



## CHAPTER 287.

## An Act respecting Town Planning.

**W**HEREAS it has been realized that large municipal expenditures have become necessary owing to the fortuitous development of urban centres, and that it is advisable to make provision whereby the natural growth of cities and towns may be planned in a systematic and orderly way, so that adequate means of communication for an increasing population may be provided and congestion avoided, and that economies may be effected in the industrial and business activities of communities, and so that the serviceableness of business property and the amenity of residential districts may be preserved and adequate areas may be provided for protecting the health of and providing recreation of the public: Preamble.

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

*Preliminary.*

1. This Act may be cited as the “Town Planning Act.” 1925, Short title.  
c. 55, s. 1.

2. (1.) In this Act, unless the context otherwise requires:— Interpretation.

“Assessed owner” means the person assessed as owner upon the last revised assessment roll of the municipality:

“Commission” or “Planning Commission” means the Town Planning Commission created by a municipality pursuant to this Act:

“Council” means the Council of the municipality to which the context applies or the Board of Commissioners of any village municipality:

“Zoning by-law” means a by-law passed under the provisions of section 9, and includes all amendments of such by-law.

Application  
to village  
municipalities.

(2.) The provisions of this Act shall apply to all municipalities, and shall also, mutatis mutandis, apply to village municipalities incorporated under the "Village Municipalities Act." 1925, c. 55, s. 2.

Division of Act  
into parts.

3. This Act is divided into parts, for convenience of reference, as follows:—

PART.	SECTION.
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	(New.)

## PART I.

### TOWN PLANNING AND OFFICIAL TOWN PLAN.

Powers of Council  
respecting  
preparation of  
town plan.

4. The Council shall have power:—

- (a.) To prepare, for the purpose of an official town plan, a comprehensive plan or set of plans for the future physical development and improvement of the municipality in a systematic and orderly manner, based primarily upon public utility, convenience, and general welfare:
- (b.) From time to time, as development progresses or changed conditions demand, to make additions and extensions to and alterations in the official town plan:
- (c.) To prepare specific plans for public improvements consistent with the official town plan:
- (d.) To prepare plans for the development of harbour and railway and rapid-transit and street-railway facilities, with a view to the correlation of such development with the official town plan, 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 consider any matters dealing with the physical development of the municipality which it may deem expedient. 1925, c. 55, s. 3; 1928, c. 48, ss. 2, 3.

Approval of  
plans.

5. (1.) Upon completion of any plan or set of plans prepared for the purpose of the official town plan, accompanied with such explanatory memoranda and specifications or books of reference as may serve to elucidate and clearly define the scope and objects

of the plan or set of plans, which accompanying documents shall be read with and form a part of the plan or set of plans, the Council shall take the same into consideration, and when found satisfactory shall approve the plan or set of plans by resolution.

(2.) Upon such approval the original and duplicate plans shall be impressed with the seal of the municipality and dated and signed by the Municipal Clerk, and the same shall then constitute and be known as the official town plan. The procedure set out in this section shall apply to any further plan prepared for the purpose of the official town plan and to any amendment of the official town plan, and all the plans so approved from time to time, together with all amendments made thereto and approved, shall be read together, and constitute, and be known as the official town plan. 1925, c. 55, ss. 4, 5.

Constitution of  
official town plan.

6. The approval by the Council of any plan for the purpose of the official town plan shall not commit the Council to undertake any of the projects therein suggested or outlined, but the effect of the approval shall be to prevent the undertaking by the Council of any public improvements within the scope of the plan in any manner inconsistent or at variance with such plan, unless the variation from such plan is approved by a vote of two-thirds of the members of the Council, and unless the Council, in the event of a Town Planning Commission having been created pursuant to the provisions of this Act, first submits the plans to such Commission for its consideration and report. 1925, c. 55, s. 6.

Effect of approval  
of town plan on  
public improvements.

7. The expression "public improvements" as used in the last preceding section shall mean the opening, widening, enlarging, closing, or diverting of streets, lanes, or squares; the acquisition of parks, parkways, playgrounds, and school-sites; and any other improvements or works of a public nature which may for this purpose be specified or described as "public improvements" in a by-law of the Council. 1925, c. 55, s. 7.

"Public improvements" defined.

8. (1.) Where a project shown upon an official town plan 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 neighbouring lands. Such additional lands may include:—

Power to acquire  
lands in addition to  
those essential  
to project shown  
on town plan.

- (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 resubdivided or rearranged and developed as part of the project.

Power to purchase or expropriate.

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

Powers of subdivision and disposition.

(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 on such terms and subject to such building and other restrictions or easements as the Council deems advisable.

Power to impose building restrictions without acquiring lands.

(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.

Expenses.

(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. 1925, c. 55, s. 8.

### *Zoning.*

Zoning by-law.

9. (1.) The Council of any municipality may by by-law make regulations for any of the purposes set out in clauses (a) to (f) hereof 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, fence-lines, and 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, the location of apartment or tenement houses, terraces, club-houses, group residences, two-family dwellings, single-family dwellings, the location of the several classes of public and semi-public buildings, and the location of buildings or property designed for specified uses:
- (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.

(2.) The regulations in one or more districts may differ from those in other districts, but the regulations as to the height and bulk of buildings and the area of yards, courts, and other open spaces shall be uniform in respect of each class of buildings throughout each district.

Variations in regulations.

(3.) In determining the regulations to be made under this section, the Council shall have due regard to the following considerations:—

Considerations in the making of regulations.

- (a.) The promotion of public health, safety, convenience, and welfare:
- (b.) The prevention of the overcrowding of land and the preservation of the amenity of residential districts:
- (c.) The securing of adequate provisions for light, air, and reasonable access:
- (d.) The value of the land and the nature of its use and occupancy:
- (e.) The character of each district, the character of the buildings already erected, and the peculiar suitability of the district for particular uses:
- (f.) The conservation of property values and the direction of building development. 1925, c. 55, s. 9; 1928, c. 48, s. 4; 1935, c. 81, s. 2.

10. Before passing a zoning by-law under section 9 the Council shall, if a Town Planning Commission has been constituted under the provisions of this Act, request that Commission to recommend the boundaries of the districts and appropriate regulations and restrictions to be enforced therein, and the Commission shall proceed upon the principles laid down in that section for the

Report of Town Planning Commission and hearing preliminary to passing by-law.

guidance of the Council and shall make a report thereon. The Council shall not pass a zoning by-law until it has held a hearing thereon, of which a notice stating the time and place of hearing has been published by insertion in not less than two consecutive issues of a newspaper published or circulating in the municipality, so that the last of such insertions shall appear not less than three days nor more than ten days before the date fixed for the hearing, and at such hearing (which may be adjourned from time to time) all persons who deem themselves affected by the proposed by-law shall be afforded an opportunity to be heard before the Council on the matters contained therein. No notice of the by-law need be given to the persons affected thereby, but the notice of hearing shall state a place where, and the days and hours within which, a copy of the proposed by-law may be inspected. The Council may without notice, in the by-law as adopted and finally passed, give such effect as it deems fit to representations made at the hearing. 1925, c. 55, s. 10; 1928, c. 48, s. 5.

Amendment or repeal  
of zoning by-law.

11. (1.) Any person or any member 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 any amendment or repeal the Council shall give notice thereof by publishing a notice of hearing in like manner as provided in section 10. 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 centum of the street frontage affected by the proposed amendment or repeal, or by the assessed owners of at least twenty per centum of the street frontage immediately in the rear thereof, or by the assessed owners of at least twenty per centum 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. 1925, c. 55, s. 11; 1928, c. 48, s. 7.

Restrictions as to  
height of buildings  
and size of yards.

12. 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. 1925, c. 55, s. 12.

**13. (1.)** Any building lawfully under construction at the time of the coming into force of a zoning by-law shall for the purpose of that by-law be deemed to be a building existing at that time.

Application of zoning by-law in respect of existing buildings and uses.

(2.) The lawful use of premises 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 by-law, may be continued; but if such non-conforming use is discontinued for a period of thirty days, any future use of those premises shall be in conformity with the provisions of the zoning by-law, subject to the provisions of subsections (3) and (4).

(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 or those allowed by the Board of Appeal appointed under this Act, shall be made therein.

(4.) Any building that becomes damaged or destroyed by fire may be repaired or reconstructed and its lawful use at the time of its damage or destruction continued, subject to the approval of the said Board of Appeal; but any building that becomes damaged or partially destroyed by fire to the extent of not more than seventy-five per centum of its value above its foundations at the time of its damage or partial destruction may be repaired or reconstructed and its lawful use at that time continued without the approval of the said Board of Appeal.

(5.) 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.

(6.) 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. 1925, c. 55, s. 13; 1928, c. 48, s. 8; 1931, c. 64, s. 2.

**14.** Property shall not be deemed to be taken or injuriously affected by reason of the passing of a zoning by-law under the provisions of section 9. 1925, c. 55, s. 14.

Construction of zoning by-law as affecting property.

Withholding of building permits pending passage of zoning by-law.

15. 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 pursuant to section 11 the Council may for a period not exceeding two months withhold, or authorize its proper officer to withhold, a building permit for any building when the Council is of opinion that the construction of the building in question might interfere with the work of zoning, 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: Provided, however, that if a zoning by-law or an amendment thereof applied for as aforesaid applicable to the district in which the building permit is applied for shall not be passed within the period of two months as aforesaid, the owner shall be entitled to compensation for damages arising from the withholding of such permit, in which event the provisions herein applicable to compensation for lands taken or injuriously affected shall apply. 1925, c. 55, s. 15; 1928, c. 48, s. 9.

Appeal in certain cases.

16. (1.) An 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.) Such appeals shall be heard and decided by a Board of three, one to be appointed by the Council concerned, one to be appointed by the Lieutenant-Governor in Council, and the third shall be appointed by the other appointees and shall act as Chairman; but no person who is a member of the Town Planning Commission shall be eligible to be appointed or to sit as a member of the Board.

(3.) In considering appeals the Board shall adhere to the spirit of the by-law, but may make such relaxations as special cases call for, and endeavour 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.) Every zoning by-law shall provide for procedure in appeals to the Board.

(5.) In the event of the death, resignation, or removal from office of any member of the Board, the vacancy thereby created shall be filled within two weeks after the death, resignation, or removal; and until the appointment of a successor to such member the remaining members shall constitute the Board.

(6.) In the event of the death, resignation, or removal from office of a member of the Board other than the Chairman, the Chairman shall continue to act in that capacity, and the provisions of subsection (2) relating to the appointment of Chairman shall not apply.

(7.) The decision in writing of all or of a majority of the members of the Board shall constitute the decision of the Board.

(8.) The Chairman may from time to time appoint a member of the Board as Acting-Chairman to preside in the absence of the Chairman.

(9.) No appeal shall lie from the decision of the Board. 1925, c. 55, s. 16; 1931, c. 64, s. 3; 1936, c. 59, s. 2.

17. The Council may, in any by-law passed hereunder, provide for the enforcement of the regulations therein by inflicting fines and penalties, and the provisions in the "Municipal Act," or in any special Act applicable to the municipality, as to the authentication, quashing, and enforcement of by-laws and penalties for breach of by-laws shall apply to any such by-law. 1926-27, c. 72, s. 4. Enforcement of regulations by penalties.

18. Any by-law passed hereunder may be enforced and the contravention of any regulation therein restrained by the Supreme Court upon action brought by the municipality, whether or not any penalty has been imposed for such contravention, and it shall be unnecessary for the Crown or the Attorney-General or any other officer of the Crown to be a party to such action. 1926-27, c. 72, s. 4. Enforcement by action in Supreme Court.

#### *Town Planning Commissions.*

19. The Council of any municipality may by by-law create a Commission, to be known as the ["Vancouver" or "Victoria," *as the case may be*] Town Planning Commission," to assist the Council in an advisory capacity in carrying out such of the powers and provisions of this Act as the by-law shall prescribe, and such by-law shall prescribe the procedure for dealing with such matters. 1925, c. 55, s. 17. Power to create Town Planning Commission.

20. The Commission created by by-law shall be constituted as follows: In the City of Vancouver, of five ex-officio and nine appointed members; in the City of Victoria, of three ex-officio and nine appointed members; in other municipalities having a population by the last Dominion census of over five thousand, of three ex-officio and six appointed members; and in all other municipalities, of three ex-officio and three appointed members. The ex-officio members shall be the Mayor or Reeve, the Chairman of the board or committee charged with the administration of municipal parks, and the Chairman of the Board of School Trustees, if resident in municipality, or in case of a consolidated Personnel of Commission.

school district, a member of such Board residing within the municipality, nominated by such Board, and in the City of Vancouver shall also include the Chairman of the board charged with the administration of the "Vancouver and Districts Joint Sewerage and Drainage Act" and a representative of the Vancouver Port Authority nominated for that purpose by the National Harbours Board. The appointed members shall be appointed by the Council, and of those to be first appointed one-third shall be appointed for three years, one-third for two years, and one-third for one year; and in each succeeding year the vacancies of those whose term of office expires shall be filled for a term of three years. All appointments to fill casual vacancies shall be for the unexpired term. All appointed members shall hold office until their successors are appointed. No person shall be appointed who holds any municipal office. The place of the Mayor or Reeve of a city or other municipality or the Chairman of any board or committee as an ex-officio member of the Commission pursuant to this section may, during any year or portion of a year, be occupied by a member of the Council of the city or municipality or a member of the board or committee, as the case may be, designated for that purpose by the respective Council, board, or committee. 1925, c. 55, s. 18; 1933, c. 69, s. 2; 1936 (2nd Sess.), c. 53, s. 2.

Expenses of  
Commission.

21. (1.) No member of the Town Planning Commission shall receive any compensation for his services, other than allowances for actual expenses necessarily incurred in the discharge of his official duties.

(2.) The Council may include in its annual estimates of expenditure such sum of money as it considers necessary to cover expenses of the Commission. 1925, c. 55, s. 19.

Officers and  
procedure of  
Commission.

22. The Town Planning Commission shall be presided over by a Chairman to be chosen by itself annually from among the appointed members; and the Commission may adopt rules for its procedure, including the fixing of a quorum, and may from time to time vary such rules by the vote of a majority of the members of the Commission. The Commission shall cause proper records to be kept of its proceedings, and may appoint a Secretary, and the expenditures of the Commission for all purposes shall be kept within the sum appropriated by the Council for the expense of the Commission. 1925, c. 55, s. 20.

Joint sessions of  
Commissions.

23. Where a municipality in which a Town Planning Commission has been constituted has contiguous to its borders one or more municipalities also having a Town Planning Commission, it shall be competent for such Commissions to hold joint sessions for the consideration of any problems which may affect them jointly. Any conclusion reached at any such joint session shall

receive the careful consideration of each Commission affected, but the liberty of action of each Commission and its individual responsibility shall not be restricted by the decision of the joint body, save to the extent that in making a report or recommendation to the Council upon any subject dealt with at the joint session a Town Planning Commission shall also report the recommendation of the joint session, and if its own report differs therefrom shall indicate the reasons therefor. 1925, c. 55, s. 21.

24. The powers conferred upon municipalities by this Act shall be in addition to all other powers conferred under any other general or special Act, and where the provisions of this Act conflict with the provisions of any general or special Act the provisions of this Act shall prevail. 1925, c. 55, s. 22.

Provisions of Act  
to prevail.

## PART II.

### REPLOTTING.

#### *Interpretation.*

25. In this Part, unless the context otherwise requires:—

Expressions  
interpreted.

