

No. VII.

AN ORDINANCE to authorize the Levying and Collecting of Rates for the Making and Repairing of Roads, Streets, &c., &c., in any Town in the Province of New Munster. [2nd October, 1849.]

TOWN ROADS AND
STREETS.

WHEREAS it is expedient to repeal an Ordinance, No. 6, Session V., called "*The Public Roads and Works Ordinance*:"

Preamble.

1. Be it enacted by the Lieutenant-Governor of New Munster, by and with the advice and consent of the Legislative Council thereof, That the same, as far as regards the Province of New Munster, be repealed.

Repeal of No. 6,
Session V.

2. Be it enacted, That the Lieutenant-Governor, with the advice of the Executive Council, upon a requisition to that effect from a majority of the Magistrates of the district in which such town is situated, may proclaim from time to time the towns within which the provisions of this Ordinance shall take effect.

Lieutenant-Governor
to proclaim town.

3. Be it enacted, That every person who shall have to his own use, either in freehold or as the occupier, any lands or tenements within any towns proclaimed to be within the provisions of this Ordinance shall, being duly enrolled in manner hereafter provided, be qualified to vote at the election of a Board of Commissioners, to be elected for the purpose of levying a yearly rate on all houses lands and tenements situated within the town, and for the purpose of superintending and managing the making maintaining and repairing the streets roads quays and highways within the same.

Commissioners to be
elected.

4. All claims to the right of voting shall be according to the Form to this Ordinance annexed, and shall be sent in to the Resident Magistrate of the town proclaimed as aforesaid, or if there be no Resident Magistrate in the town, then to the nearest Resident Magistrate, on or before the first day of September in each year, and all claims not so sent in shall be disallowed.

Claims to vote to be
sent in.

5. Every Resident Magistrate shall, within seven days after the receipt of such claims as aforesaid, cause the names of the claimants to be posted in alphabetical order in some public place in the town, accompanied by a notice naming some day, prior to the fifteenth of September, on which all objections to the same shall be heard and determined by a Bench of Magistrates, and the list so revised shall be deemed to be the list of electors for the ensuing twelve calendar months, and shall be published in the *Government Gazette*, with a notice from the Resident Magistrate to the electors to assemble at some given time and place, before the twenty-fifth of September, for the purpose of electing Commissioners (not to exceed five in number nor less than three), and such Commissioners or the majority of them shall form a Board for the town, with authority to carry into effect the provisions of this Ordinance.

A Bench of magis-
trates to decide upon
claims.

6: Be

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Commissioners to
continue in office for
one year.

6. Be it enacted, That the Commissioners so elected as aforesaid shall continue in office for one year, or until the next election of Commissioners; and that any Commissioner going out of office shall be eligible for re-election; and that in case of the insolvency absence from the Province mental incapacity or death of any Commissioner, the vacancy so created shall be filled up within a month by the election of another Commissioner.

Commissioners to
levy a yearly rate.

7. Be it enacted, That the said Commissioners shall levy a yearly rate, not exceeding sixpence in the pound, on all houses lands and tenements situated within the limits of any town proclaimed as aforesaid, and every such rate shall be made upon an estimate of the net annual value of the lands and hereditaments rated thereunto; and the said rate when collected shall be paid to the Colonial Treasurer.

Assessors to be
appointed by
warrant under the
hands of the Com-
missioners.

8. Be it enacted, That the said Commissioners may, from time to time, by warrant under their hands, appoint one or more proper persons to be Assessors to rate and assess all such houses lands and tenements, and such Assessors shall, within thirty days after the delivery to them of the warrant of their appointment, return to the said Commissioners an assessment for the place named in such warrant; and the assessment shall specify, in different columns, the names of the respective owners or occupiers of all houses lands and tenements comprised in such assessment, the full and fair annual value of the same, and the amount of rate chargeable thereon respectively; and when the land or premises shall be unoccupied, the full and fair annual value thereof.

Assessment to be
entered in a book.

When assessment
allowed notice
thereof shall be
given.

9. Be it enacted, That when any such assessment shall have been allowed by the said Commissioners, they shall sign the same, and shall cause public notice to be given of such assessment, and of the place where the same may be inspected, by advertisement in the *Government Gazette*: Provided that every person in whose custody such assessment may be shall permit every owner or occupier of property included in such assessment to inspect the same during office hours, and to make extracts therefrom, without payment of fee or reward; and if such person wilfully neglect or refuse to permit such inspection or extract to be made, he shall, on conviction before any two Justices, forfeit and pay for every such offence any sum not exceeding five pounds as the Justices shall think fit.

