poll*" and by adding immediately under the words and figure "day of 19....." the following:
 "

 (*Officer Presiding at Poll*)",

24. (1) This Act comes into force on the day upon which it is assented to and upon so coming into force sections 18 and 19 shall be deemed to have been in force at all times on and after the first day of January, 1959.

(2) Section 13 is applicable on and after the first day of April, 1959.

No. 75

FIFTH SESSION

THIRTEENTH LEGISLATURE

7 ELIZABETH II

1959

BILL

An Act to amend The Town and
Village Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE