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1959, No. 91

An Act to amend the Municipal Corporations Act 1954

[*22 October 1959*

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Municipal Corporations Amendment Act 1959, and shall be read together with and deemed part of the Municipal Corporations Act 1954 (hereinafter referred to as the principal Act).

2. Meaning of "public notice"—Section two of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

"(2) Where by this Act any public notice is required to be given more than once, the several publications of the notice need not be in the same newspaper."

3. Special orders relating to wards—Section twenty-three of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

"(1A) Every such special order made for any of the purposes specified in subsection one of section twenty-five of this Act shall come into full force only at the next triennial general election of the Council, except in so far and to such extent as may be necessary for providing for that election."

4. District electors list—Section thirty-three of the principal Act is hereby amended by inserting in subsection four, after the words "the Council shall", the words "where any objection to the district electors list has been duly lodged with the Council".

5. Special orders—Section seventy-seven of the principal Act is hereby amended by inserting in paragraph (d), after the words "the Council", the words "not less than".

6. Signing of cheques—(1) Section eighty-seven of the principal Act is hereby amended as follows:

(a) By inserting in subsection two, after the words "the Treasurer", the words "or the Deputy Treasurer":

Rep. 1956 No. s.

(b) By omitting from subsection two the words "any two of such other officers of the Council as", and substituting the words "any other officer of the Council whom".

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(2) Section eighty-seven of the principal Act is hereby further amended by adding the following subsection:

"(3) Notwithstanding anything in subsections one and two of this section, in the case of any city it shall be lawful, with the prior consent in writing of the Audit Office and subject to such conditions as the Audit Office prescribes, for any money to be paid by the Corporation by cheque issued by means of a cheque-writing machine, and every such cheque issued by means of such a machine and bearing a facsimile of the signatures of the persons authorised pursuant to the provisions of this section to sign and countersign cheques shall be deemed to have been duly signed and countersigned in accordance with the provisions of this section."

7. New sections as to separate rates substituted—The principal Act is hereby amended by repealing section ninety-three, and substituting the following sections:

"93. **Separate rates**—(1) The Council may from time to time, for the purpose of providing, establishing, completing, extending, maintaining, repairing, or working any public works of any description, or of purchasing or otherwise acquiring any land or building, or of engaging in or contributing to any undertaking for the benefit either of the whole district or of any ward or defined portion of the district, by special order make any rates (in this Act referred to as separate rates), and may levy those rates within the whole district, or, as the case may be, within the ward or portion receiving the benefit as aforesaid.

"(2) The total amount of all such separate rates made in any one year within the whole district or within any ward or defined portion of the district shall not exceed three farthings in the pound on the total capital value of the rateable property in the district or ward or portion, as the case may be, or its equivalent on the unimproved value or annual value.

"93A. **Poll on proposal to make and levy separate rates**—The power conferred on the Council by section ninety-three of this Act to make any separate rate may be exercised by the Council upon a petition signed by a majority of such of the electors of the district, or, as the case may be, of the ward or portion of the district in which the rate is to be levied, as are enrolled in respect of a freehold or rating qualification, or, in the discretion of the Council, may be exercised without any such petition:

"Provided that, where the Council proposes to exercise that power without any such petition, a poll of such of the electors of the district, or, as the case may be, of the particular portion of the district proposed to be rated, as are so enrolled shall be taken on the proposal to make and levy the rate where—

"(a) Not less than five per cent of such of the electors of the district, or, as the case may be, of the particular portion of the district proposed to be rated, as are so enrolled, by writing under their hands delivered or sent by post to the Council and received at the offices of the Council not later than the day before the date fixed for the confirmation of the resolution to make and levy the rate, demand that a poll of such of the electors of the district, or, as the case may be, of that portion, as are so enrolled be taken on the proposal; or

"(b) The Council so resolves;—

and the rate shall not be made and levied unless a majority of the valid votes recorded at the poll are in favour of the proposal."

8. New sections as to water rates substituted—(1) The principal Act is hereby further amended by repealing sections ninety-five to ninety-seven, and substituting the following sections:

"95. **Water rates and charges for ordinary supply**—(1) In every district giving a water supply under the provisions of Part XVII of this Act, the Council may make and levy water rates in accordance with this section.

"(2) In respect of the ordinary supply within the meaning of any bylaw defining the same, water rates may be made and levied as follows:

"(a) On all lands and dwellinghouses to which water is supplied, a rate not exceeding one penny in the pound on the total capital value of those lands and dwellinghouses or its equivalent on the unimproved value or annual value:

Amd. 1961, No. 8

"Provided that, if that rate would produce less than one pound in respect of any such land or dwellinghouse, a rate of not more than one pound may be made and levied:

"(b) On all lands and dwellinghouses to which water can be but is not supplied, situate within one hundred yards from any part of the waterworks, a rate not exceeding half of the rates mentioned in paragraph (a) of this subsection:

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"(c) On all buildings other than dwellinghouses, a rate not exceeding half of the rates mentioned in paragraph (a) of this subsection.