Appeal against
assessment.

10. Be it enacted, That if any person who shall have paid the amount of rate charged upon him by the assessment made by any Assessor under this Ordinance shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not rateable under this Ordinance or that it assesses his rateable property beyond its full and fair annual value, or that any person is omitted out of such assessment, or that the property of any person is assessed below its full and fair annual value, the person so considering himself aggrieved may appeal to the next Court of Sessions of the Peace, or, until the establishment of such Court, to a Bench of not less than five Magistrates, within twenty-one days after public notice of such assessment shall have been given, as hereinbefore mentioned; and in case the said Court of Appeal shall think the appellant entitled to relief, it shall order the assessment to be amended in such manner as may be necessary for giving him relief, and shall also order any money paid by him to be returned to him; and in case he shall have appealed on the ground that any person is omitted out of the assessment, the said Court of Appeal may order the name of such person to be inserted in the assessment, and to be therein rated at such an amount as it shall deem just; and in case the appellant shall have appealed on the ground that the property of any person is assessed
below

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below its full and fair annual value, the said Court of Appeal may order the amount at which such person is rated in the assessment to be altered in such manner as it shall deem just, and the proper officer of the Court shall, in each of the cases aforesaid, forthwith amend the assessment accordingly; but the assessment shall not be questioned or altered with respect to any other persons named therein, and the determination of the said Court of Appeal shall be final and conclusive.

The assessment may be altered to relieve the appellant without altering any other part of it.

How rate may be distrained for.

11. Be it enacted, That if any person shall neglect or refuse to pay the rate or arrears thereof to which he shall be liable, for the space of ten clear days after personal demand thereof of the owner occupier or agent (and in case where the owner or agent cannot be found, then by notice in the *Government Gazette*, which shall be deemed a legal demand) by the Collector, or demand in writing left at the house land or tenement rated and assessed thereto, it shall and may be lawful for the Collector appointed to receive such rate, and his assistant, by warrant under the hand and seal of the said Commissioners, to enter into any part of any house land or tenement so rated and assessed, and to distrain the goods and chattels therein or thereon according to law.

12. Be it enacted, That it shall and may be lawful for any Collector appointed under this Ordinance to sue for recover and receive of and from the person thereto liable, any rate or assessment payable under the provisions of this Ordinance, in any Court of competent jurisdiction; and for the purposes of any action or suit such rate or assessment shall be deemed to be due and payable to such Collector.

Rate may be recovered.

13. In case it shall be impossible to levy the rate due by reason of the property rateable being unoccupied or otherwise, the arrears shall at any subsequent time within seven years from the date of such rate becoming due be leviable upon any goods which may be found upon such property.

Rate becoming due leviable upon goods found on such property.

14. And be it enacted, That the said Commissioners shall from time to time nominate and appoint one or more persons to be Collectors, who shall levy the amount of rate charged in every such assessment, and duly account for and pay over the amount collected to the Colonial Treasurer, according to the provisions of this Ordinance, or in default thereof shall be deemed and taken to have embezzled the same, and be proceeded against according to law; and all money received by any such Collector may from the receipt thereof by law be deemed the money of the said Treasurer for the time being, and may be so described in any indictment or other proceeding.

Commissioners to appoint one or more persons to levy the amount of rate.

15. Be it enacted, That every Collector or other person appointed to levy the said rate and assessment shall give sufficient security, to the satisfaction of the said Commissioners, by bond, for the faithful execution of the said office; and every such Collector or other person shall, at such time and times as the said Commissioners shall direct, deliver to them true and perfect accounts of all moneys which shall have been received by him by virtue of this Ordinance, and of all moneys paid by him to the said Colonial Treasurer, together with the proper vouchers for such payments; and if any person shall refuse or neglect to produce or deliver the vouchers relating to the same, or to make payment as aforesaid, or shall not deliver to the said Commissioners, within ten days after being thereunto required, all the books papers and writings in his custody or power relating to the trust reposed in him, or shall refuse or neglect to pay such moneys as upon the balance of any account shall appear to be in his hands to the said Colonial Treasurer, every such person shall for every such neglect respectively forfeit a sum not exceeding twenty pounds, to be recovered in any Court of competent jurisdiction.

Collector to give security.

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Collectors to pay
their balances to the
Colonial Treasurer
weekly.

