



CHAPTER 107.

An Act to amend the Vancouver Charter.

[Assented to 20th March, 1959.]

Preamble.

WHEREAS the City of Vancouver has presented a petition praying that the *Vancouver Charter* be amended:

And whereas it is expedient to grant the prayer of the said petition:

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

Short title.

1. This Act may be cited as the *Vancouver Charter Amendment Act, 1959*.

Amends s. 7.

2. (1) Section 7 of the *Vancouver Charter*, as re-enacted by chapter 72 of the Statutes of 1958, is amended by striking out the words "Canadian citizen" in the first line of clause (a) and substituting the words "British subject."

(2) Section 7 is further amended by striking out the words "has subscribed for shares" in paragraph (c) of subclause (ii) of clause (a) and substituting the words "is the holder of shares."

(3) Section 7 is further amended by inserting immediately after the words "City Clerk" in the fifth line of clause (b) the words "before the eighth day of August."

Amends s. 8.

3. (1) Section 8 is amended by striking out the words "Canadian citizen" in the first and second lines of clause (a) and substituting the words "British subject."

(2) Section 8 is further amended by striking out the words "Canadian citizen" in the fifth line of clause (b) and substituting the words "British subject."

Amends s. 9.

4. Section 9 is amended by striking out the words "Canadian citizen" in the fourth line and substituting the words "British subject."

Enacts ss. 36A
and 36B.

5. The said Act is further amended by inserting after section 36 the following as sections 36A and 36B:—

“36A. (1) A Stipendiary Magistrate or a Judge of the County Court may hear and determine cases where it is alleged, after the list of electors has been certified pursuant to section 32, that the name of any person has been improperly placed on or omitted from the list of electors, and the Clerk shall, on receipt of an order from the Magistrate or Judge, add to or strike from the list of electors the name of any person who the Magistrate or Judge decides is or is not entitled to vote.

“(2) Notice of every application to a Magistrate or Judge for an order under subsection (1), stating the grounds upon which the application is made, shall be given as directed by the Magistrate or Judge, and no application shall be heard or order made in any year after the thirtieth day of November.”

“36B. Notwithstanding anything in this Act contained, in case any person who appears by the records kept by the Assessor to be entitled to be entered upon the list of owner-electors but has been inadvertently left off the said list by the City Clerk, shall on any election-day satisfy the City Clerk that his name appears in the records kept by the Assessor, that he was entitled to be entered upon such list of owner-electors by the City Clerk and that he is still entitled to be entered upon such list of owner-electors, then the City Clerk may give a certificate under his hand, to any Deputy Returning Officer, such certificate to state that the person therein named is entitled to vote and to be entered upon the list of owner-electors, in respect of property to be described in such certificate; and upon presentation of such certificate to the Deputy Returning Officer of the polling district in which such property is situate, such owner-electors shall be entitled to vote at such election in like manner as if he had been originally entered upon the list of owner-electors by the City Clerk, and shall be deemed to have appeared on the list of owner-electors for the current year.”

Amends s. 38.

6. Section 38 is amended by striking out clause (d) as enacted by chapter 72 of the Statutes of 1958, and substituting the following:—

“(d) If at the time of his election or at any time subsequent thereto he does not possess the qualifications of an owner-electors as set out in section 7.”

Amends s. 44.

7. Section 44 is amended by inserting immediately after the word “Mayor” in the first line the words “or Alderman,” and by striking out all the words after “nomination-day” in the fifth line.

Amends s. 45.

8. Section 45, as re-enacted by chapter 72 of the Statutes of 1958, is amended by striking out the words “Canadian citizen” in paragraph 2 of the declaration set out therein and substituting the words “British subject,” and by striking out paragraphs 3 and 4 of the said declaration and substituting the following:—

3. That I am the registered owner or owner under agreement of the real property described as _____, situate in the City of Vancouver, and that all municipal taxes levied against such real property have been paid,

Or

4. That I am the principal lessee of a suite used solely as a dwelling, in a building of which a corporation is the registered owner and which complies with the provisions of section 7 (a) (ii).

[Strike out either paragraph 3 or 4, leaving the applicable paragraph.]

Amends s. 46.