“Assessed” means assessed upon the last revised assessment roll of the municipality:

“Certified” means certified by the Clerk under the seal of the municipality:

“Clerk” means the Municipal Clerk of the municipality, or, in the case of a city municipality, the City Clerk:

“Crown” means the Crown in right of the Province:

“District” means any part of the municipality defined by the Council under the provisions of section 26:

“Former parcel” means a parcel existing prior to the completion of the undertaking:

“Highway” or “street” includes all public highways, streets, roads, alleys, lanes, thoroughfares, trails, bridges, and any other public way:

“Land” includes the improvements thereon, but in subsection (3) of section 50 it shall have the meaning defined in the “Municipal Act”:

“Land Registry” means the Land Registry Office for the land registration district in which the municipality is situate:

“New parcel” means a parcel created or intended to be created by the undertaking:

“Non-consenting owner” means an owner who has not approved a scheme of replotting and given the consent as mentioned in section 33:

- “ Owner ” means a purchaser of land from the Crown or the municipality under agreement for sale, a registered owner of an estate in fee-simple and a registered holder of a charge as defined by the “ Land Registry Act,” and a tax-sale purchaser of land during the redemption period, and shall include the municipality:
- “ Parcel ” means any lot, block, or other area in which land is held, or into which land is subdivided, or into which land is replotted pursuant to this Part:
- “ Registered ” means registered or recorded in the books of the Land Registry:
- “ Registrar ” means the Registrar of the land registration district in which the municipality is situate:
- “ Undertaking ” means the preparation and carrying-out of a replotting scheme pursuant to this Part. 1928, c. 48, s. 10 (*part*).

*Scheme of Replotting.*

Purpose of replotting and preliminary steps to be taken.

26. For the purpose of facilitating the physical development of or making more suitable and convenient for public or private use any part of the municipality, the Council may, by resolution or resolutions, passed by vote of two-thirds of all its members:—

- (a.) Define that part of the municipality as a district:
- (b.) Authorize the preparation of a scheme for the replotting and resubdivision of the district with incidental preliminary surveys:
- (c.) Approve of such scheme, or any alterations of a scheme already approved:
- (d.) Authorize the procuring of the approval of such scheme by the owners of the land within the district and their consent to the relocation and exchange of private properties according to such scheme:
- (e.) Authorize the resurvey of the district in accordance with such scheme;

and shall (subject to the provisions hereinafter contained for the apportionment and raising of the net cost of the undertaking) pay for the cost of the undertaking:—

- (f.) Out of the general revenue for the current year or the next succeeding year; or
- (g.) Out of a temporary loan, and for this purpose the Council may borrow from and make arrangements with any bank or person. 1928, c. 48, s. 10 (*part*).

Matters comprised in scheme.

27. A scheme of replotting shall indicate the proposed relocation and exchange of private properties, and whether compensation is to be proposed to the respective owners and the amount of such compensation, and the value of any surplus lands allotted

to the municipality, and where any building, structure, erection, or utility is to be moved shall indicate its new location, and may set out an apportionment of the net cost of the undertaking between the municipality and the owners (other than the municipality), consideration being given to the saving which the scheme may effect in the expenditure of the municipality for roads and municipal utilities and the increased taxation which may be derived by the municipality from the increased value of the land in the district, and this apportionment may or may not be that provided by section 50. 1928, c. 48, s. 10 (*part*).

28. Notice of the approval by the Council of a scheme of replotting and resubdivision shall be published in a newspaper published or circulating in the municipality, with an intimation that all owners wishing to approve the scheme may do so at the office of the Clerk. 1928, c. 48, s. 10 (*part*). Notice of approval of scheme.

29. In carrying out the undertaking the following principles of replotting and compensation shall apply:— Highways and public grounds.

- (a.) For the purpose of the undertaking all the parcels and highways and all other lands in the district at the initiation of the undertaking are hereinafter referred to as "common mass" or "mass":
- (b.) From this common mass is to be taken the land necessary for highways and other public grounds, and this shall take the place of and compensate the Crown and the municipality for the surrender of the former highways and public grounds. 1928, c. 48, s. 10 (*part*).

30. (1.) The remainder of the mass shall be divided into parcels for allotment to the owners in a suitable, fair, and equitable manner, and as far as possible so that the value of new parcels allotted to them shall be equal respectively to the value of their former parcels. Endeavour shall be made to allot to owners new parcels in approximately the same location as their former parcels and to return parcels to their former owners wherever advisable. Parcels with buildings on them are, wherever advisable, subject to the necessary adjustment of boundaries, to be returned to their former respective owners. Division into parcels and allotment to owners.

(2.) The allotment of new parcels in exchange for former parcels shall be carried out as far as practicable by agreement with the respective owners. By agreement.

(3.) Failing agreement with an owner, there may be allotted to him a new parcel of equal value as nearly as possible to his former parcel, or compensation in money may be made to him in lieu of an allotment of land. Failing agreement.

Equalization of values by money compensation or payment.

(4.) Unavoidable differences of value between former parcels and new parcels may be equalized by granting money compensation, or by agreement with an owner a new parcel may be allotted to him of greater value than his former parcel for a cash payment or on credit, in which case a mortgage may be taken by the municipality from the owner for payment of the difference in value with interest thereon as may be agreed.

Surplus lands.

(5.) Any land not allotted as above provided may be allotted to any owner at an agreed price, the amount of which shall be paid to the municipality. The whole of the land remaining unallotted (herein referred to as "surplus lands") shall be allotted to the municipality. 1928, c. 48, s. 10 (*part*).

Corporation may acquire encumbrances.

31. The municipality may, subject to making compensation therefor, acquire any encumbrance 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 necessary proceedings for the collection of the amount due under and by virtue of such encumbrance or for the sale, transfer, or realization of the security. 1928, c. 48, s. 10 (*part*).

