

THIRD SUPPLEMENT
TO THE
FEDERATED MALAY STATES
GOVERNMENT GAZETTE

OF FRIDAY, THE 19TH OF OCTOBER, 1923.
(No. 21, Vol. XV.)

PUBLISHED BY AUTHORITY.

THURSDAY, 1ST NOVEMBER, 1923.

The following Notification is, by direction of the Chief Secretary to Government,
published for general information.

C. W. H. COCHRANE,
Under Secretary, F.M.S.

No. 6932.—The following Enactment, passed at a meeting of the Federal Council held
on the 11th July, 1923, is published for general information:

FEDERATED MALAY STATES.

ENACTMENT No. 19 OF 1923.

An Enactment to provide for the improvement and
development of towns and other areas.

L. N. GUILLEMARD, [20th September, 1923.]
President of the Federal Council.

IT is hereby enacted by the Rulers of the Federated Malay States in
Council as follows:

CHAPTER I.

PRELIMINARY.

1. (i) This Enactment may be cited as "The Town Planning
Enactment, 1923," and shall come into force upon the publication
thereof in the *Gazette*. Short title,
commencement
and repeal.

(ii) Upon the coming into force of this Enactment "The Town
Improvement Enactment, 1917," shall be repealed. Provided that
except as may be herein specially enacted to the contrary nothing
shall affect the past operation of that Enactment or of any order made
thereunder or the validity or invalidity of anything done or suffered
or of any right, title or interest created under that Enactment before
the commencement hereof and provided also that any improvement
scheme gazetted under that Enactment shall be deemed to be in force
until varied under this Enactment.

2. In this Enactment unless the context otherwise requires—

"Advocate" means Advocate and Solicitor of the Supreme Court.

"Arbitrator" means the person appointed under Chapter IV of
this Enactment.

"Building" includes any house, factory, workshop, warehouse,
godown, hut, shed, or other roofed enclosure whether used for the
purpose of human habitation or otherwise, and also any wall, fence,
platform, staging, gate, post, pillar, paling, frame, hoarding, slip,
dock, wharf, pier, jetty, landing-stage or bridge or any structure
connected with the foregoing.

"Building line" means any line between which and the alignment
of any road or reserve a building, other than any erection in the
nature of a boundary wall, fence and the like, shall not be erected,
altered, or added to except in manner provided by this Enactment.

"President" and "Deputy President" mean the persons
respectively for the time being carrying out the duties of President
or Deputy President of a Committee.

"Chief Secretary" means the Chief Secretary to Government,
Federated Malay States.

"Committee" means a Town Planning Committee appointed under
this Enactment.

Interpretation.

“Construction” or “Reconstruction” as applied to any road includes provision for grading, levelling, draining, paving, kerbing, metalling, surfacing, channelling, planting, lighting and otherwise making or completing such road.

“Court” means the Court of a Judicial Commissioner.

“Erect” as applied to any building includes re-erection or external structural alteration thereof.

“Government Town Planner” means the Government Town Planner appointed under this Enactment.

“House” includes—

- (a) any temporary or permanent detached or semi-detached dwelling-house, bungalow, and the like;
- (b) any “terrace dwelling-house” being one or more houses built or intended to be built continuously in a row or terrace and used or intended to be used solely for residential purposes;
- (c) any “shop-house” being a detached or semi-detached dwelling or a terrace house used, or intended to be used wholly or in part, for any commercial, or industrial purpose;
- (d) any other building whether temporary or permanent used or intended to be used for human habitation.

“Land” means all land within a Town Planning area whether alienated or not, and includes all State land and all lands reserved for public purposes or residential reserves.

“Lay-out” as applied to land includes—

- (a) the planning or development or the replanning and redistribution of any land under the provisions of this Enactment;
- (b) the survey, demarcation, partition, division, subdivision or resubdivision of any land into parts for use for any specified private or for any public purpose;
- (c) the plotting out of land for lots or other use whether such land is intended to be used for building or any public purpose;
- (d) the opening, closing, construction, diversion or improvement of any road.

“Lot” includes allotment, plan, portion or parcel.

“Main Road” means any road within or without a Town Planning area, which in the opinion of the Committee is necessary for securing adequate means of inter-communication between different localities, or the improvement or development thereof.

“Notify” “Notification” and similar expressions refer to notification by publication in the *Gazette*.

“Plan” includes lay-out and any map, diagram, drawing, section or detail.

“Public authority” means any department or officer of Government or any person who under any Enactment carries out any powers or duties for the benefit of the State or public.

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“Public Road” includes any road surrendered as a public road by any person subject to the provisions of any General Town Plan or other plan approved under the provisions of this Enactment.

“Reserve” includes any land reserved for public recreation, health, sanitation, amenity or other public purpose.

“Responsible authority” means the Committee or the authority or authorities responsible for carrying out or enforcing the observance of any General Town Plan or other plan and particulars, including the execution of any works thereunder which are to be constructed by the Committee or any person or public authority.

“Road” includes—

- (a) any main road, street, square, right of way, lane, highway or thoroughfare including a bridge or causeway ;
- (b) any secondary road, being a road for general or local traffic ;
- (c) any residential road being a road primarily for access to houses, or for residential purposes generally ;
- (d) any pathway being a road used exclusively for foot passengers and such classes of vehicles as the responsible authority may determine ;
- (e) any public or private road or road reserve.

Provided that any definition in “The Sanitary Boards Enactment, 1916,” “The Land Enactment, 1911,” “The Valuation of Land Enactment, 1922,” or “The Registration of Titles Enactment, 1911,” shall be incorporated and read as part of this section except in so far as such definition is inconsistent with the provisions of this Enactment.

CHAPTER II.

TOWN PLANNING COMMITTEE.

3. (i) The Resident may from time to time with the approval of the Chief Secretary by notification declare any area within the State to be a Town Planning area for the purposes of this Enactment.

Declaration of
Town Planning
areas.

(ii) The boundaries of any Town Planning area may be declared to be coincident with any town limits or with the limits of any Sanitary Board area or may be separately defined.

4. (i) The Resident may from time to time by notification appoint a Town Planning Committee to give effect to the purposes of this Enactment within the area mentioned in such appointment.