9. Section 46 is amended by striking out the word "electors" in the second line and substituting the words "owner-electors," and by striking out the words "Canadian citizen" in the fourth line and substituting "British subject."

Amends s. 47.

10. Section 47 is amended by striking out the words "Canadian citizen" in clause (b) of the form of Nomination-paper set out therein and substituting "British subject."

Amends s. 48.

11. Section 48 is amended by striking out clauses (a) and (b) and substituting the following:—

"(a) It appears from the statements in the nomination-paper and in the declaration required by section 45 that the person nominated is of full age and a British subject and not subject to any legal incapacity, and that he is not subject to any of the disqualifications set forth in section 38:

"(b) The names of the nominators appear on the current annual list of owner-electors, and it appears from the nomination-paper that they are residents in the city: "

Amends s. 77.

12. Section 77 is amended by striking out clause (c) of the oath set out therein and substituting the following:—

"(c) That you are of full age and a British subject."

Amends s. 143.

13. Section 143 is amended by striking out the words "Canadian citizen" in the second line of the oath set out therein and substituting the words "British subject."

Enacts s. 193B.

14. The said Act is further amended by inserting after section 193A the following as section 193B:—

"193B. The city may acquire real property for the purpose of furthering any plan for the improvement or rehabilitation of areas which in the opinion of the Council have become or are tending to become blighted or substandard areas."

Amends s. 204A.

15. Section 204A, as enacted by chapter 70 of the Statutes of 1956, is amended by inserting immediately after the words "public auditorium" in the fourth line "or public museum."

Enacts s. 267A.

16. The said Act is further amended by inserting the following immediately after section 267:—

"267A. (1) Notwithstanding anything contained in this Act (or in any by-law passed in pursuance thereof) in the event of any by-law being submitted to the owner-electors of a defined portion or portions of the city pursuant to the powers contained in section 523B, a person whose name is entered on the list of owner-electors but whose name is not entered on the list of electors for any polling district within such defined portion or portions but who could have qualified as an owner-elector on property situate in such defined portion or portions may nevertheless vote on such by-law as hereinafter provided.

"(2) Any owner-elector claiming to be entitled to vote on a by-law pursuant to subsection (1) shall apply to the Deputy Returning Officer or Poll Clerk of the polling district in which the qualifying property is situate and shall complete before the Deputy Returning Officer or Poll Clerk a statutory declaration in the following form:—

I hereby apply for a ballot paper for the vote on [*here describe the by-law*] and do hereby make oath and say:—

1. That I am duly registered as an owner-elector pursuant to the *Vancouver Charter* for Polling Division No. .

2. That I am qualified to have my name entered on the list of owner-electors for Polling Division No. in respect of property owned by me at .

3. That I have not previously marked a ballot-paper with respect to the vote on the by-law referred to above nor will I mark any ballot-paper other than the one hereby applied for, with respect to the vote on the subject referred to above.

Declared before me this
day of , 19 , at
British Columbia.

"(3) Upon completion of the required declaration the Deputy Returning Officer shall

"(a) furnish to such owner-elector a ballot-paper and an unmarked envelope; and

"(b) cause a notation to be made in a special poll-book that a ballot has been given out.

"(4) The owner-elector after marking the ballot shall place it in the unmarked envelope and return the envelope sealed to the Deputy Returning Officer or Poll Clerk.

"(5) The Deputy Returning Officer or Poll Clerk shall then place the unmarked envelope in a second envelope bearing the declaration completed by the owner-elector, seal such envelope, and place it in a ballot-box provided for the purpose.

"(6) All such ballot-boxes shall be returned to the Returning Officer at the close of the poll.

"(7) The Returning Officer shall examine all such declarations to decide whether or not the deponent was entitled to vote pursuant to this section; and the decision of the Returning Officer shall be final.

"(8) If the Returning Officer shall decide that the deponent was not entitled to vote, the envelope shall be destroyed by him unopened.

"(9) If the Returning Officer shall decide that the deponent was entitled to vote, the unmarked envelope shall be removed and placed in a ballot-box for counting when all such cases have been dealt with.

"(10) The Returning Officer shall include votes cast in the above manner in declaring pursuant to section 268 hereof whether a by-law has received assent."

Amends s. 302.