"(3) Instead of levying a rate under subsection two of this section, the Council may, by special order, decide to make and thereafter may make charges in respect of the ordinary supply of water, according to the quantity of water consumed by any person receiving the same as measured by meter, of such amount as may from time to time be fixed by resolution in that behalf publicly notified, or as may be agreed on with any such person. REP. 196 No. s. Substituted.

"96. **Charges for extraordinary water supply**—In every district giving a water supply under the provisions of Part XVII of this Act, the Council may make charges in respect of the extraordinary supply within the meaning of any bylaw defining the same (whether according to the quantity consumed or otherwise) of such amount as may from time to time be fixed by resolution in that behalf publicly notified, or as may be agreed on with any person receiving that supply.

"97. **Provisions as to metered supply**—(1) Where under the provisions of section ninety-five or section ninety-six of this Act the Council fixes charges in respect of the ordinary or extraordinary supply of water according to the quantity consumed, the Council may fix a minimum charge in respect of the ordinary supply, not exceeding one pound a year, and, in respect of the extraordinary supply, such minimum charge as may be specified in the resolution or agreement under section ninety-six of this Act.

"(2) In respect of the use of any water meter, the Council may make such annual charges as are fixed by resolution from time to time in that behalf publicly notified." AMD. 196 No. s.

(2) Section ninety-eight of the principal Act is hereby amended by repealing subsection four, and substituting the following subsection:

"(4) Charges for the ordinary supply according to the quantity of water consumed, charges for an extraordinary supply, and charges in respect of the use of any water meter shall be paid at such times as the Council from time to time directs."

REP. 196 No. s.

9. **Drainage rate**—The principal Act is hereby amended by repealing section one hundred and three, and substituting the following section:

"103. (1) The Council may make and levy an annual drainage rate on all rateable property situated within the district and served, either directly or through a private drain, by a public drain, not exceeding a rate equal to three-eighths of a penny in the pound on the capital value of that rateable property, or its equivalent on the unimproved value or annual value:

"Provided that, if that rate would produce less than one pound in respect of any such property, a rate of not more than one pound may be made and levied.

"(2) The proceeds of the rate shall be available only for the purpose of the maintenance and extension of public drains of the district or the payment of annual charges on any loans raised in connection with the drainage system of the district."

10. Consolidation of special rates—(1) The principal Act is hereby further amended by inserting, after section one hundred and eight, the following section:

"108A. (1) The Council may from time to time, instead of levying any special rates made, whether before or after the commencement of this section, over the whole of the district or over any defined portion or portions thereof, by special order, make a rate on a uniform basis for the whole district (in this section referred to as a consolidated special rate) on all rateable property within the district of an amount calculated to yield ten per cent more than the annual charges payable in respect of the loans secured by those special rates; and that consolidated special rate shall be an annually recurring rate, and may be levied, in whole or in part, year by year without further proceeding by the Council:

"Provided that nothing in this section or in any special order made thereunder shall affect the liability of the Crown for the payment of any special rates in accordance with the provisions in that behalf of section one hundred and thirty-one of the Local Authorities Loans Act 1956.

"(2) The powers conferred on the Council by subsection one of this section shall extend so as to apply in respect of special rates made, whether before or after the commencement of this section, by any other local authority over any area which at the commencement of this section is or may hereafter become part of the district.

"(3) Every special order made under this section shall specify the several special rates instead of which the consolidated special rate is made, and shall be published in the *Gazette*.

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"(4) Nothing in this section shall prejudicially affect the security afforded by any special rate to the holders of any securities.

"(5) The proceeds of a consolidated special rate made and levied under this section shall be applied for the purposes of the several rates instead of which the consolidated special rate was made."

(2) The enactments specified in the First Schedule to this Act are hereby repealed.

(3) Every consolidated special rate declared to have been validly and lawfully made, levied, and demanded by any enactment repealed by this section shall continue to have effect as if it had been made, levied, and demanded pursuant to section one hundred and eight A of the principal Act as enacted by this section.

11. Mayoral chain and other insignia—The principal Act is hereby further amended by inserting, after section one hundred and twenty, the following section:

"120A. The Council may from time to time expend such sums as it thinks fit in the purchase of a mayoral chain and badge of office, robes, and civic insignia of any kind."

12. Naturalisation and citizenship ceremonies—The principal Act is hereby further amended by inserting, after section one hundred and twenty A, as enacted by section eleven of this Act, the following section:

"120B. The Council may from time to time expend such sums as it thinks fit in holding public ceremonies in the district in connection with the granting of certificates of naturalisation or registration as British subjects and New Zealand citizens."

