

BILL No. 88 OF 1928.

A BILL TO CONSOLIDATE AND AMEND THE
STATUTES RELATING TO TOWN PLANNING
AND THE PRESERVATION OF NATURAL
BEAUTY

NOTE.

This Bill re-enacts the provisions of *The Town Planning and Preservation of Natural Beauty Act*, and replaces *The Town Planning Act*, which was passed in 1913, by provisions which are suggested by experience in carrying out town planning schemes in recent years.

Part II is designed to enable a municipality to formulate a general plan of development of the land within its boundaries, which cannot be departed from unless such plan is amended in the manner therein provided.

Part III empowers a municipality to enact zoning by-laws.

Part IV provides for the more effective control of subdivisions and affords a means of insuring that land shall not be subdivided in such a way as to cause inconvenience and difficulty in future development.

Part V provides for the appointment of the necessary officials to administer the Act, and supervise Town Planning activities in the Province.

WALTER S. SCOTT,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 58 of 1929.

An Act to consolidate and amend the Statutes relating to
Town Planning and the Preservation of
Natural Beauty.

(Assented to _____, 1929.)

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

1. This Act may be cited as "*The Town Planning Act,*
1929."

2. In this Act, unless the context otherwise requires—

- (a) "Board" shall mean the Town and Rural Planning Advisory Board, appointed pursuant to this Act;
- (b) "Director" shall mean the Director of Town Planning, appointed under the provisions of this Act;
- (c) "Land" shall include a right or interest in, and an easement over the land;
- (d) "Local authority" shall mean the council of any city or town;
- (e) "Minister" shall mean the Minister of Municipal Affairs;
- (f) "Municipality" shall mean any incorporated city, town, village, municipal district or improvement district;
- (g) "Owner" shall mean a person who has any estate, title, right or interest in land;
- (h) "Rural authority" shall mean the council of any village or any municipal district in respect of the land included in each; and with respect to land in an improvement district, the Minister of Municipal Affairs;
- (i) "Subdivision" shall mean the division of land into two or more parcels, whether by plan or by metes and bounds description or otherwise.

PART I.

PRESERVATION OF NATURAL BEAUTY

3. It shall be the duty of the Town and Rural Planning Advisory Board—

- (a) to co-operate with any local or rural authority in formulating and carrying into effect any official town plan or any town planning scheme;
- (b) to confer with and advise the Minister of Public Works as to any regulations made or hereafter to be made respecting plans of subdivision pursuant to *The Public Works Department Act*, and as to the desirability of approving any of such plans of subdivision or otherwise, and any matter incidental thereto;
- (c) to assist and advise any rural authority in devising ways and means for preserving the natural beauty of the locality and of ensuring that new buildings and erections therein shall be so designed and located that the same shall not mar the amenities of the locality;
- (d) to promote in any community a pride in the amenities of its neighbourhood;
- (e) to collect and collate information as to town planning schemes;
- (f) to discharge any other duties or functions conferred upon it by this Act.

4. The Board shall have power with the approval of the Lieutenant Governor in Council to make regulations with respect to any part of the Province which is not included in any city, town or village—

- (a) declaring any highway or part of a highway to be a highway to which this Part applies, herein called "a declared highway," and establishing a building line on each side thereof;
- (b) as to the design, location and construction of any building located on any declared highway, or part thereof, which is or is intended to be used as a gasoline filling station, a garage, an automobile service station, or for the purpose of supplying travellers with refreshment;
- (c) as to the site of any tourist camp and the laying out and the equipment thereof;
- (d) prohibiting or regulating the erection and maintenance of signs and sign-boards and the pasting or painting of signs or notices and the exposing of any advertising device;

- (e) for licensing and fixing the fees for licenses to be granted to any person for erecting any such sign or sign-board or posting or painting any such sign or notice or exposing any such advertising device;
- (f) as to the care, maintenance, management and control of any land acquired for park or other purposes pursuant to this Act.

5. Every regulation made pursuant to the last preceding section shall be published in *The Alberta Gazette* and shall upon publication be in full force and effect.

6. No person shall erect any building or erection of any kind, other than fencing, upon any land contiguous to a declared highway, or part thereof, if any part of such building or erection be nearer the highway than the building line established under this Act, unless the plans, designs and specifications thereof shall have been previously submitted to, and been approved by, the Board.

7. The Board may notify the owner or occupier of any land upon which any structure has been erected in contravention of the provisions of section 6 of this Act by causing to be affixed upon the said structure a notice in writing, signed by a member of the Board and directing the removal of the structure; and if the said structure is not wholly removed from the land between the highway and the building line within seven days from the date of the affixing of such notice, the owner and the occupant of the said structure, and the site thereof, shall each be guilty of an offence and shall be liable on summary conviction to a penalty of not more than twenty-five dollars for each day during which default is made in removing the said structure.

8. No person shall operate any premises as a public garage or gasoline filling station on any land which is located on or near a declared highway, unless he is in possession of a valid license issued pursuant to this Act.