Alterations in scheme.

32. Alterations may be made in the scheme before its completion, provided that they do not affect the owners who have consented as hereinafter provided, or that the consent of all affected owners is obtained. 1928, c. 48, s. 10 (*part*).

#### *Initiation of Replotting.*

Undertaking the replotting.

33. Upon having procured the approval of a scheme for replotting and resubdivision of a district by the owners of at least three-fifths in number of the parcels of land within the district (exclusive of unsold lands of the Crown and of the municipality), constituting at least fifty per centum of the assessed value of such land, and their written consent to the relocation and exchange of private properties according to such scheme, the Council may by resolution decide to proceed with such scheme without the consent of the other owners, pursuant to this Part. 1928, c. 48, s. 10 (*part*).

Copy of resolution for notation in Land Registry.

34. (1.) A certified copy of such resolution shall be filed in the Land Registry, whereupon the Registrar shall cause a note thereof by its filing number and series (which series may be the same as that which includes caveats) to be made upon the registers of titles of all parcels affected thereby, and thereupon the undertaking shall be deemed to be initiated.

Effect of notation.

(2.) Such note shall be notice to all persons having any unregistered interest, right, or claim in, to, or out of the affected parcels,

and to all persons subsequently dealing therewith, that a scheme for the replotting thereof has been initiated, and such persons shall be bound by all proceedings under this Part taken before such notice and which may be taken thereafter.

(3.) No person having any right, title, interest, claim, or demand in, to, out of, or upon any land in the district not duly registered prior to the initiation of the undertaking shall be entitled to notice of any proceeding under this Part, except purchasers from the Crown or municipality and tax-sale purchasers, nor shall a person subsequently dealing with an affected parcel be entitled to notice unless he has given to the Clerk of the municipality written notice of his purchase or claim and evidence of the registration thereof and furnished the Clerk with an address to which notices may be mailed.

No notice to  
unregistered persons.

(4.) Any allotment, decision, award, consent, or other proceeding under this Part shall be binding upon and enure to the benefit of the owner of the land thereby affected, his heirs, executors, administrators, and assigns. 1928, c. 48, s. 10 (*part*).

Binding effect of  
proceedings.

#### *Completion of the Undertaking.*

**35.** Within four months after the initiation of the undertaking the Council shall by resolution either:—

Completion of the  
undertaking and  
deposit of plan in  
Land Registry.

- (a.) Discontinue the undertaking and file a certified copy of the resolution in the Land Registry, whereupon the Registrar shall cancel the note of the filing of the resolution deciding to proceed with the scheme; or
- (b.) Authorize the completion of the undertaking and the putting into effect of the scheme of replotting and the deposit in the Land Registry of a plan of the replotting made in compliance with section 79 of the "Land Registry Act," and a certificate giving in tabulated form and numerical order, firstly:—

- (i.) The description of each new parcel:

- (ii.) The name and address of the owner to whom each new parcel has been allotted:

- (iii.) The former parcel in respect of which the allotment of the new parcel is made;

and, secondly:—

- (iv.) The description of the former parcel:

- (v.) The description of the new parcel;

which plan and certificate shall be signed by the Clerk and sealed with the seal of the municipality. Upon such deposit and upon payment of the proper fees the undertaking shall be deemed to be completed. 1928, c. 48, s. 10 (*part*).

Registration.

**36. The Registrar shall thereupon:—**

- (a.) Register the plan of the replotting of the district as the official subdivision plan of the lands therein and cancel all plans previously registered or parts thereof comprising such lands:
- (b.) Register the ownership in fee of and encumbrances against the new parcels in the names of the respective persons entitled thereto pursuant to the replotting scheme or their legal representatives or successors in title or interest, and thereupon the same shall be vested in them and they shall be entitled to the benefits of the “Land Registry Act”: Provided that in the Registrar’s discretion a certificate of title may not be issued to an owner until he has surrendered the certificate of title to his former parcel:
- (c.) Cancel the registration of ownerships in fee of and encumbrances against the former parcels, and thereupon all rights, titles, interests, claims, and demands whatsoever in, to, out of, or against the same shall be thereby wholly extinguished and all certificates of title thereto shall be thereby cancelled and annulled:
- (d.) Do all other things necessary to carry out the intention of the replotting scheme. 1928, c. 48, s. 10 (*part*).

Rights of ownership and encumbrance transferred to new parcels.

**37. Upon the completion of the undertaking:—**

- (a.) Unless otherwise dealt with pursuant to the provisions of 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 legal 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:
- (b.) 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. 1928, c. 48, s. 10 (*part*).

Allotments to be binding.

**38. Upon the completion of the undertaking the replotting scheme and the allotments of land pursuant thereto shall be absolutely binding to all intents and purposes upon all the owners in the district, subject only to the right of the non-consenting**

owners to complain as to the adequacy of compensation proposed or the failure to propose compensation. 1928, c. 48, s. 10 (*part*).

*Compensation.*

39. Each non-consenting owner who gives notice of his complaint as provided in section 43 shall have the right to compensation in money:—

Compensation for loss and damage.

- (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. 1928, c. 48, s. 10 (*part*).

40. (1.) In determining the amount of compensation:—

Determination of compensation.

- (a.) A former parcel shall be valued at its market value at the time of the initiation of the undertaking, but any increase in the value thereof caused by the anticipation or initiation of the undertaking shall not be taken into consideration; and
- (b.) A new parcel shall be valued at its market value upon the completion of the undertaking.

