

BILL

No. 1 of 1934.

An Act to amend the Acts and Ordinances constituting the Charter of the City of Medicine Hat.

(Assented to 1934.)

WHEREAS the City of Medicine Hat prayed for certain amendments to Chapter 63 of the Statutes of Alberta, 1906, and amendments thereto; and

Whereas it is expedient to grant the prayer of the said petition;

Therefore His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Chapter 63 of the Statutes of Alberta, 1906 and amendments thereto, is hereby amended as follows:

1. Title 3, by repealing section 3 and substituting the following therefor:

“3. The Mayor shall be elected annually by a general vote of the electors of the City, in the manner hereinafter provided. He shall hold office for one year but may be re-elected. This amendment shall not come into force and effect until 1st January, 1935.”

2. Title XXI, section 2: By deleting the word “reasonable” where it occurs between the words “they are not claimed within a” and “time to be fixed by by-law.”

3. Title XXI, by repealing section 5 and substituting the following:

“5.—(1) The power to license shall include power to fix the fees to be paid for licenses, which fees may be in the nature of a tax for revenue purposes; to specify the qualifications of the persons to whom and the conditions upon which such licenses shall be granted; to regulate the manner in which and specify the parts of the City within which, and the days and hours during which any licensed business shall be carried on; to specify the fees or prices to be paid by the licensees; to impose penalties upon unlicensed persons; or for breach of the conditions upon which any license has been issued; or of any regulations made in relation thereto; to cancel or provide for the cancellation of any license for non-observance of any such conditions or regulations and generally to provide for the protection of licensees and such power shall within the City extend to persons who carry on business partly within the City and partly without the City limits.

“(2) The Council may also license as a class by themselves travelling salesmen, transient traders, or other persons selling goods, wares, merchandise and other effects of any kind whatsoever, or offering the same for sale by sample cards, specimen or otherwise, or canvassing for orders for the repairing of goods for or on account of himself or any merchant, manufacturer, corporation or other person not having a permanent place of business within the City. In any prosecution for a violation of any such by-law it shall not be necessary to allege or prove that any such principal place of business is not within the City, but the proof that the same is within the City shall be upon the person charged.”

Title XXI, by adding to section 5, the following subsections:

“(d) The Council may also license by themselves or as a special class, or classes or otherwise, according to any classification, the owners and operators of freight vehicles and public vehicles who at any time, as public carriers, collect, accept or deliver any freight or passengers within the City, regardless of the destination to which or the place from which, such freight or passengers, are to be delivered or are brought, as the case may be, and whether a charge is made therefor or not, and without in any way limiting the general powers which may be exercised under this subsection the persons liable hereunder shall include:

“(i) All persons who collect from or deliver to any business premises, warehouse, depot or other premises or place within the City, any goods, wares or merchandise by freight vehicle, for or from a point within or outside the City.

“(ii) All persons who carry persons or passengers by public vehicle from or to any point within or outside the City.

“But nothing in this subsection shall be deemed to include any freight vehicle operated solely by the owner or owners thereof, resident outside the City of Medicine Hat, and used only in conveying his or their own products or personal effects into or out of the City and not plying a carrying trade for hire or reward.

“For the purpose of this subsection, ‘Freight Vehicle’ shall mean any motor vehicle operated by or on behalf of any person for gain for the purpose of transporting any goods, merchandise or live stock over, upon or along any public highway and ‘Public Vehicle’ shall mean any motor vehicle operated by or on behalf of any person as a public conveyance in the way of business for the purpose of transporting as a public carrier over, upon or along any public highway, passengers or passengers’ and express

freight which may be carried in a passenger vehicle and which is not hired exclusively to one passenger or to one party of passengers.

- “(e) The Council may license transient contractors as a special class and fix the license fee at a sum not exceeding \$500.00 and define the term ‘transient contractor.’
- “(f) The granting or refusing of a license to any person to carry on a particular trade, calling, business or occupation or the revoking or cancelling of any license shall be in the discretion of the Council and it shall not be bound to give any reason for such refusal, revocation or cancellation and its actions shall not be open to question or review in any Court.
- “(g) The Council may by by-law appoint a board of examiners of not more than three persons, who shall examine all persons desirous of installing electrical appliances, fittings, cable, cable cords, wires or other electrical equipment or doing any work in connection therewith as to their practical and theoretical knowledge of electricity and of their knowledge of municipal by-laws and Provincial and Dominion laws regarding electricity; and may prepare such examinations as they deem advisable and charge a fee for such examinations, and may provide different examinations for master-electricians and for journeymen-electricians and may issue a certificate to the person found competent to do the work mentioned in the said certificate; and the City of Medicine Hat shall not be obliged to issue a license to do electrical work of any kind in the City of Medicine Hat to any person not holding a certificate from the said Board.
- “(h) The Council may also appoint other boards of examiners of a similar nature and with the same powers for such other trades as it deems advisable.
- “(i) The Council may pass a by-law restraining and regulating the running at large of dogs and imposing a license fee, according to any classification, on the owners, possessors or harbourers of dogs and directing the killing of dogs running at large contrary to any such by-law.
- “(j) The Council may license as a Special Class transient musicians, styling themselves dance orchestras, and may fix the fee according to the number of performers or performances or otherwise and may define the term ‘transient musicians.’”

