

UNEDITED

The Community Planning Act

being

Chapter 157 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER 157

An Act respecting Urban and Rural Planning and Development

SHORT TITLE

Short title

1 This Act may be cited as *The Community Planning Act*.

R.S.S. 1953, c.157, s.1.

INTERPRETATION

Interpretation

2 In this Act:

“council”

1 “**council**” means the council of a city, town, village or rural municipality;

“director”

2 “**director**” means the Director of Community Planning appointed under this Act;

“land”

3 “**land**” includes a right or interest in, and an easement over, land;

“minister”

4 “**minister**” means the Minister of Municipal Affairs;

“owner”

5 “**owner**” means a person who appears by the records of the proper land titles office to have any right, title, estate or interest in land;

“registrar”

6 “**registrar**” means the registrar of land titles for the land registration district within which land affected by any scheme under this Act is situated;

“subdivision”

7 “**subdivision**” means a division of land heretofore or hereafter made;

“townsite”

8 “**townsite**” means a subdivision of land into lots intended for residential or business purposes or both, and not adjoining or adjacent to any hamlet, village, town or city.

1945, c.51, s.2; R.S.S. 1953, c.157, s.2.

ADMINISTRATION

Appointment and duties of director

3(1) The Public Service Commission may appoint an officer in the Department of Municipal Affairs to be known as the Director of Community Planning, who shall be a duly qualified professional engineer or land surveyor.

(2) The director shall, under the direction and control of the minister, be responsible for the administration of this Act and shall perform any other duties assigned to him by the minister.

1945, c.51, s.3; R.S.S. 1953, c.157, s.3.

Appointment of other employees

4 The Public Service Commission may appoint such other employees as are necessary to assist the director.

1945, c.51, s.4; R.S.S. 1953, c.157, s.4.

Expense

5 Any expense incurred in the administration of this Act may be paid out of funds appropriated for the purpose by the Legislature.

1945, c.51, s.5; R.S.S. 1953, c.157, s.5.

Annual report

6 The minister shall make and submit to the Lieutenant Governor in Council an annual report concerning the administration of this Act, which shall be laid before the Legislative Assembly within fifteen days from the commencement of the session next following the end of the year for which the report is made.

1945, c.51, s.6; R.S.S. 1953, c.157, s.6.

COMMUNITY PLANNING COMMITTEE

Appointment powers and term of office of advisory committee

7(1) The council may by bylaw appoint a committee, to be known as the community planning committee and hereinafter referred to as the committee, consisting of not less than three and not more than nine members, and may empower the committee:

- (a) to prepare a community planning scheme;
 - (b) to prepare a zoning bylaw;
 - (c) subject to the approval of the bylaw by the minister, to act in an advisory capacity to the council on all matters pertaining to community planning.
- (2) The committee may appoint such engineers, consultants or other officers and such employees as may be necessary for the exercise of any of the said powers and may authorize the expenditure of such funds as may be furnished by the council.
- (3) Meetings of the committee shall be held at the call of the chairman and at such other times as the committee may determine.
- (4) Two-thirds of the members of the committee shall constitute a quorum for the transaction of business.
- (5) The committee shall keep minutes of its proceedings.

(6) If the committee is empowered to act in an advisory capacity to the council as mentioned in clause (c) of subsection (1) one-third of the original members shall be appointed to hold office until the date of the first meeting of the council in January of the first year following their appointment, one-third until the date of the first meeting of the council in January of the second year following their appointment and one-third until the date of the first meeting of the council in January of the third year following their appointment; and in each year following the appointment of the original members the required number of members shall be appointed for a term of three years to fill the vacancies caused by the retirement of the members whose term of office has expired. Members shall hold office until their successors are appointed. All appointments to fill other vacancies shall be for the unexpired term.

1945, c.51, ss.7 and 8; 1946, c.44, s.2; 1951, c.50, s.2; R.S.S. 1953, c.157, s.7.

COMMUNITY PLANNING BOARD

Appointment and powers

8(1) The council may by bylaw, approved by the minister, appoint a board to be known as the community planning board, consisting of not less than three and not more than nine members and may delegate to it such powers, other than the power of raising money or expropriating land, as may be necessary for the purpose of:

- (a) administering a bylaw;
- (b) carrying into effect a community planning scheme.

(2) Of the original members of the board one-third shall be appointed to hold office until the date of the first meeting of the council in January of the first year following their appointment, one-third until the date of the first meeting of the council in January of the second year following their appointment and one-third until the date of the first meeting of the council in January of the third year following their appointment; and in each year following the appointment of the original members the required number of members shall be appointed for a term of three years to fill the vacancies caused by the retirement of the members whose term of office has expired.

(3) Members shall hold office until their successors are appointed.

(4) All appointments to fill other vacancies shall be for the unexpired term.

(5) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine, and shall be open to the public.

(6) The board shall keep minutes of its proceedings, which shall be filed in the office of the board and shall become a public record.

(7) The expenses of the board shall be borne by the council but shall not exceed the appropriation made by the council.

1946, c.44, s.3; 1951, c.50, s.3; R.S.S. 1953, c.157, s.8.

COMMUNITY PLANNING SCHEMES

Power of council to adopt a community planning scheme

9(1) The council may by bylaw, passed by a majority vote of the whole council, adopt a scheme, to be known and hereinafter referred to as a community planning scheme, for the direction of the future physical development of the municipality or any part thereof.

(2) For greater certainty, but not so as to limit the general object mentioned in subsection (1), a community planning scheme may comprise a plan or set of plans, inclusive of any necessary cross-sections or specifications, providing for any or all of the following:

- (a) the subdivision or resubdivision of land in a systematic manner;
- (b) a system of streets, roads or thoroughfares;
- (c) a system of parks or other public reserves;
- (d) the classification for use of the land within the municipality or any part thereof;
- (e) a system of street lighting, waterworks, sewerage, street transit or other public utility;
- (f) the development of railway and airport facilities.

(3) Where the plan or set of plans is comprehensive in scope it may be styled "The Official Plan".

1945, c.51, s.9; R.S.S. 1953, c.157, s.9.