Appointment of
Town Planning
Committees.

(ii) Every Town Planning Committee shall consist of a President, a Deputy President, and four members, of whom two shall be nominated by the Sanitary Board of the area affected and two by the Resident.

Provided that—

- (a) in any Town Planning area which includes the whole or part of a Sanitary Board area the Chairman of such Sanitary Board shall be ex-officio President of the Town Planning Committee ;
- (b) the Government Town Planner shall be ex-officio a member of all Town Planning Committees.

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(iii) Every such appointment shall cease and determine at the expiration of the year in respect of which the same is made.

Variation or revocation of declaration.

5. Any declaration or appointment made under the provisions of the two immediately preceding sections may in like manner be added to, varied or revoked.

Temporary association of other persons with the Committee.

6. (i) A Committee may co-opt, in such manner and for such period as may be prescribed, any person or persons whose assistance or advice it may desire in carrying out any of the provisions of this Enactment.

(ii) Any person so co-opted may take part in the discussions of the Committee; but shall not vote or otherwise exercise the right of a member.

Additional members for special purposes.

7. (i) In the consideration of a General Town Plan or other plan affecting any lands under the control of any Railway, Harbour or public authority not represented on the Committee, the Resident may, by notification, appoint any officer or representative as an additional member to the Committee for the purpose of the consideration of any proposals under the said General Town Plan or other plan affecting such Railway, Harbour or public authority.

(ii) Every person so appointed shall for such purpose be an additional member and have the same powers and duties as other members and hold office for such term as the Resident may decide.

(iii) Any appointment made under this section may at any time in like manner be revoked.

Members and others not to take part in proceedings in which they are personally interested.

8. If any member or any person associated with a Committee under section 6 has, directly or indirectly, any interest in any land situated in an area comprised in any General Town Plan or other plan prepared under this Enactment, or in any area in which it is proposed to acquire land for any of the purposes of this Enactment,

(a) he shall, before taking part in any proceeding at a meeting of the Committee relating to such area, inform the person presiding at such meeting of the nature and extent of such interest;

(b) he shall not vote at or take any other part in any proceedings at a meeting of the Committee relating directly or indirectly to the land in which he has an interest.

Public servants.

9. All members and servants of a Committee shall be deemed to be public servants within the meaning of the Penal Code.

Duties of Committee.

10. The duties of a Committee shall include—

(a) the modification and adoption of any General Town Plan, as hereinafter provided;

(b) the adoption and approval of plans and particulars under Chapter V subject to the provisions of the said Chapter;

(c) carrying out and enforcing the observance of any General Town Plan, or other plans and particulars approved under this Enactment: Provided that no other responsible authority has been appointed, under the provisions of the said General Town Plan or other plans and particulars, for such purpose;

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(d) advising the Resident in respect of—

- (i) the use, reservation, alienation or other dealing with all State or reserved land comprised within the Town Planning area;
- (ii) the reservation or acquisition of all land for the purposes of this Enactment;
- (iii) town improvements or other proposed works or alterations to land and buildings within the Town Planning area.

11. (i) A Committee may also

- (a) inquire into and report to the Resident upon any question relating to town planning or housing, or other matter referred to such Committee;
- (b) call and examine witnesses;
- (c) exercise such other powers and duties as are conferred or imposed by this Enactment.

Powers of Committee.

(ii) All evidence given before a Committee on any such inquiry may be on oath or affirmation, and the President or Deputy President of the Committee may administer all oaths and affirmations which may be necessary for the purpose.

12. The Chief Secretary may appoint an officer qualified in Town Planning, to be called the Government Town Planner, who shall perform such duties as may be prescribed, and such other officers as may be necessary for the purposes of this Enactment.

Government Town Planner.

CHAPTER III.

PREPARATION AND APPROVAL OF GENERAL TOWN PLAN.

13. The Government Town Planner, acting with the consent of the Committee, shall prepare a General Town Plan (referred to in this Chapter as the draft Plan) of the area or part thereof in respect of which the Committee is empowered to carry out the provisions of this Enactment.

Preparation of General Town Plan.

14. The general objects of the draft Plan shall be the better ordering and the improvement and development of the area subject to the Committee's control, and in particular

Scope of draft Plan.

- (a) the improvement or extension of communication and facilities for traffic;
- (b) the improvement or extension of any existing lay-out of land or the provision of a lay-out for undeveloped districts;
- (c) the regulation of building and development;
- (d) the improvement and extension of housing accommodation; and generally
- (e) the securing of public safety, sanitary conditions, health, convenience or amenity.

15. (i) The draft Plan may also provide for—

- (a) zones or districts to be set apart for use for residential, commercial, industrial, agricultural or other specified purposes;

Objects of draft Plan.

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- (b) roads or building lines, including the opening, closing, widening, diversion or other alteration of roads or any reserves in connection therewith;
- (c) the acquisition, sale, exchange, surrender or leasing of any lands for the purposes of this Enactment;
- (d) opening, closing, altering, widening, raising, lowering, improving, cleansing, or beautifying lakes, ponds, rivers, streams, drains, or other tidal or non-tidal water-courses, or reserves on or adjoining the same;
- (e) the excavation or the reclamation and improvement of any land, including foreshores, above or below high water mark or any reserves on or adjoining the same;
- (f) setting apart land for—
 - (1) public, municipal or private buildings, water supply, lighting, drainage, disposal of sewage, or of surface waters;
 - (2) railways, tramways, or for use by motor or other vehicles or by any railway, tramway, harbour or other public authority or persons;
 - (3) different kinds of agriculture or horticulture, or for dairies, dhoby grounds, coolie lines, market gardens, squatters, cattle, or other specified uses, or
 - (4) any public purpose not specified above;
- (g) any matters contained in the schedule.

Regulations.

- (ii) The draft Plan may have attached thereto or endorsed thereon regulations for securing or executing any provisions thereunder, or regulating the use, conservation, development or improvement of land therein comprised. Such regulations may prescribe or otherwise provide for—
 - (a) the boundaries of any zone or district, and the prohibition or regulation therein of any building, including buildings with inadequate sanitary or hygienic arrangements, or the erection, maintenance or use of any buildings, skysigns, or other structures used or proposed to be used for advertising purposes which are injurious to the amenity of such zone or district,
 - (b) the commencement, continuance, or extension of specified trades, callings, industries, manufactures, or occupations within such zone or district;
 - (c) the responsible authority—
 - (1) for carrying out or enforcing the observance of the draft Plan or any specified part or provisions thereof;
 - (2) for enforcing the execution of any works which under the draft Plan are to be executed by any public authority, owner or other person;
 - (d) subject to the approval of the Resident with the consent of the Chief Secretary the suspension or modification, so far as is necessary for the proper carrying out or enforcing the observance of any approved Plan or part thereof, of any by-law passed under "The Sanitary Boards Enactment, 1916," or any other rule under any Enactment;

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- (e) any requirements in respect to any matter contained in the schedule;
 - (f) other matters explanatory of the draft Plan, or necessary for the carrying out or enforcing the observance of such Plan when approved under this Enactment;
 - (g) any penalty and the enforcement thereof.
- (iii) Such regulations shall be deemed to be included in and become part of the draft Plan.
- (iv) The draft Plan may consist of one or more plans drawn to such scale and reproduced in such manner as the Government Town Planner finds convenient for the purpose of showing any provision therein.
- (v) Before such draft Plan is prepared the Committee shall by resolution fix the day upon which such preparation shall commence.
- (vi) A copy of such resolution shall be notified by the Committee forthwith.

16. (i) The draft Plan when prepared shall be submitted to the Committee and, when adopted by the Committee, shall be signed by the President. Draft Plan to be adopted by Committee.

- (ii) The Committee shall—
 - (a) cause such adoption to be notified;
 - (b) exhibit such draft Plan, as adopted, for public inspection during reasonable hours at the office of the Committee, or some other suitable place for a period of three months. Notification of adoption and exhibition of draft Plan.

(iii) Notice of such exhibition shall be published during the said period of three months in every ordinary issue of the *Gazette* and in not less than one issue in every week of a local newspaper. Notice shall also be served in the manner prescribed by section 60 upon every owner affected.

(iv) Any person may obtain a copy of the plan upon payment of the prescribed fee.

17. (i) Any person or public authority interested may during the said period of three months send to the President a written objection to anything appearing in the draft Plan. Such objection shall set out precisely— Consideration of objections.

- (a) the nature of and reasons for the objection, and
- (b) if the objection would be removed by an alteration of the draft Plan, any alteration proposed.

(ii) Any such objection received during the said period shall be considered at a meeting of the Committee of which the objector shall have notice, and the objector may attend and be heard in person or by advocate or by duly authorized agent or officer.

(iii) The Committee may thereupon frame amendments of the draft Plan to meet such objection.

18. The Committee shall submit the said draft Plan with or without amendments to the Resident. They shall submit therewith: Draft Plan for approval of the Resident.

- (a) a schedule of the objections (if any) made under the provisions of section 17 and not withdrawn;
- (b) a schedule of the amendments (if any) framed by the Committee to meet such objections.

Approval of
draft plan.

19. (i) The Resident may with the consent of the Chief Secretary approve the draft plan with or without the amendments framed by the Committee under the immediately preceding section notwithstanding the omission to comply with any requirements of this Chapter which, in the opinion of the Resident, does not involve material loss or damage.

Amendment or
rejection of
draft plan.

(ii) The Resident may refuse to approve the draft plan or may require that the same be further amended, provided that in every such case the Resident shall refer the matter back to the Committee with a statement in writing of his reasons for the action that he proposes to take and shall before finally taking such action consider any representations made by the Committee.

Notification of
approval or
rejection.

20. (i) The approval or refusal to approve a draft plan shall be notified.

(ii) The draft plan as approved is referred to in this Chapter as the approved plan.

Approved plan
to be open
for inspection.

(iii) The approved plan shall be open to inspection at the office of the Committee or some other suitable place.

Correction of
errors.

(iv) The Resident may by notification correct any omission from or error in the draft plan.

(v) Any person may obtain a copy of the plan upon payment of the prescribed fee.

Deposit of
copies of
approved plan.

21. (i) Copies of the approved plan certified by the President or Deputy President and countersigned by the Government Town Planner shall be deposited forthwith with the Collector and the Registrar and with the Chairman of Sanitary Board affected thereby.

(ii) The Collector or the Registrar, as the case may be, shall forthwith make an endorsement on the documents of title to the land included in the approved plan and on the issue copies thereof to the effect that the land comprised in the said documents of title is subject to the conditions of the approved plan.

(iii) The Collector or Registrar may by notice in the prescribed form require any owner or other person in possession of the issue copy of a document of title to deliver the same to him for endorsement, and such owner or other person shall be legally bound to deliver the same within one month of the service of such notice.

Effect of
approved plan.

22. An approved plan, when notified under section 20, shall have the same effect as if contained in this Enactment.

Amendment or
revocation of
approved plan.

23. (i) On the application of a public authority or any other person the Resident with the consent of the Chief Secretary may from time to time

(1) after consultation with the Committee amend by notification in the *Gazette* an approved plan in whole or in part after such enquiry as he deems necessary, by

(a) the alteration or omission of any provision or matter therein appearing;

(b) the addition of any provision or matter thereto; or

(2) revoke, in whole or in part, an approved plan by the approval of any subsequent draft plan prepared and submitted by the Committee in accordance with this Chapter.

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(ii) Before any approved plan is amended or revoked in accordance with the preceding sub-section a schedule of the proposed amendments or the subsequent draft plan, as the case may be, shall be exhibited in the manner prescribed in section 16, and objections thereto may be made and shall be considered as prescribed in section 17.

24. In approving the draft plan the Resident may prescribe a period or different periods not exceeding twenty-five years within which the approved plan or any part thereof may be carried out. Period for execution of approved plan.

25. If the Committee or any responsible authority or owner is unable to carry out and execute the projects contained or described in an approved plan within any period prescribed by the Resident, the Resident may, after consulting the Committee, extend the period so prescribed. Extension of period.

26. If, in the carrying out or enforcing the observance of an approved Plan any question or dispute arises whether any building or work or the use of any land or building contravenes any provision of such Plan, or whether any provision of an approved Plan is not complied with in the erection or carrying out of any such building or work or the use of such land or building that question shall be referred to the Resident whose decision shall be final. Reference to Resident in certain cases.