4. Title XXV, by repealing section 4.

5. Title XXV, by repealing sections 7, 7(2), 7(3) and 7(4), and substituting therefor the following:

“**7.** The Sinking Fund to redeem the outstanding debentures of the City and all moneys carried to the credit of the same shall in each and every year, when received by the Secretary-Treasurer of the Sinking Fund Trustees, be deposited by him in some chartered bank to be designated by

the Council, to the credit of a special account to be called 'The Sinking Fund Account of the City of Medicine Hat,' and shall be under the management and control of, and shall from time to time be invested by, three Trustees to be known as The Sinking Fund Trustees of the City of Medicine Hat, one of whom shall be the Mayor of the City and two of whom (not being members of the Council) shall be appointed by the Council of the City. The first appointees shall hold office for two years and one year respectively and thereafter the Trustees shall be appointed for two years or during the pleasure of the Council.

"(1) The Mayor of the City shall be the Chairman and the Treasurer of the City shall be the Secretary-Treasurer of the said Trustees and all meetings of the said Trustees shall be called by the Chairman or failing his doing so, by the other two Trustees. Any two of said Trustees shall be a quorum at any such meeting and all acts done or performed for or on behalf of the said Trustees by the said quorum, shall be as effectual as if done or performed by the three Trustees.

"(2) The moneys of the Sinking Fund account shall be invested by the said Trustees for the advantage of the fund in securities of the Government of the Dominion of Canada or of any of the provinces of Canada or in any debentures or securities, the payment of which is guaranteed by the Government of the Dominion of Canada, or of any province of Canada, or in the debentures of any municipality or school district in the Dominion of Canada or in any debentures of the City of Medicine Hat or by way of temporary loan to the City of an amount not exceeding seventy-five per centum of the estimated amount of the municipal taxes to be levied by the general rate of the current year, provided that in the event of such temporary loan such amount shall be replaced by the end of the current year; and from time to time as such securities mature they may invest in other like securities. The said Trustees shall regulate the manner in which such investments shall be made and shall have as full power and authority to deal with the Sinking Fund as the Council now has. The said Trustees shall, whenever required by the Council give a detailed statement in writing of the said fund and the manner in which the same is invested.

"(3) The expenses of the management of the said Fund shall be paid out of the said Fund by the Secretary-Treasurer on the order of the said Trustees.

"(4) All moneys required for investment or for the redemption of the Sinking Fund debentures of the City of Medicine Hat or other purposes shall be paid out by cheque signed by the Chairman or Secretary-Treasurer of the Trustees and no part of the Sinking Fund Account shall be withdrawn by them or by any other person, except by cheque signed as aforesaid, and except for the due carrying out of the said trust and for the just and proper administration of the same.

“(5) The said Trustees shall have full power, both at law and in equity, to collect all moneys due upon mortgages or other securities in which portions or all of the said fund have in the past been, or may in the future be, invested, and may take all steps in regard to the adjustment, compromise or collection of the same, and shall have full power to foreclose the said mortgages and the parties making the same and all parties having any interest or claim in or to the property or properties covered by the said mortgages; or they may sell the said properties under power of sale, or otherwise, and give good and valid title to the same, and the said properties, when foreclosed as aforesaid, shall to all intents and purposes, be vested and remain vested in the Sinking Fund Trustees with power to sell and transfer and deal with the same in as full and ample a manner as they could be dealt with by a private individual in his own name. The said properties may, by the trustees and at their discretion, be leased, rented, insured, occupied or otherwise dealt with from time to time for the benefit of the said Sinking Fund. When deeds of conveyance are made, of any or all of the said properties, they shall be signed by not less than two of the said Trustees in their official capacity, one of whom shall be the representative of the City. When payments are made of the said mortgages or any part of the same, or of any other claim in favour of the said Fund, the said Trustees, or any two of them, one of whom shall be the representative of the City shall sign such discharges or releases as may be necessary. The Trustees shall also have power to sell, assign, transfer or deal with any of the said investments to the best advantage for the benefit of the said fund, the intention being that the said Trustees shall have full power and authority to invest and re-invest the said funds or any part thereof, and to collect, compromise, transfer, assign or in any way deal in regard to the same for the benefit of the said fund.

“(6) The said Trustees may, when necessary to meet any payments out of the Sinking Fund, borrow money from any person, bank or corporation for any period not exceeding two years and in security for any such temporary loan made as aforesaid, they may pledge or hypothecate any securities held by them.

“(7) The said Trustees are hereby declared to be a body corporate under the name of “The Sinking Fund Trustees of the City of Medicine Hat,” and by the same name they and their successors shall have perpetual succession and shall have power to sue and be liable to be sued, implead and be impleaded, answer and be answered unto in all courts and in all actions, causes and suits at law and in equity whatsoever, and they shall have a common seal with power to alter and modify the same at pleasure.

“(8) The actions of the Sinking Fund Trustees appointed in pursuance of By-law No. 181 passed on the 23rd day of August, 1909, and all other persons acting as Sinking Fund Trustees up to the time of the passing of this amendment are hereby declared to be ratified and confirmed.

6. Title XXVI, by adding after section 7 of the said Title, the following:

“7a. The Council may authorize the Mayor and Secretary-Treasurer to pledge the whole or any part of the unpaid current taxes, penalties on taxes, unpaid arrears of taxes and/or to assign the whole or any part of other revenues or accounts receivable for the current year, as well as any other accounts receivable accrued or accruing in respect of any prior year to secure any such borrowing.

“7b. If in any year any temporary borrowing made by the city for current expenses, remain unpaid at the end of that year, the unpaid balance may be carried over from year to year and upon making any such borrowing, the Mayor and Secretary-Treasurer may provide that the pledge referred to in the last preceding subsection shall be a pledge continuing from year to year. Provided always that the carrying over of any such unpaid balance from year to year, and/or the granting of any such pledge continuing from year to year shall not be deemed to be the contracting of a debt not payable within the current year, under the provisions of Title XXI, section 3, subsection (d).

“7c. Any person, corporation or bank lending any sum to the city, under section 7 of this Title shall not be bound to establish the necessity for borrowing the sum or any part thereof, nor to see to the payment out thereof.

7. Title XXIX, section 3, by repealing subsections (3), (4), (5), (6) and (7) of section 2 thereof and substituting the following:

“(3) The City shall keep every highway, including all crossings, sewers, culverts and approaches, grades, sidewalks and other works made or done therein or thereon by the City or by any person with the permission of the City, in a reasonable state of repair, having regard to the character of the highway and the locality in which the same is situated or through which it passes.

“(4) Provided that except in the case of gross negligence the City shall not be liable for injury to property or person caused by snow, ice or slush upon any sidewalk, street, highway or lane in the City of Medicine Hat.

“(5) Default under subsection (3) thereof, shall not be imputed to the City in any action if the City shall prove that it had not actual or constructive notice of the disrepair of the highway or other thing mentioned in subsection (3) thereof or that it took reasonable means to prevent the disrepair arising.

“(6) Provided further that no action shall be brought in order to recover against the City of Medicine Hat for any damage to property or person occasioned by default in its duty to repair as mentioned in subsection (3) hereof, unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered post to the City Clerk within seven days after the cause of action arises and failing such notice, the City shall be relieved from any

liability for such damages or compensation in respect of such accident or injury, notwithstanding any provisions of law to the contrary.

"(7) No action shall be brought against the City for the recovery of damages occasioned by default in its duty of repair as mentioned in subsection (3) hereof, whether the want of repair was the result of nonfeasance or misfeasance after the expiration of six months from the time when the damages were sustained."

8. Title XXX is amended as follows:

Section 2: By striking out the words "31st December in the previous year" where they appear in the fifth line of said section, and substituting therefor the words "30th day of April."

Section 2a: By striking out the word "January" where it appears in the first line of said subsection and substituting therefor the word "February."

Section 3: By striking out the word "February" where it appears in the first line of the said section, and substituting therefor the word "May."

Section 15: By striking out the word "February" where it appears in the fourth line of the said section, and substituting therefor the word "July."

Section 20: By striking out the word "January" where it appears in the seventh line of the said section, and substituting therefor the word "June."

Section 23: By striking out the word "February" where it appears in the second line of the said section, and substituting therefor the word "July."