17. Section 302 is amended by adding to clause (e) the words following: "and that the fee for such connection as prescribed by by-law shall be charged against the parcel served thereby by inserting in the real-property tax roll as a charge imposed with respect to such parcel such annual amounts and for such number of years as the by-law may provide."

Amends s. 306.

18. Section 306 is amended by striking out clause (w) and substituting the following:—

"(w) For adopting, where they are not inconsistent with this Act, any or all of the regulations or specifications of any or all of the following:—

"(i) National Building Code of Canada:

"(ii) Canadian Standards Association:

"(iii) American Society for Testing Materials either in place of or in addition to any regulations provided for in this Part."

Amends s. 317.

19. Section 317 is amended by inserting after the word "street" in the second line of clause (n) the words "or other public place."

20. The said Act is further amended by inserting the following as Part XXVII and by renumbering Part XXVII as Part XXVIII:—

"PART XXVII.

"PLANNING AND DEVELOPMENT.

Interpretation.

"559. In this Part, or in any by-law made thereunder, unless the context otherwise requires,

"'building' and 'construction' mean 'building' and 'construction' as defined in section 304;

"'development plan' means a plan or plans for the future physical development of the city or any part thereof, whether expressed in drawings, reports, or otherwise, and whether complete or partial;

"'non-conforming' as applied to a development means that such development was lawful when it took place but, by reason of a zoning by-law subsequently passed, does not conform to the uses permitted or regulations prescribed by such by-law. 'Non-conformity' shall have a corresponding meaning;

- “ ‘ official development plan ’ means any development plan, whether complete or partial, which has been adopted under this Part;
- “ ‘ structural alteration ’ includes any work or construction which involves any change, modification, replacement, or repair of any supporting member of a building, including the bearing walls, columns, beams, or girders thereof;
- “ ‘ zoning by-law ’ shall include a zoning and development by-law.
- Appointment of Director of Planning. “ 560. The Council may appoint a Director of Planning, who shall have such duties and powers as the Council may from time to time prescribe.
- Development plans. “ 561. The Council may have development plans prepared or revised from time to time. Such plans may
- “ (a) relate to the whole city, or to any particular area of the city, or to a specific project or projects within the city;
- “ (b) be altered, added to, or extended;
- “ (c) Designate land for streets, lanes, and other public thoroughfares and for the widening of streets, lanes, and other public thoroughfares; designate sites for parks, schools, and public buildings; and designate areas for special projects, including those which require development or redevelopment as a whole.
- Council powers respecting official development plan. “ 562. The Council may by by-law
- “ (a) adopt as the official development plan, or as a part thereof, any development plan prepared under section 561; or
- “ (b) revise or amend the official development plan or any part thereof.
- Undertakings, official development plan. “ 563. (1) The adoption by Council of a development plan shall not commit the Council to undertake any of the developments shown on the plan.
- “ (2) The Council shall not authorize, permit, or undertake any development contrary to or at variance with the official development plan.
- “ (3) It shall be unlawful for any person to commence or undertake any development contrary to or at variance with the official development plan.
- Power to acquire lands in addition to those essential to project. “ 564. (1) Where a project is shown upon an official development plan, the Council may acquire any real property it considers essential to the carrying-out of the project, and in addition acquire other adjacent or neighbouring real property. Such additional real property may include
- “ (a) the remnants of parcels, portions of which are essential to carrying out the project;
- “ (b) any lands which may be injuriously affected by the project;
- “ (c) any lands which, if allowed to be built upon without restriction, might become the site of buildings or structures which would prejudicially affect the full enjoyment of any building forming part of the project or the architectural effect thereof;

“(d) any lands which the Council is of the opinion could be conveniently and profitably 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 this Act.

Expenses.

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

“Zoning.

Zoning by-law.

“565. (1) The Council may by by-law make regulations for any of the purposes set out in clauses (a) to (g) hereof and divide the city 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 or the maximum floor-space ratio 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 or designated 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 for which land may not be used, or designating the class of use of land or buildings which only shall be permitted;

“(g) designating specific lands

“(i) for streets, lanes, or other public thoroughfares and for the widening of streets, lanes, and other public thoroughfares;

“(ii) for parks, schools, public buildings, parking-lots, and other public purposes;

“(iii) for development or redevelopment as a whole area.

