

BILL

No. 98 of 1938.

An Act to amend The Town and Village Act.

(Assented to _____, 1938.)

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 and Village Act Amendment Act, 1938.*"

2. *The Town and Village Act*, being chapter 49 of the Statutes of Alberta, 1934, is hereby amended as to section 2 by striking out paragraph (v) thereof and by substituting therefor the following:

"(v) 'Transient trader' means any person who does not ordinarily maintain within the town or village a permanent and fixed place of business for the purpose of his business, and who is not liable for a business tax in respect thereof, and who either as a principal or an agent buys or offers to buy direct from the producer thereof any goods, wares or merchandise, or sells or offers to sell to the consumer any goods, wares or merchandise except,—

"(i) agricultural products raised, grown or produced by him;

"(ii) fish of his own catching;

"(iii) agricultural implements;

"(iv) sewing machines;

"(v) nursery stock;

"(vi) newspapers;

"(vii) books or periodicals of an educational nature or character;

but does not include a hawker or pedler who is duly licensed under *The Licensing of Trades and Businesses Act* in respect of the business for which he is so licensed."

3. The said Act is further amended by inserting therein immediately after section 32 thereof the following new section:

"**32a.**—(1) No misnomer, misdescription or omission in any order relating to the formation of a town or any alteration in its area, shall in any way suspend or impair the

operation of this Act with respect to the matter misnamed, misdescribed or omitted.

“(2) Any misnomer, misdescription or omission or other error in any such order may, by any subsequent order, be corrected and the order so corrected may be confirmed by the Minister as of the date of the original order.”

4. The said Act is further amended as to section 43 by adding at the end thereof the following:

“(h) any person who at the time of nomination for election as mayor or councillor is indebted to the town or village for taxes which are then more than one year in arrears;

“(i) any person who having been elected as a member of the council has resigned his seat thereon on account of any matter or thing which would disqualify him for election as a member of the council or to sit or vote therein or for the purpose of avoiding the making of restitution for any money received by him in contravention of any of the provisions of this Act, until the expiration of three years from the date of such resignation.”

5. The said Act is further amended as to section 44 by adding at the end of subsection (1) the following:

“(g) of professional services rendered by a barrister and solicitor to the town or village, provided that the charges for such services have been taxed under the provisions of the Rules of the Supreme Court of Alberta and the amount of such charges as taxed do not exceed the sum of two hundred dollars in any year.”

6. The said Act is further amended as to section 46 by striking out the same and by substituting therefor the following:

“46. In the case of a first election of councillors in a town, the two candidates first in order of nomination in case no poll is held or the two candidates who stand first and second on the poll in the event of a poll being held, shall hold office for three years; the two candidates next in order of nomination in case no poll is held or the two candidates who are third and fourth on the poll in the event of a poll being held, shall hold office for two years, and the remaining councillors shall hold office for one year; and in each case the term of office shall commence with the third Monday in February next following the date of the election.”

7. The said Act is further amended as to section 47,—

(a) by striking out the words “three councillors” where the same occur in subsection (1) and by substituting therefor the words “two councillors”;

- (b) by striking out the words "two years" where the same occur in subsection (1) and by substituting therefor the words "three years";
- (c) by adding at the end thereof the following new subsections:

"(3) At a meeting of the council of every town held in the month of January, 1939, the mayor shall proceed to place in a suitable receptacle slips of paper bearing the names of three members of the council whose terms of office expire on the day preceding the third Monday in the next February, and shall withdraw from the receptacle one of such slips and the term of office of the member whose name appears on the slip so withdrawn shall continue to hold his office for an additional year; and the mayor shall then place in a suitable receptacle slips of paper bearing the name of each of the three remaining members of the council and shall then withdraw two of such slips and the councillors whose names appear on the slips so withdrawn shall each continue to hold office for an additional term of two years.

"(4) A correct entry shall be made upon the minutes of such meeting of all the proceedings thereat taken pursuant to subsection (3)."

8. The said Act is further amended as to section 65 by striking out subsection (2) and by substituting therefor the following:

"(2) Upon the passing of any such by-law, the council shall cause a notice to be drawn up setting out therein the nature and effect of the by-law, together with a notice that the by-law will take effect unless within twenty days after the publication of the notice at least twenty proprietary electors object thereto and notice in writing of such objection signed by at least twenty proprietary electors is within the said period delivered to the secretary-treasurer.

"(3) In case objection in writing signed by at least twenty proprietary electors is not received by the secretary-treasurer within the said period, the by-law shall have force and effect upon the expiration of that period or on such later date as is fixed by the by-law for that purpose.

"(4) In case objection in writing signed by at least twenty proprietary electors is received by the secretary-treasurer, the by-law shall be submitted to a vote of the proprietary electors and shall take effect only if it is then approved by a majority of such electors voting thereon in the manner prescribed by Part XII of this Act."