9.—(1) The Minister may in his discretion grant a license for the operation of a public garage or gasoline filling station as aforesaid, upon—

- (a) receipt of an application in writing in such form as the Minister may prescribe, containing amongst other things a description of the premises upon which the applicant intends to carry on business; and
- (b) the payment of a fee of five dollars.

(2) Every such license shall expire on the thirty-first day of December, following the date of its issue.

10. The Minister may make regulations not inconsistent with this Act providing for the form and issuing of licenses.

11. In the event of any person who is the holder of a license being convicted of any offence under this Act, the Minister may in his discretion suspend or cancel his license, and such suspension or cancellation shall become effective seven days after the date of issue of *The Alberta Gazette* containing a notice thereof.

12. No person shall sell to any person operating a public garage or a gasoline filling station who is required to be licensed pursuant to this Act and who is not at the time of the sale the holder of a valid license, any gasoline for the purpose of reselling the same by retail.

13. Any person who contravenes any regulation made pursuant to this Act, or any provision of this Act for which no other penalty is specially provided, or destroys or defaces any sign, sign-board, notice or advertising device lawfully authorized under this Act, or any sign, sign-board or notice the property of His Majesty, shall be guilty of an offence and liable upon summary conviction to a fine of not less than five dollars and not more than one hundred dollars; and in addition may be ordered to pay the value of any property injured or destroyed and in default of payment to imprisonment for a period not exceeding one month, unless the fine and any amount ordered to be paid as aforesaid and costs are sooner paid.

14. The Board may with the approval of the Lieutenant-Governor in Council acquire by private treaty land for provincial park purposes, and for the purpose of preserving places of natural beauty or historic interest.

15. If for any reason an agreement is not arrived at for the purchase of any land which the Board with the approval of the Lieutenant Governor in Council has decided to acquire, the Lieutenant Governor in Council may order that such land may be acquired by compulsory means and thereupon the Board shall have the same powers of expropriation as are given to the Minister of Public Works by *The Public Works Act* in respect of the expropriation of land for a public work; and all the provisions in *The Public Works Act* relating thereto shall apply *mutatis mutandis* to any land compulsorily acquired pursuant to the provisions of this Act.

16. The Lieutenant Governor in Council may raise by way of loan any sum or sums required for the purpose of acquiring any property pursuant to this Act:

Provided that the total sum so raised in any year does not exceed twenty-five thousand dollars.

PART II.

OFFICIAL TOWN PLAN, SCHEME AND ZONING BY-LAW.

17.—(1) Any local authority may by by-law approved by the Minister, appoint a Commission to be known as a "Town Planning Commission," consisting of three, six or nine members, and may delegate to it such powers, other than the power of raising money or expropriating land, as may be necessary for the purpose of—

- (a) acting in an advisory capacity in matters pertaining to town planning;
- (b) preparing and carrying into effect a town planning scheme;
- (c) preparing and administering a zoning by-law.

(2) Of the original members of the Commission one-third shall be appointed to hold office until the date of the first meeting of the council in January of the year following their appointment, one-third until the date of the first meeting of the council in January of the second year following their appointment, and one-third until the date of the first meeting of the council in January of the third year following their appointment; and in each succeeding year the required number of members shall be appointed for a term of three years to fill the vacancies caused by the retirement of the members whose term of office has expired. Members shall hold office until their successors are appointed. All appointments to fill other vacancies shall be for the unexpired term.

(3) Meetings of the Commission shall be held at the call of the chairman and at such other times as the Commission may determine.

(4) The Commission shall keep minutes of its proceedings.

(5) The Commission may appoint such town planning engineers, consultants or other officers as may be necessary for any of these purposes and may expend such funds as may be furnished by the Council.

18.—(1) Subject to the approval of the Minister, the councils of two or more adjoining municipalities may jointly by by-law appoint a Commission to be known as a "Regional Planning Commission," consisting of not more than three representatives from the jurisdiction of each council interested, and may delegate to it such powers, other than the power of raising money or expropriating land, as may be necessary for the purpose of carrying into effect a town planning scheme.

(2) Meetings of the Commission shall be held at the call of the chairman and at such other times as the Commission may determine.

(3) The Commission shall keep minutes of its proceedings.

(4) The expenses of the Commission shall be borne by the councils in the proportions which the total values of the assessable property in their respective municipalities as shown on the assessment rolls bear to one another, but shall not exceed the appropriation made by the councils.

(5) The provisions of this Act relating to the term of office of a member of a Town Planning Commission, retirement, vacancies in office, and the filling of vacancies, shall apply to the representatives appointed by each council as if each were a separate commission.