13. Apportionment of income—(1) Section one hundred and twenty-one of the principal Act is hereby amended by omitting from paragraph (d) the words "in proportion to the amount of general rates received from those wards respectively in that year", and substituting the words "in the manner provided in subsections two and three of this section".

(2) Section one hundred and twenty-one of the principal Act is hereby further amended by adding the following subsections as subsections two and three thereof:

"(2) In the case of a divided borough, the amount to be apportioned to each ward shall be the amount received from that ward in respect of the general rate, less the proportion to be borne by that ward of the general expenses of the

borough under paragraphs (a) to (c) of subsection one of this section that have not been met out of income from other sources.

"(3) The proportion of the general expenses of a divided borough to be borne by each ward under subsection two of this section shall bear to the total amount of those expenses the same proportion as the rateable value of all the property in each ward bears to the total rateable value of all the property in the borough."

AMD. 1961, No. s.

(3) Section thirty-two of the Local Legislation Act 1956 is hereby repealed.

14. Sale or exchange of endowment land—Section one hundred and fifty of the principal Act is hereby amended by adding to paragraph (d) of subsection three the following proviso:

"Provided that, with the consent of the Minister and subject to such terms and conditions as the Minister thinks fit, the Council may sell or exchange any land vested in the Corporation as an endowment for the general purposes of the district and not subject to any express prohibition or restriction as to sale or exchange."

15. Private ways—Section one hundred and sixty-nine of the principal Act is hereby amended by omitting from the second proviso to subsection six the words "any width at that end", and substituting the words "a width approved by the Council in any part of the private way".

16. Bus shelters—The principal Act is hereby further amended by inserting, after section one hundred and seventy-seven, the following heading and section:

"Bus Shelters

"177A. (1) The Council may erect on the footway of any street a shelter for use by intending bus or trolley-bus passengers:

"Provided that no such shelter may be erected so as unreasonably to prevent access to any land having a frontage to the street.

"(2) The Council shall give notice in writing of its proposal to erect any bus or trolley-bus shelter under this section to the occupier and, if he is not also the owner, to the owner of any land the frontage of which is likely to be injuriously affected

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by the erection of the shelter, and shall not proceed with the erection of the shelter until after the expiration of the time for appealing against the proposal or, in the event of an appeal, until after the appeal has been determined.

"(3) Any person on whom such a notice has been served may, within fourteen days after the service of the notice, appeal against the proposal to the Town and Country Planning Appeal Board.

"(4) Every such appeal shall be made and be heard and determined by the Board in the manner prescribed by the Town and Country Planning Act 1953 and the regulations under that Act, and the decision of the Board thereon shall be final and be binding on the Council and the appellant."

17. Conditional consent to construction of cellars—The principal Act is hereby further amended by inserting, after section two hundred and three, the following section:

"203A. (1) Where under section two hundred and three of this Act the Council grants its consent to the construction of any cellar, it may grant its consent subject to a condition that neither the owner nor the occupier nor their successors in title shall be entitled to claim against the Corporation for any damage caused to the cellar or any property therein arising, whether directly or indirectly, from any defect in any water-supply system, sewerage system, or other public-utility service under the control of the Council.

"(2) As soon as conveniently may be after the passing of a resolution by the Council granting its consent to the construction of a cellar subject to the conditions specified in subsection one of this section, the Council shall send a copy of the resolution, authenticated by the Council, to the District Land Registrar or the Registrar of Deeds, as the case may require, who shall deposit the same in his office and register against the title to the land a memorandum under his hand that the land is subject to those conditions."

18. Betterment contributions where watercourse covered in—(1) The principal Act is hereby further amended by inserting, after section two hundred and nineteen, the following section:

"219A. (1) Where the Council incurs any expenditure in enclosing and covering in any watercourse under the powers conferred by section two hundred and nineteen of this Act, then and in every such case each owner of land benefited or

likely to be benefited from the enclosing and covering in of the watercourse shall pay to the Council on account of betterment such sum or sums of money as may represent the increased value thereby given, or likely to be given, to his land.

"(2) The several amounts to be paid to the Council as aforesaid shall be ascertained in manner provided by the Public Works Act 1928, or in a manner as near thereto as in the opinion of the Land Valuation Court the circumstances of each case will admit, but so that the Council shall be the claimant and the owner or the several owners of lands so benefited or likely to be benefited as aforesaid shall be the respondents. Claims under this section may be made in the form numbered (1A) in the Seventh Schedule to this Act.

"(3) The provisions of subsections three, four, five, six, nine, and ten of section one hundred and ninety-two of this Act (relating to betterment contributions due to street widening), as far as they are applicable and with the necessary modifications, shall apply with respect to claims for betterment under this section as if it was a claim for betterment under the said section one hundred and ninety-two, and as if the reference in subsection three of the said section one hundred and ninety-two to the widening of a street or part of a street was a reference to the enclosing and covering in of a watercourse.