9. The said Act is further amended as to section 66 by striking out the words "for the unexpired portion of his term of office" where the same occur in subsection (3) thereof, and by substituting therefor the words "until the next annual election of councillors".

10. The said Act is further amended as to section 106 by adding at the end of subsection (1) the following:

“(k) for the purpose of erecting, constructing, or installing thereon any works, buildings, dams, tanks, pipes, machinery, plant or equipment necessary for or incidental to the provision of a sewage disposal system.”

11. The said Act is further amended by inserting therein immediately after section 136 the following new section:

“136a.—(1) The council may pass by by-laws for the collection, removal and disposition of garbage, refuse and ashes, and may by any such by-law,—

- “(a) provide for the collection, removal and disposal of such garbage, refuse or ashes, by such classification, kind or description thereof as may be specified therein, by such persons at such times and in such manner as may be prescribed therein;
- “(b) provide that the by-law shall be in force throughout the town or village, or in such area or areas thereof as may be specified therein;
- “(c) provide that the cost of such collection, removal and disposition or any part thereof, shall be paid out of the general revenue of the town or village, or that such cost or so much as is not paid out of the general revenue shall be paid by the owners and occupants of lands in respect of which the service is provided;
- “(d) prescribe the amounts to be paid by any person on account of the collection, removal and disposition of any garbage, refuse or ashes, or any specified classification, description or kind thereof, or any specified quantity thereof;
- “(e) providing for the collection of any sums payable by any owner or occupant of land for the collection, removal or disposal of any garbage, refuse or ashes, and fixing the time or times when and the places where such sums shall be payable and allowing a discount for prompt payment and imposing penalties on default being made in punctual payment as in the case of general municipal taxes, and in case of default in payment the enforcement of payment by action in any court of competent jurisdiction, or by distress and seizure of goods and chattels of the person liable for the payment, or making any such sums in default a charge against the property in respect of which the service for which such sums are owing was provided, such charge to be subject to the same penalties and be collectable by the same procedure as other taxes levied by the town or village.

“(2) The council may pass a by-law,—

“(a) establishing and maintaining a system for all or any of the purposes aforesaid and for the acquisition of any plant or equipment required in connection therewith; or

“(b) authorizing the council to enter into contracts with any person for the collection, removal or disposition of any garbage, refuse or ashes.”

12. The said Act is further amended by inserting therein immediately after section 145 the following new section:

“**145a.**—(1) The council may pass a by-law for the purpose of entering into an agreement with any Irrigation District for a supply of water for irrigation purposes within the town or village, upon such terms and conditions as the council may deem proper.

“(2) A town or village having entered into any agreement under the provisions of this section shall have all necessary power and authority to construct, maintain and operate any and all ditches, culverts, and other works deemed necessary for the conveyance of such water along or across any streets, lanes, highways, or other public places within the town or village, for the purpose of making such water available for irrigation to such public places and private lands within the town or village as the council may deem expedient; provided that no such ditch or work shall be constructed along that portion of any street, lane or highway which may be graded for vehicular traffic and when any such ditch or work is carried across any street, lane or highway, it shall be protected by a suitably covered culvert.

“(3) No ditch for conveying water for irrigation purposes shall be constructed, maintained or operated along any street, lane or highway, unless and until not less than two-thirds in number of the persons whose names appear upon the assessment roll as owners in respect of all property abutting or facing on such street, lane or highway, shall have signed a request for the same or consent thereto.

“(4) When any town or village has entered into any agreement for a supply of water for irrigation purposes under the provisions of this section, the council may upon the request of the persons whose names appear upon the assessment roll as owners of any property abutting or facing on any street, lane or highway along which such water is being conveyed, furnish to such property such supply of water as the council may think fit, under such terms and conditions as the council may prescribe.

“(5) When any property has been furnished with water for irrigation purposes as herein provided, the town or village may charge therefor such sums as the council may deem proper to cover the cost of such water, the cost of conveying the same to such property and the upkeep, maintain-

ance and operation of the necessary ditches and works for conveying the same; provided that such charge shall be made on a uniform basis against all properties supplied.

“(6) Every charge made under the provisions of the last subsection hereof shall be a tax against the property supplied with such water to the extent of the amount fixed by the council as applicable thereto and shall be entered annually in the tax roll with the other taxes levied against such parcel and all provisions and remedies for the recovery and collection of taxes under this Act including penalties for non-payment and the provisions of *The Tax Recovery Act* shall apply thereto.

“(7) A town or village and any other person who is the owner of any land upon which any water is conveyed for irrigation purposes under any agreement made pursuant to this section or under any provision thereof, shall be liable only for damages in case the same is occasioned by water from any ditch used for the conveyance of water as aforesaid, when such water escapes by negligence from any such ditch of the town or of the village or of such other person, or from the land on which the same is located and runs over the surface upon the surface of other land; and no town or village or other person as aforesaid shall be liable under any circumstances for any damage caused by seepage into the soil or saturation of the soil by any water conveyed or used for irrigation purposes or by the escape of any such water otherwise than over the surface of land; and the town or village shall in no case be liable for any loss or damage unless such loss or damage is occasioned by the escape thereof through the negligence of the town or village, from a ditch, culvert or other work constructed, maintained or operated by the town or village or from land owned and occupied solely for town or village purposes.”