10. Any local or rural authority shall have power—

- (a) for the purpose of providing for the development of its municipal territory or any part thereof, in an orderly and convenient manner to prepare a plan or plans for development either as to the whole or any part or parts thereof, with details of development either endorsed upon the plan or contained in schedules referring to any such plans, which plan or plans and details of development shall be known as "The Official Town Plan";
- (b) from time to time to make additions and extensions to and alterations in the official town plan;
- (c) to prepare plans and schemes for specific public improvements not inconsistent with the official town plan (if any) which shall be known as "Official Schemes."
- (d) to prepare plans for the development of railway and rapid transit and street railway and airport facilities, and to recommend plans so prepared to any Railway Board or public authority having jurisdiction in the matter, and to any railway or other company concerned therewith, and to use all lawful measures to secure the adoption of such plans and the due co-ordination of terminal, transportation, and other facilities of commerce and traffic within and about the municipality;
- (e) to make provision for any street widening project by defining the minimum distance from the centre or side line of existing or projected streets at which buildings or other structures may be erected, placed, constructed or reconstructed;
- (f) to make provision for the reservation of land for projected streets or street widening projects, and for parks and other public purposes;

- (g) to make provision for the supply of light, water, sewerage, street transit and other facilities to the various parts of the area included in an official town plan or scheme;
- (h) to prescribe the order in which any part or parts of the development provided for in the official town plan or scheme will be carried out and the order in which any designated parts of the area included in the official town plan or scheme will be supplied with light, water, sewerage, street, transit and other facilities;
- (i) to make provision for the method of financing any works and expenses to be incurred in connection with or incidental to the carrying out of the development prescribed in the official town plan or scheme or any part or parts of such development.

20. The adoption by a local or rural authority of any official town plan or scheme, shall not commit the authority to undertake any of the projects therein suggested or outlined, but shall prevent the undertaking by the authority of any public improvements within the scope of the official town plan or scheme in any manner inconsistent therewith or at variance therefrom.

21.—(1) An official town plan or scheme adopted by a local or rural authority shall not have effect unless and until approved by the Minister, who may refuse approval until such modifications as he may deem necessary are made therein.

(2) An official town plan or scheme may be varied or revoked by the local or rural authority, but such variation or revocation shall have no effect unless approved by the Minister.

22. An official town plan or scheme, or any variation or revocation thereof, shall become operative and shall have effect as if incorporated in this Act upon publication in *The Alberta Gazette* of notice of its approval by the Minister.

23.—(1) The local or rural authority shall, before adopting an official town plan or scheme, give notice of its intention so to do by advertisement inserted at least once a week for two successive weeks in a newspaper published or circulating in the area affected, the first of such notices to be published at least eight clear weeks before the date fixed for the consideration of objections.

(2) The notice shall state a place where, and the hours during which, the official town plan or scheme may be in-

spected by any interested person and the time and place set for the consideration by the local or rural authority of written objections to the official town plan or scheme.

24. The local or rural authority shall make suitable provision for inspection of the official town plan or scheme by interested persons, and shall hear and determine all written objections thereto before its adoption.

25.—(1) An official town plan or scheme shall be adopted by by-law.

(2) The official town plan or scheme shall be under the seal of the local or rural authority and shall be signed by the mayor or reeve and by the clerk or secretary-treasurer, as the case may be.

26. The application to the Minister for his approval of the official town plan or scheme shall be accompanied by—

- (a) two copies of the official town plan or scheme, certified as correct by the clerk or secretary-treasurer;
- (b) a copy of the adopting by-law so certified;
- (c) proof of compliance with the requirements of section 24 by statutory declaration made by the clerk or secretary-treasurer;
- (d) a copy of all written objections to the official town plan or scheme in so far as such objections have not been withdrawn or acceded to.

27.—(1) Within ten days of the receipt of the approval by the Minister of the official town plan or scheme, the council shall publish notice thereof by advertisement in a newspaper published or circulating in the area affected.

(2) A copy of the notice shall be transmitted to the Minister.

28.—(1) Where land included in an official town plan or scheme is in more than one municipality, each local or rural authority shall be responsible for the carrying out of so much of the provisions of the official town plan or scheme as affects land under its jurisdiction, provided that a regional planning commission appointed in accordance with section 18 may be made responsible for carrying out the whole of the official town plan or scheme.

(2) If the area or part of the area covered by an official town plan or scheme is subsequently included within the limits of a village, town or city, the council thereof shall be responsible for carrying out the provisions of the official town plan or scheme with respect to such area.

29.—(1) Where a project shown upon an official town plan or scheme has been or is about to be undertaken, the

Council may, in addition to any lands the acquisition of which is essential to the carrying out of the project, acquire other adjacent or neighboring lands, and such additional lands may include—

- (a) the remnants of parcels, portions of which are essential to carrying out the project;
- (b) any lands which may be injuriously affected by the project;
- (c) any lands which, if allowed to be built upon without restriction, might become the site of buildings or structures which would prejudicially affect the full enjoyment of any building forming part of the project or the architectural effect thereof;
- (d) any lands which the council is of the opinion could be conveniently and profitably subdivided or rearranged and developed as part of the project.

(2) The council shall have the same right to purchase or appropriate the additional lands as it has to purchase or appropriate the lands immediately necessary for the carrying-out of the project under any general or special Act.

(3) The municipality may subdivide, rearrange and deal with the said lands as if it were a private owner, and may by resolution or by by-law, without submission to the ratepayers, dispose of the same to such persons on such terms and subject to such building and other restrictions or easements as the council deems advisable.

(4) In lieu of acquiring title to any such lands, the Council may by agreement with the owners, or by expropriation, acquire the right to cause to be imposed upon the lands or to be created such building restrictions or easements as might have been imposed or created if the municipality had acquired the title.

(5) Any expenses incurred in acquiring additional lands or in imposing or creating building restrictions or easements shall be met as part of the project, and the proceeds of any sale or other disposition of the lands so acquired shall be applied, in so far as they are required in reduction of the cost of carrying out the project.

ZONING.

30.—(1) The Council of any municipality may from time to time by by-law to be known as a zoning by-law, make regulations for all or any of the following purposes, and divide the municipality or any portion or portions thereof into districts of such number, shapes and areas as the Council considers best suited therefor. Such districts may be described by detailed description or by the use of plans or partly by one method and partly by the other—

- (a) designating certain districts within which it shall be lawful to erect, construct, alter, reconstruct, repair or maintain certain buildings, or to carry on certain businesses, trades or callings;
- (b) designating certain districts within which it shall be unlawful to erect, construct, alter, reconstruct, repair or maintain certain buildings, or to carry on certain businesses, trades or callings;
- (c) designating certain districts within which the height, ground area, and bulk of buildings thereafter erected, constructed, altered, reconstructed, or repaired shall be limited, and prescribing the limitations;
- (d) prescribing building lines and the depth, size or area of yards, courts, and other open spaces to be maintained, and the maximum density of population permissible within any district;
- (e) regulating, restricting and prohibiting in any district the location of all or any classes of industries, businesses, trades or callings, and the location of apartment or tenement houses, terraces, club-houses, hospitals, group residences, two-family dwellings, single-family dwellings, the several classes of public and semi-public buildings, and generally the location of all buildings or property designed or used for any uses specified in the by-law;
- (f) prescribing as to any district the class of use of buildings or land that shall be excluded or subjected to special regulations and designating the uses for which buildings may not be erected, constructed, altered, reconstructed, or repaired, or land used, or designating the class of use which only shall be permitted;
- (g) controlling the architectural design, character and appearance of any or all buildings proposed to be erected in any district or part of a district, or fronting upon any street or part of a street and prohibiting the erection of any building in contravention of such regulation;
- (h) prohibiting the erection of any buildings in any district or part of a district until provision has been made, to the satisfaction of the Council, for the supply to such building of light, water, sewerage, street, transit and other facilities or any of them which the Council may deem necessary.

31.—(1) Before passing a zoning by-law, the Council shall, if a town planning commission has been constituted under the provisions of this Act, request such planning commission to recommend the boundaries of the districts and appropriate regulations and restrictions to be enforced therein, and the commission shall make a report thereon.

(2) The Council shall, before passing a zoning by-law, give notice of its intention so to do by advertisement inserted at least once a week for two successive weeks in a newspaper published or circulating in the area affected, the first of such notices to be published at least eight clear weeks before the date fixed for passing the by-law.

(3) The notice shall state a place where, and the hours during which, the zoning by-law may be inspected by any interested person and the time and place set for the consideration by the Council of objections to the by-law.

(4) The Council shall make suitable provision for inspection of the by-law by interested persons, and shall before passing the by-law hear and determine all objections thereto.

(5) A zoning by-law, or any amendments or repeal thereof, shall not have effect unless and until approved by the Minister.

32.—(1) Any person or any members of the council desiring to secure the amendment or repeal of a zoning by-law shall make application therefor to the Council and the Council shall, if a town planning commission has been constituted under the provisions of this Act, refer such application to the commission for consideration and report. Before approving of any amendment or repeal the Council shall give notice thereof by publishing a notice of hearing in like manner as provided in section 31. Such notice shall state the time and place at which the Council shall meet to consider the proposed amendment or repeal.

(2) At the time and place thus appointed the Council shall meet, and all persons whose property would be affected by such amendment or repeal may appear in person or by attorney or by petition, and after hearing such persons the Council may confirm, amend, or repeal the zoning by-law in whole or in part.

(3) If a protest against the proposed amendment or repeal is presented in writing to the municipal clerk not less than two days prior to the hearing, duly signed, by the assessed owners of at least twenty per cent of the street frontage affected by the proposed amendment or repeal, or by the assessed owners of at least twenty per cent of the street frontage immediately in the rear thereof, or by the assessed owners of at least twenty per cent of the street frontage directly opposite the frontage so affected, such amendment or repeal shall not be passed except by an affirmative vote of not less than three-fifths of the members of the Council.

33. Where the provisions of any zoning by-law impose requirements for a lower height of buildings, or a less percentage of a lot that may be occupied, or require wider or larger courts or deeper yards than are imposed or required by existing provision of statute or by-law, the provision of

the zoning by-law shall govern, but where the provisions of the building code or other by-law or regulation of any municipality impose requirements for a lower height of buildings or a less percentage of lot that may be occupied or require wider or larger courts or deeper yards than are required by the zoning by-law, the provisions of such building code or other by-law shall govern.

