

# BILL

No. 85 of 1913.

An Act Relating to Town Planning.

(Assented to 1913).

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

1. A town planning scheme may be prepared in accordance with the provisions of this Act with respect to any land which is in course of development or appears likely to be used for building purposes, with the general object of securing suitable provision for traffic, proper sanitary conditions, amenity and convenience in connection with the laying out of streets and use of the land and of any neighboring lands for building or other purposes.

Preparation and approval of Town Planning Scheme.

(2) The term "Local Authority" as hereinafter used in this Act, shall mean any City or Town Council of any regularly incorporated city or town or the Municipal Council of any Municipality in the Province of Alberta, and the term "Minister" as hereinafter used in this Act shall mean the Minister of Municipal Affairs of the Province of Alberta.

Local authority and Minister defined.

(3) Any local authority may make application to the Minister for authority to put into effect a town planning scheme or any part thereof and the Minister may authorize a local authority to prepare and put into effect a town planning scheme or any part thereof with reference to any land within or in the neighborhood of the area over which it has municipal control, if the local authority satisfies the Minister that there is a *prima facie* case for making such a scheme, or the Minister may authorize a local authority to adopt without modifications any such scheme or any part thereof, proposed by all or any owners of land, with respect to which the local authority might itself have been authorized to prepare a town planning scheme.

Application for authority.

(4) The expression "land likely to be used for building purposes" shall include any land likely to be used as or for the purpose of providing open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town planning scheme, whether in the nature of a building work or not, and the decision of the Minister as to whether land is likely to be used for building purposes, shall be final.

Land defined.

(5) The Minister may authorize the inclusion in a town planning scheme of any land already built upon or any land not likely to be used for building purposes, if it be made to appear to him that such land is so situated that it ought to be included, and may provide for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

What land included in scheme.

(6) A town planning scheme prepared or adopted by a local authority shall not have effect unless approved by written order of the Minister, and the Minister may refuse to approve any such scheme except with such modifications and subject to such conditions as he may think fit to impose; provided that before a town planning scheme can be approved of by the Minister, notice of intention to make application for its approval must have been published in the *Alberta Gazette* of the Province for at least one month, and if within twenty-one days from the publication of such notice, any interested person or authority files notice of objection in the prescribed manner, such objection shall be heard and adjudicated upon by the Minister or by such board or boards of commission as may be appointed by the Minister for the purposes of hearing and adjudicating upon all or any matters of dispute, which may arise between a local authority or a responsible authority, and other interested parties.

Approval of Minister necessary.

In the event of objections being sustained by the Minister or such Board of Commission as he may appoint for the purpose of adjudicating upon them, no proceedings shall be taken toward carrying part of the scheme so objected to into effect, but this without prejudice to the preparation of a new or modified scheme covering the same area or any part thereof.

Objections sustained.

(7) A town planning scheme may be varied or revoked by a subsequent scheme prepared or adopted by a local authority or a responsible authority, and approved by the Minister in accordance with the provisions of this Act.

Scheme may be varied or revoked.

(8) A town planning scheme when approved by the Minister shall have effect as if it were specially enacted in this Act.

Effect of approval of scheme.

**2.** The authority to be responsible for the carrying out of a town planning scheme, herein referred to as the "Responsible Authority" may be either;

Definition of Responsible Authority.

- (a) The local authority applying for approval of the scheme;
- (b) Where land included in a town planning scheme is in the area of more than one local authority or in the area of a local authority by whom the scheme was not prepared, the responsible authority may be one of those authorities, or for certain purposes of the scheme it may be one local authority and for certain purposes another local authority, or
- (c) A body constituted specially for the purpose of the scheme as hereinafter provided and all necessary provision may be made by the scheme for constituting such body and giving it the necessary powers and duties.

(2) For the purpose of preparing a town planning scheme and carrying the same into effect, a local authority, or the local authorities, where more than one is interested, may singly or jointly appoint a commission of not less than five, or more than ten members, whose names shall be submitted to the Minister for approval, and upon the approval by the Minister of the scheme, and of the constitution of the commission named therein, the commission thus appointed shall become the responsible authority for carrying the scheme into effect, to whom shall be delegated all the powers conferred by, and for the purposes of this Act upon the local authority.

