

No. 64

5th Session, 14th Legislature, Alberta
11 Elizabeth II

BILL 64

A Bill to amend The Town and Village Act

HON. MR. HOOKE

Explanatory Note

2. (a) Section 2, clause (h) presently reads:

“(h) “hawker” or “pedlar”

(i) means a person not being a body corporate and who, whether as principal or agent,

(A) goes from house to house selling or offering for sale any merchandise to any person, and who is not a wholesale or retail dealer in such merchandise with a permanent place of business in the town or village,

(B) offers or exposes for sale to any person by means of samples, patterns, cuts or blueprints, merchandise to be afterwards delivered in or shipped into the town or village, or

(C) sells merchandise on streets or roads or elsewhere than at a building that is his permanent place of business, but

(ii) does not include a person selling

(A) meat, fruit or other farm produce that has been produced, raised or grown by himself, or

(B) fish of his own catching;”.

(b) The definition of “hospital” is amended to refer to the present hospitals Act.

(c) Clause (w), subclause (i) presently reads:

“(w) “transient trader”

(i) means a person who does not ordinarily maintain within the town or village a permanent place of business and who is not liable for a business tax in respect thereof and who, either as principal or an agent,

(A) buys or offers to buy directly from the producer thereof any merchandise, or

(B) sells or offers to sell to the consumer any merchandise except

(I) agricultural products raised, grown or produced by by him, or

(II) fish of his own catching;”.

3. Section 42a provides a means to increase the number of councillors in a village from 3 to 5 and the proposed section 42b provides a means of reduction.

BILL

No. 64 of 1963

An Act to amend The Town and Village Act

(Assented to _____, 1963)

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) as to clause (*h*) by adding immediately after the word "merchandise" wherever it occurs the words "or services, or both,"
- (b) as to clause (*i*) by striking out the words "*The Hospitals Act*" and by substituting the words "*The Alberta Hospitals Act*",
- (c) as to clause (*w*), subclause (i), paragraph (B) by adding immediately after the word "merchandise" the words "or service".

3. The following section is added immediately after section 42*a*:

42*b*. (1) Where the number of councillors has been increased pursuant to section 42*a*, the number of councillors may, by by-law, be decreased to three.

(2) Subsection (2) of section 42*a* applies to the passing of a by-law under this section.

4. Section 71, subsection (6) presently reads:

"(6) When a general assessment of all lands, buildings and improvements in a town or village is made by an assessor appointed pursuant to subsection (1), the cost of the assessment shall be computed in a manner approved by the Minister and an amount not exceeding seventy-five per cent of the computed cost shall constitute a debt due to the Crown by the town or village and shall be paid by the town or village concerned upon submission of the account of the Department of Municipal Affairs and the remaining percentage of the cost shall be borne by the Department of Municipal Affairs, if

- (a) the qualifications of the assessor are acceptable to the Minister,
- (b) a performance bond acceptable to the Minister has been posted, and
- (c) the work completed by the assessor has been carried out in accordance with the recommendation contained in the Assessment Manual and is acceptable to the Minister and the town or village."

5. Section 126, subsections (1) and (2) presently read:

"126. (1) At the time and place set out in the notice, the mayor, secretary-treasurer, and the chairmen of the various committees shall attend and submit to the meeting their respective reports for the year ending on the thirty-first day of December.

(2) The Minister may from time to time prescribe forms for the foregoing reports."

6. Section 187 presently reads:

"187. (1) If it appears upon the casting up of votes that two or more candidates for an office have an equal number of votes the returning officer, whether otherwise qualified or not, shall at the time when he declares the result of the voting, give a casting vote or votes so as to decide the election.

(2) No returning officer shall vote at an election except as authorized by subsection (1).

(3) All other election officials may vote if otherwise qualified."

7. An error made in the 1955 Revised Statutes is corrected. Section 194, subsection (2) presently reads:

"(2) An advance poll shall be open

(a) on the Friday or Saturday of the week preceding the week of the election, or

(b) on such other two days as may be set out in the direction of the council,

for such time, not being less than two hours, as may be set out in the direction of the council."

(3) The terms of office of the councillors in office at the time a by-law is passed under this section shall terminate on the date of the first meeting of the council held after the election to which the by-law is applicable.

(4) When the number of councillors has been reduced to three pursuant to this section, the terms of office of the councillors composing the new council shall be determined in accordance with section 100.

4. Section 71 is amended by striking out subsection (6) and by substituting the following:

(6) When a general assessment of all lands and improvements in a town or village is made by an assessor appointed by the council pursuant to subsection (1), an amount not exceeding twenty-five per cent of the cost of the assessment computed in a manner approved by the Minister may be borne by the Department of Municipal Affairs, if

- (a) the qualifications of the assessor are acceptable to the Minister,
- (b) a performance bond acceptable to the Minister has been posted, and
- (c) the work completed by the assessor has been carried out in accordance with the recommendations contained in the Assessment Manual and is acceptable to the Minister and the town or village, as the case may be.

5. Section 126 is amended by striking out subsection (2).

6. Section 187 is struck out and the following section is substituted:

187. (1) If it appears upon the calculating of the votes that two or more candidates for any office have an equal number of votes, the returning officer shall write the names of such candidates separately on blank sheets of paper of equal size and of the same colour and texture, and after folding the same in a uniform manner and so the names are concealed, deposit them in a receptacle and direct some person to withdraw one of the sheets, and the returning officer shall declare to be elected the candidate whose name appears on the sheet thus withdrawn.

(2) All election officials may vote if otherwise qualified.

7. Section 194, subsection (2), clause (a) is amended by striking out the words "Friday or Saturday" and by substituting the words "Friday and Saturday".

8. Section 273, subsection (1) sets out the purposes or uses for which a town or village may acquire land. Subsections (3) and (4) presently read:

“(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.

(4) Notwithstanding subsection (1), the council shall obtain the approval of the Lieutenant Governor in Council before acquiring any land situate outside the boundaries of the town or village or any interest in such land.”.

9. Section 274, subsection (1) reads:

“274. (1) A council may pass a by-law authorizing the erection, purchase or other acquisition or the improvement of such land and of such buildings as may be deemed necessary on lands that the council may be authorized to acquire under section 273 or authorizing the improvement of such lands.”.

10. Towns and villages authorized to enter into agreements for the operation and management of campsites.

8. Section 273 is amended

- (a) as to subsection (3) by striking out the words "Lieutenant Governor in Council" and by substituting the words "Local Authorities Board",
- (b) by striking out subsection (4) and by substituting the following:

(4) For the purpose of establishing industry or other commercial enterprises, the council by by-law may authorize the purchase, lease or other acquisition of land from the Government of Canada previously used as military establishments.

(5) Notwithstanding subsection (1), before acquiring any land, or any interest in land, situated outside the boundaries of the town or village the council shall obtain the approval of the council of the municipality in which the land is situated.

(6) If the approval of the council of the municipality in which the land is situated cannot be obtained, the council of the town or village shall submit the matter to the Local Authorities Board for its approval, which may be given on such terms and conditions as the Board may decide.

(7) If the Local Authorities Board refuses to give its approval the council may not acquire the land.

9. Section 274 is amended by adding after subsection (2) the following subsection:

(3) The council

- (a) may pass a by-law authorizing the construction or acquisition of a building, the floor space of which is greater than is necessary to accommodate the municipal services required,
- (b) shall, if section 277 does not apply, proceed to pass the by-law under clause (a) in the same manner as is provided in section 298,
- (c) may, notwithstanding section 298, by by-law lease for any purpose that the council considers necessary for the general benefit of the residents of the town or village all or any part of the floor space not required for the accommodation of municipal services.

10. The following section is added after section 279:

279a. Subject to this Act, a council may, by by-law, authorize the making of an agreement with the Province for the maintenance, operation and use of a public work, building or campsite, or for the performance of any matter or thing considered by the council and the Province to be a benefit to both parties.

11. Section 280 presently reads:

"280. (1) Notwithstanding anything in this Act to the contrary but subject to the approval of the Board of Public Utility Commissioners, a council, alone or in conjunction with any other municipality, may

- (a) purchase, lease or otherwise acquire land within or without the town or the village for an airport, and may erect thereon all necessary buildings and provide all necessary facilities, and may control, operate and dispose of the airport so acquired and built, and
- (b) grant a bonus or any other aid to a person, company or corporation for the construction, establishment or operation of the airport, and may subscribe for stock, or guarantee the bonds, debentures or other securities of the airport.

(2) In any one year no expenditure or liability shall be made or incurred under this section so as to cause the expenditure or liability under this section in that year to be in excess of five hundred dollars until a by-law authorizing the expenditure or liability is submitted to the proprietary electors and passed by a majority of the electors voting thereon in the manner prescribed in Part VI with regard to by-laws, except that where the population of a town or a village exceeds five hundred, the council of the town or the village may expend or incur liability in any one year for an additional one hundred dollars for each one hundred of the population of the town or the village in excess of five hundred without the necessity of submitting a by-law to the proprietary electors, but the expenditure or liability shall not exceed in any case the sum of two thousand dollars."

12. (a) Section 298 permits the disposal of lands acquired for a specific purpose when such lands are no longer required for such purpose but does not permit the disposal, by lease for example, of property acquired for a specific purpose when such property continues to be used for the same purpose for which it was acquired. The proposed amendment would overcome this problem.

(b) The new subsection (2a) will provide uniformity with the provisions of section 430 and do away with the present conflict with section 464.

(c) Subsection (5) of section 298 presently reads:

"(5) Notwithstanding anything in this section, a council may, without the approval of the proprietary electors, pass a by-law for the purpose of selling any land acquired pursuant to subsection (3) of section 273."

See clause 8 of this Bill.

13. Sections 311 and 312 deal with hospitalization and are no longer of any effect.

14. Section 313 presently reads:

"313. A council may pass by-laws for the purpose of

- (a) making an annual or other grant to a duly licensed medical practitioner residing and practising in the town or the village or to a duly licensed medical practitioner as an inducement for him to reside or practise his profession in the town or the village, or
- (b) guaranteeing the income or a portion of the income of such practitioner in consideration of his residence and practice, but the amount paid in any one year under the guarantee shall not exceed five hundred dollars."

15. Section 317 presently reads:

"317. Subject to the provisions of The Public Health Act, a council may pass by-laws for the purpose of constructing, operating and managing a system of sewerage and drainage, sewage pumping stations or sewage treatment and purification works within or without the corporate limits of the town or the village, and may in the manner prescribed in section 364 establish and, from time to time, vary a scale of fees to be known as sewer service charges."

16. Building permit by-law authorized.

11. Section 280 is amended by striking out subsection (2) and by substituting the following:

(2) In any year no expenditure or liability shall be made or incurred under this section so as to cause the expenditure or liability under this section in that year to be in excess of one thousand dollars or five mills on the net total assessment of land, buildings and improvements of the town or the village, whichever is the greater until a by-law authorizing the expenditure or liability is submitted to the proprietary electors and passed by a majority of the electors voting thereon in the manner prescribed in Part VI.

12. Section 298 is amended

- (a) as to subsection (1) by striking out the words "and the land or improvement in the opinion of the council is no longer needed for the specific purpose,"
- (b) by adding after subsection (2) the following:
 - (2a) No certificate as mentioned in subsection (2) shall be granted while any action or proceeding in which the validity of the by-law is called in question or by which it is sought to quash it is pending, nor until two months after the final passing of the by-law.
- (c) as to subsection (5) by striking out the word and figure "subsection (3)" and by substituting the words and figures "subsections (3) and (4)".

13. Sections 311 and 312 are repealed.

14. Section 313 is amended by striking out all the words following clause (b) and by substituting the following:

but the amount paid in any one year under the guarantee shall not exceed one thousand dollars or five mills on the net total assessment of land and improvements of the town or village, whichever is the greater, and such amount shall be paid for a period not longer than three years.

15. Section 317 is amended by adding immediately after the word "constructing," the words "buying or leasing, and".

16. The following section is added after section 323:

17. Section 329a presently reads:

"329a. Subject to section 329, the council of a town or village may by by-law control and regulate all businesses carried on within the town or village and may licence any or all such businesses whether the business is one mentioned elsewhere in this Act or not."

18. Section 330, subsection (3) presently reads:

"(3) The fee for a hawker's or pedlar's annual licence shall not exceed the following rates:

- (a) where the retail price of the merchandise to be sold is fifty dollars or more\$150.00 a year;
- (b) where the retail price of the merchandise to be sold is under fifty dollars\$25.00 a year."

19. Section 331 reads:

"331. (1) No licence shall, under any of the provisions of this Act, be required for hawking, peddling or selling any goods, wares or merchandise that are grown, produced or manufactured in the Province, if they are hawked, peddled or sold by the person who is the owner, producer or manufacturer thereof or by an employee or servant of such person and authorized by him in writing to do so.

(2) The employee or servant shall produce his authority in writing on demand of an officer of the town or the village, or to any peace officer.

(3) In any prosecution for hawking or peddling without a licence in contravention of a by-law passed pursuant to this Act, the onus of proof that the defendant is exempted under subsection (1) is upon the defendant."

323a. (1) The council may pass by-laws

- (a) providing for the issue of building permits, for all or any part of a building, erection or structure to be erected, altered or repaired,
- (b) prohibiting the commencement of the erection, alteration, repair, demolition or removal of any building, erection or structure except in conformance with the regulations pertaining thereto and unless authorized by permit, and
- (c) providing that the granting of a building permit does not entitle the grantee, his successors or assigns or anyone in his or their behalf, to erect any building, erection or structure that fails to comply with the requirements of any building restriction agreement affecting the site described in such permit.

(2) Neither the town or village nor any of its officials shall be held liable for damages or otherwise by reason of the fact that a building, erection or structure, the erection of which has been authorized by permit, does not comply with the requirements of any such restriction agreement.

17. Section 329a is struck out and the following section is substituted:

329a. (1) Subject to section 329, the council of a town or village may by by-law control and regulate all businesses carried on within the town or village and may licence any or all such businesses

- (a) whether or not the business is one mentioned elsewhere in this Act, and
- (b) whether or not the business has a business premises within the town or village.

(2) For the purpose of this section a business includes any business, trade, occupation, employment or calling.

18. Section 330, subsection (3) is amended by adding immediately after the word "merchandise" wherever it occurs the words "or services".

19. Section 331 is repealed.

20. Section 335 is amended to refer to the present hospitals Act.

21. A new section is added to permit a town or village to provide utility services to persons outside the boundaries of the town or village providing the other municipality gives its consent.

22. An error in referring to another subsection is corrected.

23. Section 395b is revised to add the provision set out in clause (b) of the proposed new section.

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

“396. The council of a town or 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 sanitary sewer, storm sewer or combined sanitary and storm sewer, and the making of service connections thereto;
- (e) the construction and installation of water mains and service connections thereto;”.

20. Section 335 is amended by striking out the words "*The Hospitals Act*" where they occur in subsections (8), (10) and (11) and by substituting the words "*The Alberta Hospitals Act*".

21. The following section is added after section 347:

347a. (1) A town or village may supply any person or corporation outside the town or village with a public utility upon special terms, and may exercise all other powers necessary to the carrying out of its agreement with such person or corporation as well outside the town or village as within the town or village.

(2) Where the supply of a public utility is to be made in another municipality, no pipes, poles or wires for that purpose shall be carried in, upon, through, over or under any highway or public street, lane, road or passage within the other municipality, without the consent of the council of that other municipality.

(3) Where there is a dispute between the town or village and any municipality in connection with any public utility work that is being carried on within the boundaries of that municipality, the dispute may be submitted to the Local Authorities Board for an order upon such terms and conditions as to the Board seem proper.

22. Section 374, subsection (3) is amended by striking out the figure "(2)" and by substituting the figure "(2a)".

23. Section 395b is struck out and the following section is substituted:

395b. A council may, subject to the approval of the Minister and subject to section 334, pass a by-law in any case where the council considers it equitable to do so

- (a) to cancel or refund all or any part of a tax levy, or
- (b) to suspend and defer for such period of time and on such terms and conditions as to the council seems proper, a special frontage or a special local benefit assessment.

24. Section 396 is amended by striking out clauses (d) and (e) and by substituting the following:

- (d) the acquisition or construction of, or the deepening, enlarging or extending of a sanitary sewer, storm sewer or combined sanitary and storm sewer, and the making of service connections thereto;
- (e) the acquisition or construction and installation of water mains, and the making of service connections thereto;

25. Section 406, subsection (2) presently reads:

"(2) A special assessment in respect of the local improvement may be imposed by the council, either before or after the cost thereof has been finally determined."

26. Section 409 presently reads:

"409. (1) 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.

(2) An appeal under this section may be made only once after the imposition of the special assessment.

(3) Where on appeal to the court of revision or the Alberta Assessment Appeal Board an assessment is cancelled, altered or varied the council or the Board shall amend the by-law accordingly and the assessment so altered, varied or cancelled shall be substituted for the original assessment."

27. Section 410 presently reads:

"410. Subject to the right of appeal, no assessment under the provisions of this Act respecting local improvements is invalid by reason of a defect in form or in substance in a proceeding upon which the special assessment depends."

- (e1) the constructing and erecting of any poles, standards, wires and pipes and all other necessary work for the lighting of any roadway, street, alley, lane, square or other public place;

25. Section 406 is amended by striking out subsection (2) and by substituting the following:

(2) A special assessment in respect of the local improvement may be imposed by the council, either before or after the cost thereof has been finally determined but where a local improvement has been authorized but has not been constructed or installed, a parcel abutting on the proposed local improvement shall be subject to the special assessment in the first year that the local improvement was authorized and in the following years the special assessment shall be suspended and deferred until the local improvement has been constructed or installed.

26. Section 409 is amended

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

409. (1) A complaint may be made to the council and an appeal may be made to the Alberta Assessment Appeal Board against an assessment made under 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 a complaint and an appeal from an ordinary assessment but a complaint or appeal does not lie against the rates per foot fixed by by-law under any of the provisions of this Part.

- (b) as to subsection (2) by striking out the words "An appeal" and by substituting the words "A complaint and an appeal",
- (c) as to subsection (3) by striking out the words "appeal to the court of revision or" and by substituting the words "a complaint to the council or appeal to".

27. Section 410 is amended by adding immediately after the words "Subject to the right of" the words "complaint and".

28. Section 414 presently reads:

"414. (1) Whenever the council is authorized, under this Act or any other Act, to levy taxation for any purpose, including ordinary current expenditure, it may either before or after the passing of the by-law authorizing the rate of taxation, by promissory note or notes under the seal of the town or the village and duly attested by the signatures of the mayor or the deputy mayor and the secretary-treasurer, borrow such sums as the council deems necessary to expend in carrying out the purpose, until such time as the taxes levied therefor can be collected.

"(2) Where money has been borrowed or is proposed to be borrowed under this section, the council, either in the by-law authorizing the loan or by a by-law passed at a subsequent time, may pledge as security for the payment of the money the whole or any part of all unpaid taxes and penalties on taxes assessed or levied in any prior years, together with penalties thereon, and the whole of the taxes for the current year or such part thereof as may be considered expedient."

29. Section 416 presently reads:

"416. When any borrowing takes place to meet the current ordinary expenditures of the town or the village the total temporary loans outstanding after any borrowing is made shall not exceed seventy-five per cent of the total of the latest tax levy by the town or village."

30. Section 422, subsection (1), clause (c) and subsection (2), clause (c) presently read:

"422. (1) The by-law creating the debt shall state by recital or otherwise

.....

(c) the rate of interest and whether the same is to be paid annually or semi-annually,".

"(2) The by-law shall

.....

(c) fix the rate or rates of interest payable thereon, and name the places where and the time when the principal and interest are payable, and".

31. Commencement of Act.

28. Section 414 is amended.

- (a) as to subsection (1) by striking out the words "to expend in carrying out the purpose," and by substituting the words "to meet the current expenditures and obligations of the town or village,"
- (b) as to subsection (2) by adding immediately at the end thereof the words "and any other designated revenues for the current year",
- (c) by adding the following subsection after subsection (2) :
 - (3) The council, from time to time during the year in which such moneys are borrowed and the two succeeding years, may pass by-laws for extending the loan and renewing or extending such promissory notes, whether original or renewed.

29. Section 416 is struck out and the following section is substituted :

416. The amount borrowed to meet the current expenditures and obligations of a town or village shall not exceed the amount of the taxes levied or estimated to be levied for the current year.

30. Section 422 is amended

- (a) as to subsection (1), clause (c) by adding immediately before the words "rate of interest" the word "maximum",
- (b) as to subsection (2), clause (c) by adding immediately after the words "fix the" the word "maximum".

31. This Act comes into force on the day upon which it is assented to and upon so coming into force sections 23, 25, 28 and 29 shall be deemed to have been in force at all times on and after the first day of January, 1963.

No. 64

FIFTH SESSION
FOURTEENTH LEGISLATURE

11 ELIZABETH II

1963

BILL

An Act to amend The Town and
Village Act

Received and read the

First time

Second time

Third Time

HON. MR. HOOKE
