

# **History of Nova Scotia Planning Acts Prior to 1969**

## **Town Planning Act of 1912**

The first provincial planning legislation adopted in Nova Scotia was the Town Planning Act of 1912. It provided that a town planning scheme could be made "as respects any land which is in the course of development or appears likely to be used for building purposes, with the general object of securing suitable provision for traffic, sanitary conditions, amenity and convenience in connection with the laying out and use of the land and of any neighboring lands". Municipalities were permitted to adopt a scheme put forward by the landowner, and existing built upon lands could be included in the scheme. Demolition or alteration of buildings to conform with the scheme were provided for. A development scheme across municipal boundaries was subject to the approval of the Governor in Council.

Public participation was sought in making regulations regarding the preparation of a town planning scheme. The Act provided in Section 9 that the regulations must provide for securing the cooperation of the owners and others interested in the land "at every stage of the proceedings, by means of conferences and" other such ways.

The municipal council had powers to remove, demolish or alter a building, or carry out any work required to implement the scheme. Compensation was to be paid by the municipal unit for injurious affection resulting from the approval of any town planning scheme. Expropriation powers were also granted and councils could incorporate a company to put any scheme into effect in which it was proposed to erect a building for housing purposes.

The Act of 1912 was never amended and was repealed at the time of the adoption of a new act in 1915.

## **Planning Act of 1915**

In 1913 Mr. Raymond Unwin from England, delivered a paper to the Union of Nova Scotia Municipalities on "some principles of town planning". The paper was well received and probably had much to do with the inauguration of the Planning Act of 1915. This Act came under the authority of the Commissioner (later Minister of Public Works and Mines) who was given powers to prescribe a set of model by-laws, authorize the preparation of town planning schemes, approve those schemes, regulate and prescribe procedures to be followed to secure the cooperation of owners and others interested in the land including public notice.

The Commissioner was vested with sweeping powers regarding planning and if, in his opinion, a municipality had failed to take the required steps toward the preparation of a town planning scheme and by-laws or if the municipality had failed to adopt a scheme proposed by owners of lands, or if the municipality failed to prepare a set of town planning by-laws dealing with any part of the area not already included in a town planning scheme or if the municipality unreasonably refused to consent to any modifications imposed by the Commissioner, the Commissioner could order the local board to prepare and submit for his approval such town planning schemes or planning by-laws or amendments to schemes or by-laws as the Commissioner deemed proper under the circumstances.

Such orders of the Commissioner had the same effect as if adopted by the local board and approved by the Commissioner. The Commissioner was further empowered to take action where, after holding a local enquiry, he was satisfied that a local board had failed to enforce effectively the observance of the by-law or scheme which came under the Act. The Commissioner could by order, force the local board to do all things necessary for the enforcement and observance of the by-laws or schemes or for the carrying out of any work which the local board was required to execute.

The Act compelled the municipal unit to appoint a town planning board consisting of the mayor or warden, two councilors and at least two ratepayers. The boards were required to prepare a set of town planning by-laws within three years from the passing of the Act (i.e. by 1918). The by-laws were to deal with matters set out in the Act such as building lines, reserving lands for streets, building density, adequate light and air, height and character of building and "prescribing certain areas which are likely to be used for building purposes for use for separate buildings, homes, apartment houses, factories, warehouses, shops, stores, etc., and the height or general character of buildings to be erected or reconstructed". As was the case with the 1912 Act, the board could adopt a scheme proposed by landowners, with the approval of the Commission.

The Act set out proceedings for the expropriation of lands by local boards (this was also provided for in the 1912 Act) and provision was made for the compensation to owners of lands injuriously affected by the adoption of planning schemes and by-laws. The 1915 Act, however, went further and provided that where any property increased in value by reason of the adoption of the planning scheme or by-laws, the local boards were empowered to make claims against the land and recover from the owner, one-half of the value of the amount of the increase.

The 1915 Act contained a new control in Section 19 which provided "....notwithstanding any statutes, by-laws, rules, or regulations in operation in the area, no street or road or public right-of-way shall hereafter be reserved, laid out, granted, or conveyed, and no property, tract of land, or area shall be subdivided or sold as lots, unless in accordance with plans, sections and particulars submitted to and approved of by the local board..." . When the Act first appeared, this was hailed as a tremendously important innovation. Arthur Roberts, the Secretary of the Union of Nova Scotia Municipalities in his 1915, Executive Report, termed it, "the most important Legislation of the Session... without

doubt". The quarterly bulletin of the Commission of Conservation of Canada stated, "a town planning act has been passed into law in Nova Scotia which will revolutionize methods of developing real estate and controlling building operations in that Province. The Act, is to a large extent, compulsory and is in advance of anything of the kind in the world.

"Under the Act, a local town planning board must be appointed in every urban and rural municipality, and a town planning comptroller had to be appointed for the whole province. No street can be laid out or any subdivision made unless the plans are approved by this board. Within three years, every board must either prepare a town planning scheme and a set of town planning by-laws with...minimum requirements...the distance between buildings, sixty feet to one hundred feet on opposite sides of the street...the number of dwellings to be limited on each acre....all windows of dwellings to have adequate light and air....separate areas for dwellings, factories, stores...and properties not to be injuriously affected by reason of planning restrictions...".