27. (i) Subject to this Enactment, any person, whose land or other property is wholly or partly within the area of an approved Plan and is injuriously affected by the approved Plan shall, if he makes a claim before the Arbitrator within three months after the date of the notification of the approval of such Plan under sub-section (i) of section 20 be entitled to obtain reasonable compensation from the Government of the State or other responsible authority as the Arbitrator may, in each case, determine. Compensation under approved Plan.

(ii) A person shall not be entitled to obtain compensation under this section on account of any contract made, or any work or other thing done with respect to land or buildings included in a draft Plan after the date of the notification of the resolution referred to in section 15. Exclusion of compensation.

Provided that this sub-section shall not apply to any work done for the purpose of executing a written contract made, or finishing a building begun, before the date aforesaid, and that it shall apply only in so far as such building or work has proceeded at the time of the notification of the resolution aforesaid.

(iii) Any question as to the amount or manner of making compensation or the payment (whether by instalments over any specified period or otherwise) of the sum which is to be paid as compensation shall be determined in case of dispute by the Arbitrator in the manner provided in Chapter IV.

28. Land or other property shall not be deemed to be injuriously affected by reason of any provisions contained in an approved Plan which sets apart land or buildings or zones or districts for specified uses, or determines building lines or lays down under section 15 other restrictions or requirements concerning land or buildings or fixes any period within which such Plan is to be carried out. When land not injuriously affected.

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CHAPTER IV.

DETERMINATION OF COMPENSATION.

Chief Secretary
may appoint
Arbitrator.

29. The Chief Secretary may appoint a Judicial Commissioner (with the consent of the Chief Judicial Commissioner) or other competent person (hereinafter called "the Arbitrator") to hear and determine all disputes as to the amount and manner of making or the payment of any compensation payable under Chapter III of this Enactment.

Valuation.

30. In determining any claim for compensation—

- (1) The value of any land in respect of which compensation is claimed or which is given in payment of compensation shall be deemed to be the improved or unimproved value of the land, whichever is the higher, at the date of the notification of the preparation of the General Town Plan under section 15 according to the existing valuation made under "The Land Valuation Enactment, 1922."
- (2) The Arbitrator shall take into consideration the provisions of the law in force with regard to land acquisition and the relative injury or benefit occasioned to any remaining portion of the owner's land by the preparation, approval and carrying out of an approved General Town Plan.

Powers of
Arbitrator.

31. (i) The Arbitrator shall have all the powers of a Court and may enforce the attendance of witnesses and administer oaths and affirmations and compel the production of documents.

Procedure.

(ii) Any matter before the Arbitrator shall be conducted as far as possible in accordance with the procedure of a Court.

(iii) The Committee may appear by an officer appointed in writing on its behalf and any other party to a proceeding may appear in person, or the Committee or party aforesaid may appear by advocate.

Commencement
of proceedings.

32. Proceedings before the Arbitrator shall be commenced by a notice of claim and shall be supported by a statement setting out precisely in accordance with such particulars as may be prescribed, the grounds on which such claim is made. Such notice and statement shall be delivered at the office of the Arbitrator in duplicate and a copy thereof shall be served by the claimant on the President or Deputy President of the Committee. On receipt of any such notice the Arbitrator shall appoint a day and hour for the hearing of the matter and shall serve notice of such appointment on all parties thereto.

Hearing by
Arbitrator.

33. (i) At the time named in such notice the Arbitrator shall proceed to hear and determine the matter and may adjourn the proceedings from time to time as he may think fit.

(ii) In the event of any party not attending at the appointed time the Arbitrator may determine the matter in the absence of such party.

(iii) The Arbitrator may award such lump sum as costs to any party as he deems necessary in all the circumstances.

Award of
Arbitrator to be
final.

34. The award of the Arbitrator as to the amount and manner of making compensation or the payment thereof shall be final and binding on all parties.

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CHAPTER V.

CONTROL OF APPLICATIONS FOR DEVELOPMENT AND BUILDING AND DETERMINATION OF BUILDING LINES.

35. (i) From the commencement of this Enactment

- (a) no person or public authority shall within any Town Planning area erect any building or carry out any work, or remove, pull down, or alter any building, or lay out any land or use any land or building, except in conformity with the provisions of this Chapter or the provisions (if any) of an approved General Town Plan;
- (b) if in the opinion of the Committee any person or public authority contravenes the provisions contained in sub-section (a), the Committee may give notice directing such person or public authority within such time to be therein prescribed to stop any work, remove, pull down, or alter any building, or restore any land laid out or land or building used as aforesaid to its former condition;
- (c) if any person or public authority shall fail to comply with such notice, the Committee (with the consent of the Resident) may enter upon the land in question and execute any works required or permitted by such notice at the expense of the person or public authority against whom the notice was given;
- (d) the expenditure thereby incurred by the Committee shall be recoverable as a debt, and the certificate of the President or the Deputy President stating the amount of any expenditure so incurred shall be conclusive evidence of the amount of such expenditure.

Powers of Committee in case of land or buildings used or erected in contravention of this Enactment.

(ii) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the Committee under the provisions of this section, except in the case of the proviso contained in section 27, sub-section (ii).

Exclusion of compensation.

36. From the commencement of this Enactment no surrender for the purpose of subdivision of the land comprised therein of any grant, lease of State land, certificate of title or extract from the mukim register shall be accepted, the provisions of any other Enactment notwithstanding, unless such surrender be accompanied by a certificate given under the provisions of section 37 or be in conformity with the provisions (if any) of an approved General Town Plan as finally approved.

No surrender to be accepted without the Committee's certificate of approval.

37. (i) From the commencement of this Enactment any person or public authority desiring to—(a) lay-out any land; (b) erect any building or; (c) use any land within the Town Planning area; shall in every case, except where the provisions (if any) of an approved General Town Plan otherwise provide, submit to the Committee a plan in duplicate of—(a) the land as proposed to be laid out; (b) the building proposed to be erected; or (c) the use proposed for any land; together with an application made in the prescribed form and accompanied by such particulars as are hereinafter provided for.