Proceedings under
this Ordinance to be
taken according to
Ordinance No. 5,
Session II.

Meeting of Com-
missioners how to
be called.

Questions decided
by majority.

Minutes of
resolutions entered
in a book.

Commissioners to
enter accounts and
keep vouchers.
Accounts to be
audited.

Commissioners to
exhibit balance sheet.

Moneys books
accounts and
vouchers to be
delivered to new
Commissioners.

Not to extend to
Crown lands,
Board of Ordnance,
nor Native reserves.

Not to disqualify any
Judge, Resident
Magistrate, or
Justice from acting
under the provisions
of this Ordinance.

Commencement of
Ordinance.

16. Be it enacted, That each and every of the said Collectors shall, on the Saturday in every week, or at such other times as may be appointed by the said Commissioners, pay to the Colonial Treasurer all moneys received by him and then in his hands by virtue of this Ordinance.

17. Be it enacted, That all proceedings under this Ordinance, in so far as not otherwise expressly provided, may be had and taken according to Ordinance No. 5, Session II., for the regulation of summary proceedings before Justices of the Peace.

18. Be it enacted, That no meeting of Commissioners for the purposes of this Ordinance shall be holden unless such meeting shall have been called by two Commissioners at least; notice of the time and place of every such intended meeting, specifying the business proposed to be transacted thereat, and signed by the Commissioners calling the same, to be left at the usual place of abode of every other Commissioner three clear days at least before such meeting.

19. Be it enacted, That all questions which shall come before such meeting, shall be decided by the majority of the Commissioners who shall be present thereat.

20. Be it enacted, That a minute of every resolution agreed to at any such meeting shall be entered in a book to be kept for that purpose, and shall be signed by the said Commissioners who shall have agreed thereto.

21. Be it enacted, That the Commissioners shall, in a book to be kept for that purpose, enter true accounts of all sums of money by them received and paid, and of the several matters in respect whereof such sums shall have been received and paid. All such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance sheet thereof signed by a quorum at least of the Commissioners, shall yearly at such meeting of electors as aforesaid be submitted to such meeting, and shall (as soon thereafter as conveniently may be) be examined and audited by two or more persons to be appointed for that purpose by such meeting.

22. Be it enacted, That a copy of such abstract or balance sheet shall also be posted up by such Commissioners at or before the commencement of such meeting as aforesaid upon some conspicuous part of the place in which such meeting shall be holden.

23. Be it enacted, That all moneys found by the Auditors to be due from the Commissioners under the provisions of this Ordinance, together with all such books of accounts vouchers and papers, shall be forthwith paid and delivered over to the Commissioners for the ensuing year.

24. Be it enacted, That nothing in this Ordinance shall extend to any land or premises belonging to the Crown, or the Honourable the Board of Ordnance, or belonging to any aboriginal native or tribe, or to any lands reserved for the benefit of the Natives.

25. Be it enacted, That no Judge, Resident Magistrate, or Justice of the Peace shall be disqualified from acting in pursuance of any of the provisions of this Ordinance by reason of his being assessed as a ratepayer under this Ordinance.

26. Be it enacted, That this Ordinance shall commence and take effect from the day of the passing thereof.

1849.

13^o VICTORIÆ.

No. 9.

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*Constabulary Force.*NEW MUNSTER
ORDINANCES.

SCHEDULES.

FORM OF CLAIM.

Form of Claim.

To _____, Esquire, Resident Magistrate for the District of _____
 I HEREBY give you notice that I claim to have my name enrolled as a voter for the
 election of the Board of Commissioners for the district of _____, [as landowner, lessee,
 or proxy for A.B., as the case may be].

Dated the _____ day of _____.

Place of abode and business of claimant.

TOLLS WHICH MAY BE DEMANDED UNDER THIS ORDINANCE.					£	s.	d.
For every sheep lamb pig or goat ...	...	...	...	...	0	0	0 $\frac{1}{2}$
Ox or head of neat cattle ...	...	...	...	...	0	0	1 $\frac{1}{2}$
Horse mare gelding ass or mule ...	...	...	...	...	0	0	3
Cart dray or other such vehicle, drawn by one horse or other animal ...	...	...	...	...	0	0	6
Other horse, or other animal above one, drawing a cart dray or other such vehicle ...	...	...	...	...	0	0	3
Gig chaise or other such carriage, drawn by one horse or other animal ...	...	...	...	...	0	0	9
Ditto, drawn by two horses or other animals ...	...	...	...	...	0	1	6