Mr. Thomas Adams, acting in his capacity of advisor to the Conservation Commission of Canada, referred to the Act as one of the best and most advanced statutes either in Europe or in North America stating that this was so because it was based on social ideals rather than mere esthetics. Mr. Adams further commented, "the Nova Scotia Legislature has given Canada a lead in the question of Town Planning Legislation, and it was now open to the Councils of cities, towns and other municipalities to emulate the example of the Province and to give the lead to the rest of the Dominion in the matter of preparing town planning schemes and by-laws". Mr. Thomas Adams, an eminent British town planner, had been retained by the Federal Commission of Conservation for the purpose of promoting town planning throughout Canada, as a Conservation measure. Mr. Adams drafted the N. S. Act as well as several other provincial acts during that era.

The Act was substantially amended in 1919, although the amendments were relatively minor in substance. Section 3 was amended to delete the status of the local board as a body corporate and Section 4 was amended to give six years for the preparation of planning by-laws or schemes (to 1921 instead of 1918). Section 17 was amended to give the Commissioner powers in the event a local board was not appointed. Finally by-law powers were extended to cover "classifying land used, intended to be used or suitable to be used for different kinds of agriculture, horticulture, or for public or private open space or for timber or other resources".

After the 1919 amendments, the Act was never afterwards changed (except for consolidation R.S.N.S. 1923) and stood until its repeal in 1939.

In 1921 the Union of Nova Scotia Municipalities appointed a committee to consider and review the regulations contained in the Act, as the City of Halifax had charged that the regulations were difficult to comply with and burdensome. Nothing more was heard of the committee and for more than a decade, nothing was said of town planning at any of the annual conferences of the Union.

In 1937 Mr. R. M. Hattie, Editor of the *Maritime Merchant*, Halifax, N. S., addressed the Union on the topic of "Town Planning and Civic Improvement" which was designed to "awaken a renewed and general interest in town planning". Mr. Hattie described the progress that had been achieved in town planning in the 22 years since the Act had first become law in April of 1915. Mr. Hattie stated that "our Town Planning Act, having had such able authorship, (Thomas Adams), one might have supposed our cities, towns and municipalities would have eagerly availed themselves this provision. Very few local authorities, however, have gone very far with it. The Town of Dartmouth appointed a Town Planning Board, which submitted Town Planning by-laws in relation to streets and subdivisions and these by-laws were approved by the Commissioner, March 18, 1921. Certain other local authorities have appointed local boards but so far as I can learn the Dartmouth Board is the only one that has actually finalized anything in the way of town planning under the Act. The Halifax Town Planning Board was appointed in 1916, preceded to prepare a town planning scheme for large area of the city of Halifax. This scheme was completed in 1921 and in April 1922 was sent to the Town Planning Commissioner.... The Commissioner sent it back to the board for revision and resubmission (1937) About the same time as the Halifax Town Planning Board entered upon the preparation of its scheme, the Halifax Relief Commission (which had been created for the purpose, among other things of rehabilitating the portion of the city devastated by the disaster of December 6, 1917) set about preparing a scheme for its jurisdiction but did not get to the point of submitting it for approval.... The Halifax County Council appointed a board, which took steps to prepare town planning schemes for four areas around Halifax Harbour and Bedford Basin, but it likewise never got to the point of submitting its schemes for approval. Other councils have appointed local boards...these boards have done little....some of them seemed to have faded out. I can't find that many local boards are actually under appointment now, and it is clear that very little real use has been made by the Town Planning Act".

Mr. Hattie concluded with some observations and suggestions. First among his criticisms was the failure of the government to appoint an official to be responsible for planning, to acquaint municipal units with what was expected of them and to give them the necessary assistance. Further he stated the Town Planning Board should have been advisory only with the responsibility for implementation being vested in the municipal council. The regulations were considered to be too cumbersome.

Following the dramatic presentation of Mr. Hattie's paper, the Union appointed a special committee for the purpose of working towards the introduction of a new Town Planning Act.

## **Town Planning Act of 1939**

With the 1912 and 1915 Acts as antecedents, a new Town Planning Act was introduced in 1939. Although the 1915 Act was under the supervision of the Commissioner, later the Minister of Public Works and Mines, its administration was poor. Notwithstanding the

provision that every municipal unit was required to appoint a town planning board, this was not enforced and in fact the Act was seldom used at all.

The Town Planning Act of 1939 gave to the Minister of Municipal Affairs the powers formerly exercised by the Minister of Public Works and Mines. The new Act moved forward in the area of administration with a view to making the planning process more workable. The Act provided that "an official town plan adopted, varied or revoked shall not have effect unless and until approved by the Minister." Further the Minister was authorized to appoint a town planning board if a municipal unit failed to appoint one and it was in the public interest to have such a board. The Minister could order a municipality to plan, to zone, or he could enforce a plan or zoning by-law. He could in the last extremity, take over the planning functions of a municipal unit. It is a fact, however, that these powers were never exercised, it being considered that planning throughout the province could be better encouraged by providing advice and technical assistance.