"(4) The memorandum of charge executed by any respondent under subsection six of the said section one hundred and ninety-two, as so applied, shall, when registered, bind the property therein described.

"(5) Any such charge may be registered in the Land Registry Office or in the Deeds Register Office of the land registration district wherein the land affected thereby is situate."

(2) The Seventh Schedule to the principal Act is hereby amended by inserting, after form numbered (1), the form numbered (1A) set out in the Second Schedule to this Act.

19. Advances to property owners for clearing or covering in watercourses—The principal Act is hereby further amended by inserting, after section two hundred and thirty-one, the following section:

"231A. (1) The Council may make advances to the owner of any land for the purpose of enabling him to do all things necessary to remove any obstruction from any watercourse on or passing through his land or to improve or to enclose and cover in any such watercourse.

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"(2) Instead of making an advance as aforesaid to any owner, the Council may, by agreement with him, itself do such things as aforesaid, and all money expended by the Council pursuant to that agreement, together with a sum equal to five per cent of the amount so expended by the Council to cover the cost of supervision by the servants of the Council, shall be deemed to be an advance for the purposes of this section.

"(3) The provisions of subsections two and three of section two hundred and twenty-nine and of section two hundred and thirty-one of this Act (relating to advances in respect of the cost of drainage connections), as far as they are applicable and with the necessary modifications, shall apply with respect to every advance under this section, as if it was an advance under the said section two hundred and twenty-nine."

20. Tree roots obstructing public drains—The principal Act is hereby further amended by inserting, after section two hundred and thirty-seven, the following section:

"237A. (1) The Council may, by notice in writing under the hand of the Mayor or Chairman, as the case may be, or the Town Clerk, require the occupier or, in any case where there is no occupier, the owner of any land within the district to cut down or remove any tree on that land the roots of which in the opinion of the Council enter or are likely to enter any public drain.

"(2) Within twenty-eight days after the service of the notice, the occupier or owner, as the case may be, may object in writing to the Council against the requirements of the notice, and the notice shall thereupon be deemed to be suspended pending the determination of the objection or, where application is made to the Court to confirm the notice, pending the decision of the Court.

"(3) Where any such objection is received by the Council, the Council shall forthwith inquire into and dispose of the objection.

"(4) Where on inquiry into the objection the Council reaffirms its requirements, it may enter into an agreement with the occupier or owner, as the case may be, for the cutting down or removal of the tree at the expense, in whole or in part, of the Council.

"(4A) Where the Council reaffirms its requirements and no such agreement has been entered into, the Council shall apply to a Magistrate's Court for an order confirming the notice.

"(4B) On the hearing of the application, the Court, whose decision shall be final, may—

"(a) Confirm the notice; or

"(b) Set aside the notice; or

"(c) Set aside the notice, and make an order authorising the Council, on giving not less than fourteen days' notice to the occupier or owner, as the case may be, to enter upon the land and cut down or remove the tree at the expense of the Council.

"(4C) Where—

"(a) In any case in which no such objection is made, the occupier or owner, as the case may be, fails to do any act in compliance with the notice within forty-two days after the service of the notice; or

"(b) In any case in which objection is made, the notice is confirmed by the Court and the occupier or owner, as the case may be, fails to do any act in compliance with the notice within fourteen days after the giving of the decision of the Court,—

the Council may enter upon the land and do that act and recover the cost from him.

"(5) The said cost shall be a charge on the land."

21. Advances to property owners for water connections—The principal Act is hereby further amended by inserting, after section two hundred and forty-five, the following section:

"245A. (1) The Council may make advances to the owner of any premises for the purpose of enabling him to do all things necessary (including the provision of pipes, fittings, appliances, and meters) to connect those premises with any water-supply system of the district.

"(2) Instead of making an advance as aforesaid to any owner, the Council may, by agreement with the owner, itself do all such things as aforesaid, and all money expended by the Council pursuant to that agreement, together with a sum equal to five per cent of the amount so expended by the Council to cover the cost of supervision by the servants of the Council, shall be deemed to be an advance for the purposes of this section.

"(3) The provisions of subsections two to six of section two hundred and twenty-nine and of sections two hundred and thirty and two hundred and thirty-one of this Act (relating to advances in respect of the cost of drainage connections),

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as far as they are applicable and with the necessary modifications, shall apply with respect to every advance under this section as if it was an advance under the said section two hundred and twenty-nine, and as if references in those sections to drainage works and to drainage and sanitation were references to waterworks and to the supply of water, respectively."

22. Cost of connection from main gas pipe to meter—Section two hundred and seventy-three of the principal Act is hereby amended by inserting in subsection two, after the words "premises of the applicant", the words "or, where the cost does not exceed twenty-five pounds, from the main gas pipe to the gas meter on the premises of the applicant".

