

No. 105

1st Session, 14th Legislature, Alberta
8 Elizabeth II

BILL 105

A Bill to amend The Town and Rural Planning Act

HON. MR. HOOKE

Explanatory Note

2. (a) Definition of "council" amended to make express reference to the governing body of a new town.

(b) The term "development" is used throughout this Act but is nowhere defined as to its exact meaning. "Development scheme" is redefined to express the meaning without reference to a section—this is for clarification. Clause (d) reads:

"(d) 'development scheme' means a scheme made by a council under section 73;".

(c) "General plan" redefined to avoid cross reference to a section. Clause (f) presently reads:

"(f) "general plan" means the statement the preparation of which is authorized by a council under section 63;".

(d) Clause (k) reads:

"(k) "municipality" means a city, town, village, municipal district, county, special area or improvement district;".

(e) The definition of "new parcel" is removed. This definition was used only in section 25 which was repealed in 1958.

BILL

No. 105 of 1960

An Act to amend The Town and Rural Planning Act

(Assented to _____, 1960)

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*, being chapter 337 of the Revised Statutes, is hereby amended.

2. Section 2 is amended

(a) as to clause (c)

(i) by striking out the word "and" at the end of subclause (i),

(ii) by adding immediately after subclause (ii) the following:

(iii) the board of administrators of a new town;

(b) by striking out clause (d) and by substituting the following:

(d) "development" means

(i) the carrying out of any construction or excavation or other operations in, on, over or under land, or

(ii) the making of any change in the use of any land, buildings or premises;

(d1) "development scheme" means a program for the carrying out of any specific development or project proposed under a general plan that has been adopted or is in course of preparation;

(c) by striking out clause (f) and by substituting the following:

(f) "general plan" means a set of proposals, prepared and adopted in the manner prescribed by this Act, for the orderly, economic and convenient development and use of land within a municipality;

(d) as to clause (k) by adding immediately after the word "village," the words "new town,"

(e) by striking out clause (l),

(f) The purpose of this amendment is to make it clear that non-conforming use has reference to a specific use being made of land at a particular time, and not a class of use. Clause (n) presently reads:

"(n) "non-conforming use" means
(i) the lawful use being made of land or a building, or
(ii) the lawful use intended to be made of a building lawfully under construction,
at the date of the first publication of the official notice of a proposal to pass a zoning by-law in the municipality within which the land or building is situated and which use does not or will not conform to the requirements of the zoning by-law when passed;"

(g) Subclause (ii) is new and is related to the subdivision regulations. Clause (o) presently reads:

"(o) "parcel" means a parcel of land that is registered in a land titles office and the subject of a separate certificate of title;"

(h) The definition of "small parcel" is removed. This definition was used only in section 25 which was repealed in 1958.

(i) The term "subdivision" is redefined for the purpose of relating subdivision more closely with the regulations respecting subdividing of land. Clause (s) reads:

"(s) "subdivision" means an area of land that has been divided into two or more parcels whether by plan or by description or otherwise, and "subdivide" has a corresponding meaning;"

3. This section sets out the divisions of the Act "for convenience of reference only". In the course of years the divisions have been altered on numerous occasions. The section is therefore removed.

4. This Part is more accurately described by the proposed heading.

5. Section 6 reads:

"6. Subject to the provisions of The Public Service Act, the Lieutenant Governor in Council may appoint such other officers, clerks, and employees as may be necessary to assist the Director."

6. (a) Clause (a) is amended to refer to the regulation making authority. Clause (b) is expanded to relate to all types of appeals coming to the Provincial Planning Advisory Board. Clauses (a) and (b) of section 7 read:

"7. The Board shall

(a) confer with and advise the Director of Surveys as to any regulations made or to be made respecting plans of subdivision pursuant to The Surveys and Expropriation Act, and administer such regulations subject to any provisions contained therein to the contrary,

(b) hear and decide appeals in all cases where by virtue of any by-law passed by any council under the provisions of this Act the Board is assigned such duties,

....."

- (f) as to clause (n), subclauses (i) and (ii) by adding immediately after the word "lawful" the word "specific",
- (g) by striking out clause (o) and by substituting the following:
 - (o) "parcel" means an area of land registered in the land titles office and
 - (i) that is the subject of a separate certificate of title, or
 - (ii) that is capable of being made the subject of a separate certificate of title without contravention of any regulation made under *The Surveys and Expropriation Act* and relating to minimum size for the use proposed for the area of land;
- (h) by striking out clause (r),
- (i) by striking out clause (s) and by substituting the following:
 - (s) "subdivision" means a division of land by an agreement, plan of survey or by any document that is capable of being registered or entered under *The Land Titles Act* against the land where the same can or may result in the creation of a different parcel or parcels in respect of the land or will create an estate or interest in part of the land greater than a leasehold interest for a term of three years, other than a bare life estate;

3. The heading "Division of Act" and all of section 3 are repealed

4. The headings "PART I" and "PROVINCIAL PLANNING" are struck out and the following headings substituted:

PART I

AUTHORITIES AND AGENCIES

5. Section 6 is amended by adding after the word "appoint" the words "a secretary to the Board and".

6. Section 7 is amended

- (a) by striking out clauses (a) and (b) and by substituting the following:
 - (a) advise the Lieutenant Governor in Council with respect to regulations to be made to control and regulate the subdividing of land under *The Surveys and Expropriation Act*, and to administer such of the regulations thereunder as may be assigned to it,

(b) Appeals on questions of jurisdiction and law provided for.