(2.) No person shall be entitled to compensation for:—

- (a.) Any costs, expenses, loss, damage, or inconvenience incurred or sustained in investigating the replotting proceedings or in presenting any complaint or making any appeal, or caused by the initiation of or delay in or discontinuance of the undertaking:
- (b.) Any actual or anticipated loss or inconvenience of access to new parcels or of use of any municipal or public utility or service due to the new highways not being open for traffic:
- (c.) Any actual or anticipated loss, damage, or inconvenience suffered in common with all or with the major part of other owners:
- (d.) Any building or structure constructed, erected, placed, or altered, or any improvement made to land subsequent to the initiation of the undertaking or any actual or anticipated loss, damage, or expense incidental thereto, or incidental to the removal of such building or structure:
- (e.) Any reduction in or loss of value due to reduction in 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. 1928, c. 48, s. 10 (*part*).

*Hearing of Complaints.*

Appointment of  
Commissioner.

41. (1.) Within one month after the completion of the undertaking the Council shall apply to the Supreme Court *ex parte* by petition for the appointment of a Commissioner to hold a public hearing of and to decide any complaints pursuant to sections 38 to 40, and the Court shall thereupon appoint such Commissioner. In default of the Council so applying, any non-consenting owner may upon notice to the Council apply.

Disqualification.

(2.) No person shall be appointed or act as such Commissioner who is a member of the Council, or who is an owner within the district, or who is the husband or wife of such an owner.

Oath of Office.

(3.) Such Commissioner shall, before entering upon the duties of his office, subscribe and take before the Clerk the following oath or affirmation:—

I, \_\_\_\_\_, do solemnly swear [*or affirm*] that I will truly and faithfully, and without fear, favour, or partiality, execute the powers and trusts of a Commissioner pursuant to the provisions of Part II. of the "Town Planning Act," according to the best of my knowledge and judgment, and that I am not disqualified from acting as a Commissioner under the said Act. So help me God !

Remuneration.

(4.) The municipality shall pay the Commissioner for his services remuneration at such rate as may be agreed upon between him and the Council, and in the event of failure to agree, such reasonable remuneration as shall be fixed by the Supreme Court on summary application by the municipality or the Commissioner.

Inability to act.

(5.) In the event of any Commissioner dying, resigning, refusing to act, or being absent, or being incapable of acting by reason of sickness or any disability or misconduct, the Supreme Court shall on *ex parte* application of the municipality appoint some other person as Commissioner in his stead.

Continuity of  
proceedings.

(6.) In such event no proceedings or decisions had, taken, or arrived at by the Commissioner prior to such vacancy shall in any way be affected, but the same shall be valid and effectual and shall be and continue to be acted upon, notwithstanding that such vacancy shall have occurred and such other Commissioner shall have been appointed, and without any necessity for recommencing such proceedings or reconsidering any matter or thing which shall have arisen or been considered or decided before such vacancy occurred. 1928, c. 48, s. 10 (*part*).

Time and place for  
hearing complaints.

42. The Commissioner shall appoint a time and place for the hearing of complaints, which shall be at the Municipal Hall or other suitable place within the municipality, and shall be not less than forty days nor more than ninety days after the Clerk has given the notices mentioned in section 43. 1928, c. 48, s. 10 (*part*).

43. (1.) Upon such appointment being made the Clerk shall give to each of the non-consenting owners whose name appears on either of the lists mentioned in section 59 a notice in writing stating that a replotting scheme has been put into effect, describing his former parcel, stating the allotment of new parcel made, and the compensation proposed to him, and if a parcel is improved that his buildings may be affected, that the scheme and the allotments pursuant thereto are absolutely binding upon him to all intents and purposes, save only as to his right to complain against the adequacy of compensation proposed or the failure to propose compensation, stating the time and place appointed by the Commissioner for hearing complaints, and that if he intends to complain he must give written notice thereof with the grounds of his complaint to the Clerk ten days before such hearing.

Notice to non-consenting owners.

(2.) The notice to non-consenting owners may be given:—

Method of giving notice.

(a.) By personal service on the person to whom it is directed; or

(b.) By mailing it by letter post, postage prepaid and registered, addressed to the person to whom it is directed at his address as shown upon a list furnished pursuant to section 59 or as shown on any instrument, paper, or record in the Land Registry relating to his ownership of or interest in the former parcel, or at his address as last known to the Assessor of the municipality; or

(c.) Pursuant to any direction which may be given by the Registrar for the substituted or other service of the notice by any method of service which under the "Land Registry Act" the Registrar is authorized to direct in respect of notices required to be given under that Act.

(3.) The Clerk may, in his discretion, send with any one or more of such notices a copy of the plan of replotting or any portion thereof upon the same or a different scale.

Copy of plan may be sent with notice.

(4.) The Clerk shall keep a record of all notices given under this section by showing opposite the names of the owners of the parcels in the district the names of the persons to whom notices were sent as to the respective parcels and the date and method of giving each notice. 1928, c. 48, s. 10 (*part*).

Record of notices.

44. (1.) The Commissioner shall sit at the time and place appointed and shall hear complaints of which notice has been given, and the proceedings of and before him shall be public.

Hearing by Commissioner.