23. Grants to public relations organisations—Section three hundred and five of the principal Act is hereby amended by adding to subsection one of the following paragraph:

"(g) Make grants of money to the trustees or other governing authority of any body (whether incorporated or not) which is not conducted for private profit and the object or principal object of which is to promote the advancement or development of the district or of any area or areas whose advancement or development would or might tend to benefit the district, or to educate or instruct the public concerning the activities of the district or of any such area or areas."

24. Advances to organisations for purposes of public recreation, etc.—Section three hundred and five of the principal Act is hereby further amended by inserting in subsection two, after the words "grants of money", the words "or make advances upon such terms and conditions as it thinks fit".

25. Entertainments on Sundays, etc.—Section three hundred and ten of the principal Act is hereby amended by omitting from subsection one the words "concert or".

26. Leases of building sections—Section three hundred and thirty-one of the principal Act is hereby amended by repealing paragraph (c) of subsection two, and substituting the following paragraph:

"(c) Any such lease may contain a provision whereby the lessee shall have the right at any time to purchase the fee simple of the land comprised therein at a price not less than the unimproved value of the

land as last fixed pursuant to and for the purpose of paragraph (a) or paragraph (b) of this subsection, whichever is applicable to the lease. Every such purchase shall be completed within six months after the date of the election:".

27. Proceeds of sale or lease of building allotments—Section three hundred and thirty-six of the principal Act is hereby amended—

(a) By omitting from paragraph (a) of subsection two the words "any such land", and substituting the words "any land acquired under this Part of this Act":

(b) By omitting from paragraph (b) of subsection two and also from paragraph (c) of that subsection the word "such".

28. New sections as to subdivision of land substituted—(1) The principal Act is hereby further amended by repealing section three hundred and fifty-one, and substituting the following sections:

"351. **Plan of subdivision to be prepared and approved by Council**—(1) Where any person holding any land in the district proposes to subdivide the same, a plan of the subdivision, showing the several allotments and their dimensions, and the streets and reserves (if any) proposed to be made, shall be prepared by a registered surveyor and approved by the Council before the subdivision is made:

"Provided that in any case where the proposed subdivision is the division of any land into not more than two parts the plan required by this section need not, if the Council so approves, be prepared by a registered surveyor.

"(2) Every person commits an offence who subdivides any land in the district otherwise than in accordance with a plan of subdivision approved by the Council, or, in case of an appeal, in accordance with a plan of subdivision approved by the Town and Country Planning Appeal Board under section three hundred and fifty-one H of this Act, and is liable to a fine not exceeding one hundred pounds:

"Provided that no person, being the owner of any land, shall be deemed to commit an offence against this subsection by reason merely of the fact that he makes application for the issue to him of a separate certificate of title for any part of the land.

"(3) Nothing in this section shall be deemed to render any agreement to sell, lease, or otherwise dispose of any land illegal or void by reason only that it is entered into before a plan of subdivision has been approved under this section, but the agreement shall be deemed to be made subject to a condition that approval of a plan of the subdivision will be obtained under this section.

"(4) A contravention of any provision of this section shall not invalidate or be deemed to have invalidated any instrument intended to affect or evidence the title to any land.

"351A. **Powers of Council when plan submitted for approval**—(1) Where any plan of subdivision is submitted to the Council for its approval, the Council may—

"(a) Refuse to approve the plan if it is of opinion that—

"(i) The land is not suitable for subdivision; or

"(ii) In the case of any allotment adequate provision has not been made or is not practicable for drainage or the disposal of sewage; or

"(iii) The proposed subdivision is contrary to the district planning scheme (whether operative or not) or is a detrimental work within the meaning of the Town and Country Planning Act 1953; or

"(b) Require a new plan to be submitted; or

"(c) Before approving the plan, or any plan submitted in substitution therefor, require that—

"(i) The owner make provision or further or other provision for the construction of streets or the making of reserves; or

"(ii) The work of making new streets shown on the plan shall first be completed to the satisfaction of the Council, or security for the completion of any such work be given under the provisions of section one hundred and twenty-five of the Public Works Act 1928, as amended by section two of the Public Works Amendment Act 1953; or

"(d) Approve the plan subject to the allotments being disposed of by way of lease only and for a term not exceeding a term prescribed by the Council; or

"(e) Approve the plan subject to the condition that—

"(i) Any allotment thereon or any other adjoining land of the subdividing owner be transferred to the owner of land contiguous thereto and that one certificate of title be issued to include the land transferred and the whole, or any specified part, of the contiguous land; or

"(ii) One certificate of title be issued for any continuous area of land contiguous to the subdivision and held at the time by the subdividing owner under two or more certificates of title; or

"(iii) Any allotment thereon or any part thereof or any other land of the subdividing owner be included in and form part of any allotment on the plan contiguous thereto; or

"(iv) Any allotment thereon or any part thereof be excluded therefrom; or

"(f) Approve the plan subject to the condition that any specified easements shown on the plan shall be duly granted or reserved; or

"(g) Approve the plan subject to the imposition of building-line restrictions in accordance with section three hundred and fifty-one F of this Act.