The Town Planning Act of 1939 was proclaimed in 1943. This enactment specifically provided for an official town plan, zoning by-law and subdivision regulations. The 1939 Act was revised and consolidated in 1954 and later on in 1956 substantial revisions were made including the provision for the establishment of a metropolitan planning commission. The Act provided for the creation of "town planning boards"(by the councils) to be composed of the mayor or warden and six persons of whom not less than three must be members of the council.

The boards had the powers and duties to act in an advisory capacity in matters pertaining to economic use, proper sanitary conditions, amenity and convenience of traffic, the laying out of streets, use of land for buildings and other purposes. The boards also had certain control over subdivisions. Notwithstanding the foregoing the councils exercised considerable control in the matter of town planning, since for instance an official town plan or zoning by-law did not come into effect until passed by the council and approved by the Minister of Municipal Affairs, (reference Mr. Hattiet's criticism mentioned earlier herein). The 1939 Act dealt with; 1. official town plan 2. zoning by-laws 3. subdivision regulations 4. control over new buildings and 5. metropolitan planning commissions.

The official town plan was made for the purpose of planning for the future development of the city, town or municipality. While it did not commit the council of a municipal unit to undertake any of the projects suggested or outlined in the plan, it did, however, prevent the undertaking by the council of any public improvement within the scope of the official town plan in a manner inconsistent or at variance with the plan. In his address to the Union of Nova Scotia Municipalities, August 30, 1961, the Honorable N. Leighton Ferguson, Q.C., the then Minister of Municipal Affairs stated "I wish to say at this time that the City of Halifax is the only municipal unit which to date has prepared an official town plan under the Town Planning Act. Although other parts of the Province has some sort of plan of one kind or another".

With regard to zoning by-laws the Act provided that the councils could adopt zoning by-laws for the purpose of dividing the municipality or any portion thereof into districts and containing regulations governing the erection, construction, alteration, etc. of buildings

and uses of the land.

The Act made provision for the Minister of Municipal Affairs to prescribe regulations respecting subdivision of lands, although in practice the regulations were first requested by the council on advice from the local planning board. Subdivision regulations were made for the purposes of providing for the orderly subdivision of lands within the municipal unit including such matters as procedure to be adopted for approval of tentative plans by the council, requirements of tentative plans, procedure to be adopted for approval of final plans by the council, requirements of final plans and the general provisions relative to areas to be reserved for public purposes, access to streets, building lines and size and shape of lots. The Act also provided that no new subdivision properly certified had been filed in the office of the Registrar of Deeds for the County in which the subdivision was situate. Section 27 of the Act indicated that where a planning board was appointed the powers and duties of the council, which related to subdivisions could be delegated to the board and the board could exercise and perform the duties of the council.

Section 28 of the 1939 Act provided that when a planning board had been established no person could erect a dwelling or other building unless a location and plan thereof including an elevation plan had been submitted to the board and approved as to location and design, etc. In a city or town where there was a properly constituted building department, the foregoing powers were vested in that department. The Minister of Municipal Affairs upon application by two or more councils could by order establish a metropolitan planning commission. The order establishing a commission could specify the name of the commission, the cities, towns and municipalities which could be represented on the commission, the area with respect to which a commission could exercise powers, the number of members to be appointed to the commission by the Minister the term of office of members and the conditions under which they cease to be members, the proportion each participating unit would pay with regard to commission expenses and various other administrative matters.

In 1946 a report was prepared for the Department of Municipal Affairs by H. L. Brittain, Reference Local Government and the Fringe Problem: Administrative Survey, Page 9, "since 1915 and especially since 1943 the cities, towns and municipalities of the province had had ample power to control their development. Some have not adopted the Act set up by boards. Others have, but have not utilized all the provisions of the Act. In addition to this Legislation, the Department of Municipal Affairs has in recent years prepared and given wide distribution to valuable material on town planning and is now making available to local authorities the services of a trained and experienced technical town planning expert for the preparation of preliminary surveys. In all areas, if the act had been availed of and utilized to the greatest extent possible by local authorities, the chaotic and even dangerous conditions found in many "fringe" so-called developments would not have occurred'.

In 1957 the Department of Municipal Affairs first established the Community Planning Division as a source of consultation and advice for municipal units regarding planning matters. In 1968 planning activity in the Province was such that the 1939 Act was not competent to cope with the planning needs of the Sixties let alone the Seventies. A new Planning Act was introduced in 1969 and proclaimed in 1970. The review process and subsequent development involved in introducing the Act are reported upon extensively by R. S. Lang in his study, entitled, "Nova Scotia Municipal and Regional Planning in the Seventies", prepared for the Department of Municipal Affairs with financial assistance from Central Mortgage and Housing Corporation.

Source: Prepared by staff in early 1970's