Application for approval of lay-out.

(ii) Within reasonable time not exceeding three months of the receipt of any such plan and application, the Committee shall, subject to such modifications or conditions as it deems necessary, after taking into consideration the matters specified in the schedule or any prescribed requirements in respect thereto, approve or disapprove the proposed plan and particulars, and inform the applicant accordingly.

Approval or disapproval by the Committee.

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Right of appeal
to the Resident.

(iii) In case of any disapproval or any modification or condition made by the Committee the applicant shall, unless the parties agree upon some other method of determination, have the right of appeal within one month of the date of information of the Committee's decision to the Resident who may direct the Committee to approve the proposed plan and particulars or any alternative plan and particulars, subject to such modifications or conditions (if any) as he considers necessary.

(iv) Where the land the subject of any application is comprised within the area of a draft General Town Plan, the preparation of which has been notified under section 15, sub-section (vi), the Committee may require the applicant to await the approval of such General Town Plan, or may at any time with the sanction of the Resident approve such plan and particulars, subject to such terms and conditions as the Committee after consideration of all the circumstances may consider advisable.

(v) Any approval given under this section shall be in the form of a certificate under the hand of the President or Deputy President endorsed on the proposed plan and particulars, a copy of which shall be supplied to the applicant on his application therefor.

Particulars to
be shown on
plan.

(vi) Every plan and particulars approved under this Chapter— shall, to the extent required by the Committee, show distinctly delineated thereon—

- (1) all lots or reserves into which the land is to be sub-divided, marked with distinct numbers or symbols, and the measurements of each lot or reserve;
- (2) all roads reserved, laid out or constructed on such land or abutting thereon and their intersections;
- (3) the positions, terminations, intersections and widths of all new roads proposed to be reserved, laid out or constructed on such land;
- (4) the position or sites of any existing or proposed buildings on such land;
- (5) the building lines laid down and determined by such plan;
- (6) the method of drainage or disposal of surface water proposed for such land and for every such new road, and for any reserve necessary for such purpose; and
- (7) such other particulars as may be prescribed.

Application for
permission to
erect a
building under
"The Sanitary
Boards Enact-
ment, 1916,"
deemed to be an
application
under this
Chapter.

38. (i) Before approving any plan for the erection of any building under the provisions of "The Sanitary Boards Enactment, 1916," or any enacted modification thereof, the Sanitary Board shall refer the said plan to the Committee.

(ii) The Committee shall within one month from the date of the receipt of such plan inform the Sanitary Board whether, in its opinion, after taking into consideration the matters specified in the schedule the erection of the proposed building interferes with the proper lay-out or use of the area in which the land is situated, and where the Committee so decides no further action in respect to such plan shall be taken by the Sanitary Board.

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(iii) The person making the application to the Sanitary Board in respect to the said plan shall be deemed to have submitted a plan and application under section 37 and shall have the right of appeal to the Resident against the decision of the Committee in manner provided by that section.

(iv) Before approving any building plan under this section, the Committee may require the applicant to submit such further plan and particulars as may be necessary to comply with the provisions of section 37.

39. (i) Before approving any plan and particulars under this Chapter, the Committee may—

(a) include such plan or any variation thereof in a lay-out prepared for the purpose of ensuring that the planning and development or the replanning and redistribution of the lands comprised in such lay-out shall conform to the provisions of any draft General Town Plan pending the approval thereof under section 19, and

(b) require that proper provision shall be made by the applicant or any other owners or persons whose lands are included in such lay-out for altering the boundaries of such lands or parts thereof, and for effecting such transfers and adjustment of rights or interests or such exchanges or replanning and redistribution of lands as may be necessary or convenient for the purpose of executing the proposed lay-out.

(ii) The area to be dealt with under such lay-out shall be determined by the Committee which shall serve a notice upon the owner of any land included in such area notifying such owner that the proposed lay-out (accompanied by particulars of the provision to be made and the terms and conditions to be attached to the said lay-out) is on exhibition at the office of the Committee or some other suitable place.

(iii) Within one month after the service of such notice any owner may send to the President a written objection thereto in accordance with the provisions of section 17 having reference to a draft General Town Plan and such objection shall thereafter be dealt with by the Committee in accordance with the provisions of the said section.

(iv) The Committee may, subject to the amendments referred to in section 17, thereupon certify its approval of the proposed lay-out in the manner provided by section 37, sub-section (v).

(v) Where at the time of giving such certificate any objection has not been withdrawn or settled by agreement between the Committee and the person making such objection, the approved lay-out, together with the particulars referred to in sub-section (ii) shall be referred on the application of the Committee or any owner whose land or part is included in such lay-out to the Resident, in accordance with the provisions of sub-section (iii) of section 37.

40. (i) After the expiration of two years from the date of any approval given under this Chapter or such longer period as may be fixed therein, the Committee may by resolution cancel the said approval if the requirements specified in such approval have not been complied with.

(ii) Such resolution shall be notified.

Before approving any plan provision for adjustment of boundaries and exchanges may be required.

Objections.

Lapsing of approval.

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(iii) The Committee may grant an extension or renewal of such approval beyond the period aforesaid.

(iv) Sub-sections (i) and (iii) of this section shall apply to any extension or renewal under this section as if such extension or renewal were an original approval.

Approved plan to be deposited with the Collector and the Registrar.

41. (i) When the Committee has given a certificate of approval of any plan and particulars under this Chapter, copies of such plan and particulars each certified as to the correctness thereof by the President or Deputy President and by the Government Town Planner and by the owner and any chargee interested in the land affected shall be deposited with the Collector and the Registrar, and the Collector or the Registrar, as the case may be, shall forthwith make an endorsement on the documents of title affected by the deposited plan and particulars and on the issue copies thereof to the effect that the land comprised in the said documents of title is subject to the conditions of the deposited plan and particulars.

The Collector or Registrar may by notice in the prescribed form require any owner or other person in possession of the issue copy of a document of title to deliver the same to him for endorsement, and such owner or other person shall be legally bound to deliver the same within one month of the service of such notice.

Dealing contrary to deposited plan not to be registered.