AMD. 1960, No. 8.

"(2) Without limiting the grounds upon which the Council may decide that the land is not suitable for subdivision, the Council in deciding, pursuant to paragraph (a) of subsection one of this section, whether any land is suitable for subdivision shall take into consideration any danger that may exist of the land being eroded or inundated by the sea or by a river or lake, and, if the Council is of opinion that the danger is such as to render the land unfit for subdivision for building purposes, it may refuse to approve the plan or, before approving the plan, require the owner to make such provision for the protection of the land from erosion or inundation as the Council thinks fit.

"351B. **Street formation**—Notwithstanding anything in paragraph (c) of subsection one of section three hundred and fifty-one A of this Act, the Council, instead of requiring the owner to make provision or further provision for the construction of streets or to complete the work of making new streets shown on the plan, may agree with the owner that the Council will carry out the work of constructing the streets or making the new streets in consideration of the owner transferring to the Council part of the land in the subdivision or any other land.

AMD. 1960, No. s.

"351C. **Reserve contributions**—(1) Notwithstanding anything in paragraph (c) of subsection one of section three hundred and fifty-one A of this Act, where in the opinion of the Council it is undesirable or unnecessary to require the owner to make provision for the making of reserves for public recreation or enjoyment, the Council may in lieu thereof make it a condition of approval that a sum of money be paid

REP. 1967 No. s. Substituted

to the Council within such time as it may specify, and may require the owner to enter into a bond for the due payment of the amount payable as aforesaid.

"(2) All money so received by the Council shall be paid into a separate account, and shall be applied for the purchase of land to be held as public reserves subject to the provisions of the Reserves and Domains Act 1953 and the improvement and development of public reserves subject to the provisions of that Act, or for the improvement and development of other land (not being public reserves) as pleasure grounds or sports grounds, and so far as possible shall be so applied for the purchase of land or the improvement or development of public reserves or other land in the locality in which the land included in the plan of subdivision is situated.

"(3) Where any such money is applied in the improvement or development of any land (not being a public reserve) as a pleasure ground or sports ground, the land shall thereafter be held in trust by the Council for those purposes.

"351D. **Plan approved subject to amalgamation or transfer of allotments**—(1) Where the Council approves a plan of subdivision subject to any condition specified in subparagraph (i) or subparagraph (ii) of paragraph (e) of subsection one of section three hundred and fifty-one A of this Act, the District Land Registrar or the Registrar of Deeds shall not deposit in the Land Registry Office or in the Deeds Register Office, as the case may be, the plan of the subdivision until he is satisfied that the conditions have been complied with as fully as may be possible in that Office.

"(2) Where the District Land Registrar is of opinion that it is not practicable to issue one certificate of title as required by the conditions referred to in subsection one of this section, the Council may revoke the condition that one certificate of title be issued to include the several parcels of land and substitute in its place a condition that the owner of those parcels of land enter into an agreement with the Council that he will not, without the consent of the Council, transfer or lease any parcel of land or any part thereof except in conjunction with the other or others. Every such agreement shall be deemed to create an interest in each parcel of land for the purposes of section one hundred and thirty-seven of the Land Transfer Act 1952, and shall be deemed to be a covenant running with the several parcels of land, and shall bind subsequent owners accordingly.

"(3) When the conditions referred to in subsection one of this section have been complied with, the separate parcels of land included in one certificate of title by virtue thereof shall not be capable of being disposed of individually or of again being held under separate certificates of title, except with the consent of the Council, and the District Land Registrar on the issue of the certificate of title shall enter thereon a memorandum that the land therein is subject to this subsection.

"351E. **Plan approved subject to grant or reservation of easements**—Where the Council approves a plan of subdivision conditionally on any specified easements shown on the plan being duly granted or reserved, the following provisions shall apply:

"(a) No such easement may be surrendered by the owner of the dominant tenement, or, in the case of an easement in gross, by the grantee of the easement, or be merged by transfer to the owner of the servient tenement, or be varied, except with the consent of the Council. The District Land Registrar shall endorse on the instrument by which the easement is granted or reserved and also on the relevant certificates of title a memorial that the easement is subject to the provisions of this paragraph:

"(b) There shall be endorsed on the plan of subdivision of the land deposited in the Land Registry Office or in the Deeds Register Office, as the case may be, a memorandum showing with respect to each such easement which is the dominant tenement and which is the servient tenement, or, in the case of an easement in gross, the name of the proposed grantee and which is the servient tenement:

"(c) The District Land Registrar or, as the case may require, the Registrar of Deeds shall refuse to register any instrument of transfer or conveyance or lease or other disposition of any allotment shown on the plan of the subdivision, unless he is satisfied that all easements so specified which are appurtenant to that allotment or to which that allotment is subject have been duly granted or reserved.