Notice of proposed scheme

10(1) The council shall give notice of its intention to adopt a community planning scheme by advertisement inserted at least once a week for two successive weeks in a newspaper published or circulating in the area affected, the first of which notices shall be published at least four clear weeks before a date fixed by the council for the consideration by it of objections to the scheme.

(2) The notice shall state a place where, and the hours during which, the scheme may be inspected by any interested person and the time and place fixed for the consideration by the council of written objections to the scheme.

1945, c.51, s.10; R.S.S. 1953, c.157, s.10.

Consideration of objections to scheme

11 The council shall make suitable provision for inspection of the community planning scheme by interested persons, and shall hear and determine all written objections thereto before adopting the scheme.

1945, c.51, s.11; R.S.S. 1953, c.157, s.11.

Minister's approval of scheme

12(1) Two copies of the community planning scheme, certified as correct by the clerk or secretary treasurer of the municipality, shall be transmitted to the minister for his approval, and the scheme shall have no effect until approved by the minister.

(2) Proof of compliance with the requirements of section 10 by statutory declaration of the clerk or secretary treasurer, together with a copy of all written objections to the scheme, in so far as such objections have not been withdrawn or acceded to, shall accompany the scheme when submitted to the minister for his approval.

(3) The minister may refuse to approve a community planning scheme where in his opinion the provisions contained therein are not in conformity with good community planning practice.

1949, c.53, s.2; R.S.S. 1953, c.157, s.12.

Effect of adoption of scheme

13(1) The adoption by the council of a community of scheme planning scheme shall not commit the council to undertake any of the projects therein suggested or outlined, but shall prevent the undertaking by the council of any public improvements within the scope of the official plan or scheme in any manner inconsistent therewith or at variance therefrom.

(2) The adoption by the council of a community planning scheme shall prevent an owner from erecting any building or structure that is inconsistent or at variance with the scheme or would prejudice the carrying into effect of the scheme.

1945, c.51, s.12; 1950, c.48, s.2; R.S.S. 1953, c.157, s.13.

Scheme may be varied or revoked

14 A community planning scheme may be varied or revoked by the council in accordance with the procedure for its adoption but such variation or revocation shall have no effect unless approved by the minister.

1945, c.51, s.13; 1949, c.53, s.3; R.S.S. 1953, c.157, s.14.

Scheme may be varied or revoked

15(1) For the purpose of carrying out a project under a community planning scheme the council may purchase or otherwise acquire land and, in addition to land the acquisition of which is essential to the carrying out of the project, may acquire other adjacent or neighbouring lands including:

- (a) the remnant of any parcel of land a portion of which is essential to the carrying out of the project;
- (b) any land which may be injuriously affected by the project;
- (c) any land which, if allowed to be built upon, might become the site of a building or structure which would pre judicially affect the project;
- (d) any land which in the opinion of the council could be subdivided or rearranged and developed advantageously as part of the project.

(2) If the council cannot acquire the land at a fair price by agreement with the owner, it may expropriate the same, in which case the price to be paid shall be determined by arbitration and *The Municipal Expropriation Act* shall apply *mutatis mutandis*.

(3) The council may subdivide, rearrange and deal with such land as if it were a private owner; and the proceeds of any sale, lease or other disposition of such land may be applied in reduction of the cost of the project.

1945, c.51, s.15; 1950, c.48, s.3; R.S.S. 1953, c.157, s.5.

ZONING

Power to pass zoning bylaws

16(1) The council may pass a bylaw, hereinafter referred to as a zoning bylaw, for the purpose of providing for the amenity of any area within its jurisdiction and for the health, safety and general welfare of the inhabitants thereof.

(2) For greater certainty, but not so as to limit the general powers conferred by subsection (1), every zoning bylaw may prescribe or establish districts of such number, shape and area as may be deemed best suited for any or all of the following purposes and, within those districts or any of them, may:

- (a) regulate or prohibit the use of land for business, industry, residence or any other purpose;
- (b) regulate or prohibit the use, for business, industry, residence or any other purpose, of buildings and other structures erected, placed, constructed, reconstructed, altered or repaired after the passing of the bylaw;
- (c) prescribe the class of use of land or buildings or land and buildings that shall be excluded or subjected to special regulations, designate the uses for which buildings may not be erected, placed, constructed, reconstructed, altered or repaired or for which land may not be used, and designate the class of use which only shall be permitted;
- (d) regulate the location, height, number of storeys, area and bulk of buildings and other structures erected, placed, constructed, reconstructed, altered or repaired after the passing of the bylaw;
- (e) regulate the percentage of land that may be built upon and the size of yards, courts and other open spaces.

1945, c.51, s.16; R.S.S. 1953, c.157, s.16.

Zoning map

17(1) The districts so prescribed or established may be described in detail in the zoning bylaw or by the use of a map or plan attached to and forming part of the bylaw.

(2) The map or plan shall bear a statement that it accompanies the zoning bylaw, shall be under the seal of the municipality and shall be signed by the mayor, overseer or reeve and the clerk or secretary treasurer, as the case may be.

1945, c.51, s.17; R.S.S. 1953, c.157, s.17.

Notice of proposed bylaw

18(1) The council shall give notice of its intention to pass a zoning bylaw in the following manner:

- (a) in cities, by advertisement inserted at least once a week for two successive weeks in a newspaper published in the city;
- (b) in towns, by advertisement inserted at least once a week for two successive weeks in a newspaper published or circulating in the town;
- (c) in villages, by advertisement inserted at least once a week for two successive weeks in a newspaper published or circulating in the village or by posting notices in four conspicuous places within the village and keeping the same posted for a period of at least seven days;

(d) in rural municipalities, by advertisement inserted at least once a week for two successive weeks in a newspaper published within the outer boundaries of the municipality or circulating in the municipality, or by posting notices in four conspicuous places within the area to be affected by the bylaw and keeping the same posted for a period of at least seven days.

(2) The notice shall state a place where and the hours during which the zoning bylaw may be inspected by any interested person, and the time and place set for the consideration by the council of written objections to the bylaw.

1945, c.51, s.18; R.S.S. 1953, c.157, s.18.