Variations in regulations.

“(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 throughout each district in respect of each class of buildings not subject to special regulations made under clause (f) of subsection (1).

Considerations in the making of regulations.

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

“(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.

Amendment or repeal of zoning by-law.

“566. (1) The Council shall not make, amend, or repeal a zoning by-law until it has held a public hearing thereon, and an application for rezoning shall be treated as an application to amend a zoning by-law.

“(2) Council may by by-law require every person applying for an amendment to the zoning by-law to accompany the application with a fee to be prescribed by by-law.

“(3) Notice of the hearing, stating the time and place of the hearing and the place where and the times within which a copy of the proposed by-law may be inspected, shall be published in not less than two consecutive issues of a daily newspaper published (or circulating) in the city, with the last of such publications appearing not less than seven days nor more than fourteen days before the date of the hearing.

“(4) At the hearing all persons who deem themselves affected by the proposed by-law shall be afforded an opportunity to be heard in matters contained in the proposed by-law, and the hearing may be adjourned from time to time.

"(5) After the conclusion of the public hearing, the Council may pass the proposed by-law in its original form or as altered to give effect to such representations made at the hearing as the Council deems fit.

By-laws governing restrictions as to height of buildings, size of courts and yards.

"567. Where the provisions of the 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 the provisions of the building by-law, the provision of the zoning by-law shall govern; but where the provisions of the building by-law 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 the building by-law shall govern.

Non-conforming buildings.

"568. (1) Non-conformity shall be divided into two types:—

"(a) Non-conformity with respect to the use which is made of the premises:

"(b) Non-conformity arising out of change in the regulations governing matters other than the use which may be made of the premises.

"(2) A building lawfully under construction at the time of 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.

"(3) A lawful use of premises existing at the time of coming into force of a zoning by-law, although such use is not in accordance with 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 by-law. The Zoning Board of Appeal shall have power to allow relaxation of this provision.

"(4) No structural alterations shall be made to a non-conforming building without

"(a) the approval of the Zoning Board of Appeal if the non-conformity is in respect of use;

"(b) the approval of the Technical Planning Board if the non-conformity is in respect of regulations only.

Fire damage to non-conforming building.

"(5) Where a non-conforming building is damaged or destroyed by fire to the extent of sixty per centum or more of its value above its foundations as determined by the City Building Inspector, whose decision shall be subject to review by the Zoning Board of Appeal, it shall not be repaired or reconstructed without the approval of

"(a) the Zoning Board of Appeal if the non-conformity is in respect of use;

"(b) the Technical Planning Board if the non-conformity is in respect of regulations only.

Property injuriously affected.

"569. Property shall not be deemed to be taken or injuriously affected by reason of the passing of a zoning by-law under this Part or by reason of the amendment or repeal of any such by-law.

Withholding of permit
pending passage of
zoning by-law.

" 570. (1) Prior to the adoption of a zoning by-law, or of an official development plan, or of an amendment to a zoning by-law, or of an alteration, addition, or extension to an official development plan, the Council may cause to be withheld the issuance of any development or building permit for a period of thirty days from the date of application for such permit.

"(2) Where any permit is so withheld, the application therefor shall be considered by the Council within the said period of thirty days, and, if in the opinion of the Council, the development proposed in the application would be at variance or in conflict with a development plan in the course of preparation, or with an alteration, addition, or extension to an official development plan in course of preparation, or with a zoning by-law in course of preparation, or with an amendment to a zoning by-law in course of preparation, the Council may withhold the permit for a further sixty days from the expiration of the thirty-day period hereinbefore referred to, or the Council may impose such conditions on the granting of the development permit as may appear to the Council to be in the public interest.

"(3) In the event that the Council does not within the said period of sixty days adopt any such plan, alteration, addition, extension, or by-law, the owners of the land in respect of which a development permit was withheld or conditions were imposed pursuant to this section shall be entitled to compensation for damages arising from the withholding of such development permit, or the imposition of such conditions. Such compensation shall be determined by arbitration pursuant to the *Arbitration Act*.

Enforcement of
by-law.

" 571. 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 city, 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.

" Zoning Board of Appeal.