(ii) Notwithstanding anything contained in any other Enactment the Collector or the Registrar, as the case may be, shall not register any dealing which contravenes the provisions of any plan and particulars deposited with him in accordance with sub-section (i).

(iii) If any question arises whether any such dealing does or does not contravene the provisions of the deposited plan and particulars the Collector or the Registrar shall submit the matter to the Resident whose decision shall be final.

Correction of errors.

(iv) The Collector or the Registrar shall have the power to permit the correction of any errors which may have been proved to the satisfaction of the President or Deputy President and the Government Town Planner to have been made in any plan and particulars deposited under this section.

(v) In making such corrections the original plan as deposited aforesaid shall not be altered, but the corrections shall be made by means of a new plan certified to by the President or Deputy President and the Government Town Planner.

(vi) Such new plan shall be deposited and attached to the original plan and shall show the required corrections.

Land for roads and other purposes to be surrendered.

(vii) When any plan and particulars certified as approved have been so deposited, any proposed road, reserve or other open space shown thereon shall thereby be deemed to be land surrendered without compensation or payment to the owner or any other person unless such compensation or payment is provided for in such plan and particulars.

Cancellation of existing and issue of new titles to be effected in accordance with deposited plan.

42. (i) If any land comprised in any plan and particulars deposited as aforesaid requires to be replanned and redistributed, the Collector or the Registrar as the case may be shall cause to be prepared such new grants, leases, or other documents of title as may be necessary in order that the owners affected by the plan and particulars may hold the sites assigned to them respectively under the deposited plan and particulars for the same interest for which they held their original sites immediately prior to the date of publication of the notification under sub-section (ii) hereof.

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(ii) When the said new documents of title are ready for registration the Collector or the Registrar shall by notice in the prescribed form order the persons who are in possession of the documents of title affected by the said deposited plan and particulars to deliver to him such documents of title in order that the same may be cancelled; and such persons shall be legally bound to deliver such documents of title within one month of the service of any notice under this sub-section. The Collector or the Registrar shall at the same time by order under his hand and seal declare that the said new documents of title are ready for registration. Such order shall be notified.

(iii) As from the date of publication of the notification referred to in the last preceding sub-section the land comprised in the existing documents of title in lieu whereof such new documents of title are to be issued shall be deemed to be State land, and all right title and interest in respect thereof which were theretofore vested in any person shall be extinguished without the payment of any compensation therefor, subject to the provisions of the deposited plan and particulars, and the Collector or the Registrar shall forthwith proceed to cancel the said existing documents of title and to make such entries in the books of his office as may be necessary to give effect to the provisions of this sub-section.

(iv) As soon as may be after the cancellation of the existing documents of title under the provisions of the last preceding sub-section the Collector or the Registrar shall proceed to register the new documents of title which have been prepared in accordance with the provisions of sub-section (i) of this section. Such new documents of title shall be subject to the same conditions of rent and revision of rent and tenure as the documents of title which they replace and which have been cancelled as aforesaid subject only to such variations as are in accordance with the deposited plan and particulars.

43. (i) Every new document of title issued to any person in pursuance of the said plan and particulars and of the last preceding section shall, except in so far as the plan and particulars may provide to the contrary, be subject to the same charges or other encumbrances, trusts and restrictions, if any, whereto the document of title in lieu whereof such new document of title has been issued to such person was subject immediately prior to the date of the notification under sub-section (ii) of the last preceding section, and so that chargees and other encumbrancers or persons (other than the owners) who were immediately prior to the date of such notification interested in land which is redistributed under the said plan and particulars shall, except as aforesaid, have, as nearly as may be, the same remedies and rights against and in the land held by any person under a new document of title issued in pursuance of the said plan and particulars and of the last preceding section as they severally held against and in the land held by such person under the document of title in lieu of which such new document of title has been issued.

Encumbrances.

(ii) The Collector or the Registrar as the case may be, for the district in which the area comprised in the deposited plan and particulars is situated shall perform all such acts and make such entries in the books of his office as may be necessary to give effect to the provisions of this section.

Duties of the
Collector or the
Registrar.

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Power to remit fees.

(iii) The Resident may, in the case of any act of registration or record required to be performed under the provisions of this or of the last preceding section, remit at his discretion any fee prescribed to be paid therefor.

Penalty.

44. Any person who shall dishonestly and fraudulently use any document of title to land after the right, title and interest purporting to be evidenced by such document has been extinguished by the operation of section 42 shall be deemed to have committed or to have attempted to commit the offence defined in section 415 of the Penal Code.

Widths of roads and lanes.

45. (i) Notwithstanding the provisions of any Enactment and subject to the provisions of an approved General Town Plan the Committee may with the consent of the Resident require that—

- (a) the width of every main road shall not be less than sixty-six or more than one hundred and fifty feet ;
- (b) the width of every secondary road shall not be less than fifty or more than sixty-six feet ;
- (c) the width of every residential road shall not be less than twenty nor more than fifty feet ;
- (d) the width of every pathway shall not be less than ten or more than twenty feet ;
- (e) the width of every lane shall not be less than fourteen or more than twenty feet.

Provided that, pending the notification of the said General Town Plan if the Committee require any main road to be of a greater width than one hundred feet, then, in the absence of any agreement between the Committee and the owner of the land abutting on such road, the additional land shall be acquired in accordance with the provisions of the law in force for the acquisition of land.

Variation of widths of roads.

(ii) The Committee may, subject to the consent of the Resident, permit any new secondary or residential road to be of a width less than that required under this section where the owner surrenders land required for widening any road or other public purpose.

Treatment of corners.

(iii) At any junction or intersection of any road made by a lay-out of any land under this Enactment, the owner of such land shall make any necessary provision for the planning or treatment of the corners formed by such junction or intersection to the satisfaction of the Committee in such manner as will in its opinion facilitate public convenience and the safety of traffic.

Building lines.

46. (i) Pending the preparation and approval of a draft General Town Plan the Committee, may, with the consent of Resident, lay down and determine building lines for the purpose of regulating the distance between any buildings to be erected or reconstructed or buildings likely to be erected or reconstructed on opposite sides of any road or reserve.

(ii) Any building lines proposed to be laid down and determined in respect to any existing road within a Sanitary Board area shall be shown distinctly on a plan and particulars signed by the President who shall forward the same to the Sanitary Board.