Consideration of objections

19 The council shall make suitable provision for inspection of the zoning bylaw by interested persons and, before passing the bylaw, shall hear and determine all written objections thereto.

1945, c.51, s.19; R.S.S. 1953, c.157, s.19.

Minister's approval of bylaw

20(1) Two copies of the zoning bylaw, certified as correct by the clerk or secretary treasurer of the municipality, shall be transmitted to the minister for his approval, and the bylaw shall have no effect until approved by the minister.

(2) Proof of compliance with the requirements of section 18 by statutory declaration of the clerk or secretary treasurer, together with a copy of all written objections to the zoning bylaw, in so far as such objections have not been withdrawn or acceded to, shall accompany the bylaw when submitted to the minister for his approval.

(3) The minister may refuse to approve a zoning bylaw where in his opinion the provisions therein contained are not in conformity with good community planning practice.

1945, c.51, s.20; R.S.S. 1953, c.157, s.20.

Amendment or repeal of bylaw

21(1) A zoning bylaw may be amended or repealed in accordance with the procedure for its passing but such amendment or repeal shall have no effect unless approved by the minister.

(2) The minister may refuse to approve a bylaw amending a zoning bylaw where in his opinion the provisions therein contained are not in conformity with good community planning practice or where in his opinion it is expedient that the zoning bylaw and the amendments thereto be consolidated owing to the multiplicity of the amendments previously made to the bylaw or contained in the amending bylaw.

1945, c.51, s.21; 1953, c.57, s.2; R.S.S. 1953, c.157, s.21.

Building permit may be withheld

22 From and after the first publication or posting of notice of intention to pass or amend a zoning bylaw the council may withhold, or authorize its proper officer to withhold, a building permit for any building or other structure in the area affected by the proposed bylaw or amendment, for a period not exceeding three months from the date of the application for the permit.

1945, c.51, s.22; R.S.S. 1953, c.157, s.22; 1953, c.57, s.3; R.S.S. 1953, c.157, s.23.

Application of zoning bylaw to certain buildings and premises

23(1) Any building lawfully under construction at the time of the first publication of the notice of intention to pass a zoning bylaw shall, for the purpose of that bylaw, be deemed to be a building existing at the time of the passing of the bylaw.

(2) The lawful use of premises existing at the time of the first publication of the notice of intention to pass a zoning bylaw, although such use does not conform to the provisions of the bylaw, may be continued; but if such nonconforming use is discontinued, the future use of such premises shall be in conformity with the provisions of the zoning bylaw.

(3) The lawful use of a building existing at the time of the passing of a zoning bylaw, although such use does not conform to the provisions of the zoning bylaw, may be extended throughout the building, but no structural alterations, except those required by statute or bylaw, shall be made in the building while the non-conforming use is continued; provided that a community planning board, constituted under section 8, may in its discretion make a special exception from the application of this subsection and section 25 shall apply *mutatis mutandis* with respect to such special exception.

(4) Where no structural alterations are made in a building the use of which does not conform to the provisions of the bylaw, such use may be changed to a use of a similar or higher classification, according to the provisions of the zoning bylaw.

(5) A change of tenants or occupants of any premises or building shall not be deemed to affect the use of the premises or building for the purpose of this section.

1945, c.51, s.23; 1953, c.57, s.4; R.S.S. 1953, c.157, s.23.

Property not deemed injuriously affected

24 Property shall not be deemed to be injuriously affected by reason of the passing of a zoning bylaw under the authority of this Act.

1945, c.51, s.24; R.S.S. 1953, c.157, s.24.

Power to make special exceptions

25(1) Subject to subsection (3), every zoning bylaw may confer upon the council, or upon a board constituted under section 8, power to make from time to time such special exceptions from its application, in harmony with the general intention thereof, as the council or the board may deem advisable.

(2) Every special exception shall be made by resolution passed by a two-thirds vote, either of the whole council or of the board; and the exception shall not become effective until after the expiration of thirty days from the date of the making of the exception.

(3) No special exception shall be made in respect of the use of property.

(4) Notice of intention to make a special exception shall be given in the manner provided in subsection (1) of section 18.

(5) Any person owning property affected by a special exception made by the council or the board under subsection (2), or affected by the refusal of the council or the board to make a special exception, may, within thirty days after the making of or refusal to make such special exception and upon five days' written notice to the council or the board, as the case may be, appeal therefrom to the minister, whose decision shall be final.

1945, c.51, s.25; 1946, c.44, s.4; R.S.S. 1953, c.157, s.25.

DISTRICT PLANNING

Establishment of planning district and district planning committee

26(1) The council of a municipality which has a community planning committee empowered, pursuant to clause (c) of subsection (1) of section 7 to act in an advisory capacity to the council, hereinafter referred to as the initiating council, may enter into an agreement with a municipality or municipalities providing for:

- (a) the establishment of a planning district and the definition of the area thereof;
- (b) the establishment of a district planning committee, consisting of not less than three and not more than nine members, the method of selection of the members, their tenure of office and the manner of filling vacancies;
- (c) incidental matters;

and such agreement shall be submitted to the minister for his approval.

(2) Where an agreement has been entered into under subsection (1) and has been approved by the minister, the initiating council and the council of each municipality affected shall pass complementary bylaws defining the area of the planning district and appointing the members of the district planning committee in accordance with the provisions of the agreement, and each such bylaw shall be submitted to the minister for his approval.

(3) The minister may approve such bylaws or require such changes therein as he may deem expedient; and the complementary bylaws shall have no effect until each has been approved by the minister.

1951, c.50, s.4; R.S.S. 1953, c.157, s.26.

Powers and duties, etc., of district planning committee

27(1) The initiating council and the councils of the municipalities affected may by their complementary bylaws empower the district planning committee to exercise such of the powers conferred or which may be conferred upon a community planning committee by or under section 7 as may be specified in the bylaws.

(2) Meetings of the committee shall be held at the call of the chairman and at such other times as the committee may determine.

(3) Two-thirds of the members of the committee shall constitute a quorum for the transaction of business.

(4) The committee shall keep minutes of its proceedings.

1951, c.50, s.4; R.S.S. 1953, c.157, s.27.

District planning scheme

28(1) A district planning committee may prepare a district planning scheme and sections 9 to 14 apply *mutatis mutandis* to the preparation, adoption, effect and carrying out of such scheme and to its variation or revocation.

(2) The adoption of the district planning scheme shall be effected by bylaws, declared to be complementary to one another, passed by the initiating council and the council of each municipality affected.

1951, c.50, s.4; R.S.S. 1953, c.157, s.28.

District zoning bylaw

29(1) A district planning committee may prepare a district zoning bylaw and sections 16 to 24 apply *mutatis mutandis* to the preparation and passing of the bylaw, its amendment or repeal, its application and effect and the carrying out of its purposes.

(2) The adoption and passing of the district zoning bylaw prepared by the district planning committee shall be effected by bylaws, declared to be complementary to one another, passed by the initiating council and the council of each municipality affected.

1951, c.50, s.4; R.S.S. 1953, c.157, s.29.

Effect of failure to pass a complementary bylaw

30 Where the council of a municipality fails to pass a complementary bylaw under section 28 or 29, the bylaw passed by the initiating council, if approved by the minister, shall apply to the planning district.

1951, c.50, s.4; R.S.S. 1953, c.157, s.30.

Application of building bylaws to planning district

31 If there is no building construction control in the planning district or in any portion of it the building construction control bylaw or bylaws passed by the initiating council shall apply to the district or such portion until such time as the appropriate council or councils provide for building construction control.

1951, c.50, s.4; R.S.S. 1953, c.157, s.31.

District planning board

32(1) Where a district planning scheme has been adopted under section 28 and approved by the minister or where a district zoning bylaw has been adopted under section 29 and approved by the minister or where pursuant to section 31 the building construction control bylaw or bylaws passed by the initiating council apply to the planning district or any portion thereof, the initiating council and the council of each municipality affected shall by complementary bylaws provide for the appointment of a district planning board consisting of three members, one appointed by the initiating council, one appointed by the council or councils of the municipality or municipalities affected and the third by the two so appointed. Where those two members fail to appoint the third member within one month after the date of their own appointment or of the later of such appointments, the minister may, upon the application of the initiating council, appoint the third member of the board.

(2) Of the original members of the board, the member appointed by the initiating council shall hold office for three years, the member appointed by the council or councils of the municipality or municipalities affected for two years and the member appointed by these two or by the minister for one year; and in each year following the appointment of the original members the member appointed to fill the vacancy caused by the retirement of the member whose term of office has expired shall be appointed to hold office for three years.

(3) Members shall hold office until their successors are appointed.

(4) All appointments to fill other vacancies shall be for the unexpired term.

(5) Meetings of the board shall be held at the call of the chairman and at such other time as the board may determine, and shall be open to the public.

- (6) The board shall keep minutes of its proceedings, which shall be filed in the office of the board and shall become a public record.
- (7) The complementary bylaws mentioned in subsection (1) may confer upon the district planning board power to exercise such of the powers conferred or that may be conferred upon a community planning board by or under section 8 as may be specified in the bylaws.
- (8) A district planning board may exercise the powers which, under section 25, may be conferred upon a community planning board and the provisions of section 25 apply *mutatis mutandis*.

1951, c.50, s.4; 1953, c.57, s.5; R.S.S. 1953, c.157, s.32.

Procedure in case to failure to enter into an agreement under section 26 or pass complementary bylaw or make an appointment

33(1) Where the council of a municipality in which a planning district or a proposed planning district is wholly or partly situated fails to enter into an agreement pursuant to subsection (1) of section 26 or pass a complementary bylaw or make any necessary appointment the initiating council may, upon the expiration of three months after giving written notice to the defaulting council of its intention to do so, make application to the minister to do any or all of the following:

- (a) establish a planning district;
 - (b) approve a bylaw or bylaws notwithstanding that the council of any municipality affected has failed to pass a complementary bylaw;
 - (c) appoint a district planning committee or a member or members thereof, or authorize the community planning committee mentioned in subsection (1) of section 26 to act for and in the place of the district planning committee;
 - (d) appoint a district planning board or a member or members thereof.
- (2) If upon the expiration of the said three months the defaulting municipality has not entered into an agreement pursuant to subsection (1) of section 26 or passed the necessary complementary bylaw or made the necessary appointment or appointments, the minister may:
- (a) upon receipt of the application of the initiating council together with proof of service of notice thereof upon the council of the defaulting municipality; and
 - (b) upon the expiration of one month after the date of publication in *The Saskatchewan Gazette* of a notice of his intention to do so;

by order do any or all of the things mentioned in clauses (a), (b), (c) and (d) of subsection (1) and included in the application made by the initiating council.

- (3) An order of the minister under subsection (2) shall have the same effect as if enacted herein; and
- (a) the provisions of sections 27 to 32 shall apply to a planning district established by an order;
 - (b) any bylaw approved by an order shall upon such approval apply to the planning district; and

(c) a district planning committee and district planning board to which an order relates, and a community planning committee authorized by an order to act for and in the place of a district planning committee, may exercise the powers and shall perform the duties conferred or imposed by this Act upon a district planning committee and a district planning board respectively.

1951, c.50, s.4; 1953, c.57, s.6; R.S.S. 1953, c.157, s.33.

SUBDIVISIONS

Approval of council or minister

34(1) No subdivision of land for the purpose of sale or transfer or for building purposes shall be made unless in accordance with plans and specifications submitted to and approved by the council under regulations approved by the minister under section 38, or submitted to and approved by the minister under regulations made by him in case the council has not adopted regulations.

(2) Where a proposed subdivision lies within a distance of two miles, one mile or one-half mile from the limits of a city, town or village respectively, a like submission shall be made to the council thereof and its approval obtained; provided that this requirement shall apply only where the city, town or village has in operation a community planning scheme which includes provision for a system of streets, roads or thoroughfares.

(3) Where a proposed subdivision lies within a planning district established under this Act, a like submission shall be made to the district planning committee and its approval obtained.