34.—(1) Any building lawfully under construction at the time of the first publication of the advertisement of intention to pass a zoning by-law, shall for the purpose of that by-law be deemed to be a building existing at the time of the passing of a zoning by-law.

(2) The lawful use of premises existing at the date of first publication of the advertisement of intention to pass a zoning by-law under the provisions of this Act, although such use does not conform to the provisions of the by-law, may be continued; but if such non-conforming use is discontinued, any future use of those premises shall be in conformity with the provisions of the zoning by-law.

(3) The lawful use of a building existing at the time of the passing of a zoning by-law under the provisions of this Act, although such use does not conform to the provisions of the zoning by-law, may be extended throughout the building, but no structural alterations except those required by statute or by-law shall be made therein.

(4) Where no structural alterations are made in a building of a non-conforming use, such use may be changed to a use of a similar or higher classification, according to the provisions of the zoning by-law.

(5) A change of tenants or occupants of any premises or building shall not be deemed to affect the use of the premises or building within the meaning of this section.

35. Prior to the passage of a zoning by-law or prior to the passage of an amendment of a zoning by-law if application therefor has been made, the Council may for a period not exceeding two months withhold, or authorize its proper officer to withhold, a building permit for any building, or the Council may impose such conditions on the granting of the building permit as may appear to the Council to be in the public interest.

36.—(1) Appeal shall lie in the following cases:

- (a) By any person who is dissatisfied with the decision of any official charged with the enforcement of a zoning by-law;
- (b) By any person desiring to obtain the benefit of any exception contained in a zoning by-law;
- (c) By any person claiming that owing to special conditions the literal enforcement of a zoning by-law would result in unnecessary hardship;

- (d) In any other cases where provision for appeal is made by a zoning by-law.
- (2) If a town planning commission has been appointed, the appeal shall be in the first instance to that commission and there shall be an appeal from the commission to the board. If no town planning commission has been appointed, the appeal shall be to the board.
- (3) In considering appeals the board shall adhere to the spirit of the by-law. It may make such regulations as special cases seem to it to call for and shall endeavor to see that substantial justice is done and that the interests of any individual are not unduly or unnecessarily sacrificed for the benefit of the community.
- (4) The board and each town planning commission shall determine the procedure to be followed upon appeals made to them respectively.
- (5) The board shall deal with all appeals upon their merits and there shall be no appeal from any decision of the board.

37.—(1) If after making any enquiries which he deems sufficient, the Minister is satisfied that an authority is not conforming to an official town plan or scheme adopted by the authority and approved by the Minister, or that an authority is not enforcing the provisions of any zoning by-law adopted and approved as aforesaid, the Minister may order, as the case may require, that the authority shall conform to the official town plan or scheme and, or enforce the said zoning by-law within such time or times as may be from time to time fixed by him.

(2) If after making any enquiries he deems sufficient the Minister is satisfied that it is in the public interest that an authority should prepare and adopt an official town plan or scheme or zoning by-law or any of them, he may order the authority to prepare and adopt an official town plan, scheme or zoning by-law or any of them, within such time or times as may be from time to time fixed by him.

(3) If default is made by an authority in complying with any order made by the Minister under this section, the Minister may give notice of such default by publishing the same in *The Alberta Gazette*, and thereupon the Minister shall for the purpose of carrying out the provisions and terms of such order be empowered to exercise for and in the name of the authority all the powers by this Act conferred upon the authority.

PART III.

DAMAGES AND ENFORCEMENT.

38.—(1) Where, by the carrying out of a project under an official town plan or scheme, property is injuriously affected, the owner thereof, in respect to any matter or thing which has not been the subject of compensation shall, if he makes a claim within one year after the completion of the project or any part thereof affecting his property, be entitled to obtain compensation for such injury from the Council.

(2) Any question as to whether property is injuriously affected as aforesaid, and as to the amount and manner of payment of compensation, shall be determined by arbitration in accordance with the provisions of the municipal Act by which the Council is governed, which shall *mutatis mutandis* apply.

39.—(1) Property shall not be deemed to be injuriously affected by reason of the passing of a zoning by-law under the authority of this Act.

(2) Where property is alleged to be injuriously affected by provisions contained in an official town plan or scheme, no compensation shall be paid in respect thereof if the provisions are such as would have been enforceable without compensation if they had been contained in a zoning by-law.

(3) Where a person is entitled to compensation under this Act, in respect of any matter or thing which would entitle him to compensation 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, nor shall he be entitled to any greater compensation under this Act than he would be under the other enactment.

40.—(1) The Council may, at any time after giving such notice as may be prescribed in a zoning by-law, official town plan or scheme, order—

- (a) the removal, demolition or alteration of any building or other work in the area affected by the by-law or included in the official town plan or scheme, which contravenes the provisions thereof, or in the erection or carrying out of which any of the provisions of the by-law, official town plan or scheme have not been complied with;
- (b) the execution of work which it is the duty of any person to execute under a by-law, official town plan, or scheme, where default has been made by such person and it appears to the Council that delay in the execution of the work will prejudice the efficient operation of the by-law, official town plan or scheme.