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(iii) Within one month from the date of the receipt thereof the Sanitary Board shall return to the Committee the said plan and particulars together with such recommendations, if any, as it considers necessary. Where the plan and particulars are not returned within the period aforesaid by the Sanitary Board their approval thereof may be deemed to have been given.

(iv) The Committee may upon consideration of the said recommendations, if any, adopt the plan and particulars with or without modifications, and shall thereupon submit the same to the Resident. The Committee shall at the same time refer any dispute between the Sanitary Board and the Committee to the Resident for determination.

(v) The Resident may before notifying his approval of the said plan and particulars, which approval may be subject to such modifications or conditions, if any, as he considers necessary, require the adopted plan to be exhibited for public inspection during reasonable hours at the office of the Committee or some other suitable place, and require a notice to be served upon every owner interested informing him that his land or part thereof is traversed by such building lines.

(vi) Within one month from the receipt of such notice any owner may send to the Resident a written notice of objection to such building line. All such objections shall be determined by the Resident whose decision shall be final.

Objections to
building lines.

(vii) From and after the date of the Resident's approval of the plan and particulars all land contained between the alignment of the road and the building line shall be deemed to be land which cannot be built upon, and thereafter any existing building or work or portion of a building or work on or in such land shall not be reconstructed replaced or repaired, and no improvement excavation, obstruction or new building or work other than a boundary wall, fence and the like, as may be determined by the Committee shall be made, placed or erected on or in such land; provided that the Committee may in their discretion approve the execution of minor alterations or repairs in order to permit of the reasonable preservation of any existing building or work but not so as to contravene the intention of this section.

(viii) All land contained within the alignment of the road and the building line laid down and determined under this section shall not form part of any public road and such road shall not be widened or reconstructed until the land has been acquired or surrendered.

(ix) Pursuant to such widening the Committee or other responsible authority shall, subject to any appeal determined by the Resident, reconstruct in fair and reasonable manner any building or part thereof or any wall, fence or other erection or work necessitated by such widening in accordance with the said determination.

Widening of
roads—
reconstruction
of buildings.

(x) The owner of any land proposed to be acquired under this section shall have the right of appeal to the Resident against any work or reconstruction proposed in connection therewith and such appeal shall be determined by the Resident in the manner hereinbefore provided.

Appeal.

(xi) Any person who erects any building or obstruction on the land contained between the alignment of the road and the building line, or by any act or proceeding contravenes the provisions of this section shall be guilty of an offence against this Enactment.

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CHAPTER VI.

PENALTIES.

Jurisdiction. 47. All prosecutions under this Enactment may be had before the Court of a Magistrate of the First Class, and such Court shall have power to impose any penalty provided by this Enactment.

Contravention of Enactment. 48. Any person who—

- (a) lays out land, erects any building or uses any land or building in contravention of the provisions of this Enactment,
- (b) makes any deviation from an approved General Town Plan or other approved plan and particulars deposited under this Enactment with the Collector or Registrar or any other plan and particulars approved thereunder,
- (c) makes any false declaration in connection with any plan and particulars referred to in Chapter V,

shall be punishable with a fine which may extend to two thousand dollars.

Failure to comply with notices. 49. Any person who fails to comply with a notice served under section 35 or 42 shall be punishable with a fine which may extend to one hundred dollars, and in case of continuing failure with a fine which may extend to fifty dollars for each day after the first day during which such failure continues.

Obstructing servants of the Committee or other responsible authority. 50. Any person who obstructs or molests any person in the performance by such person of anything which he is empowered or required to perform by virtue of any of the provisions of this Enactment shall be punishable with a fine which may extend to one hundred dollars or with imprisonment for a term which may extend to one month.

CHAPTER VII.

MISCELLANEOUS.

Committee may open, close, alter, or dispose of any road or reserve. 51. For the purpose of carrying out any General Town Plan or other plan and particulars approved under this Enactment the Committee or other responsible authority may with the consent of the Resident in accordance with the provisions of such General Town Plan or other plan and particulars open, close, alter or dispose of any road, and shall wherever practicable provide such other means of communication as may be reasonably necessary. No compensation shall be payable in respect of any land or property alleged to be injuriously affected by such closure or alteration if such other means of communication have been provided.

Public purpose. 52. For the purposes of this Enactment the Resident may by notification declare any reservation, or acquisition of land for any purpose stated in such notification to be a reservation, or acquisition for a public purpose and such declaration shall be conclusive evidence that the land is reserved or acquired for a public purpose.

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53. The President may with the approval of the Resident (a) institute, defend, or withdraw from any legal proceedings brought under the provisions of this Enactment; (b) compound any offence against this Enactment; (c) compromise any claim made under any provision of this Enactment; (d) obtain such legal advice and assistance as he may require in reference to any matter arising out of the exercise by the Committee of the powers vested in them under this Enactment.

Powers of President in relation to legal proceedings.

54. No matter or thing done by the Committee or other responsible authority and no matter or thing done by any member or by any officer of the Committee or responsible authority or other person acting under the direction of the Committee or responsible authority shall, if the matter or thing was done, *bona fide* for the purpose of carrying out the provisions of this Enactment subject them or any of them personally to any action, liability, claim or damage whatsoever.

Relief of Committee's servants against personal liability.

55. Whenever under the provisions of this Enactment the power or right to do any act or the validity of any act depends upon the approval or consent of (a) the Committee or the President; (b) any officer or servant of the Committee, a written document signed in case (a) by the President, and in case (b) by such officer or servant purporting to express such approval or consent shall be sufficient evidence of such approval or consent.

Evidence.

56. No act done or proceeding taken under this Enactment shall be invalidated on the ground merely of (a) the existence of any vacancy in or any defect in the constitution of the Committee; (b) the omission to serve any notice required by the provisions of this Enactment, provided that no substantial injustice has resulted from such omission; (c) any omission, defect or irregularity not substantially affecting the merits of the case.

Validation.

57. Every meeting of the Committee, a record of the proceedings of which has been kept in accordance with the rules, shall be taken to have been duly convened and to be free from all defect of irregularity.

Presumption of regularity.