(4) If an owner is dissatisfied with the decision of the council or the district planning committee with respect to a submission made under subsection (2) or (3) he may, after giving written notice to the council or the district planning committee, as the case may require, of his intention to do so, appeal therefrom to the minister, whose decision shall be final.

1945, c.51, s.26; 1951, c.50, s.5; 1953, c.57, s.7;
R.S.S. 1953, c.157, s.34.

Access to subdivision and delegation of powers of minister to director

35(1) Every owner who makes or agrees to make a subdivision shall provide access thereto by a street approved by the council under regulations approved by the minister, or by the minister under regulations made by him in case the council has not adopted regulations.

(2) Subsection (1) shall not apply to land intended for use as a railway station ground or right of way, or a right of way for a ditch, irrigation canal, pipe line or power transmission line, or a reservoir, or to land conveyed or to be conveyed to the owner of adjoining land to which access has been provided by a public highway.

1945, c.51, s.27; 1946, c.44, s.5; R.S.S. 1953, c.157, s.35.

Regulations controlling subdivisions

36(1) The minister may make regulations not inconsistent with the provisions of this Act for controlling the subdivision of land and, without limiting the generality of the foregoing, may by regulation provide that the provisions of this Act or the regulations requiring the minister's approval of plans and specifications shall not apply to such class or classes of the subdivision of land as are specified in the regulations.

(2) Regulations under subsection (1) shall upon publication in the *Gazette* have effect as if incorporated herein.

(3) The minister may, by written waiver, dispense with the approval of the subdivision of any land therein designated, and may relieve, wholly or partially, from compliance with a regulation made under the authority of this section where, in his opinion, compliance or strict compliance is impracticable or unreasonable.

(4) The minister may by order or regulation confer upon the director the powers of the minister under subsection (3) and the power of the minister to approve any plans and specifications for the subdivision of land.

1945, c.51, s.28; 1953, c.57, s.8; R.S.S. 1953, c.157, s.36.

Power to declare responsibility of council

37 The minister may by order, notification of which shall be published in the *Gazette*, declare that from and after a date to be named in the order a council shall be responsible for the approval of the subdivision of land within the area under its jurisdiction.

1945, c.51, s.29; R.S.S. 1953, c.157, s.37.

Bylaws controlling subdivisions

38(1) The council may by bylaw make regulations, not inconsistent with the provisions of this Act, for controlling the subdivision of land.

(2) Two copies of a bylaw passed pursuant to subsection (1), certified as correct by the clerk or secretary treasurer, shall be transmitted to the minister and no such bylaw shall have any force or effect until approved by him.

(3) The minister may refuse to approve any such bylaw where, in his opinion, the provisions therein contained are not in conformity with good community planning practice.

(4) An amendment to or the repeal of any such bylaw shall have no effect unless approved by the minister.

1945, c.51, s.30; R.S.S. 1953, c.157, s.38.

Compulsory contents of regulations and bylaws

39 Regulations and bylaws controlling the subdivision of land shall:

(a) fix a time, not exceeding thirty days, within which a plan may be approved or rejected by the council;

(b) prescribe reasonable conditions concerning the submission of plans, the manner of laying out streets,

lanes, public reserves, lots, blocks and other units of land, and the permissible minimum widths and maximum grades of streets and lanes;

(c) require that provision be made for the dedication to the public use, other than for streets and lanes, of five per cent of the land to be subdivided; provided that, in the case of a townsite, the parcel of land so reserved shall be at least two acres in area; and provided further that the requirements of this clause do not apply to:

- (i) land intended for a railway station ground or right of way or a right of way for a ditch, irrigation canal, pipe line or power transmission line, or a reservoir;
- (ii) land to be resubdivided for the purpose of correcting or rearranging boundaries, or previously included in an area subject to the requirements of this clause;
- (iii) any land of five acres or less in area, not being part of a larger area owned by the same person.

1945, c.51, s.31; R.S.S. 1953, c.157, s.39.

Permissive contents of regulations and bylaws

40 Regulations and bylaws controlling the subdivision of land may prescribe reasonable conditions for the purpose of obtaining proper drainage and sanitation.

1945, c.51, s.32; R.S.S. 1953, c.157, s.40.

Power to refuse to approve plan

41 The council or the minister, as the case may be, may refuse to approve a plan of subdivision if, in the opinion of the council or the minister, the location of the subdivision is unsuitable for building purposes.

1945, c.51, s.33; R.S.S. 1953, c.157, s.41.

REPLOTTING

Power to prepare a replotting scheme

42(1) For the purpose of facilitating the physical development of any part of the municipality, the council may authorize the preparation of a scheme for the cancellation of any existing subdivision or subdivisions or part thereof and for the resubdivision and redistribution of the land among the owners, hereinafter referred to as a replotting scheme.

- (2) The plans and specifications of a replotting scheme shall:
- (a) define the area to which the scheme applies;
 - (b) indicate the proposed relocation and exchange of properties;
 - (c) indicate the compensation, if any, proposed to be paid to the respective owners;
 - (d) indicate the proposed apportionment of the cost of the preparation and carrying out of the scheme as between the municipality and the owners other than the municipality, and the proposed apportionment of such owners' portion of the cost among the owners respectively.

1945, c.51, s.34; R.S.S. 1953, c.157, s.42.

Principles of replotting

43 In the preparation and carrying out of a replotting scheme the following principles apply:

- 1 All parcels of land, including highways and other public lands, shall be deemed to be united in a single unit of land;
- 2 From such unit there shall be taken the land required for the highways and other public lands, and the remainder shall be divided among the owners in a suitable and equitable manner.

1945, c.51, s.35; R.S.S. 1953, c.157, s.43.

Filing of plan with Minister of Highways and Transportation

44 One copy of the plan of the proposed resubdivision under a replotting scheme shall be filed with the Minister of Highways and Transportation.

1945, c.51, s.36; R.S.S. 1953, c.157, s.44.

Minister's approval of plan

45 The plans and specifications of a replotting scheme of plan shall be submitted to the minister for his approval.

1951, c.50, s.6; R.S.S. 1953, c.157, s.45.