Town Planning Commission.

Vacancies as they occur may be filled from time to time by the local authority or authorities.

Vacancies.

(3) The Lieutenant Governor in Council may prescribe a set of general provisions (or separate sets of general provisions adapted for areas of any special character) for carrying out of the general objects of town planning schemes and in particular for dealing with matters set out in the Schedule "A" attached to this Act and the general provisions or separate sets of general provisions appropriate to the area for which the town planning scheme is made, shall take effect as part of every scheme, except so far as special provision is made by the scheme as approved by the Minister, for the variation or the exclusion of any of these general provisions and shall have the same effect as if specially enacted by the Legislature.

Contents of Town Planning Scheme.

(4) Special provisions shall in addition be inserted in every town planning scheme defining in such manner as may be prescribed by regulations under this Act, the area to which the scheme is to apply and the authority which is to be responsible for enforcing the observance of the scheme, and for the execution of any works which under the scheme, or under the Act, are to be executed by the responsible authority, and providing for any matters which may be dealt with by general provisions, and otherwise supplementing, excluding or varying the general provisions and also dealing with any special circumstances or contingencies for which adequate provision is not made in the general provisions, and for suspending, so far as necessary, for the proper carrying out of the scheme, any enactments, by-laws, regulations or other provisions made by a local authority, which are in operation in the area included in the scheme, and such special provision shall have the same effect as if specially enacted by the Legislature.

Area and variation of general provisions.

(5) Special provision may also be made in every town planning scheme defining the manner in which the funds necessary for the carrying it into effect are to be procured. If no such provision is made in the scheme, funds may be procured in any way authorized for local improvement or general purposes by any public or private act in force in the city, town or municipality affected by the scheme; provided always that no assessment upon any city, town or municipality shall be authorized by any town planning scheme, without the consent of the local authority in control of the area affected being first had and obtained; nor shall any power to borrow money either by issue of bonds or otherwise, be conferred upon a responsible authority, by any town planning scheme, except with the approval of the local authority having municipal control of the area affected.

(6) The Minister may certify any by-laws for contracting debts or incurring liabilities, and for this purpose, sections 190 to 193 inclusive of The Towns Act *mutatis mutandis* are hereby incorporated into and shall be deemed to be part of this Act.

(7) Any expenses incurred in preparing any town planning scheme may be paid out of current revenue by the local authority or out of the proceeds of any special tax levied for part purposes to an amount not to exceed \$20,000 in the case of cities, \$10,000 in the case of towns and \$5,000 in the case of other municipalities.

3. The Minister may make regulations for regulating generally the procedure to be adopted with respect to applications for authority to prepare or adopt a town planning scheme, the preparation of the scheme, obtaining the approval of the Minister to a scheme so prepared or adopted, and any enquiries, reports, notices or other matters required in connection with the preparation or adoption or the approval of the scheme, or preliminary thereto, or in relation to the carrying out of the scheme, or enforcing the observance of the provisions thereof.

(2) Provision shall be made by these regulations:

- (a) For securing co-operation on the part of the local authority with the owners and other persons interested in the land proposed to be included in the scheme at every stage of the proceedings by means of conferences and such other means as may be provided by the regulations;
- (b) For securing that notice of the proposal to prepare or adopt the scheme should be given at the earliest stage possible to any parties interested in the land; and
- (c) For dealing with the other matters mentioned in Schedule "B" to this Act;

4. The responsible authority may at any time, after giving such notice as may be provided by a town planning scheme and in accordance with the provisions of this Act;

- (a) Remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme or in the erection, or carrying out of which any provision of this scheme has not been complied with; or
- (b) Execute any work which it is the duty of any person to execute under the scheme in any case where it appears to any authority that delay in execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by the responsible authority under this section may be recovered from the persons in default in such manner and subject to such conditions as may be provided by the scheme.