7. (10, 10a to 10c) The powers of the Board with respect to inquiries, etc., are more fully set out, as is the case with certain matters of procedure, evidence, etc. See also note to the new section 12 following.

- (b) hear and decide appeals in all cases where, under this Act or any other Act of the Legislature or any regulations thereunder or under a by-law made by a council pursuant to this Act, the Board is required to do so,
- (b) by renumbering the section as subsection (1) and by adding the following subsections immediately after the renumbered subsection (1):
- (2) Upon a question of jurisdiction or upon a question of law, an appeal lies from the Board to a judge of the Supreme Court of Alberta.
- (3) On the hearing of the appeal, no evidence, other than the evidence that was submitted to the Board upon the making of the order appealed from, shall be admitted and the judge hearing the appeal shall proceed either to confirm, vary or vacate the order appealed from and in the latter event shall refer the matter back to the Board.
- (4) On the hearing of the appeal the judge may draw all such inferences as are not inconsistent with the facts expressly found by the Board and as are necessary for determining the question of jurisdiction or of law, as the case may be, and shall certify his opinion to the Board and the Board shall make an order in accordance with that opinion.
- (5) Except as otherwise provided in this Act, every decision or order of the Board is final and no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court.

7. The headings "District Planning Commissions" and "Zoning Caveats" and sections 10 to 17 are struck out and the following substituted:

10. (1) For the purpose of holding any inquiry or hearing under this Act or any other Act or regulation or under a municipal by-law, the Board or any person appointed by it to make an inquiry has all the powers of a commission under *The Public Inquiries Act*.

(2) The Board may make rules of practice, not inconsistent with this Act, regulating its procedure and the times of its sittings.

(3) All inquiries and hearings before the Board shall be governed by rules, which may be adopted by the Board, and in the conduct of inquiries and hearings before it the Board is not bound by the technical rules of legal evidence.

10a. (1) The Board may appoint or direct any person to make an inquiry into and report upon any matter before the Board, or upon any matter or thing over which the Board has jurisdiction.

(11) Present section 11 revised. That section reads:

"11. Upon the recommendation of the Board the Lieutenant Governor in Council may by order

- (a) establish a district planning commission,
- (b) establish regulations governing a commission,
- (c) provide for the representation of a municipality on a commission,
- (d) establish or alter a district planning area,
- (e) withdraw a municipality from a commission, and
- (f) amend an order establishing a commission and the regulations governing a commission."

(12) Present section 10 revised. That section reads:

"10. The Board, on its own motion, or upon receiving an application of a district planning commission or of a council made pursuant to section 86 and after making such inquiries and holding such hearings as it deems sufficient may recommend to the Lieutenant Governor in Council

- (a) the establishment of a district planning commission,
- (b) the representation of a municipality on a commission,
- (c) the withdrawal of a municipality from a commission,
- (d) the establishment or alteration of a district planning area,
- (e) the amendment of an order establishing a commission and of the regulations governing a commission, and
- (f) the establishment of regulations governing a commission."

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making the inquiry and report shall be paid, and may fix the amount of the costs and expenses.

10b. Where necessary in any inquiry or matter before the Board, the Board or any person appointed by it to make an inquiry may enter upon and inspect any land or other property.

10c. (1) Copies of official documents and orders filed in the office of the Board and certified by the chairman or secretary of the Board under the seal of the Board to be true copies of the originals are admissible in evidence in all courts in like manner as the originals.

(2) A document purporting to be signed and sealed as required by subsection (1) is admissible in evidence, without proof of the signature or official character, as *prima facie* proof that the document was so signed and issued by the Board and is sufficient notice to all parties interested, if duly served therewith.

(3) When the document purports to be a copy of any order, direction, decision, report or recommendation made or given by the Board, it is admissible in evidence as *prima facie* proof of the order, direction, decision, report or recommendation, and when duly served is from the time of service sufficient notice for all purposes of the order, direction, decision, report or recommendation.

District Planning Commissions

11. The Lieutenant Governor in Council may by order

- (a) establish a district planning commission,
- (b) make regulations governing a commission,
- (c) establish a district planning area,
- (d) provide for the representation of a municipality on a commission,
- (e) authorize the withdrawal of a municipality from a commission,
- (f) amend the order governing a commission, and
- (g) alter a district planning area.

12. The Board, after making such inquiries and holding such hearings as it deems necessary, may make a recommendation to the Lieutenant Governor in Council with respect to any of the matters upon which an order may be made under section 11,

- (a) upon its own motion, or
- (b) upon submission to the Board of a resolution by a council or a commission requesting that a recommendation be so made.

(13) Present section 12(1) and (2). Subsections (1) and (2) of section 12 read:

- "12. (1) The order establishing a commission shall specify
- (a) the municipalities that are to be represented on the commission and the name of the commission,
 - (b) the area, to be known as the district planning area, with respect to which the commission shall exercise its powers,
 - (c) the number of members to be appointed to the commission by each represented municipality, and
 - (d) the number of members to be appointed to the commission by the Board to represent the Province.

(2) The order may provide that two or more municipalities shall be represented on the commission by the same member who shall be appointed by the councils of those municipalities, jointly or in rotation as the order may prescribe."

(14) Present section 12, subsection (3), which reads:

- "(3) The order establishing a commission shall include regulations
- (a) governing the organization of the commission, the holding of its meetings and the transaction of its business in general, and
 - (b) prescribing the proportion in which the funds required to meet the expenses of the commission shall be contributed by the Province and by the represented municipalities, and
 - (c) requiring the commission to submit annually to its members and to the Board a report on its operations during the preceding year concerning district planning, municipal planning, subdivision approvals, income and expenditure, and any other matters of major importance."

(15) Present section 86(2) to (4). These subsections read:

"(2) The council of a municipality represented on a district planning commission shall pay to the commission the funds required of it to meet the expenses of the commission, as determined by the regulations governing the commission and by the procedures provided in or pursuant to this Act.

(3) The council of a municipality represented on a district planning commission shall appoint annually by resolution the members required by the regulations governing the commission to be appointed by it to represent the municipality on the commission, provided that one member shall always be a member of the council.

(4) Any other member appointed need not be a member of the council but may be

- (a) a resident of the municipality who is not a municipal official, or
- (b) in the case of a municipality other than a city or town, the secretary-treasurer of the municipality."

13. (1) The order establishing a commission shall specify

- (a) the municipalities that are to be represented on the commission and the name of the commission,
- (b) the area, to be known as the district planning area, with respect to which the commission is to exercise its powers,
- (c) the number of members to be appointed to the commission by each represented municipality, and
- (d) the number of members to be appointed to the commission by the Board to represent the Province.

(2) The order may provide that two or more municipalities are to be represented on the commission by one member who will be appointed by the councils of those municipalities, jointly or in rotation as the order may prescribe.

14. The order establishing the commission shall include regulations

- (a) governing the organization of the commission, the holding of its meetings and the transaction of its business in general,
- (b) prescribing the proportion in which the funds required to meet the expenses of the commission are to be contributed by the Province and by the represented municipalities, and
- (c) requiring the commission to submit annually to its members and to the Board a report on its operations during the preceding year concerning district planning, municipal planning, subdivision approvals, income and expenditure, and any other matters of major importance.

15. (1) The council of a municipality represented on a district planning commission shall pay to the commission the funds required of it to meet the expenses of the commission, as determined by the regulations governing the commission and by the procedures provided in or pursuant to this Act.

(2) The council of a municipality represented on a district planning commission shall appoint annually by resolution the members required by the regulations governing the commission to be appointed by it to represent the municipality on the commission, but one member shall be a member of the council and any other member appointed may be

- (a) a resident of the municipality who is not a municipal official, or
- (b) in the case of a municipality other than a city or town, the secretary-treasurer of the municipality.

(16) Present section 13. It reads as follows:

"13. (1) The council of a municipality represented on a commission may petition the Board concerning

- (a) the financing of the commission,
- (b) the allocation of services by the commission to that municipality, and
- (c) the funds required to be paid by that municipality to the commission.

(2) The Board, upon hearing the petition may make such order or recommendation, including the adjustment of the funds to be paid to a commission by any municipalities, as it deems desirable, and the decision of the Board shall be final and binding upon the commission and any municipality concerned."

(17) Present section 86a. It reads:

"86a. Notwithstanding any other provision of this Part, the council of a municipality represented on a district planning commission may delegate to the commission the function of administering the provisions or part of the provisions of

- (a) any by-law passed by the council in accordance with the provisions of section 83, or
- (b) a general plan or development scheme adopted by such by-law, when those provisions are determined by the commission to be of common concern to two or more municipalities represented on the commission."

(17a) Present section 14, which reads:

"14. A commission may

- (a) study the resources and development of the district planning area with a view to preparing a general plan for the area,
- (b) advise and assist the council of any municipality represented on the commission
 - (i) in the planning and orderly development of the municipality, and
 - (ii) on matters affecting planning and orderly development that are of common concern to the municipality and any other municipality or the Province,
- (c) prepare and recommend to the council of any municipality represented on the commission a general plan, development scheme and zoning by-law, or any of them,
- (d) promote public interest in the planning and orderly development of the district planning area,
- (e) appoint such planning engineers, consultants and other officers as are necessary for any of the purposes of the commission,
- (f) expend such funds as are furnished by the municipalities represented on the commission and the Province for any of the purposes of the commission, and
- (g) exercise such rights and powers and perform such duties as may be
 - (i) vested in it by the Lieutenant Governor in Council, or
 - (ii) delegated to it by a council of a municipality represented on the commission."

16. (1) The council of a municipality represented on a commission may petition the Board concerning

- (a) the financing of the commission,
- (b) the allocation of services by the commission to that municipality, and
- (c) the funds required to be paid by that municipality to the commission.

(2) The Board, upon hearing the petition may make such order or recommendation, including the adjustment of the funds to be paid to the commission by any municipalities, as it deems desirable, and the decision of the Board is final and binding on the commission and any municipality concerned.

17. Notwithstanding any other provisions of this Act, the council of a municipality represented on a district planning commission may delegate to the commission the function of administering the provisions or part of the provisions of

- (a) any by-law passed by the council in accordance with the provisions of section 83, or
- (b) a general plan or development scheme adopted by such by-law,

when those provisions are determined by the commission to be of common concern to two or more municipalities represented on the commission.