Cost of replotting scheme

46(1) The cost of the preparation and carrying out of a replotting scheme shall be apportioned in the manner indicated in the scheme.

(2) The portion of the cost payable by the municipality may be included in the annual tax levy of the municipality and the portion payable by the owners, other than the municipality, may be raised by a special rate levied upon the lands of such owners comprised in the replotting scheme.

(3) Such special rate shall be a lien upon the land and shall be recoverable in the same manner as general taxes levied upon the land.

1945, c.51, s.37; R.S.S. 1953, c.157, s.46.

Power of municipality to borrow sum required to pay cost

47 Instead of proceeding under section 46, the municipality may borrow the sum required to pay the cost of the preparation and carrying out of a replotting scheme by the issue of debentures for a term not exceeding ten years, or for such longer term as the minister may approve, and the annual sums required for the repayment of the debentures, including interest thereon, shall be apportioned and raised in the manner provided in subsections (1) and (2) of section 46, and subsection (3) of section 46 shall apply.

1945, c.51, s.38; R.S.S. 1953, c.157, s.47.

Acquisition of encumbrances

48 The council 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 may take all proceedings requisite for the collection of the amount due under and by virtue of the encumbrance, or for the sale, transfer or realization of the encumbrance or the property subject to the encumbrance.

1945, c.51, s.39; R.S.S. 1953, c.157, s.48.

approval of scheme

49 Subject to the council having previously obtained written consent to the replotting scheme from the owners of parcels of land constituting at least two-thirds of the parcels comprised in the scheme and of the assessed value of the land, exclusive of improvements thereon, comprised in the scheme, the council may, by resolution passed by a two-thirds vote of the whole council, approve the scheme without the consent of the other owners.

1945, c.51, s.40; R.S.S. 1953, c.157, s.49.

Filing of resolution in land titles office and effect of filing

50(1) A certified copy of the resolution together with a list setting forth the legal description of each parcel of replot land included in the replotting scheme, shall be filed by the clerk or secretary treasurer with the registrar, and there upon the registrar shall endorse upon the certificate of title to each parcel of land described in the list a memorandum stating that the land is included in a replotting scheme.

(2) After the endorsement upon the title no transfer of the land shall be registered in the land titles office except with the consent of the council.

(3) The endorsement upon the title shall constitute notice to all persons having any right, title, estate or interest, whether the same appears upon the title or not, in or to any land comprised in or affected by the replotting scheme, and to all persons subsequently dealing therewith, that a scheme for the replotting thereof has been initiated; and all such persons shall be bound by all proceedings under the scheme whether taken before or after the date of the endorsement.

(4) No person who acquires an interest in land comprised in a replotting scheme after the endorsement upon the certificate of title of the memorandum mentioned in subsection (1) shall be entitled to receive notice of any proceeding under the scheme unless and until he has given to the clerk or secretary treasurer of the municipality written notice of his interest and evidence of the recording thereof in the proper land titles office, and has furnished the clerk or secretary treasurer with an address to which any notice may be mailed.

(5) Any allotment, decision, award, consent or other proceeding in the carrying out of a replotting scheme shall be binding upon and inure to the benefit of the owner of the land thereby affected, his heirs, executors, administrators and assigns.

1945, c.51, s.41; 1948, c.45, s.2; R.S.S. 1953, c.157, s.50.

Completion or discontinuance of replotting scheme

51(1) Within twelve months after the filing of the certified copy of the resolution approving the replotting scheme the council shall either:

(a) discontinue the scheme and file with the registrar a certified copy of the resolution of discontinuance, whereupon the registrar shall cancel the endorsements made pursuant to subsection (1) of section 50; or

(b) adopt the scheme and file with the registrar a plan of subdivision prepared in accordance with the scheme and in conformity with the requirements of *The Land Titles Act* respecting plans of subdivision, except as to the signatures required by subsections (5) and (6) of section 93 of that Act, together with a certificate setting forth:

(i) the description of each new parcel of land;

(ii) the name and address of the owner to whom each new parcel has been allotted;

(iii) the description of each former parcel in respect of which a new parcel has been allotted;

which plan and certificate shall be signed by the clerk or secretary treasurer and sealed with the seal of the municipality.

(2) If upon the expiration of twelve months after the date of the filing of the certified copy of the resolution approving the replotting scheme, the council has not filed with the registrar a certified copy of a resolution of discontinuance, as required by clause (a) of subsection (1), or a plan of subdivision and a certificate, as required by clause (b) of subsection (1), the endorsements made pursuant to subsection (1) of section 50 shall cease to have effect and the registrar shall vacate and cancel them.

1945, c.51, s.42; 1948, c.45, s.3; R.S.S. 1953, c.157, s.51.

Registration of plan, etc.

52 Upon receipt of the plan of subdivision and the accompanying certificate the registrar shall:

(a) register the plan and cancel all plans theretofore registered in so far as they affect land comprised in the new plan;

(b) register persons named in the certificate as the owners of the parcels of land allotted to them, as owners in fee simple in possession, subject only to such encumbrances and endorsements as appeared on the certificate of title to the former parcel in lieu of which the new allotment was made except endorsements made pursuant to subsection (1) of section 50 and any building restriction caveats;

(c) cancel the certificates of title to all the former parcels and all endorsements thereon;

(d) do all other things necessary to carry out the intention of the replotting scheme;

(e) notify the clerk or secretary treasurer by registered mail of the registration of the plan.

1945, c.51, s.43; 1948, c.45, s.4; 1949, c.53, s.5; R.S.S. 1953, c.157, s.52.

Transference of rights and obligations

53 Except as otherwise provided herein, upon registration being completed in accordance with section 52:

(a) all rights, obligations and incidents of ownership of the owner of a former parcel of land, or of an interest therein, and all public and private relationships whatever 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 the former parcel to the same extent and in the same manner as they existed with respect 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 such owners' former parcels respectively and shall be subject to all proceedings taken and to be taken for the collection of municipal rates, taxes, assessments and charges in any manner provided by law;

(c) the replotting scheme and the allotments of land thereby made shall be binding to all intents and purposes upon all persons having any right, title, estate or interest in or to the land comprised in the plan of subdivision, subject only to such right to compensation as is herein provided.