"351F. **Plan approved subject to building-line restrictions**—(1) Where the Council is of the opinion that any land comprising part of or adjoining the land being subdivided may be utilised or required in the future for a street, it may approve the plan of subdivision subject to the imposition of a

building-line restriction requiring that, when new buildings are erected or any buildings are rebuilt or re-erected or are substantially rebuilt or re-erected on any allotment in the subdivision likely to have a frontage to that future street, no part of any such buildings shall stand within such distance from the side line of that future street as the Council specifies, being not more than fifteen feet. AMD. 196 No. s.

"(2) Any such condition as aforesaid shall be shown or referred to on the plan of subdivision and, where necessary, shall be more fully described in the resolution of the Council approving the plan which shall be referred to on the plan.

"(3) Where a plan of subdivision has been approved subject to a condition imposing a building-line restriction, the restriction shall be fully described in the resolution of the Council approving the plan, and the Council shall forward an authenticated copy of the resolution to the District Land Registrar or Registrar of Deeds, as the case may require, who shall deposit the copy in his office and register against the title to all land affected thereby a memorandum under his hand that the land is subject to the restriction. Registration as aforesaid shall affect with notice of the restriction all persons then having any estate or interest in the land and their successors in title. AMD. 196 No. s.

"(4) Where a building-line restriction is imposed on any land under the provisions of this section, and, on the subsequent laying off of the street, any building-line restriction is imposed on that land under any other provision of this Act or under any other enactment, the first-mentioned building-line restriction shall be deemed to be cancelled, and the District Land Registrar or Registrar of Deeds, as the case may be, is hereby authorised to amend his records accordingly.

"351G. **Unformed roads existing on land added to district**—In any case where at the date of the inclusion in the district of any land that was formerly included in a county or dependent town district any unformed road forms part of the land and, on any application for the approval of the Council to a plan of subdivision of any land having a frontage to that unformed road, the Council considers that the unformed road will require to be formed for use as a street, the Council may, as a condition of its approval,—

"(a) Require that the owner pay, or enter into a binding contract to pay, to the Council towards the cost of the formation of that unformed road as a street such amount as the Council specifies, not exceeding half the estimated cost thereof:

"(b) Where the unformed road has a width of less than sixty-six feet, require that the owner dedicate, or obtain the dedication of, a strip of land for widening that unformed road to such width as the Council specifies, not exceeding sixty-six feet.

AMD. 196 No. s.

"351H. **Appeals to Town and Country Planning Appeal Board**—Any person aggrieved by the decision of the Council under section three hundred and fifty-one or section three hundred and fifty-one A or section three hundred and fifty-one C or section three hundred and fifty-one F or section three hundred and fifty-one G of this Act may appeal in the prescribed manner to the Town and Country Planning Appeal Board constituted under the Town and Country Planning Act 1953, and the decision of that Board shall be final."

AMD. 196 No. s. REP. 196 No. s. Substitutn.

(2) Section three of the Municipal Corporations Amendment Act 1958 is hereby consequentially amended by repealing subsections three and four.

29. Approval of subdivision to enure when land excluded from district—Section three hundred and fifty-three of the principal Act is hereby amended by adding the following subsection:

"(8) Notwithstanding anything in the Land Subdivision in Counties Act 1946, in any case where a plan of subdivision of any land in the district has been approved by the Council under this Act and the land is subsequently included in a county, the previous approval of the plan shall, for the purposes of that Act, be deemed to be an approval by the Minister of Lands under that Act, and all conditions imposed by the Council in granting its approval of the plan of subdivision and all the requirements of the Council in relation to the proposed streets on the plan of subdivision shall be deemed to be conditions and requirements of the Minister of Lands imposed or made under that Act."

196 s.

30. Coat of arms—(1) The principal Act is hereby further amended by inserting, after section three hundred and seventy-five, the following section:

"375A. No person shall—

"(a) For the purposes of sale apply or cause to be applied to any article the coat of arms of the Corporation, as defined by bylaw made pursuant to paragraph thirty-eight of section three hundred and eighty-six of this Act, or any colourable imitation thereof, without the prior consent in writing of the Council; or

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"(b) Knowing that the coat of arms of the Corporation as so defined, or any colourable imitation thereof, has been applied to any article without the prior consent in writing of the Council, sell that article or cause it to be sold, or offer or expose that article for sale, or cause it to be offered or exposed for sale."

(2) Section three hundred and eighty-six of the principal Act is hereby amended by adding the following paragraph:

"(38) Defining the coat of arms of the Corporation and regulating its use."