17a. A district planning commission may

- (a) study the resources and development of the district planning area with the view to preparing a general plan for the area,
- (b) advise and assist the council of any municipality represented on the commission
 - (i) in the planning and orderly development of the municipality, and
 - (ii) on matters affecting planning and orderly development that are of common concern to the municipality and any other municipality or the Province,
- (c) prepare and recommend to the council of any municipality represented on the commission,
 - (i) a general plan,
 - (ii) an interim development by-law,
 - (iii) a zoning by-law,
 - (iv) a development scheme,
 or any of them,
- (d) promote public interest in the planning and orderly development of the district planning area,
- (e) appoint such planning and other staff and such consultants as are necessary for the purposes of the commission,

(17b) Subsections (1) to (5) are essentially the present provisions of section 87 expanded to include cities and towns of 15,000 or more.

Subsection (6) is new. Section 87 reads:

"87. (1) The council of a city may by by-law establish a board to be known as a technical planning board for the purposes

(a) of advising and assisting the council, and

(b) of co-ordinating the activities of the various departments and agencies of the city,

with regard to the planning and orderly development of the city.

(2) The technical planning board shall consist of officials of the city appointed by the council in the manner set out in the by-law.

(3) The council may delegate to the technical planning board such powers as it deems necessary for the purposes for which it is established, other than the power of raising money or expropriating land.

(4) The by-law may authorize the technical planning board, for any of its purposes, to engage the services of planning technicians, consultants or other officers and to expend such funds as may be furnished by the council.

(5) The by-law shall provide for the holding of meetings, the keeping of minutes and any other matters pertaining to the organization of the technical planning board and the transaction of its business."

(17c) Present section 88(1) to (5); but subsection (4) has been amended to remove reference to staff of the advisory commission, and subsection (6) is new.

- (f) expend such funds as are furnished by the municipalities represented on the commission and the Province for any of the purposes of the commission, and
- (g) exercise such rights and powers and perform such duties as may be
 - (i) vested in it by the Lieutenant Governor in Council, or
 - (ii) delegated to it by resolution of a council of a municipality represented on the commission.

17b. (1) The council of a city or town having a population of more than fifteen thousand may by by-law establish a board to be known as a technical planning board for the purposes of

- (a) advising and assisting the council, and
- (b) co-ordinating the activities of the various departments and agencies of the city,

with regard to the planning and orderly development of the city or town.

(2) The technical planning board shall consist of officials of the city or town appointed by the council in the manner set out in the by-law.

(3) The council may delegate to the technical planning board such powers as it deems necessary for the purposes for which it is established, other than the power of raising money or expropriating land.

(4) The by-law may authorize the technical planning board to retain the services of such special consultants as are necessary for any of its purposes.

(5) The by-law shall provide for the holding of meetings, the keeping of minutes and any other matters pertaining to the organization of the technical planning board and the transaction of its business.

(6) A certified copy of the by-law and any amendments thereof shall forthwith be deposited with the Director.

Planning Advisory Commissions

17c. (1) The council of any municipality may by by-law establish a commission to be known as a planning advisory commission for the purpose of advising and assisting the council with regard to the planning and orderly development of the municipality.

(2) The planning advisory commission shall consist of members appointed by the council in the manner set out in the by-law, who shall represent the council, the citizens at large, and any organization concerned with planning and orderly development in and about the municipality, or any of them.

(17d) This amendment provides a simpler method of filing zoning caveats. Sections 15 to 17 presently read:

- "15. The provisions of sections 16 to 24 apply to land that is
 - (a) not located within the boundaries of any city or town, and
 - (b) not subject to the provisions of any zoning by-law.
- 16. The Board may make regulations
 - (a) setting out a list of districts into any or all of which any proposed subdivision may be classified or divided by the Director, and
 - (b) prescribing, prohibiting and regulating, as to each district, such things as a council, under the provisions of section 80, may do by zoning by-law.
- 17. (1) The Director, in his discretion
 - (a) may divide or classify any proposed subdivision into any or all of the districts set out in the regulations, and
 - (b) may prepare and sign a caveat to be known as a zoning caveat.(2) The zoning caveat shall
 - (a) specify and describe the districts into which the Director has divided or classified the subdivision,
 - (b) set out the regulations applicable to each such district,
 - (c) be signed by the Director, and
 - (d) be filed in the proper land titles office at the time the plan of the subdivision is submitted for registration.(3) The owner of the subdivision may sign the zoning caveat, but if he does so the zoning caveat shall be witnessed and sworn pursuant to section 158 of The Land Titles Act.
- (4) If the owner of the subdivision does not sign the zoning caveat, the Director may file the zoning caveat notwithstanding that the signature of the owner of the subdivision is not affixed thereto."

8. Section 24 reads:

- "24. Upon the coming into effect of a zoning by-law affecting a subdivision in respect of which a zoning caveat has been registered,
 - (a) the zoning caveat ceases to have any effect, and
 - (b) the Director shall forthwith register in the proper land titles office a discharge of the caveat, and thereupon the Registrar shall cancel from each certificate of title the notification of the zoning caveat endorsed thereon."

(3) The council may delegate to the planning advisory commission such powers as it deems necessary for the purpose for which it is established, other than the power of raising money or expropriating land.

(4) The by-law may authorize the planning advisory commission to expend such funds as may be furnished by the council for the purposes of the planning advisory commission.

(5) The by-law shall provide for the terms of office of the members thereof, the filling of vacancies caused by the retirement or resignation of members, the holding of meetings, the keeping of minutes and any other matters relating to the organization of the planning advisory commission and the transaction of its business.