1945, c.51, s.44; R.S.S. 1953, c.157, s.54.

Non-consenting owners

54 Within ten days after receipt from the registrar of notice of the registration of the plan of subdivision the clerk or secretary treasurer shall deposit with the judge of the district court of the judicial district within which the land is situated a copy of the plan and of the certificate mentioned in clause (b) of subsection (1) of section 51 and a list setting forth the names and addresses of all owners who have not consented to the replotting scheme together with a description of the parcel of land allotted by the scheme to each such owner and of the parcel in lieu of which such allotment was made.

1945, c.51, s.45; 1949, c.53, s.6; R.S.S. 1953, c.157, s.54.

Time and place for hearing applications for compensation

55 Within thirty days after the deposit with the judge of the copies and list mentioned in section 54, the judge shall appoint a time and place for the hearing of applications by non-consenting owners for compensation.

1945, c.51, s.46; R.S.S. 1953, c.157, s.55.

Notice of hearing

56(1) Upon being notified of the time and place appointed by the judge for the hearing, the clerk or secretary treasurer shall give notice thereof in writing to each of the non-consenting owners whose names appear on the list mentioned in section 54.

(2) All notices of the hearing shall be served not less than ten days before the date of the hearing; but in the event of failure to serve a notice or to serve a notice in proper time, the judge may direct service to be made for a subsequent day.

(3) The notice may be served by personal service or by registered mail with postage prepaid. Where service is made by registered mail, the service shall be deemed sufficient if a receipt from the postmaster for the envelope containing such notice is produced as an exhibit to the affidavit of service. A notice served by registered mail shall be deemed to have been served on the day of the date of the receipt of the postmaster for the envelope containing the notice.

1945, c.51, s.47; R.S.S. 1953, c.157, s.56.

Hearing

57(1) At the time and place appointed by him, the judge shall proceed to hear the applications by non-consenting owners for compensation, and to determine the amount of compensation, if any, to be allowed.

- (2) The judge may adjourn the hearing from time to time.

1945, c.51, s.48; R.S.S. 1953, c.157, s.57.

Basis on compensation

58 The judge may allow compensation to an owner for and on account of the following matters and no others, namely:

- (a) the loss of value of the former parcel in so far as adequate compensation is not afforded by the new parcel allotted;
- (b) the loss of or damage to or the cost of moving buildings or improvements upon the former parcel;
- (c) the loss of income from the use of buildings, or from the special condition or use of the former parcel, caused by the carrying out of the replotting scheme.

1945, c.51, s.49; R.S.S. 1953, c.157, s.58.

Determination of land values

59 In determining the amount of compensation the judge shall ascertain:

- (a) the value of the former parcel as of the date of the endorsement upon the certificate of title pursuant to subsection (1) of section 50;
- (b) the value of the new parcel as of the date of the registration of the plan of subdivision.

1945, c.51, s.50; R.S.S. 1953, c.157, s.59.

Appeals

60(1) Where leave is granted to appeal from the decision of the judge, the judgment of the Court of Appeal shall be final and binding upon all persons concerned.

(2) Any person making or opposing an appeal shall pay his own costs and expenses thereof and no costs as between party and party shall be awarded by the Court of Appeal.

1945, c.51, s.51; R.S.S. 1953, c.157, s.60.

Time for payment of compensation

61(1) The council shall pay the amounts of compensation proposed by the scheme within three months after the registration of the plan of subdivision except where an application for compensation has been made to the judge, in which case the council shall pay the amount of compensation awarded by the judge or, in case of an appeal, by the Court of Appeal, within three months from the date of the award or judgment.

(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.

1945, c.51, s.52; R.S.S. 1953, c.157, s.61.

Removal of buildings, etc.

62 The council may, by its officers, workmen, servants or contractors, move any building, erection or other structure the removal of which is required pursuant to the provisions of a replotting scheme.

1945, c.51, s.53; R.S.S. 1953, c.157, s.52.

Limitation of claims

63 Save and except the right to make application for compensation as provided herein, no person shall be entitled to make or proceed with any demand, claim, or action whatever against the municipality, or any of its officers, workmen or servants, for any loss or damage sustained or threatened or anticipated by reason of anything done in the promotion or execution of a replotting scheme or for or in respect of any matter whatever caused by or arising out of any act or proceeding duly done or taken under or pursuant to a replotting scheme.

1945, c.51, s.54; R.S.S. 1953, c.157, s.63.

DEFERRED WIDENING OF STREETS

Power to pass deferred widening bylaw

64 .The council may, by a two-thirds vote of the whole council, pass a bylaw, hereinafter referred to as a deferred widening bylaw, for the purpose of establishing a building line upon property affected by any scheme which contemplates the opening, widening, altering or diverting of any road, street, lane or other public highway.

1950, c.48, s.4; R.S.S. 1953, c.157, s.64.

Plan

65(1) The building line and the limits of the land to be acquired for the purpose of the scheme shall be indicated on a plan attached to and forming part of the deferred widening bylaw.

(2) The plan shall bear a statement that it accompanies the deferred widening bylaw, shall be under the seal of the municipality and shall be signed by the mayor, overseer or reeve and the clerk or secretary treasurer, as the case may be.

1950, c.48, s.4; R.S.S. 1953, c.157, s.65.

Notice of proposed bylaw

66(1) The council shall give at least sixty days' notice of its intention to pass a deferred widening bylaw to the owners of, and to all persons who appear by the last revised assessment roll of the municipality to be interested in, the land to be acquired for the opening, widening, altering or diverting of the road, street, lane or other public highway.

(2) The notice may be served by personal service or by registered mail with postage prepaid. Where service is made by registered mail, the service shall be deemed sufficient if a receipt from the postmaster for the envelope containing such notice is produced as an exhibit to the affidavit of service. A notice served by registered mail shall be deemed to have been served on the day of the date of the receipt of the postmaster for the envelope containing the notice.

(3) The notice shall state a place where, and the hours during which, the bylaw may be inspected by any interested person and the time and place fixed for the consideration by the council of written objections to the bylaw.