(3) If any question arises whether any building or work contravenes a town planning scheme, or whether any provision of a town planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall

be referred to the Minister on such board as he may appoint for the purpose, and, unless the parties otherwise agree, shall be determined by the Minister or such board as arbitrators and their decision shall be final and conclusive and binding on all persons.

5. Any person whose property is injuriously affected by the making of a town planning scheme shall, if he makes a claim, for the purpose within the time (if any) limited by the scheme not being less than three months after the date when notice of the approval of the scheme is published in the manner prescribed by regulations made by the Minister, be entitled to obtain compensation in respect thereof from the responsible authority.

(2) A person shall not be entitled to obtain compensation under this section on account of any building erected on or contract made or other thing done with respect to land included in a scheme or after the time at which the application for authority to prepare the scheme has been made, or after such other time as the Minister may fix, for the purpose:

Provided this provision shall not apply as respects any work done before the date of the approval of the scheme for the purpose of finishing a building begun or of carrying out a contract entered into before the application was made.

(3) Where by the making of any town planning scheme, any property is increased in value, the responsible authority if they make a claim for the purpose within the time, (if any) limited by the scheme, (not being less than three months after the date when notice of the approval of the scheme is first published in the manner prescribed by regulations made by the Minister) shall be entitled to recover from any person whose property is so increased in value, one-half of the amount of that increase.

(4) Any question as to whether any property is injuriously affected or increased in value within the meaning of this section, and as to the amount and manner of payment (whether by instalments or otherwise) or the sum which is to be paid as compensation under this section or which the responsible authority is entitled to recover from a person whose property is increased in value, shall be determined by arbitration under the provisions of the *Arbitration Act*, unless the parties agree on some other method of determination.

(5) Any amount due under this section as compensation to a person aggrieved from the responsible authority, or to a responsible authority from a person whose property is increased in value, may be recovered summarily as a civil debt.

(6) Where a town planning scheme is revoked by an order of the Minister under this Act, any person who has incurred expenditure for the purpose of complying with the scheme shall be entitled to compensation in accordance with this section in so far as any such expenditure is rendered abortive by reason of the revocation of the scheme.

6. Where property is alleged to be injuriously affected, by reason of any provisions contained in a town planning scheme, no compensation shall be paid in respect thereof, if or so far as the provisions are such as would have been enforced if they had been contained in by-laws made by the local authority.

(2) Property shall not be deemed to be injuriously affected by reason of the making of any provisions inserted in a town planning scheme which, with a view to securing the amenity of the area included in the scheme or any part thereof, prescribe the space about buildings or limit the number of buildings to be erected or prescribe the height or character of buildings or the amount of vacant land to be taken for parks or open spaces not to exceed five (5) per cent. of the total area and which the Minister having regard to the nature and situation of the land affected by the provisions consider reasonable for the purpose.

(3) Where a person is entitled to compensation under this part of this Act in respect to any matter or thing, and he would be entitled to compensation in respect to the same matter or thing, under any other enactment, he shall not be entitled to

compensation in respect of that matter or thing both under this Act and under that other enactment, and shall not be entitled to any greater compensation under this Act than he would be entitled to under the other enactment.

7. The responsible authority may, for the purpose of a town planning scheme, purchase any land comprised in such scheme by agreement, or compulsorily in the same manner and subject to the same provisions as a local authority may purchase under any local or public Act. May purchase or expropriate.

(2) In the event of compulsory purchase, the arbitrators or arbitrator in deciding on values or compensation shall take into consideration the increased value that will be given to any lands by the scheme, or by reason of the enforcement thereof and shall set off such increased value that will attach to such lands or grounds against the inconveniences. Increased value not paid for.

8. If the Minister is satisfied on any representation, after holding a public enquiry that a local authority:

(a) Have failed to take the requisite steps for having a satisfactory town planning scheme prepared and approved in a case where a town planning scheme ought to be made; Powers of Minister in case of default of local authority to make or execute a town planning scheme.