(6) A certified copy of the by-law and any amendments thereto shall forthwith be deposited with the Director

Zoning Caveats

17d. (1) When the subdivision of any land that is not subject to the provisions of a zoning or interim development by-law is approved pursuant to the regulations respecting the subdivision of land under *The Surveys and Expropriation Act*, the Board, upon recommendation of the Director or a district planning commission, may, by means of a zoning caveat, regulate the uses to be made of the lots and parcels within the subdivision.

(2) A zoning caveat shall

- (a) set out a list of districts into which the land comprising the subdivision is divided,
- (b) prescribe, prohibit and regulate uses of land and buildings within each district in the same manner as may be done by means of a zoning by-law under the provisions of section 80,
- (c) be signed by the chairman of the Board, and
- (d) be filed by the Director in the proper land titles office when the plan of subdivision or the transfer or other instrument effecting the subdivision is submitted for registration.

(3) The owner of the land to be subdivided may sign the zoning caveat, but if he does so the zoning caveat shall be witnessed and sworn pursuant to section 158 of *The Land Titles Act*.

(4) If the owner of the land to be subdivided does not sign the zoning caveat, the Director may nevertheless file the zoning caveat

8. Section 24 is amended by striking out the words "zoning by-law" and by substituting the words "zoning or interim development by-law".

9. The new heading is a more accurate description of following section 24a.

10. (a) Section 36(1) presently reads:

"36. (1) When a replotting scheme has been prepared, the council, by resolution passed by vote of not less than two-thirds of all its members, may approve the replotting scheme."

(b) This provision is to make it clear that subdivisions made under replotting schemes are to be approved in the same manner as other subdivisions.

11. Section 42 (1) presently reads:

"42. (1) The council, not later than six months after the filing of the resolution approving a replotting scheme, shall either

- (a) discontinue the scheme and file in the proper land titles office a certified copy of the resolution of discontinuance, or
- (b) adopt the scheme and file in the proper land titles office
 - (i) a certified copy of the adopting resolution,
 - (ii) a certified copy of the replotting scheme, and
 - (iii) a plan of subdivision made in accordance with the scheme and sealed with the seal of the municipality."

12. This amendment is made for the same purpose as the amendment in clause 10. Section 44 reads:

"44. Upon the filing of the certified copy of the resolution adopting a replotting scheme, together with the documents required to be filed therewith, the Registrar shall

- (a) register the plan of subdivision,
- (b) make such registrations, cancellations and issue such certificates of title and do such other things as are proper and necessary to carry out the replotting scheme, and
- (c) register persons named in the certified copy of the replotting scheme as the owners of the parcels allotted to them under the replotting scheme as owners in fee simple in possession, subject only to such encumbrances as appeared on the certificate of title to the former parcel instead of which the new allotment is made."

13. Greater latitude is here given to the Board of Public Utility Commissioners. The period of notice in clause (b) is altered. Section 51, subsection (1) reads:

"51. (1) The Board of Public Utility Commissioners, within thirty days after the council has made the deposit referred to in section 49,

- (a) shall fix a time and place for the hearing of applications for compensation by all persons entitled to make such application, and
- (b) shall send a notice in writing to all such persons not later than ten days before the day fixed for the hearing."

14. The compensation basis is being widened. Section 52 reads:

"52. The Board of Public Utility Commissioners may allow compensation for and on account of

- (a) the loss of value of the former parcel in so far as adequate compensation is not afforded by the new parcel allotted,
- (b) the loss or damage to or the cost of moving buildings or improvements upon the former parcel, and
- (c) the loss of income from the use of buildings or the special condition or use of the former parcel caused by the carrying out of the replotting scheme."

9. The heading "Division of Parcels" immediately before section 24a is struck out and the following heading is substituted:

Subdivision of Land

10. Section 36 is amended

- (a) as to subsection (1) by adding immediately after the words "passed by" the words "the affirmative",
- (b) by adding immediately after subsection (2) the following:

(3) A subdivision to be made under a replotting scheme is subject to the regulations made under *The Surveys and Expropriation Act* with respect to subdivisions, and shall be submitted for approval under those regulations before approval is given by a council under subsection (1).

11. Section 42 is amended by striking out subsection (1) and by substituting the following:

42. (1) Not later than six months after the filing of a resolution approving a replotting scheme, either

- (a) the scheme shall be discontinued by the council, in which case a certified copy of the resolution of discontinuance shall be filed in the proper land titles office, or
- (b) the scheme shall be adopted by the council, in which case
 - (i) a certified copy of the resolution of adoption,
 - (ii) a certified copy of the replotting scheme, and
 - (iii) a plan of subdivision made in accordance with the scheme and sealed with the seal of the municipality,

shall be filed in the proper land titles office.

12. Section 44 is amended by adding immediately after the word "therewith," the words "and upon any subdivision under the scheme being approved as required by the regulations under *The Surveys and Expropriation Act* respecting subdivisions,".

13. Section 51, subsection (1) is amended

- (a) by striking out the words "within thirty days",
- (b) by striking out clause (b) and by substituting the following:
 - (b) shall cause a notice in writing to be sent to all such persons not later than twenty days before the date fixed for the hearing.