(2.) He shall inquire into and pass upon the sufficiency of all notices required to be given under section 43, and in his sole discretion may direct further notices and hear any complaint made in pursuance thereof. He shall have power, where in the interest of justice he, in his discretion, thinks fit, to hear a complaint preferred before him at any time before the conclusion of his hearing.

Sufficiency of notices.

Evidence  
and adjournments.

(3.) He may receive any evidence which he thinks proper to admit and may take a view and may examine on oath any person interested and such witnesses as appear before him. The Commissioner may act upon, accept, or adopt such evidence as he may deem sufficient, whether under oath or not and whether written or oral, and, while always having the right to insist upon evidence being given or submitted viva voce under oath or by affidavit or by statutory declaration, the Commissioner may not require any evidence to be so given, nor shall the strict rules of evidence apply. He, or in his absence the Clerk, may adjourn the hearing from time to time and from place to place, whether or not any of the persons interested are present at the time of the adjournment.

Attendance  
of witnesses.

(4.) The Commissioner may, at the request of any complaining owner or on his own initiative, summon in writing any person to attend at such hearing and give evidence and produce any documentary evidence. The Commissioner may order reasonable fees and expenses to be paid to any such witness summoned upon his own initiative, and the same shall be paid by the municipality. Any person failing to respond to such summons shall be guilty of an offence, and shall be liable, upon summary conviction thereof, to a penalty not exceeding the sum of one hundred dollars and costs.

Municipality as  
complainant.

(5.) The municipality may make complaint to the Commissioner on its own behalf or on behalf of any other person. 1928, c. 48, s. 10 (*part*).

Powers of  
Commissioner.

45. (1.) The powers of the Commissioner shall be confined to passing upon the sufficiency of all notices required to be given under section 43 and to hearing and deciding complaints pursuant to sections 38 to 40.

Records.

(2.) The Commissioner shall cause to be kept a record of all complaints made to him and of his decisions thereon.

Commissioner's  
report.

(3.) Upon the conclusion of his hearing the Commissioner shall announce a date upon which his decisions will be given, and forthwith after giving his decisions he shall report to the Council the complaints made to him and his decisions thereon, and such report shall be open for examination by any complainant, his solicitor or agent. 1928, c. 48, s. 10 (*part*).

#### *Appeals.*

Appeal to Supreme  
Court.

46. (1.) Any owner, if dissatisfied with the decision of the Commissioner upon such owner's complaint, may appeal therefrom to the Supreme Court by way of rehearing.

Notice of appeal.

(2.) The person so appealing shall, within ten days after the decision complained of, serve upon the Clerk a written notice of his intention to appeal, setting forth the grounds of the appeal.

(3.) The appeal shall be made upon petition and five days' notice of the time for hearing the appeal shall be given to the Clerk. Notice of hearing.

(4.) The municipality may appeal from any decision, in which case it shall give notice thereof as aforesaid to the owner affected, and notice of the hearing shall be given such owner, both of which notices may be given in any manner set forth in section 43. Appeal by municipality.

(5.) The powers of the Supreme Court on appeal shall be confined to hearing and deciding appeals from the decision of the Commissioner upon complaints pursuant to sections 38 to 40. The Court shall, whether in term or during vacation, hear the appeal in a summary manner and upon the same rules of evidence as govern a Commissioner, and may adjourn the hearing from time to time and defer judgment thereon at pleasure: Provided that judgment shall be given within six weeks from the time limited for giving notice of appeal pursuant to subsection (2), otherwise the Commissioner's decision shall stand. The judgment of the Court shall be final and binding upon all persons concerned. Hearing of appeal.

(6.) Any person making or opposing any such appeal shall pay his own costs and expenses thereof, and no costs as between party and party shall be awarded by the Court. 1928, c. 48, s. 10 (*part*). Costs.

*Payment of Compensation.*

47. (1.) The municipality shall pay the amounts of compensation proposed by the scheme within three months after the completion of the undertaking, save where a complaint has been made, in which case the municipality shall pay the compensation awarded by the Commissioner (or the Supreme Court on appeal) within three months from the date of the award: Provided that either of such periods may be extended by the Supreme Court upon application by the municipality *ex parte*. Time for payment of compensation.

(2.) The compensation shall stand in the stead of the land in respect of which it was proposed or awarded, and shall be subject to the limitations and charges (if any) to which such land was subject. 1928, c. 48, s. 10 (*part*).

48. The municipality may, by its servants, workmen, or contractors, move any buildings, structures, erections, or utilities required to be moved pursuant to the provisions of the replotting scheme, or do any work or thing upon private property in satisfaction of awards of compensation. 1928, c. 48, s. 10 (*part*). Removal of buildings, etc.

49. (1.) The municipality may in any case it deems expedient pay into the district registry of the Supreme Court the amount of any compensation proposed or awarded. Payment may be made to Supreme Court.

(2.) Leave, or an order of the Court or a Judge, need not be obtained for such payment, but such payment shall be accom-

panied by a certificate of the Clerk giving particulars of the person to whom and the land in respect of which the compensation was proposed or awarded.

(3.) Upon such payment the District Registrar of the Court shall give the Clerk a receipt for such payment, attached to or endorsed upon a copy of the Clerk's certificate, and such compensation shall be paid out of Court to the person entitled thereto on the order of a Judge. 1928, c. 48, s. 10 (*part*).

*Apportionment of Cost.*

Accounts to be kept.