(3) The Council may also direct that, in default of any matter or thing being done by any person in accordance with an order under subsection (1) it shall be done at his expense, and the municipality may recover the expense thereof with costs by action or in like manner as municipal taxes.

41.—(1) The Council or any of its duly authorized officers or servants shall be admitted into or upon any property within the municipality for the purposes of any inspection required in connection with the preparation of a zoning by-law, official town plan or a scheme, or carrying out the provisions thereof; and if admission is refused, any magistrate, upon complaint on oath by an officer of the Council made after reasonable notice in writing of intention to make the complaint has been given to the person having custody of the property, may by order under his hand require such person to admit the Council and its officers or servants into or upon the property during such reasonable hours as he shall think fit.

(2) If no person having such custody can be found, the magistrate shall, on oath made before him of that fact, by order under his hand authorize the Council and its officers or servants to enter into or upon the property for the purposes hereinbefore mentioned and during such reasonable hours as he shall see fit.

(3) Any order made by a magistrate shall continue in force until the purpose for which admittance was required shall have been fulfilled.

42. For the purpose of carrying out the provisions of this Act and of any by-law, official town plan, or scheme made thereunder every Council shall possess and may exercise all the powers conferred upon it by the municipal Act by which it is governed.

PART IV.

SUBDIVISIONS.

43.—(1) No person shall sell, lease for a term of more than five years, agree to lease for a term of more than five years, or mortgage any land which contains less than one acre and which forms a part of any larger lot or parcel of land not previously duly subdivided, unless and until such sale, lease, agreement to lease, or mortgage has been approved by the Board; and every sale, lease, agreement to lease or mortgage made in contravention of this provision shall be null and void.

(2) In the case of land situated within two miles of the boundary of any city, town or village, no person shall sell,

lease for a term of more than five years, agree to lease for a term of more than five years, or mortgage any land containing less than eleven acres, which forms part of a larger plot or parcel, unless and until a plan of subdivision of the last mentioned land has been registered in the proper Land Titles Office; and every sale, lease, agreement to lease and mortgage made in contravention of this provision shall be null and void.

(3) Outside of cities and towns no person shall erect or permit or cause to be erected upon any parcel of land, which is not used exclusively for agricultural purposes, more than one dwelling house, unless and until a plan of subdivision of such parcel shall have been registered in the proper Land Titles Office, and thereupon the divisions of such parcel as shown by the plan of subdivision shall be deemed to be separate parcels for all purposes, and shall be deemed to be occupied with and appurtenant to any dwelling house thereon; and the owner of any land upon which a dwelling house has been erected in contravention of this provision, who does not cause the use thereof to be discontinued from and after the service upon him of a notice in writing requiring him so to do under the hand of the Minister, shall be guilty of an offence and shall be liable on summary conviction to a penalty of twenty dollars for each day such dwelling house continues to be used as such after service by notice as aforesaid.

(4) Notwithstanding anything in this Act, nothing in this section shall be deemed to affect the provisions of any other Statute relating to subdivisions.

44. The board may, with the approval of the Lieutenant Governor in Council, make regulations respecting replotting schemes, indicating the rules to be observed in the preparation of such schemes, and dealing with such matters as surveys; negotiations with the owners and others having an interest in the land affected; the manner in which the consent or otherwise of such owners or other interested parties shall be evidenced; the notices to be given to interested parties; the re-location and exchange of properties and highways; the removal of buildings; the disposal of surplus properties; the temporary use of former highways pending the completion of the new highways; the accounts of the cost of such schemes, and the apportionment thereof and generally as to the procedure upon any replotting scheme.

45. Any local or rural authority may, by resolution passed by a vote of two-thirds of all its members, authorize the preparation of a scheme in this Act called a replotting scheme for the cancellation of any existing subdivision or part thereof and making a new subdivision thereof and the redistribution of the newly subdivided land amongst the owners of the cancelled subdivision and may, by resolution similarly passed, adopt the same: provided that no replotting scheme may be approved without the previous consent

in writing, as to at least sixty per cent of the parcels of land in the subdivision or part of a subdivision to be cancelled and replotted, and of the assessed value of the lands exclusive of improvements affected, of the owners thereof and of any other persons having any registered interest therein.

46. A replotting scheme shall indicate what compensation (if any) is to be paid to the respective owners, and the apportionment of the cost of the undertaking between the municipality and the owners other than the municipality.

47.—(1) The cost of any replotting scheme shall be apportioned between the municipality and the owners (other than the municipality) of the lands comprised therein in the manner set out in the scheme.

(2) The portion of the cost payable by the municipality may be raised by a special rate levied and collected upon all the lands and improvements in the municipality liable to assessment and taxation for general purposes, and the portion of the cost payable by the owners may be raised by a special rate levied and collected upon and from the lands comprised in the replotting scheme which is liable to assessment and taxation by the municipality for general purposes.