58. (i) Every person appointed under sections 4 and 7 or co-opted under section 6 of this Enactment and every person employed under this Enactment shall maintain and aid in maintaining the secrecy of all matters which come to his knowledge in the performance of his functions or duties, and shall not communicate, divulge or aid in divulging any such matter to any other person except for the purpose of carrying into effect the provisions of this Enactment.

Penalty.

(ii) Any person offending against this section shall be liable on conviction to a fine not exceeding five hundred dollars, or to imprisonment not exceeding six months or to both such imprisonment and fine.

59. Where under this Enactment any act may be done, or any application, objection or claim made, or any agreement entered into, by any owner or other person, such act may be done, or application, objection or claim made, or agreement entered into, on behalf of such owner or other person, by his duly constituted attorney, provided that such attorney is duly authorized thereunto by the terms of his Power of Attorney.

Attorneys.

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Notices.

60. (i) Every notice served or given under this Enactment shall be signed by the President or Deputy President.

(ii) Any such notice may be served—

- (a) by leaving the same at the last named place of abode of the person to be served; or
- (b) by giving or tendering the same to some adult (male) member or servant of his family; or
- (c) by forwarding the same by post in a registered letter addressed to such person at his last named place of abode or last named place of business; or
- (d) by posting the same on the land affected by such notice.

(iii) A notice served by post shall be deemed to be served at the time when the letter containing the same would be delivered in the ordinary course of the post.

Service on owner or occupier.

61. Any notice required or authorized by this Enactment to be served on the owner or occupier of any premises shall be deemed to be properly addressed, if addressed to such person by the description of the owner or the occupier of such premises without further name or description.

Power of entry.

62. The Government Town Planner or the President or Deputy President or any officer or servant of the Government Town Planner or the Committee thereunto generally authorized by the Government Town Planner or the President or Deputy President may by himself or his servants, workmen or contractors enter at all reasonable hours in the daytime into or upon any land for the purpose of making any survey or inspection, taking levels, digging or boring into the sub-soil or executing any work authorized by this Enactment, provided that no dwelling-house or premises in occupation shall be so entered save with the consent of the occupier thereof, unless twenty-four hours' previous notice in writing shall have been given to such occupier.

Provisions as to actions.

63. (i) No action shall be brought against any person for anything done or *bona fide* intended to be done in the exercise or supposed exercise of the powers given by this Enactment or by any rules made thereunder:

- (a) without giving to such person one month's previous notice in writing of the intended suit, and of the cause thereof;
- (b) after the expiration of three months from the date of the cause of action;
- (c) after tender of sufficient amends.

(ii) In every action so brought it shall be expressly alleged that the defendant acted either maliciously or negligently and without reasonable or probable cause, and if, at the hearing of the suit, the plaintiff shall fail to prove such allegation judgment shall be given for the defendant.

(iii) Though judgment shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Court shall certify its approbation of the suit.

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64. (i) The Chief Secretary may make rules for carrying out ^{Rules.} the purposes of this Enactment and in particular—

- (a) for the holding of meetings of the Committee and for the procedure to be followed there at;
- (b) for the co-option of any person or persons by the Committee under section 6;
- (c) for the guidance of persons employed by the Committee under this Enactment;
- (d) for the charging and collection of fees for any work or other duty performed by the Town Planner or the Committee under this Enactment;
- (e) for the procedure to be observed by any person or public authority applying for approval of any plan under section 37;
- (f) for the details to be shown on such plan, or the details to be furnished in any particulars or any application under section 37;
- (g) for determining any requirements in respect of any of the matters contained in the schedule;
- (h) for the payment of fees and expenses of the Arbitrator;
- (i) for any matter which under this Enactment is required or permitted to be prescribed, or which is necessary or convenient to be prescribed for giving effect to this Enactment.

(ii) All such rules shall be published in the *Gazette* and shall thereupon have the force of law.

(iii) All such rules shall be laid before the Federal Council at the first meeting after such publication, and may be amended or disallowed by resolution of the Federal Council.

(iv) Any rule so amended shall come into force as amended from the date of such resolution, and any rule disallowed shall cease to have force or effect from the date of such resolution.

THE SCHEDULE.

Matters to be taken into consideration under section 15, section 37, sub-section (ii), and section 38, sub-section (ii):

(1) Roads including—

- (a) the conservation, alignment, re-alignment, construction, reconstruction, grading, regrading, surrender, and vesting of roads;
- (b) the opening, closing, widening, diversion, or alteration of roads and any exchange or other dealing therein;
- (c) the positions, directions, terminations, extensions, lengths, junctions, intersections, widths and levels of roads;
- (d) the character or use of roads including the placing of pipes, wires, conduits, rails or other objects thereon;

- (e) drainage, inclusive of sewerage and sewage disposal, and of surface drainage, and any proposed provision for the disposal of any sewage or surface waters from or passing through the district in which such roads are situated;
 - (f) reservation of land for main roads which it is desired to keep free of buildings or obstructions.
- (2) Building lines including—
- (a) provision for laying down, determining, or ascertaining such building lines;
 - (b) any requirements necessary for the conservation, use or acquisition of any land or part thereof contained between the alignments of the road and such building lines;
 - (c) the demolition or clearance of any buildings or obstructions on or in the land contained between the alignment of the road and the building line.
- (3) Any lay-out or use of land including—
- (a) proposed reclamations, fillings, excavations, drainage, or other requirements for securing the conservation, improvement, or development of such land for building or other purposes;
 - (b) the size, shape, and area of any lot;
 - (c) the situation, planning, drainage and levels of each separate lot in relation to sanitation, public health or amenity;
 - (d) the means of access to such lot;
 - (e) the proportion of such land proposed to be surrendered for a reserve or other public purpose;
 - (f) any crossings over railways or railway stations and approaches thereto.
- (4) The erection of any buildings including—
- (a) the class, position, number, use, height and levels of such buildings;
 - (b) the area of the building lot or parcel and the proportion thereof that shall not be built upon;
 - (c) the architectural features or the grouping of such buildings;
 - (d) the distances to be maintained between such buildings;
 - (e) the demolition, removal or external reconstruction or alteration of buildings.

Passed this 11th day of July, 1923.

G. W. BRYANT,
Clerk of Council.