31. Subject-matter of bylaws—(1) Section three hundred and eighty-six of the principal Act is hereby further amended by inserting, after paragraph eight, the following paragraph:

"(8A) Regulating, controlling, or prohibiting the playing of musical instruments or the operation of loud-speakers, megaphones, wireless sets, bells, or similar devices—

"(a) In any street or public place where such playing or operation makes or causes to be made noise which is likely to cause a nuisance or annoyance to persons in the street or public place or residing in the vicinity thereof:

"(b) In or upon any land or buildings licensed or used for dances, fairs, amusement parks, amusement parlours, skating rinks, or other similar entertainment where such playing or operation makes or causes to be made noise which is likely to cause nuisance or annoyance to persons in any street or public place or residing in the vicinity of that land or those buildings:".

(2) Section three hundred and eighty-six of the principal Act is hereby further amended by inserting in paragraph fourteen, after the words "repair of buildings", the words "as defined in the bylaws".

(3) Section three hundred and eighty-six of the principal Act is hereby further amended by repealing the proviso to paragraph twenty-eight, and substituting the following proviso: REP. 1960, No. 8.

"Provided that the licence fee for a hawker or pedlar who sells only perishable articles of human food shall not exceed one pound a year, and in the case of any other hawker or pedlar shall not exceed two pounds a year:".

(4) Section three hundred and eighty-six of the principal Act is hereby further amended by inserting, after paragraph twenty-eight, the following paragraph:

"(28A) Licensing and regulating the conduct of keepers of mobile or travelling shops (not being hawkers or pedlars or keepers of stalls), and imposing a licence fee not exceeding twenty-five pounds a year:".

AMD. 1959, No. s.

(5) Section three hundred and eighty-six of the principal Act is hereby further amended as follows:

(a) By inserting in paragraph twenty-nine, after the words "hawkers or pedlars", the words "or keepers of mobile or travelling shops":

(b) By inserting in paragraph thirty, after the words "keepers of stalls", the words "or of mobile or travelling shops".

32. Temporary buildings—The principal Act is hereby further amended by inserting, after section three hundred and eighty-seven, the following section:

AMD. 1959, No. s.

"387A. (1) Where, pursuant to bylaws made under paragraph fourteen of section three hundred and eighty-six of this Act, the Council issues a permit for the erection of any temporary building, the permit may be issued subject to such conditions as the Council considers necessary to ensure that the building will be removed at or before the expiration of the period specified in the permit, including the provision of a bond or the payment of a sum of money as security for that purpose or the entering into an agreement for that purpose.

"(2) Every such bond or agreement shall be deemed to create an interest in the land for the purposes of section one hundred and thirty-seven of the Land Transfer Act 1952, and shall be deemed to be a covenant running with the land and shall bind subsequent owners accordingly."

SCHEDULES

FIRST SCHEDULE

Section 10 (2)

ENACTMENTS REPEALED

1921, No. 1 (Local)—The Auckland City Loans Consolidation and Empowering Act 1921: Section 7.

1941, No. 2 (Local)—The Christchurch City Empowering and Special Rates Consolidation Act 1941: Section 3.

1942, No. 2 (Local)—The Invercargill City Special Rate Empowering Act 1942.

1945, No. 3 (Local)—The Ashburton Borough Special Rates Consolidation Act 1945.

1950, No. 1 (Local)—The Nelson City Special Rates Consolidation Act 1950.

1950, No. 10 (Local)—The Napier City Special Rates Consolidation Act 1950.

1952, No. 7 (Local)—The Greymouth Borough Special Rates Consolidation Act 1952.

1954, No. 8 (Local)—The Papatoetoe Borough Special Rates Consolidation Act 1954.

1955, No. 1 (Local)—The Hamilton City Special Rates Consolidation Act 1955.

1957, No. 1 (Local)—The Whangarei Borough Special Rates Consolidation Act 1957.

1957, No. 2 (Local)—The Hastings City Special Rates Consolidation Act 1957.

1957, No. 7 (Local)—The Rangiora Borough Empowering Act 1957: Section 3.

1959, No. 1 (Local)—The Tawa Borough Special Rates Consolidation Act 1959.

1959, No. 2 (Local)—The New Plymouth City Special Rates Consolidation Act 1959.

1959, No. 3 (Local)—The Blenheim Borough Special Rates Consolidation Act 1959.

1959, No. 5 (Local)—The Taumarunui Borough Special Rates Consolidation Act 1959.

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Section 18 (2) SECOND SCHEDULE

"(1A) CLAIM FOR PAYMENT ON ACCOUNT OF BETTERMENT FROM COVERING IN OF WATERCOURSE

To . . . . . , owner of an estate or interest in fee simple [*or as the case may be*] in the land described below.

Whereas the [*Name of Council*] has enclosed and covered in a watercourse known as the [*Name or description of watercourse*] in the borough (*or* town district) whereby the value of the land described below and in which you are interested as aforesaid has been increased or is likely to be increased: This is to give you notice that the Council claims from you the sum of £ . . . . . on account of betterment for the said increase in value of the said land.

[*Description of land*]

Given under my hand this . . . . . day of ..... 19.....

. . . . . , Town Clerk."

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