13. The said Act is further amended as to section 148 by striking out paragraphs (b) and (c) of subsection (12) and substituting therefor the following:

“(b) ‘Indigent person’ means a person who is actually destitute of means from his own resources of obtaining food, clothing, shelter and medical attendance necessary for the immediate wants of himself and his dependents;

“(c) ‘Resident’ means,—

“(i) any person who has resided within the boundaries of the area controlled by the local authority for a period of at least twelve consecutive months out of the twenty-four months immediately preceding the date of application for placing such person in a hospital, without receiving relief; and every such person shall be deemed to be a resident of the area controlled by the local authority within whose boundaries he has last so resided; or

- “(ii) any person who has failed to reside for twelve consecutive months within the boundaries of the area controlled by a local authority, as aforesaid, but has resided or has been a sojourner within the boundaries of the area controlled by a local authority for at least three consecutive months out of the six months immediately preceding the date of application for placing such person in a hospital without receiving relief; and every such person shall be deemed to be a resident of the area controlled by the local authority within whose boundaries he has last so resided;

“Provided always that any such person has not at the date of such application, a permanent home elsewhere than in the Province.”

14. The said Act is further amended by inserting therein immediately after section 165 the following new section:

“**165a.**—(1) No license shall be required under any of the provisions of this Act for hawking, peddling or selling any goods, wares or merchandise, which is grown, produced or manufactured in the Province of Alberta, provided that the same are hawked, peddled or sold by the person who is the grower, producer or manufacturer thereof or by any employee or servant of such person who is authorized by such person so to do in writing.

“(2) Every such employee or servant shall produce on demand to any officer of the town or village or to any peace officer his authority in writing.

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

15. The said Act is further amended as to section 169 by striking out the same and by substituting therefor the following:

“**169.** Every by-law shall have three distinct and separate readings before it is finally passed, in the case of a by-law passed pursuant to section 19 of *The Tax Recovery Act, 1929*, not more than two readings shall be had at any one meeting; in the case of other by-laws not more than two readings of a by-law shall be had at any one meeting except by the unanimous vote of the members present.”

16. The said Act is further amended as to section 184 by striking out the word “village” where the same occurs therein and by substituting therefor the words “town or village”.

17. The said Act is further amended as to section 345 by inserting therein immediately after subsection (3) the following new subsection:

“(3a) If any such contract is not renewed either on or before the expiration of the original term, or of any renewal thereof (and so from time to time), by express agreement of the parties as aforesaid, or if the council does not complete the purchase of the subject matter thereof as hereinbefore provided, then the contract shall continue in full force and effect until such time as either party shall terminate the same on six months’ written notice given to the other with the approval of the Board of Public Utility Commissioners.”

18. The said Act is further amended as to section 347,—

- (a) by striking out the words “prepare a detailed estimate” where the same occur in subsection (1) and by substituting therefor the words “prepare a detailed estimate in the prescribed form”; and
- (b) by striking out paragraph (a) of subsection (1).

19. The said Act is further amended as to section 349 by striking out the words “Any employer who fails to make the deduction” where the same occur in subsection (9) and by substituting therefor the following: “Any employer who makes default in complying with any request of the secretary-treasurer made pursuant to subsection (7) for the names of the persons in the employment of the employer, or who fails to make any deduction”.

20. The said Act is further amended as to section 350 by striking out the words “belonging to the town” where the same occur in subsection (1) and by substituting therefor the words “belonging to the town or village”.

21. The said Act is further amended as to section 355 by striking out the same.

22. The said Act is further amended as to Form F in the Schedule thereto, by striking out the words “with the said person” where the same occur in paragraph (a) thereof.

23. The said Act is further amended as to Form H in the Schedule thereto by striking out the words “I reside with him within the town” where the same occur therein and by substituting therefor the words “I reside within the town”.

24. The said Act is further amended as to Form J in the Schedule thereto by striking out the same and by substituting therefor the following:

"FORM J.

"Town (or Village) of

"Municipal Elections 19.....

"Public notice is hereby given that I will attend at (*insert description of place*) on Monday, the day of February, 19..... (*here fill in date on which the first Monday of February falls*) from eleven o'clock in the forenoon until twelve o'clock noon, for the purpose of receiving nominations of candidates (*for the office of mayor for the next ensuing two years in the case of a town, or for the office of councillor for the next ensuing three years as the case may be*).

"Given under my hand at this
..... day of, 19.....

.....
"Returning Officer."

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

SIXTH SESSION
EIGHTH LEGISLATURE
1 GEORGE VI
1938

BILL

An Act to amend The Town and
Village Act.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MAYNARD.

EDMONTON:
A. Shnitka, King's Printer
1938