14. Section 52 is amended

- (a) by striking out the word "and" at the end of clause (b),

15. The restrictions on compensation are being removed and replaced by clause (d) of section 52. See clause 14 hereof. Sections 53 and 54 read:

"53. No compensation shall be allowed by the Board of Public Utility Commissioners in respect of

- (a) any costs, expenses, loss, damage or inconvenience
 - (i) incurred or sustained in investigating any replotting scheme or in presenting any claim, or
 - (ii) arising out of or caused by the promotion of any replotting scheme or any delay in proceeding to adopt or discontinue it,
- (b) any actual or anticipated loss or any inconvenience of access to any new parcels or to the use of any municipal or public utility or service, due to the fact that any new highway is not open to traffic,
- (c) any actual or anticipated loss, damage or inconvenience suffered in common by all or the greater part of the owners of the replotted lands,
- (d) any building or structure constructed, erected or placed upon land after the date of the endorsement of the replotting notice, or any alterations made to any existing buildings or any improvements to land subsequent to the date of endorsement of the replotting notice, or any actual or anticipated loss, damage or expense incidental thereto or incidental to the removal of any such building or structure, or
- (e) any reduction in or loss of value on account of reduction of area within the limits of a right to take land for highway purposes contained in the Crown grant of the land or a statute applying to the land.

54. In determining the amount of compensation payable the Board of Public Utility Commissioners

- (a) shall ascertain the actual value of the former parcel as at the date of the acceptance for filing by the Registrar of the certified copy of the resolution and the documents required to be filed therewith, but shall not deduct from such value any increase in value caused by or attributed to the existence of the replotting scheme, and
- (b) shall ascertain the actual value of the new parcels as at the date of filing of the certified copy of the resolution and the documents required to be filed therewith."

16. This revision of sections 63 to 67 is to specify more particularly the purposes for which a general plan may be prepared. It will also commit school boards and other public bodies, as well as council, to a general plan. Section 63 presently reads:

"63. (1) The council, by resolution, may authorize the preparation of a statement, which shall be known as a general plan,

- (a) setting out the manner in which the council considers the development of the municipality should be carried out within a defined period of time, having regard to considerations of orderliness, economy and convenience, and
 - (b) setting out the means and steps necessary to ensure or to effect that manner of development.
- (2) The council shall, by the resolution authorizing the preparation of a general plan, authorize the carrying out of such investigations, surveys and research and the preparation of such reports as may be necessary for the purpose of preparing the general plan."

(64) Sections 64 to 66 read:

"64. (1) The general plan shall be based on surveys of land use, population, transportation, communication, services and social services within the municipality.

(2) The general plan shall be prepared by qualified persons.

65. A general plan may include proposals relating to

- (a) the manner in which the land within the municipality should be used or developed, whether for public or other purposes, and the stages or sequence by which any such development should be carried out,
- (b) the allocation of areas of land for use for agricultural, residential, industrial, commercial or other purposes of any class,
- (c) roads, services, public buildings, schools, parks and other open spaces, their location and the reservation of land for these and other similar purposes,
- (d) the programming of development in terms of time, costs and resources, in so far as works to be carried out by public authorities are concerned, and
- (e) the nature and contents of the zoning by-law that may be required to ensure that private development will take place in accordance with the general plan.

66. The general plan shall contain such documents, descriptive matter and maps as are necessary to illustrate the manner of development proposed by the general plan."

- (b) by adding the word “and” at the end of clause (c),
- (c) by adding immediately after clause (c) the following new clause:
- (d) such other factors as it deems fit and proper to consider.

15. Sections 53 and 54 are repealed.

16. Sections 63 to 67 are struck out and the following sections are substituted:

63. A council, by resolution, may authorize

- (a) the preparation of a general plan describing the manner in which the future development of the municipality may best be organized and carried out within a specified period of time, having regard to considerations of orderliness, economy and convenience, and
- (b) the carrying out of such investigations, surveys and research and the preparation of such reports, maps and other documentary material as may be necessary for the purpose of preparing a general plan.

64. A general plan

- (a) shall be prepared under the direction of qualified planning officers or qualified planning consultants, who shall be appointed by and be responsible to the council,
- (b) shall be prepared on the basis of surveys of land use, population growth, transportation and communication needs, public services and social services within the municipality,
- (c) shall include proposals as to
 - (i) the uses, whether public or private, to be made of the lands within the municipality,
 - (ii) the classification of lands for agricultural, commercial, residential, industrial and other classifiable uses,
 - (iii) the provision of roads, public services, public buildings, schools, parks, recreation areas and the reservation of land for these and other public and community purposes,
 - (iv) the regulations to be made by means of a zoning by-law to ensure that lands will be developed in accordance with the use classifications prescribed by the general plan,
 - (v) the sequence in which specified areas of land will be developed or redeveloped and in which the public services and facilities referred to in subclause (iii) will be provided in specific areas,

(65) Section 67, subsection (1) reads:

"67. (1) A general plan may be adopted by a by-law passed under section 83."

(66) Section 67, subsection (2) reads:

"(2) When a general plan has been adopted the council shall not commence any undertaking within the purview of the general plan in any manner inconsistent with or at variance with the general plan."

17. Section 68, subsection (1) reads:

"68. (1) The council, at any time after passing a resolution authorizing the preparation of a general plan, may make application to the Minister for authority to exercise control over development that takes place in the municipality or part thereof prior

- (a) to the completion and adoption of the general plan, and
- (b) to the passage of a zoning by-law prepared in accordance with the general plan."

18. (a) These amendments are intended to express more explicitly the powers of a council to bring into operation parts only of a general plan not then fully completed. Subsections (2a) to (2c) are new. Section 71a, subsection (2) presently reads:

"(2) A council may, by by-law, delegate to the interim development board or the interim development officer authority to consider and decide on its behalf any application concerned with matters within the scope of those parts of the general plan or policies concerning development that have been adopted by resolution of the council."