(b) Having failed to adopt a scheme proposed by owners of any land in a case where a town planning scheme ought to be adopted, or

(c) Have unreasonably refused to consent to any modification or conditions imposed by the Minister, the Minister may, as the case requires, order the local authority to prepare and submit for his approval, such a town planning scheme, or to adopt the scheme or to consent to the modifications or conditions so inserted:

Provided that, where the representation is that a local authority have failed to adopt a scheme, the Minister, in lieu of making such an order as aforesaid, may approve the proposed scheme subject to such modifications or conditions, if any, as he thinks fit, and thereupon the scheme shall have effect as if it had been adopted by the local authority and approved by the Minister.

(2) If the Minister is satisfied on any representation after holding an inquiry, that a responsible authority has failed to enforce effectively the observance of a scheme which has been confirmed, or any provisions thereof, or to execute any works, which under the scheme or this Act, the authority is required to execute, the Minister may order that authority to do all things necessary for enforcing the observance of the scheme or any provisions thereof effectively, or for executing any works which under the scheme or this part of this Act the authority is required to execute. Minister may enforce observance of scheme.

(3) Any order under this section may be enforced by *Mandamus* or *mandamus*.

9. Any expenses incurred by the Minister under this Act, including the payment of any Board or Commission shall be paid out of any funds appropriated from the General Revenue Fund to the Department of Municipal Affairs for that purpose. Expenses of administering Act.

10. This Act may be cited as "*The Town Planning Act*". How cited.

#### SCHEDULE "A"

##### MATTERS TO BE DEALT WITH BY GENERAL PROVISIONS PRESCRIBED BY THE MINISTER.

1. Streets, tramways, roads and other ways, and stopping up or diversion of existing highways.
2. Buildings, structures and erections.
3. Open spaces, private and public.
4. The preservation of objects of historical interest or natural beauty.

5. Sewerage, drainage and sewerage disposal.
6. Lighting.
7. Water supply.
8. Ancillary or consequential works.
9. Extinction or variation of private rights of way and other easements.
10. Dealing with or disposal of land acquired by the responsible authority or by a local authority.
11. Power of entry and inspection.
12. Power of the responsible authority to remove, alter or demolish any obstructive work.
13. Power of the responsible authority to make agreements with owners, and of owners to make agreements with one another.
14. Power of the responsible authority or a local authority to accept any money or property for the furtherance of the objects of any town planning scheme, and provision for regulating the administration of any such money or property.
15. Application with necessary modifications and adaptations of statutory enactments.
16. Carrying out and supplementing the provisions of this Act for enforcing schemes.
17. Limitation of time for operation of scheme.
18. Co-operation of the responsible authority with the owners of land included in the scheme or other person interested by means of conference and other means.
19. Charging on the inheritance of any land the value of which is increased by the operation of a town planning scheme the sum required to be paid in respect to that increase and for that purpose applying with the necessary adaptations, the provisions of any enactments dealing with charges for improvements of land or making special provisions to govern the same.

#### SCHEDULE B.

1. Procedure anterior to and for the purpose of an application for authority to prepare or adopt a scheme.
  - (a) Submission of plans and estimates.
  - (b) Publication of notices.
2. Procedure during, on, and after the preparation or adoption and before the approval of the scheme.
  - (a) Submission to the Minister of the proposed scheme with plans and estimates.
  - (b) Notice of submission of proposed scheme to the Minister.
  - (c) Hearing of objections and representations by persons affected, including persons representing architectural or archaeological societies or otherwise interested in the amenity of the proposed scheme.
  - (d) Publication of notice of intention to approve scheme and the lodging of objections thereto.
3. Procedure after the approval of the scheme.
  - (a) Notice to be given of the approval of the scheme.
  - (b) Inquiries and reports as to beginning and the progress and completion of works and other action under the scheme.
4. Duty, at any stage, of the local authority to publish or deposit for inspection any scheme, or proposed scheme, and the plans relating thereto, and to give information to persons affected with reference to any such scheme or proposed scheme.
5. The details to be specified in plans, including wherever the circumstances so require, the restrictions on the number of buildings which may be erected on each acre, and the height and character of these buildings.