Section 26(6): By striking out the word "March" where it appears in the fourth line of the said section, and substituting therefor the word "September."

Section 30: By adding as Section 30:

"**30.** The foregoing amendments to Title XXX are hereby declared to be retroactive and shall be deemed to have been in force at all times from and after the 19th day of April, 1921."

9. Title XXX by inserting immediately after section 26(12) the following subsections:

"(13) The Council may pass a by-law providing that the appeal provided for in sections 25 and 26 of this Title shall be to the Alberta Assessment Commission constituted by *The Alberta Assessment Commission Act*, being chapter 47 of the Statutes of Alberta, 1929, instead of to a Judge. From and after the passing of such by-law the said Commission shall have all the powers and authority vested in such Judge under sections 25 and 26 of this Title which powers shall thereafter no longer be possessed by any Judge.

"(14) The Council may at any time repeal said by-law and upon the coming into force of the repealing by-law all power and authority of the said Commission shall cease and

thereafter no longer be possessed by it and said sections 25 and 26 of this Title shall be deemed to be re-enacted."

10. Title XXXII, section 5, is hereby amended by adding the following subsections:

"(1) The Council may also by law in any year allow interest at a rate not exceeding 6 per centum per annum on prepayments on account of taxes made before a date or dates to be set out in the by-law.

"(2) By-laws Nos. 674, 777, 789, providing for the payment of interest to persons prepaying taxes in the years 1932, 1933 and 1934, are hereby validated and confirmed and the Council of the City is further declared to have had the power to pass said by-laws at the time of the passing thereof."

Title XXXII, by adding the following as section 27:

"**27.** The provisions of *The Local Tax Arrears Consolidation Act, 1933*, being chapter 28 of the Statutes of Alberta, 1933, shall be deemed to have been at all times since the 11th day of April, 1933, applicable to the City, and any reference in that Act to *The Tax Recovery Act, 1929*, shall be deemed to be a reference to *The Tax Recovery Act, 1922.*"

11. Title XXXVII, by adding the following as sections 8, 9, 10, 11 and 12:

"**8.** In case the City has not applied for, or hereafter fails to apply for, a certificate of title to any land, for which it is entitled to receive a certificate of title, pursuant to *The Tax Recovery Act, 1922*, the default of the City to so apply shall not be deemed a waiver by the City of its right to apply for such certificate of title, but the City may apply for such certificate of title whensoever the Council may deem advisable and the land for which certificate of title is not applied for shall continue to be assessed as if no proceedings had been taken in respect of such land under the provisions of the said *The Tax Recovery Act.*

"**9.** In the case a certificate of title to any land has issued to the City, pursuant to *The Tax Recovery Act, 1922*, but the City has not offered or hereafter fails to offer the said land for sale within eighteen months from the issue of such certificate, the default of the City to so offer the land for sale shall not be deemed a waiver by the City of its right to offer the said land for sale but the City may offer said land for sale whensoever the Council may deem advisable.

"**10.** The Tax Sale held by the City on the 17th day of June, 1931, and all prior Tax Sales held by the City are hereby validated and confirmed and the same shall not be open to question in any Court on any ground whatever.

"**11.** Notwithstanding anything contained in this Act, the Council may direct that the owner of any building situate upon land abutting upon any street or public place wherein there is a sewer shall install in such building, connections with such sewer and such apparatus and appliances as shall insure the proper sanitary conditions of the building and premises.

“12. By-law No. 788 of the City, authorizing the borrowing of \$85,000.00 from the Royal Bank of Canada and the mortgaging, pledging, hypothecating, transferring or assigning in favour of the Bank of the debentures in the By-law described is hereby validated and confirmed and declared to be legal, valid and binding upon the City of Medicine Hat, the ratepayers and burgesses thereof, and the Medicine Hat Sinking Fund Trustees, and the validity of the said By-law is not to be open to question in any court on any ground, and all promissory notes heretofore or hereafter made and issued or which purport to be made and issued by virtue of the said By-law, are hereby declared to be made and issued on the credit and security of the Municipality at large and are declared to be legal, valid and binding upon the City of Medicine Hat and the ratepayers and burgesses thereof.”

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

FOURTH SESSION
SEVENTH LEGISLATURE
24 GEORGE V
. 1934

BILL

An Act to amend the Acts and Ordinances constituting the Charter of the City of Medicine Hat.

Received and read the

First time

Second time.....

Third time.....

MR. LANG.

EDMONTON:
W. D. McLEAN, KING'S PRINTER
1934