- (vi) the financing and programming of public development projects to be undertaken by the municipality or other public authorities under the general plan,
 - and
 - (d) shall consist of such written statements, maps, charts and drawings as may be necessary to express and illustrate the proposals contained in the general plan.
- 65.** The council may adopt a general plan by a by-law passed under the provisions of section 83.
- 66.** When a general plan has been adopted
- (a) the council shall proceed with the enactment of a zoning by-law to regulate the use and development of land in the manner prescribed and within the area or areas referred to in the general plan, and
 - (b) the council or other public authority shall not commence any undertaking or public project that is inconsistent or at variance with the proposals contained in the general plan.
- 17.** Section 68, subsection (1) is amended
- (a) by striking out the words "at any time after" and by substituting the word "on",
 - (b) by striking out the word "may" and by substituting the words "shall forthwith".
- 18.** Section 71a is amended
- (a) by striking out subsection (2) and by substituting the following:
 - (2) A council with the approval of the Board may by resolution bring into operation any part or parts of the general plan before the completion of the full general plan and may by by-law delegate to the interim development board or interim development officer authority to consider and decide on its behalf any application with respect to development of specified areas that are governed by the parts of the general plan that have been so brought into operation.
- (2a) The technical planning board, the planning advisory commission, the interim development board or the interim development officer of a municipality may recommend to the council that a resolution be passed under subsection (2) with respect to any matter that may be dealt with under that subsection.
- (2b) The council shall publicly announce the passage of each such resolution by a notice
- (a) published in two consecutive issues of a newspaper circulating in the municipality, within thirty days of the date of passage of the resolution,

(b) Appeal board is not to contain on it any members of interim development board. Section 71a, subsection (4) presently reads:

"(4) A council may by by-law establish an appeal board consisting of at least three persons to be appointed annually by resolution of the council, none of whom shall be officials or servants of the council and at least one of whom shall be a member of the council."

(c) The powers of the Board on appeal are broadened. Section 71a, subsection (8) reads at present:

"(8) The Board may vary the decision appealed from in such measure as the Board deems desirable and necessary, having regard to the general scope and intent of the order and the by-law and the general plan that is being prepared."

19. (a) This subsection is amended to conform with the amendment to section 83. Section 72, subsection (1) presently reads:

"72. (1) Interim development control becomes effective within a municipality when, pursuant to the interim development order and in accordance with section 83, the council passes a by-law to be known as the interim development by-law."

(b) Self-explanatory.

20. Minister of Municipal Affairs to have wider powers of delegation in respect of special areas and improvement districts than councils of cities, towns, etc.

(b) stating the general purport of the resolution, and

(c) stating the place or places, one of which shall be the office of the municipality, where a copy of the resolution and any reference maps or other documents relating thereto may be inspected by the public at reasonable hours.

(2c) The council shall deposit with the Director and with a district planning commission of which it is a member, a copy of each notice published as required by subsection (2b).

(b) by striking out subsection (4) and by substituting the following:

(4) A council may by by-law establish an appeal board consisting of at least three persons to be appointed annually by resolution of the council, none of whom shall be officials or servants of the council or members of the interim development board and at least one of whom shall be a member of the council.

(c) by striking out subsection (8) and by substituting the following:

(8) The Board may confirm, reverse or vary the decision appealed from as the Board deems desirable and necessary.

(8a) In determining an appeal the Board shall have regard to the general scope and intent of the order and the by-law and the general plan that is being prepared but the Board is not bound thereby.

19. Section 72 is amended

(a) by striking out subsection (1) and by substituting the following:

72. (1) Interim development control becomes effective within a municipality when, pursuant to the interim development order and in accordance with section 83, the interim development by-law is passed and approved.

(b) by adding the following subsection immediately after subsection (3):

(4) Where the Minister amends, rescinds or replaces an interim development order, the council shall forthwith amend, rescind or replace its interim development by-law accordingly.

20. The following new section is added immediately after section 72:

72a. With respect to the control of development in a special area or an improvement district, the Minister may delegate to such person as he may appoint any or all of the functions required of the Minister by section 71a.

21. (a) A council is empowered to pass zoning by-laws in respect of parts of the municipality when waiting for completion of full general plan.

(b) Amended to conform with the provisions of section 83. Section 80, subsection (12) reads:

"(12) A zoning by-law has no effect until it is passed by the council in accordance with section 83."

22. (a) In the case described, there is to be only the one appeal board, that is, the zoning appeal board. Section 81, subsection (1) reads:

"81. (1) A zoning by-law shall establish an appeal board consisting of
(a) at least three persons, to be appointed annually by resolution of the council, none of whom shall be officials or servants of the council and a majority of whom shall consist of persons other than members of the council, or
(b) the Board."

(b) New. Section 81, subsection (3) reads:

"(3) An appeal may be made by a person
(a) who claims that the strict enforcement of the requirements of a zoning by-law or of section 82 would cause him special and unnecessary hardship because of circumstances peculiar to his situation within the district,
(b) who is not satisfied with a decision made pursuant to the exercise of a discretionary authority, or
(c) when the by-law provides for an appeal."

23. (a) Subsection (1a) of section 83 reads:

"(1a) The council shall
(a) before giving a proposed by-law second reading, and
(b) before holding a public hearing pursuant to this section, deposit a copy of the proposed by-law with the Director."