(3) The municipality may borrow any sum or sums of money required to pay the cost of and incidental to any replotting scheme by the issue of debentures, for a term of not more than ten years, or for such greater term as the Minister may sanction in the same manner and subject to the same provisions as if the replotting scheme had been effected as a Local Improvement under any Act applicable to the municipality providing for local improvements; and the sums required for the repayment of any such debenture shall be apportioned between the municipality and the owners of the land comprised in the replotting scheme in the same manner as is herein provided for the apportionment of the cost of such scheme, and shall be raised by special rates in the same manner as is heretofore provided for raising the cost of the replotting scheme.

(4) All the provisions of the Act in force in the municipality as to the levying, payment and recovery of the general taxes of the municipality shall apply to any special rate levied under this Part, as if such rate were a general tax of the municipality.

48. The authority may, subject to making compensation therefor, acquire any incumbrance against a former parcel and hold it as an encumbrance against a new parcel allotted to the owner of the former parcel and take all proceedings requisite or necessary for the collection of the amount due under and by virtue of such encumbrances, or for the sale, transfer or realization of the encumbrance or the property subject to the encumbrance.

49.—(1) A certified copy of the resolution approving any replotting scheme, together with details thereof, shall be filed in the Land Titles Office of the Land Registration District in which the land is situate, together with a list of the lots or parcels comprised therein; and thereupon the Registrar shall endorse upon the title to each such lot or parcel a memorandum that the same is included in a replotting scheme to be known as a replotting notice.

(2) The endorsement of a replotting notice on any title shall constitute notice to all persons having any right, title or interest whether the same appears upon the title or not, and to all persons subsequently to the endorsement dealing in the land covered by the title, of the replotting scheme; and all such persons shall be bound by all proceedings under the replotting scheme whether taken before or after the date of the endorsement of the replotting notice on the title.

(3) No person having any right, title, interest, claim or demand in, to, out of or upon any land affected by the replotting scheme which is not of record against the title to such land in the proper Land Titles Office at the time of the endorsement of the replotting notice upon the title, except only purchasers from the Crown and purchasers under *The Tax Recovery Act*, shall be entitled to receive any notice of any proceedings as to replotting which is required to be given by this Part; and no person who acquires an interest on land affected by a replotting scheme after the endorsement upon the title of the replotting notice shall be entitled to receive any notice of any such proceedings unless and until he has given to the Clerk of the Authority written notice of his interest and evidence of registration thereof and has furnished the Clerk with an address to which notices may be mailed.

(4) Any allotment, decision, award, consent or other proceeding under this Part shall be binding upon and ensure to the benefit of the owner of the land thereby affected, his heirs, executors, administrators and assigns.

50. Within four months after the filing of the resolution approving a replotting scheme the Council shall by resolution either—

- (a) discontinue the replotting scheme and file with the proper Registrar of Land Titles a certified copy of the resolution of discontinuance and thereupon the Registrar shall cancel the endorsement of replotting notices theretofore made pursuant to the former resolution; or
- (b) adopt the replotting scheme and file with the proper Registrar a plan of subdivision made in pursuance of such scheme in the same manner as is prescribed in *The Land Titles Act* for the filing of plans of subdivision and shall at the same time file a certificate under the seal of the authority setting out—

- (i) the description of each new parcel;
- (ii) the name and address of the owner or person to whom each new parcel has been allotted;
- (iii) the former parcel in respect of which the allotment of the new parcel is made, including the description of the former parcel and the new parcel.

51. It shall be the duty of the Registrar—

- (a) upon the filing of the certified copy of the resolution discontinuing the scheme to cancel all endorsements previously made by him of the replotting notice pursuant to the resolution approving the scheme;
- (b) (i) upon the filing of the said resolution, plan and certificate to register the said plan as the plan of subdivision of the lands comprised therein and to cancel all plans previously registered so far as the same affect the lands comprised in the new plan;
- (ii) to register persons named in the said certificate as the owners of the parcels allotted to them by the said certificate as owners in fee simple in possession subject only to such encumbrances as appeared on the certificate of title to the former parcel in lieu of which the new allotment is made;
- (iii) to cancel the certificates of title to all the former parcels and all entries thereon;
- (iv) to do such other things as may be proper and necessary to carry out the replotting scheme.

52. Upon the Registrar accepting for filing the resolution, plan and certificate, save and except and so far as is otherwise provided pursuant to this Part, all rights, obligations and incidents of ownership of the owner of a former parcel or of an interest therein, and all public and private relationships whatsoever with respect to a former parcel, shall to all intents and purposes be deemed to be transferred to and shall exist with respect to the new parcel allotted to the owner of such former parcel to the same extent and in the same manner as they existed with regard to the former parcel; and the new parcels and the respective owners thereof shall be subject to and liable for all the municipal rates, taxes, assessments and charges levied against their former respective parcels and shall be subject to all proceedings taken and to be taken for the collection of such municipal rates, taxes, assessments and charges in any manner provided by law.

53. Upon the acceptance by the Registrar for filing of the resolution, plan and certificate, the replotting scheme

as set out therein and the allotments of land thereby made shall be binding for all intents and purposes upon all the persons having any right, title or interest whatsoever in the lands comprised in or affected by the said plan subject only to such right to compensation as is given to them by this Act.

COMPENSATION.

54. The Clerk of the Authority shall within seven days after the day upon which any resolution, plan and certificate has been filed with the Registrar deposit with the Board of Public Utility Commissioners (referred to in the following sections of this Part as "the Compensation Board"), a duplicate of the same and a list setting out the names and addresses of all persons who have not consented to the scheme and who are the owners of any estate, right, title or interest in any land comprised in the replotting scheme, together with a description of the parcel allotted to each such person by the replotting scheme and of the parcel in lieu of which such allotment is made.

55. The Compensation Board shall within thirty days after the deposit of the said duplicates, fix a time and place for the hearing of applications for compensation by any non-consenting person as last aforesaid, and shall send notice in writing to all the said persons by mail, addressed to them at the addresses furnished by the Clerk of the Authority, not less than ten days before the hearing.

56. At the time and place appointed for the hearing or any subsequent adjournment, the Compensation Board shall proceed to hear and determine any applications by such non-consenting persons for compensation and may allow compensation in any such person for and on account of the following matters and no others, namely:

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

57. In determining the amount of compensation payable, the Compensation Board shall—

- (a) ascertain the actual value of the former parcel as at the date of the acceptance for registration by the Registrar of the resolution, plan and certificate, but shall not deduct from such value any increase in value caused by or attributable to the existence of the replotting scheme;

- (b) ascertain the actual value of the new parcels as at the date of registration of the resolution, plan and certificate.

58. No compensation shall be allowed by the Compensation Board in respect of—

- (a) any costs, expenses, loss, damage or inconvenience incurred or sustained in investigating any replotting proceedings, or in presenting any claim or making any appeal, or arising out of or caused by the promotion of any replotting scheme, or by any delay in proceeding to adopt or discontinue the same;
- (b) any actual or anticipated loss or inconvenience of access to any new parcels or of use of any municipal or public utility or service due to the fact that any new highway is not open for 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;
- (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 or Statute applying to the land.

MISCELLANEOUS

59. The Authority may by its servants, workmen or contractors move any buildings, structures, erections or utilities whose removal is required pursuant to the provisions of any replotting scheme.

60. Save and except only for the purpose of prosecuting a claim for compensation under the provisions of this Act, no person shall at any time be entitled to make or proceed with any demand, claim or action whatsoever against the Authority or any of its officers, servants or workmen for any loss or damage sustained or threatened or anticipated by reason of anything done in the promotion or execution of any replotting scheme under this Part, or for or in respect of any matter whatsoever caused by or arising out of any act or proceedings duly done or taken pursuant to the provisions of this Part.

61. An Authority may dispose of any parcels allotted to it in any manner provided by law for the disposition of the former parcels in lieu of which the allotment is made.

62. In the absence of any express provision in this Part to the contrary, any proceedings under this Act to be taken by an Authority, or any act or thing incidental thereto, shall be taken or done by resolution of the Council.

63. Nothing herein contained shall be deemed to affect the power of the Authority to assess and to levy taxes and rates upon the former parcels in the interval between the institution of any replanning scheme and its completion.

64. The assent of the electors or burgesses of a municipality shall not be required for any proceeding by the municipality pursuant to this Part.

PART V.

ADMINISTRATION.

65.—(1) The Lieutenant Governor in Council may appoint a Director of Town Planning, may prescribe his duties and fix his salary.

(2) The Lieutenant Governor in Council may appoint a Board to be known as "The Town and Rural Planning Advisory Board," consisting of three or nine persons who shall serve without salary and the Director of Town Planning who shall be the executive member of the Board.

(3) The Lieutenant Governor in Council may appoint such other officers, clerks and employees as may be necessary to assist the director.

(4) The director shall make an annual report to the Minister concerning the transactions of the Board, which shall be submitted to the ensuing session of the Legislature.

66. The powers conferred upon municipalities by this Act shall be in addition to all powers conferred under any other general or special Act, and when the provisions of this Act conflict with the provisions of any general or special Act, the provisions of this Act shall prevail.

67. *The Town Planning Act*, being chapter 125 of the Revised Statutes of Alberta, 1922, and *The Town Planning and Preservation of Natural Beauty Act*, being chapter 48 of the Statutes of Alberta, 1928, are hereby repealed.

68. This Act shall come into force on the day upon which it is assented to.

THIRD SESSION
SIXTH LEGISLATURE
19 GEORGE V
1929

BILL

An Act to consolidate and amend the Statutes relating to Town Planning and the Preservation of Natural Beauty.

Received and read the

First time.....

Second time.....

Third time.....

MR. CHIEF,

EDUCATION!
W. D. HICKS, STATE PRINTER
A. D. 1929

Title: 1929 (6th, 3rd) Bill 38, An Act to consolidate and amend the Statutes relating to Town Planning and the Preservation of Natural Beauty