50. (1.) The municipality shall keep a proper account of all moneys paid by it in connection with an undertaking, and upon the completion of the undertaking and the payment of all compensation and expenses incidental thereto shall prepare a statement showing its net cost. In such statement the municipality shall be debited with the value of all surplus lands allotted to it and any moneys receivable under section 30 or otherwise on account of the undertaking.

Apportionment of cost.

(2.) The net cost as shown by such statement shall be apportioned between the municipality and the owners (other than the municipality) in the manner set out in the scheme, or if the scheme mentions no apportionment, then the municipality's portion of the cost shall be that portion of the total net cost which bears the ratio that the sum of the areas of the highways and public grounds and unsold lands of the municipality at the completion of the undertaking bears to the whole area of the district, and the remainder shall be the owner's portion of the cost.

Methods of meeting cost of undertaking by special rates or borrowing.

(3.) The municipality's portion of the cost may be raised by a special rate levied and collected upon and from all the rateable lands or lands and improvements in the municipality, and the owner's portion of the cost may be raised by a special rate levied and collected upon and from the rateable lands in the district, according to the respective values of such lands as shown in the first revised assessment roll of the municipality containing the new parcels; or the net cost of the undertaking may be paid by the borrowing of the required amount upon debentures issued under the same provisions as if the undertaking had been carried out as a local improvement under the "Local Improvement Act" or other Act providing for local improvements in the municipality, the municipality's portion of the cost being raised by a special rate levied and collected annually upon and from all the rateable lands or lands and improvements in the municipality, and the owner's portion of the cost being raised by a special rate levied and collected annually upon and from the rateable lands in the district according to the respective values of such lands as shown in the revised assessment rolls for the years during which the special

rates are levied. The debentures shall be repayable within ten years of the date of issue.

(4.) Every special rate levied pursuant to subsection (3) shall be due and payable to the municipality at the same time as other annual municipal rates and taxes, and the provisions of the "Municipal Act" or any special Act applying to the municipality relating to exemption of improvements, rebates on, percentage additions to, and interest on taxes, and the procedure for the collection thereof, shall, as far as they are applicable, apply to those special rates. 1928, c. 48, s. 10 (*part*). Collection of special rates.

*Miscellaneous.*

51. (1.) During the period of six months after the completion of the undertaking, in so far as the new highways are not constructed and open for traffic, the former highways and all public utilities and other works thereon, in case they do not interfere with or disturb the reasonable and necessary use and occupation of new parcels, may be maintained; and no person shall have any right to compensation or any right of action for damages against the municipality or against any other person by reason thereof. During such period the municipality or its licensees may remove such public utilities and works. Former highways to be temporarily maintained.

(2.) Any person unreasonably obstructing the use of any former highway during such period shall be guilty of an offence, and liable, upon summary conviction thereof, to a penalty not exceeding one hundred dollars. 1928, c. 48, s. 10 (*part, redrawn*). Penalty for obstruction.

52. Save in exercise of the right of complaint and appeal herein provided, no person shall at any time be entitled to make or proceed with any demand, claim, or action whatsoever against the municipality, or any of its officials, servants, or workmen, or against the Commissioner, or against the Crown, for any loss or damage sustained or threatened by reason of an undertaking, or for or in respect of any matter whatsoever caused by any proceedings taken or thing done pursuant to this Part. 1928, c. 48, s. 10 (*part*). Limitation of claims.

53. The municipality may dispose of any parcels allotted to it in the manner provided by law for disposing of lands acquired by it by tax-sale proceedings. 1928, c. 48, s. 10 (*part*). Disposal of parcels by municipality.

54. Save where otherwise specified, any proceedings under this Part to be taken by the Council or any act or thing incidental thereto may be taken or done by resolution of the Council. 1928, c. 48, s. 10 (*part*). Council may act by resolution.

55. Nothing herein contained shall be deemed to affect the power of the municipality to assess and to levy rates and taxes upon the former parcels during the pendency of the replotting Assessment and taxation during replotting proceedings.

proceedings and prior to the completion of the undertaking. 1928, c. 48, s. 10 (*part*).

Decision of disputes.

**56.** Any dispute or question with regard to the construction of any provision of this Part, or the sufficiency and validity of any proceedings taken hereunder, or the manner in which any proceeding is to be taken may be referred to the Supreme Court for decision pursuant to the provisions of section 46. 1928, c. 48, s. 10 (*part*).

Assent of electors not required.

**57.** The assent of the electors of the municipality shall not be necessary for any proceeding pursuant to this Part. 1928, c. 48, s. 10 (*part*).

Crown lands held by purchasers.

**58.** This Part shall apply to Crown lands in a district held by purchasers from the Crown, and in such case both the Crown and the purchasers shall be deemed to be owners for the purposes of this Part. 1928, c. 48, s. 10 (*part*).

List of owners.

**59.** Upon request of the municipality and upon payment of such reasonable fees for the work involved as the Registrar may prescribe, the Registrar shall furnish any required information to be obtained from the records and a list of the names and addresses of the registered owners of all parcels of land in the district at the time of the initiation of the undertaking, and upon similar request the Department of Lands shall furnish a list of the names and addresses of the purchasers of Crown lands in the district under agreement for sale. 1928, c. 48, s. 10 (*part*).

Land Registry fees.

**60.** Items 5, 6, and 10 of the Second Schedule of the "Land Registry Act" shall not apply in respect of matters and proceedings mentioned in sections 35 and 36 of this Act. 1928, c. 48, s. 10 (*part*).

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