1950, c.48, s.4; R.S.S. 1953, c.157, s.66.

Consideration of objections to bylaw

67 The council shall make suitable provision for inspection of the deferred widening bylaw by the persons required by section 66 to be served with notice and, before passing the bylaw, shall hear and determine all written objections thereto.

1950, c.48, s.4; R.S.S. 1953, c.157, s.67.

Minister's approval of bylaw

68(1) Two copies of the deferred widening bylaw, certified as correct by the clerk or secretary treasurer of the municipality, shall be transmitted to the minister for his approval, and the bylaw shall have no effect until approved by the minister.

(2) Proof of compliance with the requirements of section 66 by statutory declaration of the clerk or secretary treasurer, together with a copy of all written objections to the bylaw, in so far as such objections have not been withdrawn or acceded to, shall accompany the bylaw when submitted to the minister for his approval.

1950, c.48, s.4; R.S.S. 1953, c.157, s.68.

Filing of bylaw in land titles office and effect of filing

69(1) After approval by the minister, a certified copy of the deferred widening bylaw shall be filed by the clerk or secretary treasurer of the municipality with the registrar, and thereupon the registrar shall endorse upon the certificate of title to each parcel of land affected a memorandum stating that the land is subject to the provisions of a deferred widening bylaw.

(2) The endorsement upon the title shall constitute notice of the deferred widening bylaw to all persons having any right, title, estate or interest, whether the same appears upon the title or not, in or to any land affected by the bylaw, and to all persons subsequently dealing therewith.

1950, c.48, s.4; R.S.S. 1953, c.157, s.69.

Building permit may be withheld

70 From and after the giving of the notice mentioned in section 66, the council may withhold, or authorize its proper officer to withhold, a building permit for or in respect of any building or structure on or proposed to be erected on the land to be acquired for the purpose of a deferred widening bylaw, as indicated on the plan mentioned in section 65, for a period not exceeding ninety days from the date of the application for the permit.

1950, c.48, s.4; R.S.S. 1953, c.157, s.70.

Prohibition respecting buildings and alterations

71 From and after the filing of a deferred widening bylaw with the registrar, no building or structure shall be constructed, reconstructed or placed on any land to be acquired for the purpose of the bylaw, as indicated on the plan mentioned in section 65, and no building upon or partially upon such land shall be structurally altered except for the making of necessary maintenance repairs.

1950, c.48, s.4; R.S.S. 1953, c.157, s.71.

Land not deemed to be taken or injuriously affected

72 Land shall not be deemed to be taken or injuriously affected by reason of the passing of a deferred widening bylaw.

1950, c.48, s.4; R.S.S. 1953, c.157, s.72.

Application by owner for compensation

73 At any time after the filing of a deferred widening bylaw with the registrar, the owner of any land to be acquired for the purpose of the bylaw, as indicated on the plan mentioned in section 65, may, if the land is clear of buildings, apply to the council for compensation and, upon receipt of the application, the council shall purchase and pay for the land.

1950, c.48, s.4; R.S.S. 1953, c.157, s.73.

Acquisition of land and filing of plan of survey

74(1) Within three months after the land to be acquired for the purpose of a deferred widening bylaw, as indicated on the plan mentioned in section 65, has become clear of buildings, the council shall proceed to acquire the land or parcels thereof which have not already been acquired and, within six months after the expiration of the said three months, shall file with the registrar a plan of survey of such land, and sections 14 to 18 of *The Municipal Expropriation Act* shall apply *mutatis mutandis*.

(2) Notwithstanding subsection (1), the council may, at any time after the filing of a deferred widening bylaw with the registrar, proceed to acquire the land or any parcel thereof and may file with the registrar a plan of survey of such land or parcel and subsection (1) shall apply with respect to the preparation and registration of each plan.

1950, c.48, s.4; R.S.S. 1953, c.157, s.74.

Determination of amount of compensation

75 Where the amount of compensation for any land to be acquired for the purpose of a deferred widening bylaw is not agreed upon the provisions of sections 7 to 11 of *The Municipal Expropriation Act* shall apply *mutatis mutandis*.

1950, c.48, s.4; R.S.S. 1953, c.157, s.75.

Cancellation of endorsements upon registration of plan

76 Upon registration of any plan of survey mentioned in section 74, the registrar shall cancel the endorsements made, pursuant to section 69, upon the certificates of title to the land shown on the plan.

1950, c.48, s.4; R.S.S. 1953, c.157, s.76.

Cancellation of endorsements upon application of owner

77(1) If upon the expiration of nine months after the land to be acquired for the purpose of a deferred widening bylaw, as indicated on the plan mentioned in section 65, has become clear of buildings, the council has not filed with the registrar the plan of survey mentioned in subsection (1) of section 74, any owner of land affected by the bylaw may, upon the expiration of six months after giving written notice to the council of his intention to do so, make application to the registrar for cancellation of the endorsement made pursuant to section 69, upon the title to his land.

(2) If upon the expiration of the six months mentioned in subsection (1) the council has not filed with the registrar the plan of survey mentioned in subsection (1) of section 74, the deferred widening bylaw shall be deemed to be repealed and the registrar, upon receipt of the application of the owner together with proof by statutory declaration of service of notice thereof on the council, shall without fee cancel the endorsement upon the title to the land of the owner and shall cancel all other endorsements made pursuant to section 69.

1950, c.48, s.4; R.S.S. 1953, c.157, s.77.

Repeal of bylaw by council

78(1) A deferred widening bylaw shall not be repealed by the council except in accordance with the procedure for its passing as set forth in sections 66 to 68.

(2) Where a deferred widening bylaw is repealed by the council the clerk or secretary treasurer shall file a certified copy of the repealing bylaw with the registrar and thereupon the registrar shall cancel all endorsements made pursuant to section 69.

1950, c.48, s.4; R.S.S. 1953, c.157, s.78.

Powers under municipal Acts

79 For the purpose of carrying out the provisions of this Act and of any bylaw or scheme thereunder, every council shall possess and may exercise all the powers conferred upon it by the appropriate municipal Act.

1945, c.51, s.55; R.S.S. 1953, c.157, s.79.

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