Establishment and
membership of
Zoning Board
of Appeal.

" 572. In this and the following section "Board" means "Zoning Board of Appeal."

"(1) The Council shall establish by by-law a Board of five members, two to be appointed by the Council, two to be appointed by the Lieutenant-Governor in Council, and a Chairman who shall be appointed by a majority of the other appointees. The Board shall appoint a secretary and such other officials as may be required by the Board.

"(2) Each member of the Board shall hold office for a term of three years or until his successor shall be appointed, but a person may be reappointed for a further term or terms.

"(3) The Council may provide, by by-law or resolution, for the remuneration of members of the Board, in such amounts as the Council

thinks fit, and may also provide for the payment of a fee for the hearing of an appeal before the Board.

"(4) No person who is a member of the Advisory Planning Commission or who holds any municipal office, whether appointed or elected, is eligible to be appointed or to sit as a member of the Board.

"(5) Three members of the Board shall constitute a quorum.

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

"(7) In the event of the death, resignation, or removal from office of any member of the Board, his successor shall be appointed in the same manner as such member was appointed, and until the appointment of his successor the remaining members shall constitute the Board.

"(8) The Chairman may be removed at any time by the Lieutenant-Governor in Council on the recommendation of the Council.

"(9) The by-law establishing the Board shall set out the procedure to be followed by the Board, including the manner in which appeals are to be lodged and the method of giving notices required under section 573.

Appeals to Zoning
Board of Appeal.

" 573. (1) The Board shall hear and determine appeals

"(a) by any person aggrieved by a decision on a question of zoning by any official charged with the enforcement of a zoning by-law;

"(b) by any applicant for a development permit who alleges that the enforcement of a zoning by-law with regard to siting, size, shape, or design of a building would cause him undue or unnecessary hardship arising out of peculiarities in the site or special circumstances connected with the development. In any such case the Board may, to the extent necessary to give effect to its determination, exempt the applicant from the applicable provisions of the zoning by-law;

"(c) by any person who alleges that due to special circumstances or conditions the provisions of subsection (3) of section 568 will result in undue or unnecessary hardship to him;

"(d) with respect to matters arising under subsections (4) and (5) of section 568.

"(2) The Board shall not allow any appeal solely on the ground that if allowed the land or buildings in question can be put to a more profitable use nor unless the following conditions exist:—

"(a) The undue or unnecessary hardship arises from circumstances applying to the applicant's property only; and

"(b) The strict application of the provisions of the by-law would impose an unreasonable restraint or unnecessary hardship on the use of the property inconsistent with the general purpose and intent of the zoning by-law; and

"(c) The allowance of the appeal will not disrupt the official development plan.

"(3) The Board shall give notice to such owners of real property as the Board may deem to be affected by the appeal, and public notice of the hearing shall be given, if the matter is deemed by the Board to be of sufficient importance. For the purpose of determining the names of the owners deemed to be affected reference shall be made to the records kept by the Assessor.

"(4) The Board shall conduct its hearings of appeals under this section in public.

"(5) The decision of a majority of the members of the Board present at a hearing shall constitute the decision of the Board, which shall be rendered in open meeting and shall be recorded in writing by the secretary. In the event of the members of the Board being equally divided, the appeal shall be disallowed.

"(6) No appeal shall lie from a decision of the Board.

"Advisory Planning Commission.

Personnel and powers
of Commission.

" 574. (1) The Council may by by-law create a Commission to advise the Council on planning matters.

"(2) The Commission shall comprise such personnel and have such powers and duties as the Council may by by-law prescribe.

"(3) Until the Council shall exercise the power by this section conferred the Town Planning Commission constituted under the *Town Planning Act* shall continue to exercise the powers conferred under that Act."

Provisional repeal
of s. 306A.

21. Subject to the provisions of section 574 (3) of the *Vancouver Charter* as enacted by section 20 hereof, section 306A is repealed; provided that

- (a) such repeal shall not affect the validity of any by-law or resolution in force at the time this Act comes into operation;
- (b) such repeal shall not affect any legal proceedings or actions commenced before this Act comes into operation.

22. Sections 559 to 563, inclusive, of the said Act shall be renumbered 575 to 579, respectively.