(b) Subsection (2), as relevant, reads:

"(2) The council, before finally passing a by-law, shall".

(c) The various procedural steps are set out more fully by these amendments. Subsections (7) and (8) are new. Subsections (4), (4a) and (5) of section 83 presently read:

"(4) After holding the required public hearing a council shall consider the objections and rule upon them and make such amendments to the by-law as it deems advisable and may then finally pass the by-law.

(4a) A by-law shall not be finally passed under subsection (4) and no by-law has any force or effect until it has first been approved by the Board.

(5) After a by-law is passed, the council shall deposit with the Director

- (a) one certified copy of the by-law, together with one certified copy of each map or other document referred to in the by-law, and
- (b) a statutory declaration by the proper officer of the municipality deposing as to
 - (i) the contents of the official notice and its publication in accordance with subsection (2),
 - (ii) the holding of the public hearing, and
 - (iii) the persons at the public hearing objecting to the by-law, the nature of their objection and the manner in which they were dealt with by the council."

21. Section 80 is amended

- (a) by adding immediately after subsection (2) the following:

(2a) Where interim development control is being exercised by a council pursuant to sections 68 to 72, the council may pass a zoning by-law as provided by this section with respect to any specific part or parts of the municipality, and thereafter the remaining parts of the municipality continue to be subject to interim development control until such time as further progress in the preparation of the general plan permits such parts to be made subject to the provisions of the zoning by-law.

- (b) by striking out subsection (12) and by substituting the following:

(12) A zoning by-law has no effect until it is passed and approved in accordance with section 83.

22. Section 81 is amended

- (a) as to subsection (1) by adding at the end thereof the words: "except that when a zoning by-law applies to a part or parts of a municipality while the remainder of the municipality continues to be subject to interim development control, the zoning appeal board shall act as the interim development appeal board",

- (b) by adding immediately after subsection (5) the following:

(5a) A decision of the zoning appeal board with respect to an appeal under subsection (3) is final and binding and there shall be no appeal therefrom.

23. Section 83 is amended

- (a) as to subsection (1a), clause (b) by striking out the word "holding" and by substituting the words "publishing notice of",

- (b) as to subsection (2) by striking out the words "finally passing a by-law" and by substituting the words "giving a by-law second reading",

- (c) by striking out subsections (4), (4a) and (5) and by substituting the following:

(4) After holding the required public hearing, a council shall

(a) consider the objections made at the hearing and rule upon them,

(b) amend the by-law as it deems necessary and give it second reading, and

(c) forward to the Board a copy of the amendments made to the by-law.

(5) If the Board approves the by-law as amended,

24. See clause 7 of this Bill, where the provisions of sections 86, 86a, 87 and 88 are dealt with. The added section is new and self-explanatory.

25. This corrects a mis-wording. Section 98a presently reads:

"98a. With respect to an improvement district or a special area the Minister may do by order any act, matter or thing that by this Act a council of a municipality is to do by resolution or by-law."

26. Consequential amendment to The Surveys and Expropriation Act, under which subdivision regulations are made. Section 6, subsection (2) of that Act, as relevant, reads:

"(2) Without limiting the generality of subsection (1), the regulations may

(a) prohibit the subdivision of land unless

.....

(iii) the owner of the land installs and constructs at his own expense, if required to do so, all such streets, curbing, service roads, lanes, sidewalks, culverts and drainage ditches as are necessary,".

the council may then finally pass the by-law without further amendment.

(6) After a by-law is finally passed, the council shall deposit with the Director

- (a) one certified copy of the by-law, together with one certified copy of each map or other document referred to in the by-law, and
- (b) a statutory declaration by the proper officer of the municipality deposing as to
 - (i) the contents of the official notice and its publication in accordance with subsection (2),
 - (ii) the holding of the public hearing, and
 - (iii) the persons at the public hearing objecting to the by-law, the nature of their objection and the manner in which they were dealt with by the council.

(7) Upon application of a council of a city and upon recommendation of the Board, the Minister may exempt any council from compliance with the provisions of subsection (1a), clause (c) of subsection (4) and subsection (5), and where an exemption is granted the council shall forward to the Board for approval two certified copies of the by-law after the same has been finally passed.

(8) No by-law has any force or effect unless it has been approved by the Board under subsection (5) or subsection (7).

24. The headings "District Planning Commissions" and "Planning Advisory Commissions", and section 86, 86a, 87 and 88 are struck out and the following is substituted:

86. A council that has adopted a general plan or development scheme or has passed an interim development by-law or zoning by-law shall forthwith prepare copies of the same, together with any incorporated amendments, maps and schedules, which shall be made available to the general public at reasonable cost.

25. Section 98a is amended by striking out the words "is to" and by substituting the word "may".

26. Section 6, subsection (2), clause (a), subclause (iii) of *The Surveys and Expropriation Act*, being chapter 328 of the Revised Statutes, is amended by striking out the words "as are necessary" and by substituting the words "and such other public facilities as the Provincial Planning Advisory Board may from time to time require".

27. (1) This Act comes into force on the first day of June, 1960, except section 18 and this section which come into force on the day upon which this Act is assented to.

(2) The powers given by clause (c) of section 18 may be exercised by the Board with respect to any matter pending or hereafter appealed to the Board, notwithstanding that the subject matter of the appeal or the proceedings leading to the appeal originated before the commencement of section 18.

No. 105

FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

BILL

An Act to amend The Town and
Rural Planning Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE
