

No. 54

2nd Session, 15th Legislature, Alberta
13 Elizabeth II

BILL 54

A Bill to amend The City Act

HON. MR. HOOKE

Explanatory Note

1. This Bill will amend The City Act, which is chapter 42 of the Revised Statutes.

2. Definition of "polling place" is added.

3. Section 6, subsection (1) presently reads:

6. (1) If anything to be done within a number of days or at a time fixed by or under this Act cannot be or is not so done, the Minister, by order, from time to time, may appoint a further or other time for doing it, whether the time at or within which it ought to have been done has or has not arrived or expired, as the case may be.

4. Section 41, subsection (1), clause (g) presently reads:

41. (1) If, after the election of any person as a member of the council,

.....
(g) he ceases to be a Canadian citizen, or

.....
the council by resolution shall declare his seat to be vacated and thereupon his seat in the council is forthwith vacated.

The clause is amended to make it consistent with section 96 which states that as one of the qualifications for election to council a person must be a Canadian citizen or a British subject.

5. Section 42, subsection (2) presently reads:

(2) When the offices of two or more aldermen on the council become vacant by death, resignation or for any other reason than the expiration of their terms of office, the council shall forthwith fix a nomination day and appoint a returning officer to hold a special election to fill the vacancies for the unexpired terms thereof, and the special election shall be held as nearly as possible in the manner provided by this Act for general elections, but no special election need take place

(a) when only one office becomes vacant, or

(b) when more than one office becomes vacant on or after the first day of July and before the fifteenth day of September in that year,

and in either of the cases mentioned in clauses (a) and (b) the vacancy or vacancies shall be filled at the next annual election of aldermen.

BILL

No. 54 of 1965

An Act to amend The City Act

(Assented to _____, 1965)

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

1. *The City Act* is hereby amended.
2. Section 2 is amended by adding the following clause after clause (t):
 - (t1) "polling place" means the room occupied on election day by one or more deputy returning officers and other election staff and where the ballot boxes and voting compartments are located;
3. Section 6, subsection (1) is amended by adding after the words "If anything to be done" the words "by a council or an official or employee of a city".
4. Section 41, subsection (1), clause (g) is amended by adding after the words "Canadian citizen" the words "or a British subject".
5. Section 42, subsection (2), clause (b) is amended by striking out the words "in that year" and by substituting the words "immediately preceding the next annual election".

6. Section 70, subsection (1) reads:

70. (1) The council shall, from time to time and as often as the office is vacant, appoint one or more auditors, but no one who at the time of appointment or during the preceding year is or was a member of the council, or is or was the city clerk, comptroller or treasurer, or has or had, directly or indirectly, alone or with any other person, a share or interest in any contract or employment with or on behalf of the city, except as auditor, shall be so appointed.

7. Prohibition of advertising on election day.

8. Section 210 which deals with the use of ballot papers and the use of candidates' names in election advertising is amended to remove a doubt.

9. A new Part is added providing for elections for three-year terms.

6. Section 70 is amended by adding the following subsection:

(3) Notwithstanding subsection (1), no person is ineligible for appointment as auditor by reason only of his having or having had any interest in a contract for the supply of electronic data processing service to or for the city.

7. Section 203 is amended by adding the following subsection:

(4) No person shall

(a) publish or distribute, or

(b) cause to be published or distributed,

on an election day any advertising, information or matter for or on behalf of a candidate in the election.

8. Section 210 is amended by adding the following subsection after subsection (3):

(3a) Notwithstanding anything in this section, the city clerk or the returning officer may at any time after nomination day, if so directed by the council, cause a facsimile of the ballot for mayor and for aldermen and for school trustees to be published as often as may be desired in a local newspaper for the information of the voters.

9. The following heading and sections are added after section 214w:

PART IV C

ELECTION OF MAYOR AND ALDERMEN FOR A TERM OF THREE YEARS

214v. (1) Where on a vote of the electors, a majority of the electors voting, vote in favour of the mayor, aldermen and school trustees of the city being elected for a term of three years, the council shall by by-law declare such a system of election to be in effect in the city.

(2) A vote of the electors under subsection (1) shall be held on the day of the annual election and in accordance with the provisions of Part V.

214w. (1) A by-law passed pursuant to section 214v takes effect at the annual election for mayor and aldermen in the year following the passing of the by-law with the mayor being elected for a three year term commencing with the date of the first meeting of the council following the election and every three years thereafter at the date fixed for the annual election.

(2) In the event that the number of aldermen or school trustees is not a multiple of three, the number shall be changed to a multiple of three.

10. Section 267, subsection (1) presently reads:

267. (1) Every by-law is valid and binding, notwithstanding any lack of compliance with the provisions of this Act either in substance or in form, or in the proceedings prior thereto or in the time or manner of passing thereof, unless an application to quash the by-law is made within two months or, in the case of a by-law passed under section 320, one month next after the final passing thereof.

214x. (1) Of the total number of aldermen elected at the first election under this Part

- (a) the one-third of the total number of aldermen who lead
 - (i) in order of nomination in case no poll is held,
or
 - (ii) in the voting in the event of a poll being held, shall hold office for three years,
- (b) the one-third of the total number of aldermen who, after those set out in clause (a) lead
 - (i) in order of nomination in case no poll is held,
or
 - (ii) in the voting in the event of a poll being held, shall hold office for two years, and
- (c) the remaining one-third shall hold office for one year,

and in each case the term of office shall begin with the date of the first meeting of the council following the election.

(2) At an annual election held after the first election under this Part, one-third of the total number of aldermen shall be elected annually to hold office for three years beginning with the date of the first meeting of the council following the election.

214y. Notwithstanding sections 22, 93, 94 and 95, where a by-law establishes a system of election under this Part, the term of office of the mayor and all of the aldermen then holding office expires when the mayor and aldermen elected at the annual election next following the coming into force of the by-law assume office.

214z. (1) Where a majority of the electors voting at a plebiscite vote in favour of the abolition of the system of election of mayor and aldermen under this Part, the council shall repeal the by-law establishing the system.

(2) Where the system of election of mayor and aldermen under this Part is abolished in a city, the mayor and all aldermen then holding office may continue to hold office in accordance with this Act until the first meeting of the council after the annual election next following and their successors shall be elected in accordance with Part IV.

10. Section 267, subsection (1) is amended by striking out the words "time or".

11. Section 276, clause (j1) presently reads:

276. For the prevention or extinguishing of fires and for the preservation of life and property from injury or destruction by fire, the council may purchase apparatus and equipment for extinguishing fire and may pass by-laws providing for any or all of the following:

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- (j1) adopting and constituting the Municipal Fire Prevention Code (Canada), with the exception of any specified provisions thereof or any modification of that code, either in place of or in addition to any regulations made under any other clause of this section;

The name of the Code has been changed and the section is amended accordingly.

12. Section 283, subsection (2), clause (d1) presently reads:

- (2) The council of a city may pass by-laws

-
- (d1) delegating to the city commissioners the power to prescribe where parking meters, traffic signals, highway traffic signs, stop signs, yield signs, speed limit signs or other similar signs for controlling and regulating traffic in public places are to be located and providing for a record of such locations to be kept and which shall be open to public inspection during normal business hours,

13. Section 303a reads:

303a. Notwithstanding any other provision of this Act, where in the exercise by a city of any of the powers conferred on it by this Act the city, in the erection or construction of a city work or structure, causes damage to an owner or other person having an interest in land immediately adjacent to the land upon which the city erects or constructs the work or structure by reason of loss of or permanent lessening of use of the land of that owner or other person, the person sustaining the damage is entitled to compensation therefor and may, at any time after the damage has been sustained and within sixty days after notice has been given in a newspaper of the completion of the work or structure in respect of which the damage is sustained, file with the city clerk a claim for damages in respect thereof, stating the amount and particulars of his claim.

14. Two clauses of section 318, subsection (2) are amended to bring them into conformity with the other wording of the section.

15. Section 320, subsections (1), (3) and (4) read:

320. (1) The council may pass by-laws for the purpose of closing and selling, leasing or holding the whole or any portion of any street, road, lane or public highway.

.....

- (3) Any such person so claiming, petitioning and appearing is entitled to be compensated for all damages to his land by reason of anything done under such by-law.

- (4) The compensation shall be determined in the same manner and subject to the same conditions as compensation in the case of expropriation.

16. This section deals with civic housing projects which will be governed under the proposed new Alberta Housing Act.

11. Section 276, clause (j1) is amended by striking out the words "Municipal Fire Prevention Code (Canada)" and by substituting the words "National Fire Code of Canada 1963".

12. Section 283, subsection (2), clause (d1) is amended by adding after the words "city commissioners" the words ", or where there are none to the city clerk,".

13. Section 303a is amended by renumbering the section as subsection (1) and by adding the following subsection after the renumbered subsection (1) :

- (2) This section does not apply to any damage caused by
 - (a) the erection of median strips or boulevards down the centre of a highway, street or lane for the purpose of channelling traffic, or
 - (b) the restriction of traffic to one direction only on any highway, street, or lane.

14. Section 318, subsection (2) is amended

- (a) as to clause (b) by adding after the word "lands" the words ", buildings or portion thereof",
- (b) as to clause (d) by adding after the words "other purpose, lands" the words ", buildings or portion thereof".

15. Section 320 is amended by striking out subsection (4) and by substituting the following:

(4) Where a claim is made for compensation for damages by the owner or occupier of or other person interested in lands alleged to have been injuriously affected by the exercise of any of the powers of the council under this section, if the council is not able to agree with the claimant as to the amount of compensation or damages, the compensation and damages shall be settled and determined by the award of a judge of the Supreme Court of Alberta or of the district court of the judicial district in which the city is situated or of a barrister to be appointed by him as arbitrator.

16. Section 322 is repealed.

17. Section 353a, subsection (3) presently reads:

(3) Where the council of a city has passed a by-law for the licensing of mobile homes, then as soon as a mobile home is used as a residence in the city, the full amount of the licence fee for that portion of the licensing year then unexpired thereupon becomes due and payable unless the city and the owner of the mobile home have entered into an agreement whereby the licence fee is made payable on a monthly basis.

18. Section 388, clause (a) is amended to remove an accidental repetition of words. No change of meaning results.

19. Section 399 presently reads:

399. The council may pass by-laws

- (a) providing for taking the census of the city,
- (b) providing for the submission to the vote of the electors or proprietary electors any municipal question not specifically authorized by this Act to be submitted, and
- (c) providing for the taking of a plebiscite of the electors or of the proprietary electors upon any question, matter or thing.

20. Section 437 is amended to alter an incomplete cross-reference. The section presently reads:

437. The city shall do as little damage as possible in the execution of the powers granted to it by this Act and shall make reasonable and adequate satisfaction to the owners, occupants or other persons interested in the land, waters, rights or privileges entered upon, taken or used by the city or injuriously affected by the exercise of its powers, and in case of disagreement the compensation or damages shall be ascertained in the manner provided in section 309.

21. Section 457, subsections (2) and (3) presently read:

(2) In the case of land or an improvement that is exempt from taxation, the interest of a person who is

- (a) a purchaser of the property under a bona fide agreement for sale, or
- (b) an occupant of the property under a lease, licence or permit, is liable to assessment and taxation by the city and the interest of that person in the property shall be assessed in the same manner as if he were the owner of the property unless that person is himself exempt from taxation.

(3) Clause (b) of subsection (2) does not apply with respect to

- (a) an occupant in possession of the property in an official capacity on behalf of a person exempt from taxation, or
- (b) an occupant of property owned by a municipality.

22. A new section is added dealing with the assessment and taxation of partially exempt property.

17. Section 353a, subsection (3) is amended by striking out the words “on a monthly basis” and by substituting the words “by instalments in advance”.

18. Section 388, clause (a) is amended by striking out the words “or erection”.

19. Section 399 is amended

- (a) by striking out the words “pass by-laws”,
- (b) by striking out the word “providing” where it occurs in clauses (a), (b) and (c) and by substituting the word “provide”.

20. Section 437 is amended by striking out the words “section 309” and by substituting the words “this Act or *The Expropriation Procedure Act*, as the case may be”.

21. Section 457 is amended

- (a) as to subsection (2), clause (b) by adding after the word “property” the words “, or part thereof”,
- (b) as to subsection (3) by striking out clause (b) and by substituting the following:
 - (b) an occupant under a lease, licence or permit of property owned by a municipality or leased from the Crown by a municipality.

22. The following section is added after section 457:

457a. (1) Where, by or under any law in force in the Province, any land or improvement is wholly or partly exempt from assessment or taxation, or both, while or if it

- (a) is used for, or
- (b) is chiefly or mainly used for, or
- (c) is required and used for,

a specified purpose, then, notwithstanding any such law the land or improvement is subject to assessment to the extent that the use thereof does not come within the exemption and any taxes levied in such a case are due, payable and recoverable in respect of and against the entire property affected by the exemption as if no exemption existed.

23. Improvements for industrial purposes exempt from assessment when not completed.

24. Section 464, which authorizes the adoption of the assessment roll of one year in up to 6 consecutive years is amended to make it subject to the new section providing for annual depreciation.

25. Section 465, subsection (2) reads:

(2) A special franchise shall be assessed for purposes of taxation at thirty per cent of the fair actual value of the machinery, equipment and apparatus used in the exercise of the franchise and not otherwise assessed.

(2) Where, by or under any law in force in the Province, part of a parcel or part of an improvement is exempt from assessment or taxation, or both, then

(a) that part of the parcel or improvement which is not so exempt shall, for the purposes of assessment and the levying of taxes, be deemed to be an entire parcel or improvement, as the case may be, and

(b) any taxes levied in such a case are due, payable and recoverable in respect of and against the entire property affected by the exemption as if no exemption existed.

(3) The Minister may make regulations prescribing rules and procedures

(a) for establishing the extent to which any property is or is not subject to assessment under subsection (1),

(b) for establishing or selecting the parts of any property that are and are not subject to assessment as mentioned in subsection (2), and

(c) concerning any other matter he considers necessary for carrying out the intent and purpose of this section.

23. Section 458 is amended by adding the following subsection:

(11) Notwithstanding anything in this Act, where a new improvement

(a) intended to be used for manufacturing or processing purposes, or

(b) intended to be used in connection with a manufacturing or processing operation for the storage of the materials manufactured or processed,

is not completed and in operation before the thirty-first day of October in any year, the improvement is exempt from assessment in that year.

24. Section 464 is amended

(a) as to subsection (1) by striking out the words "The council" and by substituting the words "Subject to section 468*a*, the council",

(b) as to subsection (2) by adding after the words "the council may" the words ", subject to section 468*a*".

25. Section 465 is amended by adding the following subsection after subsection (2):

(2*a*) Where a special franchise is assessed, annual depreciation shall be allowed on the machinery, equipment and apparatus mentioned in subsection (2), not to exceed a maximum of fifty per cent so long as the property continues to be in use.

26. The purpose of this amendment is to exclude buildings and improvements from the definition of "land" as set forth in clause (m) of section 2 of The City Act. With the coming into force of the proposed section 468a, buildings and improvements will become subject to annual depreciation while the assessment of land remains unaffected.

27. Section 468, clause (b) presently reads:

468. In any city when the whole or any part of the assessment roll of the current year is adopted under the provisions of section 464,

.....
(b) the assessor shall re-assess, not later than the thirty-first day of October, all assessable property, the value of which has been decreased by the destruction of buildings or improvements thereon, or from some cause other than fair wear and tear, or the value of which has been increased by the erection, completion or substantial repair of buildings or improvements thereon, or by some other physical cause, and

The amendment will bring the clause into line with the equivalent provision in The Assessment Act, 1960.

28. Annual depreciation allowed on all improvements. Section 468a presently reads:

468a. Notwithstanding any other provisions of this Act improvements as described in subclause (iii) of clause (j1) of section 2, shall be assessed and depreciated annually, with the depreciation allowance not to exceed a maximum of fifty per cent so long as the property continues to be in use.

29. Section 497, subsection (1) presently reads:

497. (1) The council of any city, by by-law, may establish a court of revision by appointing three members thereof and may provide that no member shall be an alderman or commissioner of the city.

30. Section 521, subsection (4) reads in part:

(4) The council shall, by by-law, authorize and levy upon the assessed value of all assessed property shown on the assessment roll, a tax at such uniform rate on

31. Section 544, subsection (1), clauses (k) and (o) presently read:

544. (1) The following property is exempt from taxation:

.....
(k) land and improvements owned by a municipality when held for the use of the municipality;

.....
(o) all property belonging to the city, except all or such portion of such property as the council by resolution in any year designates as liable to taxation for municipal purposes only;

The section is revised to make it consistent with section 457 as amended in 1964 and to make it more capable of precise interpretation.

32. Commencement of Act.

26. The following section is added after section 465:

465a. In this Part "land" means physical land.

27. Section 468, clause (b) is amended by striking out the word "physical".

28. Section 468a is struck out and the following is substituted:

468a. (1) Notwithstanding anything in this Act, annual depreciation shall be allowed on all improvements.

(2) With respect to improvements described in subclause (iii) of clause (j1) of section 2 the annual depreciation allowed shall not exceed a maximum of fifty percent so long as the property continues to be in use.

29. Section 497, subsection (1) is amended by striking out the word "three" and by substituting the words "not more than five".

30. Section 521, subsection (4) is amended by adding after the words "The council shall" the words "in each year".

31. Section 544, subsection (1) is amended

(a) by striking out clause (k) and by substituting the following:

(k) land and improvements

(i) owned by a municipality, or

(ii) held under lease, licence or permit from the Crown by a municipality,

(b) by striking out clause (o).

32. (1) This Act, except sections 24 and 28, comes into force on the day upon which it is assented to and upon so coming into force clause (a) of section 21 shall be deemed to have been in force at all times on and after the thirtieth day of October, 1964.

(2) Sections 24 and 28 come into force on a date to be fixed by proclamation.

No. 54

SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

BILL

An Act to amend The City Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE
