

# *The Local Improvements Act, 1993*

*being*

Chapter L-33.1 of the *Statutes of Saskatchewan, 1993* (effective January 1, 1994) as amended by the *Statutes of Saskatchewan, 1996, c.32; 2000, c.55; 2002, c.C-11.1; 2003, c.41; 2005, M-36.1; 2008, c.33; 2010, c.N-5.2; 2015, c.21; and 2016, c.28.*

**\*NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

## **NOTE:**

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

# Table of Contents

	SHORT TITLE AND INTERPRETATION		RIGHT OF APPEAL
1	Short title	33	Appeal to board of revision
2	Interpretation	34	Jurisdiction and powers of board of revision
	LOCAL IMPROVEMENTS	35	Same
3	Works and services that may be undertaken	36	Correction of special assessment roll
	PROCEDURE FOR UNDERTAKING A LOCAL IMPROVEMENT	37	Corrections of errors
4	Continuous or interlocking works		PAYMENT OF SPECIAL ASSESSMENTS
5	Initiation of local improvement	38	Prepayment of special assessments
6	Report respecting local improvement	39	Variation of payment of special assessments
7	Prior approval of Saskatchewan Municipal Board		FURTHER APPEAL
8	Application for approval of Saskatchewan Municipal Board	40	Appeal to the Saskatchewan Municipal Board
9	Petition for local improvement	41	Stated case to Court of Appeal
10	Notice of intention to undertake local improvement		BORROWING POWERS
11	Bylaw for local improvement	42	Borrowing by councils, issue of debentures
12	Saskatchewan Municipal Board may override council	43	Consolidation of debts, change of interest rates
13	Water or sewer work	44	Alternate procedure for meeting costs of local improvements
	PETITIONS WITH RESPECT TO LOCAL IMPROVEMENTS	45	Rates for payments of debentures
14	Filing and validity of petitions	46	Validity of certain bylaws
	NOTICE OF BYLAW	47	Binding effect of debentures, obligations and liabilities
15	Form and contents of notice of bylaw	48	Amending bylaw or new bylaw
	DETERMINATION OF SPECIAL ASSESSMENT		SPECIAL CASES – WATER AND SEWER
16	Determination of cost of local improvement	49	Requirement to connect to certain works
17	Lifetime of work to be specified	50	Sewer and water connections, bylaws for borrowing and paying of costs
18	Special assessment against benefited lands	51	Council may connect sewer and water to land not subject to special assessment
19	Bases of determining special assessment		MISCELLANEOUS
20	Uniform rates for cost of local improvements	52	Special assessments not an encumbrance on land
21	Assumption by council of part of cost of local improvement	53	Special assessment on land not affected by change of ownership
	DETERMINATION OF SPECIAL ASSESSMENT IN SPECIAL CASES	54	Application of Act to certain bylaws and works
22	Apportionment of rate where subdivision changed or lot divided	55	Maintenance and repair to be undertaken and paid by municipality
23	Assessment re sidewalks and curbs	56	Unpaid amounts, added to taxes
24	Exemption of corner lots from costs	57	Succeeding councils may continue
25	Adjustment of assessment of irregularly shaped lots	58	Approval of forms by Saskatchewan Municipal Board
26	Agreements for reduction of assessments on agricultural land, railway right-of-way or station grounds		GENERAL AND TRANSITIONAL
27	Reduction of assessments on lot which is unfit for building purposes	59	Regulations by Lieutenant Governor in Council
28	Regulations for adjustments, etc. of special assessments	60	Regulations of minister
29	Agreements with other municipalities, etc. respecting local improvements	61	Offence and penalty
30	Exemption from taxation	62	Continuation of rights of appeal, approvals, etc.
	SPECIAL ASSESSMENT BYLAW		REFERENCES AND CONSEQUENTIAL CHANGES
31	Assessment of amounts	63	References
	SPECIAL ASSESSMENT ROLL, NOTICES AND APPEALS	64	S.S. 1988-89, c.M-23.2 amended
32	Preparation of special assessment roll	65	S.S. 1983, c.N-5.1 amended
		66	S.S. 1989-90, c.R-26.1 amended
		67	R.S.S. 1978, c.S-46.1, section 2 amended
		68	S.S. 1983-84, c.U-11 amended
		69	R.S.S. 1978, c.W-4, section 33 amended
			REPEAL AND COMING INTO FORCE
		70	R.S.S. 1978, c.L-33 repealed
		71	Coming into force

## CHAPTER L-33.1

### An Act respecting Local Improvements in Municipalities and to Effect Certain Consequential Changes

#### SHORT TITLE AND INTERPRETATION

##### Short title

1 This Act may be cited as *The Local Improvements Act, 1993*.

##### Interpretation

2(1) In this Act:

- (a) **“abut”**, when used with respect to land, means to border on a local improvement;
- (b) **“assessor”** means the person appointed as assessor by the council of a municipality;
- (c) **“benefited”** means the special or direct benefit:
  - (i) that accrues to land by reason of a local improvement, whether or not the land abuts the local improvement; and
  - (ii) that is different from or greater than that generally received by land owners in the municipality;
- (d) **“board”** means the Saskatchewan Municipal Board;
- (e) **“clerk”** means the clerk or administrator of the municipality and includes an employee or person authorized or required to perform any duty that under this Act is to be or may be performed by the clerk;
- (f) **“constructing”** and **“construction”** include reconstructing and reconstruction, wholly or in part;
- (g) **“corner lot”** means a lot situated at a junction or intersection of two streets;
- (h) **“council”** means the council of a municipality;
- (i) **“curbing”** includes a curbing of any material in or along a street, whether constructed in connection with or apart from the laying down of a pavement or sidewalk, or with or without a projection for the purpose of a gutter;
- (j) **“engineer”** includes an employee or person authorized or required by the council to perform any duty that under this Act is to be or may be performed by an engineer;

- (k) **“flank”** means the longer side of a lot, including an irregularly-shaped lot, except:
- (i) where all sides of the lot are equal in length, in which case it means the side designated by the assessor as the flank; or
  - (ii) where the longer side abuts on a local improvement or is designated as frontage by the assessor;
- (l) **“frontage”**:
- (i) when used with reference to a lot abutting on a local improvement, means the side or limit of the lot that abuts on the local improvement;
  - (ii) when used with reference to a lot not abutting on a local improvement, means any side or limit designated by the assessor as frontage; and
  - (iii) when used with reference to a lot abutting local improvements on more than one side, means that side or limit designated by the assessor as frontage;
- (m) **“irregularly-shaped lot”** means a lot that is not rectangular;
- (n) **“land”** or **“lot”** means a subdivision of land that under *The Cities Act*, *The Municipalities Act* or *The Northern Municipalities Act, 2010* is required to be assessed, including a parcel of land, and excludes any improvements;
- (o) **“lifetime”**, as applied to a work, means:
- (i) the physical or functional lifetime of the work as estimated by the engineer; or
  - (ii) the physical or functional lifetime of the work as determined pursuant to subsection 17(2);
- (p) **“local improvement”** means a work or service, which may continue beyond a single year, to be carried out under the provisions of this Act and intended to be paid for wholly or in part by a special charge against the benefited land;
- (q) **“most recent assessment roll”** means the assessment roll for the municipality most recently confirmed by the Saskatchewan Assessment Management Agency pursuant to *The Assessment Management Agency Act*;
- (r) **Repealed.** 2010, c.N-5.2, s.457.
- (s) **“municipality’s share of the cost”** means the part of the cost of a local improvement that is not to be specially charged against land benefited by the local improvement but is payable by the municipality;
- (t) **“owner”** means the person as shown on the most recent assessment roll of the municipality to be the owner of the land;
- (u) **“owners’ share of the cost”** means that portion of the cost of a local improvement that is to be specially charged to land benefited by the local improvement;

- (v) “**pavement**” and “**paving**” includes any type of pavement and its laying down or construction;
- (w) “**sewer**” includes a common sewer, drain, sanitary sewage system, storm sewer system and two or more sewers connected as a system of sewers;
- (x) “**sidewalk**” includes a footway and a street crossing;
- (y) “**specially assessed**” means specially charged with part or all of the cost of a local improvement;
- (z) “**street**” means a public highway as defined in *The Highways and Transportation Act*;
- (aa) “**value**” means the assessed value of land according to the most recent assessment roll of the municipality;
- (bb) “**work**” means a physical:
  - (i) work;
  - (ii) improvement; or
  - (iii) project;

that may be undertaken as a local improvement pursuant to this Act.

1993, c.L-33.1, s.2; 2002, c.C-11.1, s.391; 2003, c.41, s.43; 2005, c.M-36.1, s. 436; 2010, c.N-5.2, s.449 and s.457.

## LOCAL IMPROVEMENTS

### Works and services that may be undertaken

**3** A work or service or any combination of works or services, by bylaw, may be undertaken by a municipality as a local improvement where any land specially assessed for the work or service is benefited by it, and without limiting the foregoing, works and services of the following descriptions may be undertaken as local improvements:

- (a) opening, widening, straightening, diverting, extending, grading, levelling, oiling or paving a street or lane, or constructing, installing or building a bridge, culvert, dike or embankment forming part of a street;
- (b) constructing any sidewalk or street crossing, including any overhead or underground sidewalk or street crossing, and any curbing;
- (c) acquiring, designing, erecting, constructing and maintaining street malls, plazas and related improvements and amenities;
- (d) constructing or erecting on a street, lane, easement or other public place, or on any part of it, fixtures, poles, standards, wires, pipes, underground or other conduits, and any other necessary work for its lighting or for the supply of electrical power, to the extent to which the cost exceeds the cost of the improvements that would otherwise be provided at the expense of the municipality;

- (e) purchasing, leasing or otherwise acquiring land and erecting or constructing and maintaining facilities for the purpose of providing and maintaining off-street parking for vehicles;
- (f) constructing, deepening, enlarging or extending a sanitary sewage system or storm sewer system;
- (g) acquiring, constructing, deepening, enlarging or extending a water main;
- (h) making sewer or water service connections from the main to the street line or to a building situated on land abutting a main where such connections are made pursuant to section 49;
- (i) providing additional capacity to certain buildings that impose a heavy load on a sewer or water system;
- (j) constructing a conduit and installing wires or pipes along, over or under a street or easement;
- (k) constructing a railway spur track system and extensions to it;
- (l) construction or expansion of landscaping, parks or other recreational facilities;
- (m) construction of noise attenuation barriers of any type;
- (n) acquisition of any land or other property necessary for the construction or carrying out of a local improvement;
- (o) subject to *The Cities Act, The Municipalities Act* and *The Northern Municipalities Act, 2010*, repairing and maintaining any work constructed as a local improvement after the expiration of its lifetime;
- (p) subject to subsection 21(2), the reconstruction or replacement of any work, notwithstanding that the lifetime of the existing work may not have expired;
- (q) any other work or service that the board, on application of the municipality:
  - (i) determines will benefit the land to be specially assessed for it; and
  - (ii) authorizes the municipality to carry out as a local improvement.

1993, c.L-33.1, s.3; 2002, c.C-11.1, s.391; 2005, c.M-36.1, s.436; 2010, c.N-5.2, s.449.

## PROCEDURE FOR UNDERTAKING A LOCAL IMPROVEMENT

### **Continuous or interlocking works**

4(1) The council, by resolution, may declare that works or services that are continuous or interlocking in their construction or carrying out in any designated part or parts of a municipality are a single local improvement.

(2) For the purpose of subsection (1), a work consisting of sidewalks, curbs or gutters shall be deemed to be continuous and interlocking, notwithstanding that the continuity of it is broken by streets.

1993, c.L-33.1, s.4.

**Initiation of local improvement**

**5(1)** Subject to sections 6 and 7, the council may pass a bylaw for undertaking a local improvement:

- (a) on receipt of a petition to the council requesting it;
- (b) on the initiative of the council;
- (c) on the initiative of the council pursuant to section 11 or 13.

**(2)** Instead of passing separate bylaws for each work or service, the council may pass one bylaw with respect to several works and services.

1993, c.L-33.1, s.5.

**Report respecting local improvement**

**6** Before passing a bylaw for undertaking a local improvement, the council shall cause a report to be prepared which shall include the following information with respect to the proposed local improvement:

- (a) the nature and location of the local improvement;
- (b) the estimated cost of the local improvement;
- (c) the lands which will be benefited and against which the cost of the proposed local improvement will be charged;
- (d) the municipality's share of the cost and how it will be financed;
- (e) the owners' share of the cost and the basis for the special assessment to be applied to raise the owners' share;
- (f) the lifetime of a work;
- (g) the rate or rates of special assessment, the proposed payment plan, and, if applicable, the number of annual or other instalments to be imposed against the lands subject to special assessment;
- (h) if more than one rate of special assessment is to be applied, an explanation of the differences in benefits received by respective benefited lands; and
- (i) where the council proposes to proceed under section 11 or 13, the reason for it.

1993, c.L-33.1, s.6.

**Prior approval of Saskatchewan Municipal Board**

**7** No:

- (a) notice of intention to undertake a local improvement shall be given; and
- (b) bylaw for undertaking a local improvement shall be passed;

without the prior approval of the proposed local improvement by the board.

1993, c.L-33.1, s.7.

**Application for approval of Saskatchewan Municipal Board**

8(1) The council may apply to the board for approval to undertake the local improvement to which the report prepared pursuant to section 6 relates and shall submit with its application:

- (a) the report adopted in whole or in part, or as amended, by resolution of the council;
  - (b) any other documentation that may be required by the board; and
  - (c) copies of any other approvals that may be required by any other Act or law for the local improvement.
- (2) In reviewing the application, the board in its discretion may:
- (a) confirm the eligibility of the work or service as a local improvement, with reference to whether land to be specially assessed is benefited; and
  - (b) approve the financial arrangements for undertaking it, including making any requirement to obtain agreement of some or all of the owners of benefited land to prepayment of a portion of the estimated cost of the proposed local improvement; or
  - (c) refuse to approve it.

1993, c.L-33.1, s.8.

**Petition for local improvement**

9(1) A petition mentioned in clause 5(1)(a) is not valid unless it is signed by a majority in number of the owners of the lands liable to be specially assessed with respect to the work or service being petitioned for.

(2) Where the council has received a petition under clause 5(1)(a), the council is not bound to act as requested in the petition.

(3) Where a petition, signed by the owners of all lands liable to be specially assessed with respect to the work or service, has been received under clause 5(1)(a) the council, notwithstanding any other provision in this Act, but subject to the prior approval of the board, may pass the bylaw and after passing the bylaw, subject to subsection (4), undertake the proposed work or service as a local improvement without any advertisement or notice to any person that is required by this Act.

(4) In the case of a proposed local improvement to which section 26 applies, the council shall give notice of its intention as required by section 15.

1993, c.L-33.1, s.9; 2010, c.N-5.2, s.457.

**Notice of intention to undertake local improvement**

10(1) Where pursuant to clause 5(1)(b) the council proposes on its own initiative to pass a bylaw for undertaking a work or service as a local improvement, the council shall give notice of its intention as required by section 15.

(2) Subject to subsection (3), the council shall not proceed to pass the bylaw for undertaking the local improvement or undertake the local improvement until after the expiry of the period of 21 days mentioned in that subsection.

(3) Subject to sections 11 and 13, where within 21 days after the last publication of the notice mentioned in subsection (1) a majority in number of the owners, representing at least one-half of the amount of the special assessment pursuant to section 19 with respect to the work or service, present to the council a petition against the proposed local improvement, the council:

- (a) shall not pass the bylaw; and
- (b) shall not proceed pursuant to clause 5(1)(b) with respect to the same or similar work or services for the same area within a period of 12 months from the date on which the petition was certified by the assessor as valid.

(4) When a notice mentioned in subsection (1) has been given and no valid petition has been presented to the council within the time mentioned in subsection (3), the council may:

- (a) pass the bylaw; and
- (b) after passing the bylaw, undertake the proposed work or service as a local improvement at any time within two years after the date of the last publication of the notice of intention.

(5) Nothing in this section shall prevent the council from exercising the powers conferred by section 49.

1993, c.L-33.1, s.10; 2010, c.N-5.2, s.457.

**Bylaw for local improvement**

**11** Notwithstanding anything in this or any other Act but subject to section 12, where pursuant to clause 5(1)(c) the council has:

- (a) determined by a majority vote of the council that it is desirable and in the interest of the part of the municipality concerned that a work or service should be undertaken as a local improvement; and
- (b) caused notice to be given as prescribed by section 15;

the council may take all proper and necessary proceedings for passing the bylaw and, after passing the bylaw, undertaking the work or service as a local improvement, and the owners do not have the right by petition to prevent the council from undertaking the work or service as a local improvement.

1993, c.L-33.1, s.11.

**Saskatchewan Municipal Board may override council**

**12(1)** The board shall conduct a hearing into any proposed local improvement to be carried out pursuant to section 11.

(2) On conducting the hearing, the board may:

- (a) overrule the decision of the council with respect to the proposed local improvement; or

(b) approve the decision of the council with respect to the proposed local improvement and attach any conditions to the approval that the board considers appropriate in the circumstances;

and the decision of the board is final and binding on the council.

(3) The procedure for a hearing pursuant to this section is that provided in *The Municipal Board Act*.

1993, c.L-33.1, s.12.

**Water or sewer work**

**13** Where a water or sewer work:

- (a) is required pursuant to any other Act; and
- (b) is eligible to be undertaken as a local improvement under this Act;

the work may be carried out as a local improvement pursuant to sections 11 and 12.

1993, c.L-33.1, s.13.

**PETITIONS WITH RESPECT TO LOCAL IMPROVEMENTS**

**Filing and validity of petitions**

**14(1)** A petition for or against a proposed local improvement shall be deemed to be presented to the council when it is filed with the clerk.

(2) The validity of a petition shall be certified by the assessor, and the assessor's determination, to be made within 21 days of filing of the petition with the clerk, shall be final and conclusive notwithstanding any changes that may be made later by the board of revision or by the board in the lands to be specially assessed with respect to the local improvement described in the petition.

(2.1) Where two or more petitions for or against a local improvement have been received within the time limit mentioned in subsection 15(4):

- (a) the assessor shall consider all the petitions respecting the local improvement together when certifying the validity of each petition; and
- (b) the assessor's decisions with regard to all of the petitions respecting the local improvement are to be made within 21 days of the filing of the most recently filed petition.

(3) For the purpose of determining the validity of a petition:

- (a) a person shall be considered as one owner notwithstanding that the person owns more than one lot liable to be specially assessed with respect to the local improvement;
- (b) where a person whose land would not be specially assessed petitions for or against the undertaking of a local improvement, the assessor shall exclude the name of that person and the assessed value of that person's land;
- (c) where more than one work or service has been included in a notice of intention, the petition of an owner in favour of or against undertaking any work or service referred to in the notice shall be deemed to apply only to the particular one affecting the lands of the person;

- (d) there shall be set opposite every signature to the petition a description of the lands of the petitioner liable to be specially assessed with sufficient detail to enable the assessor to identify the lands;
  - (e) in determining the assessed value of the lands liable to be specially assessed with respect to the local improvement described in the petition, the assessor shall accept the valuations of the lands as shown on the most recent assessment roll, but where any land so liable is assessed jointly with other lands not so liable or has been omitted in error from the assessment roll, the assessor shall fix the assessed value of the lands so liable, and the assessed value as so fixed shall be final and conclusive;
  - (f) a person who has signed the petition but does not appear from the most recent assessment roll to be the owner of the lands with respect to which he or she has signed the petition shall nevertheless be deemed to be the owner of the lands for the purpose of the petition if his or her ownership is proved to the satisfaction of the assessor; and
  - (g) where two or more persons are jointly assessed with respect to any land described in the petition, they shall be counted as one owner only, and their signatures shall be disregarded by the assessor unless the assessor is satisfied that:
    - (i) a majority of them have individually signed the petition; or
    - (ii) the signature is on behalf of the owners based on a written statement signed by all the owners and filed with the assessor.
- (4) No person shall have the right to withdraw his or her name from, and no name shall be added to, the petition after it has been filed with the clerk.

1993, c.L-33.1, s.14; 1996, c.32, s.11.

## NOTICE OF BYLAW

### **Form and contents of notice of bylaw**

- 15(1)** Where the council intends to pass a bylaw mentioned in section 5, the council shall first cause notice of the proposed local improvement substantially in compliance with the form or forms prescribed by the minister to be:
- (a) published once each week for two successive weeks at least six days apart, in at least one newspaper or other printed publication circulating widely in the municipality; and
  - (b) delivered concurrently as specified in subsection (3) to the owner of every lot that will be liable to be specially assessed with respect to the proposed local improvement.
- (2) The notice may relate to and include any number of different works or services, and where more than one is included, they may be referred to in a schedule and in that event the form of notice shall be altered to suit the case.

- (3) The notice provided for by clause (1)(b) may be delivered to the owner:
- (a) personally;
  - (b) by leaving it at the person's principal place of business or of residence, if within the municipality; or
  - (c) by mailing it to the owner by ordinary mail at the address of the owner on the most recent assessment roll of the municipality.
- (3.1) A notice delivered by ordinary mail pursuant to clause (3)(c) is deemed to have been received on the fifth day following the day of its mailing.
- (4) Where subsection 10(1) applies, the notice shall state the date by which the owners of land to be specially assessed for the work or service may petition against it, which date shall be not less than 21 days after the last publication of the notice.
- (5) When section 11 applies, the notice shall state the date on which the council will meet to consider a bylaw to undertake the local improvement, which date shall be not less than 21 days after the date of the latest publication of the notice.
- (6) For the purposes of clause (1)(b), the notice for the proposed local improvement shall include:
- (a) a description of the local improvement;
  - (b) the location of the local improvement;
  - (c) a description of the land, including the civic address, if any, of the land, to be specially assessed;
  - (d) the estimated cost of the local improvement, and advice that the special assessment may be based on actual cost;
  - (e) the estimated amounts to be paid as the municipality's share of the cost and the owners' share of the cost of the local improvement;
  - (f) the estimated rate, or rates if different, of special assessment chargeable in relation to the local improvement, and if more than one rate an explanation of the differences;
  - (g) the basis of the special assessment to be used pursuant to section 19 for the local improvement;
  - (h) the number of instalments, and estimated amount of annual instalments, if applicable, in which the special assessment is to be paid;
  - (i) the time, date and place of a meeting of the council at which the proposed local improvement bylaw will be considered; and
  - (j) such other information:
    - (i) as the minister may prescribe; or
    - (ii) as the municipality may include.

- (7) On completion of publication and delivery of all notices, the clerk shall:
- (a) prepare a statement in a form approved by the minister indicating:
    - (i) that the notices have been published and delivered;
    - (ii) the manner of the notices' delivery; and
    - (iii) the dates of the publication and delivery mentioned in sub-clause (i); and
  - (b) sign the statement and keep it on file with documentation pertaining to the local improvement;

and the statement is admissible in evidence as *prima facie* evidence of the publication and delivery of the notices in the manner and on the dates stated, without proof of the appointment or signature of the clerk.

1993, c.L-33.1, s.15; 2000, c.55, s.3.

#### DETERMINATION OF SPECIAL ASSESSMENT

##### Determination of cost of local improvement

**16** For the purposes of determining the cost of a proposed local improvement, a council may include the following:

- (a) cost of construction of a work;
- (b) design and engineering expenses;
- (c) cost of providing a service;
- (d) cost of advertising and service of notices;
- (e) interest on temporary loans for the local improvement from the date of the first payment of the interest to the date of completion, as evidenced by the engineer's completion certificate in the case of a work;
- (f) compensation for lands taken for the purposes of the local improvement or injuriously affected by it and the expenses incurred by the municipality in connection with the determination of the compensation;
- (g) the cost of the issue and sale of debentures and any discount allowed to the purchasers of the debentures; and
- (h) subject to the approval of the board, any other reasonable expenses directly related to entering into, carrying out and completing the work or service and raising the moneys to pay the cost of it.

1993, c.L-33.1, s.16.

##### Lifetime of work to be specified

**17(1)** Subject to subsection (3), every bylaw providing for the undertaking of a work shall specify the lifetime of the work as estimated by the engineer, and the lifetime as so estimated is final and binding for the purposes of this Act.

(2) Where a local improvement work has been previously undertaken and the lifetime has not been estimated pursuant to subsection (1), the engineer, subject to approval by the board, may fix the lifetime of the work for the purpose of this Act.

(3) Notwithstanding any other provision of this Act, where the work to be undertaken is the widening of a pavement that has previously been constructed as a local improvement, and the lifetime of that pavement has not expired, the unexpired portion of the lifetime of the pavement shall be deemed to be the lifetime of the work of widening the pavement.

1993, c.L-33.1, s.17.

**Special assessment against benefited lands**

18(1) Except as otherwise provided in this Act, the cost of a work or service undertaken as a local improvement shall be specially assessed on the land benefited by the work or service, using one of the bases specified in section 19, to equitably reflect the relative degree by which lands are benefited.

(2) Land benefited shall be deemed to include:

- (a) land benefiting from a work, whether abutting or not abutting the work; and
- (b) land benefiting from a service;

at the time the work or service is undertaken and regardless of whether or not the land is increased or is likely to be increased in value.

(3) Where any land is benefited more or less equally with other land involved in the local improvement, the portion of the cost to be borne by the land shall be specially assessed on the lots at the same rate on any of the bases of special assessment permitted by section 19.

(4) Where any land is not benefited more or less equally with other land involved in the local improvement, the portion of the cost to be borne by the land shall be specially assessed on the lots at a rate which, if practicable, may vary in accordance with the relative amount to which the lots are benefited, on any of the bases of special assessment permitted by section 19.

(5) Where land involved in a local improvement is not more or less equally benefited:

- (a) the land may be divided into several districts, each of which shall include all the land that will be benefited in a similar proportion;
- (b) the portion of the cost to be borne by each district, if practicable, may vary in accordance with the relative amount to which the land is benefited; and
- (c) the portion of the cost to be borne by each district shall be specially assessed on the lots in it, at the same rate on any of the bases of special assessment permitted by section 19.

1993, c.L-33.1, s.18.

**Bases of determining special assessment**

**19(1)** Subject to section 20, the special assessment to be levied on benefited lands with respect to any local improvement:

- (a) shall be levied by bylaw; and
  - (b) may be determined on the basis of:
    - (i) a rate based on the number of lineal metres of frontage of the lands benefited;
    - (ii) a rate based on the area of the lands benefited;
    - (iii) an equal amount for each benefited lot;
    - (iv) in the case of water and sewer connections, a fixed sum per lineal metre of the connection;
    - (v) a rate based on the most recent assessed value of the lands benefited;
    - (vi) a rate based on the number of households which may be accommodated on the lands benefited or on the floor area ratio of improvements constructed on the lands benefited; or
    - (vii) a combination of any two or more of the bases mentioned in this section.
- (2) With respect to the basis of special assessment provided by subclause (1)(b)(i), the assessor:
- (a) may:
    - (i) in the case of a lot abutting local improvements on more than one side or limit, designate one side or limit of the lot as frontage; and
    - (ii) in the case of the longer side of a lot abutting on a local improvement, designate the longer side of the lot as frontage; and
  - (b) where designating, shall attach to the special assessment roll a signed and dated statement certifying the designation.

1993, c.L-33.1, s.19.

**Uniform rates for cost of local improvements**

**20(1)** Notwithstanding section 18 or 19, the council, by bylaw, may fix one or more uniform rates based on estimated average costs throughout the municipality for any type of work or service undertaken as a local improvement.

(2) A bylaw pursuant to subsection (1) does not relieve the municipality of the requirements of section 19 or 31 to levy special assessment for a local improvement by means of a bylaw.

(3) Where the same type of work may be constructed according to one of several different standards of construction or according to different specifications, the uniform rate bylaw may fix a different uniform rate for each standard of construction or for each specification of the work.

(4) Notwithstanding subsections (1) and (3), where the board is satisfied on an application made to it by a municipality that unusual conditions exist in carrying out a work, the board, on any terms it considers fit, may permit the council to fix a higher or lower uniform rate with respect to that work or service than the rate fixed by the uniform rate bylaw.

(5) Where the board permits the council to fix a higher or lower uniform rate, the rate permitted to be fixed is valid and binding and applies as if it were set out in the uniform rate bylaw.

(6) Where a bylaw has been passed pursuant to subsection (1) and while it is in force, if the special assessment for any work affected by it exceeds the total costs of the local improvement:

(a) the proceeds of the rate, to the amount to which it is in excess of the cost, shall:

(i) be placed in a general local improvement fund; and

(ii) be used to meet the whole or a part of the municipality's portion of the cost of any other local improvement or for any other capital purposes as may be approved by the board; or

(b) the approval of the board to impose a lesser rate may be sought.

(7) The uniform rates fixed in a bylaw passed pursuant to this section shall remain in force, unless repealed or amended, for three years from the date on which the rates are fixed.

1993, c.L-33.1, s.20.

**Assumption by council of part of cost of local improvement**

**21(1)** Where the council considers that:

(a) a local improvement benefits the municipality at large to some degree; and

(b) it would be inequitable to charge the entire cost of it to the land benefited by it;

the council, by bylaw, may provide for the payment by the municipality of any part of the cost as the council considers just, and the remainder may be assessed to the lands benefited by the local improvement.

(2) Where renewal or replacement of an existing work that was constructed as a local improvement is undertaken in accordance with clause 3(p), the municipality shall assume and pay the special assessment for it charged against the lots specially assessed with respect to the new work, until the expiration of the lifetime for the then existing work, after which the special assessments shall be paid by the owner of the land.

1993, c.L-33.1, s.21.

### DETERMINATION OF SPECIAL ASSESSMENT IN SPECIAL CASES

#### Apportionment of rate where subdivision changed or lot divided

**22(1)** When there is a change in the plan of subdivision, or a division of the ownership of a lot for which a special assessment for a local improvement has been levied:

(a) the assessor may apportion to each part of the original lot a share of the outstanding portion of the original special assessment that he or she considers just;

(b) any exemption or reduction of special assessment given on any grounds, subject to the approval of the board, may be recovered in whole or part by the municipality, for the time after subdivision, if those grounds would not have applied under the new circumstances.

(2) The moneys apportioned or to be recovered shall be levied against the lots as if they had been assessed in the original local improvement bylaw.

(3) Subsections (1) and (2) also apply to special assessments made prior to the passing of this Act.

1993, c.L-33.1, s.22.

#### Assessment re sidewalks and curbings

**23(1)** Notwithstanding section 18, where the work undertaken is a sidewalk or curbing, only the land abutting on the side of the street on which the work is constructed shall be specially assessed.

(2) Notwithstanding subsection (1), the council, by bylaw, may provide that where a sidewalk or curbing is constructed on one side of the street, the land abutting the street on which the work is constructed shall be specially assessed.

1993, c.L-33.1, s.23.

#### Exemption of corner lots from costs

**24(1)** The council, by bylaw, may provide that corner lots shall be exempt, in whole or in part, from liability with respect to:

(a) the cost of any works; or

(b) the cost of any works specified in the bylaw;

constructed after the bylaw and abutting on the flank of the corner lots and subject to sections 34 and 40, where no bylaw to that effect has been passed, the corner lots shall be subject to special assessment for the flank.

(2) Any exemption provided pursuant to subsection (1) may vary according to type or classification of the work undertaken.

- (3) Notwithstanding section 23, where the work undertaken is a sidewalk or curbing along the flank of corner lots of a block:
- (a) the lots or a portion of lots lying within that half of the block which is nearest to the side of the street on which the work is constructed may be specially assessed at the same rate to defray the cost of the work; and
  - (b) the flank of the corner lots may be assessed at the same rate with respect to any portion of the flank that abuts on the work as the council considers proper.
- (4) Where the work consists of paving along the flank of corner lots:
- (a) the lots or parts of lots lying between those halves of the blocks which are nearest to the work may be specially assessed at the same rate considered sufficient by the council to defray the cost of the work; and
  - (b) the flank of the corner lots may be assessed at the same rate with respect to any portion of the flank which abuts on the work as the council considers proper.
- (5) All of the provisions of this Act, including the provisions with respect to notices and petitions, apply to work undertaken pursuant to subsection (3) or (4).

1993, c.L-33.1, s.24.

**Adjustment of assessment of irregularly shaped lots**

**25** In the case of an irregularly-shaped lot, the special assessment to be levied that otherwise would be chargeable on it with respect to any local improvement shall be increased or reduced by the assessor in an amount sufficient to adjust the special assessment on a fair and equitable basis, having regard to:

- (a) the bases used in calculating the special assessment pursuant to section 19 and whether this results in an equitable special assessment for the lot in relation to other lots;
- (b) the location of the lot;
- (c) the nature of the use of the lot;
- (d) the suitability for building purposes of the lot by reason of its shape; and
- (e) the extent to which it is benefited by the local improvement in relation to other benefited lots;

and the whole of the lot shall be charged with the special assessment as so increased or reduced.

1993, c.L-33.1, s.25.

**Agreements for reduction of assessments on agricultural land,  
railway right-of-way or station grounds**

**26(1)** Where land used for agricultural purposes or a railway right-of-way or station grounds is liable to special assessment with respect to a local improvement, the council may enter into an agreement with the owner of the land, by reason of it so being used, for the purpose of providing a reduction in the amount of the special assessment sufficient to make it fair and equitable, having regard for the land, right-of-way or grounds to:

- (a) its location;
- (b) the extent to which it is benefited by the local improvement; and
- (c) the bases used in calculating the special assessment pursuant to section 19;

and the whole of the land, right-of-way or grounds shall be charged with the special assessment as so reduced.

(2) Where an agreement under subsection (1) cannot be reached or is not entered into, the owner of the land or the council, within 60 days after the date of the mailing of the notice pursuant to section 10 or 11, which time period may be extended by the board, either before or after its expiry, in the case of unusual circumstances on application or its own initiative, may petition the board to adjudicate in the matter, and the board:

- (a) shall hear the matter within 45 days of receiving the petition; and
- (b) on the hearing, may order the council to enter into an agreement in accordance with terms and conditions as may be prescribed by the board.

(3) Subject to section 22, where a reduction has been made under subsection (1) and a change occurs in the circumstances under which the reduction was made, the municipality may recover any portion of the amount of the reduction as:

- (a) the owner and the municipality agree on; or
- (b) the board, on the petition of the municipality, may fix as fair and equitable;

and the amount recoverable may be paid in a lump sum or specially assessed against the land in 10 equal annual instalments and shall form part of the general revenue of the municipality.

(4) Notwithstanding anything in this Act, where a work has been constructed and the special assessment with respect to the work has been certified by the assessor, the municipality, with the approval of the board, may make any reduction in the amount of the special assessment on the land mentioned in subsection (1) as the council may consider proper, in which case the amount of the reduction shall be assumed and paid by the municipality.

(5) Notwithstanding *The Municipal Board Act*, the decisions of the board pursuant to subsections (2), (3) and (4) are final and binding.

(6) Notwithstanding anything in this Act, in the case of a railway right-of-way or station grounds, the reduction pursuant to this section in the special assessment that would be chargeable on the right-of-way or grounds shall not exceed 50% of the full amount of the special assessment chargeable on those lands.

**Reduction of assessments on lot which is unfit for building purposes**

**27(1)** Where a lot liable to be specially assessed with respect to a local improvement is wholly or in part unfit for building purposes, a reduction shall be made in the special assessment that otherwise would be chargeable on it sufficient to adjust its assessment, as compared with the assessment of other lots liable to be specially assessed with respect to the same local improvement, on a fair and equitable basis having regard to the extent to which it is benefited by the local improvement, and the whole of the lot shall be charged with the special assessment as so reduced.

(2) Subject to section 22, where:

(a) a reduction has been made under subsection (1); and

(b) a change subsequently occurs in the circumstances or characteristics under which the reduction was made which renders the lot wholly or in part fit for building purposes;

subsection 26(3) applies.

(3) Whether a lot is unfit for building purposes shall be determined with reference to its physical circumstances or characteristics at that time and not by reason of the use being made of it.

1993, c.L-33.1, s.27.

**Regulations for adjustments, etc. of special assessments**

**28** Without limiting the generality of sections 22 to 27, the Lieutenant Governor in Council may make regulations providing for adjustments, or reductions of, or variations in the methods of calculating, special assessments in special circumstances to achieve greater equity.

1993, c.L-33.1, s.28.

**Agreements with other municipalities, etc. respecting local improvements**

**29(1)** Where a work is undertaken by a municipality as a local improvement along a street that forms the dividing line between it and another municipality, a rural municipality or an Indian Reserve, the municipality and the other municipality, the rural municipality or the Indian Band or the Government of Canada on behalf of the Indian Band may enter into an agreement providing for the sharing by them of the cost of the work.

(2) If a city that is incorporated or continued pursuant to *The Cities Act* is undertaking the local improvement and entering into the agreement pursuant to subsection (1), section 18 of *The Cities Act* applies, with any necessary modification, with respect to the work and the agreement.

(2.1) If the municipality undertaking the local improvement and entering into the agreement pursuant to subsection (1) is a municipality other than a city or northern municipality, section 24 of *The Municipalities Act* applies, with any necessary modification, with respect to the work and the agreement.

(2.2) If the municipality undertaking the local improvement and entering into the agreement pursuant to subsection (1) is a northern municipality, section 25 of *The Northern Municipalities Act, 2010* applies, with any necessary modification, with respect to the work and the agreement.

(3) Where a work has been undertaken by a municipality as a local improvement along a street that forms the dividing line between it and a rural municipality and the land abutting the street and situated in the rural municipality is subsequently annexed to the municipality first mentioned prior to one-half of the instalments for the local improvement having become due, the council of the municipality, if there has been no contribution by the rural municipality to the cost of the work, subject to subsections (4) and (5), may:

(a) specially assess on the benefited lands so annexed the same rate to be paid yearly, commencing with the year in which the annexation took place, as was assessed to be paid yearly on other benefited lands with respect to the cost of the work or any lower amount as the council considers equitable in the circumstances; and

(b) direct that the assessment shall be payable in a lump sum or in annual instalments not extending beyond the original term of borrowing for the local improvement.

(4) The proceeds of a special assessment set pursuant to subsection (3) shall:

(a) be placed in a general local improvement fund; and

(b) be used:

(i) to meet the whole or a part of the municipality's portion of the cost of any other local improvement; or

(ii) for any other capital purposes as may be approved by the board.

(5) In fixing the amount of annual instalments under subsection (3), moneys sufficient to cover interest on special assessments that would have applied since completion of the local improvement at a rate determined by the council may be added.

(6) Insofar as they are applicable, the provisions of this Act respecting notice to owners of the special assessment and the right of appeal shall apply with respect to special assessments pursuant to this section.

1993, c.L-33.1, s.29; 2002, c.C-11.1, s.391; 2003, c.41, s.43; 2005, c.M-36.1, s.436; 2010, c.N-5.2, s.457; 2015, c.21, s.24.

#### **Exemption from taxation**

**30(1)** The following lands are exempt from taxation for local improvements:

(a) land that is the property of the Crown, including land held by a person in trust for the Crown;

(b) every public square, park or dedicated lands;

(c) land used in connection with a monument erected as a war memorial; and

(d) land specially exempted from special assessment for local improvements by statute.

- (2) The lands described in subsection (1) are for all purposes, except petitioning for or against the undertaking of a local improvement, subject to this Act and shall be specially assessed for local improvements.
- (3) While any land described in subsection (1) remains exempt from taxation, the special assessments on the land shall be paid by the municipality.
- (4) Notwithstanding subsection (3), the owner of any land described in subsection (1) that is exempt from taxation may make an agreement with the municipality to pay any special assessment on the land.
- (5) Where land exempt from special assessment for local improvements is occupied or leased by a person who, if the person were the owner would not be exempt, the owner of that land shall:
- (a) pay the special assessments on those lands so long as it is so occupied or leased; and
  - (b) be subject to this Act for purposes of notices and petitioning for or against the local improvement.

1993, c.L-33.1, s.30.

### SPECIAL ASSESSMENT BYLAW

#### Assessment of amounts

- 31(1)** The council, by bylaw, shall assess on each benefited lot liable therefore the amount in total or each year with which it is chargeable as a special assessment with respect to the owners' share of the cost of each local improvement and the amount may be payable:
- (a) in a lump sum;
  - (b) in annual or other instalments or payments; or
  - (c) according to any other payment plan approved by the board.
- (2) In the case of a work, the annual instalments shall not extend beyond the lifetime of the work.
- (3) In fixing the amount of annual or other instalments pursuant to subsection (1), moneys sufficient to cover interest at a rate determined by the council may be added.
- (4) Annual or other instalments or payments, payable pursuant to subsection (1), shall be added to and form part of the taxes on the land on which the special assessment is imposed.

1993, c.L-33.1, s.31.

## SPECIAL ASSESSMENT ROLL, NOTICES AND APPEALS

**Preparation of special assessment roll**

**32** When a special assessment is imposed, the council shall cause to be made a special assessment roll, in which shall be entered:

- (a) a description of the local improvement;
- (b) a description of every lot, including a civic address, to be specially assessed with respect to the owners' share of the cost and the name of the owner of each lot;
- (c) the bases of special assessment pursuant to section 19 and, if applicable, the frontage, area or other unit of measurement to be specially assessed;
- (d) a description of every lot including the civic address, if any of the lot, exempted under section 30, and the name of the owner of the lot;
- (e) the total amount and the rate of special assessment applicable to the lot; and
- (f) the number and amount of instalments or payments by which the special assessment could be payable.

1993, c.L-33.1, s.32.

## RIGHT OF APPEAL

**Appeal to board of revision**

**33(1)** There shall be a right of appeal against every proposed special assessment to the board of revision of the municipality.

(2) Within 15 days after completing the special assessment roll, the assessor shall:

- (a) publish in at least one issue of a newspaper circulating within the municipality a notice advising of:
  - (i) the completion of the special assessment roll;
  - (ii) the times when and the place where the roll may be inspected; and
  - (iii) the time and place of the sittings of the board of revision; and
- (b) serve a notice of the proposed special assessment, in the form prescribed by the minister, on the owner of every parcel of land proposed to be specially assessed.

(3) **Repealed.** 2000, c.55, s.4.

(4) For purposes of subsection (3), the notice of the proposed special assessment shall include:

- (a) a description of the local improvement;

- (b) a description of the lot to be specially assessed, including the civic address, if any, of the lot, and the name of the owner of the lot;
  - (c) a description of the bases of special assessment and rate of special assessment;
  - (d) the cost of the local improvement and the owners' and the municipality's shares of the cost;
  - (e) the total amount of the special assessment applied to the lot;
  - (f) the amount of any prepayment required, the number and amount of instalments by which the special assessment could be payable and the interest rate being charged;
  - (g) a description of any exemptions, reductions or adjustments made to special assessments pursuant to sections 23 to 27;
  - (h) the last date on which appeals may be lodged against the special assessment and the manner and form in which appeals may be lodged; and
  - (i) any other information that the minister may prescribe or that the municipality may include.
- (5) Where that part of the municipality to be specially assessed is divided into districts as provided in subsection 18(5), the special assessment notice shall show the rate for the appropriate method of special assessment being used in each district and the rate applicable to an owner's land.
- (6) The notice provided for by subsection (3) may be served on the owner in the same manner as is specified in subsection 15(3).
- (7) On completion of publication and service of all notices, the clerk shall:
- (a) prepare a statement in a form approved by the minister indicating:
    - (i) that the notices have been published and served;
    - (ii) the manner of their publication and service; and
    - (iii) the dates of the publication and service; and
  - (b) sign the statement and keep it on file with documentation pertaining to the local improvement;
- and the statement is admissible in evidence as *prima facie* evidence of the publication and service of the notices in the manner and on the dates stated, without proof of the appointment or signature of the clerk.
- (8) The special assessment roll shall be kept open to inspection at the office of the assessor, from the day of completion of the special assessment roll to the last day for filing a notice of appeal to the board of revision, during:
- (a) regular office hours; and
  - (b) any additional times that the council may determine.

(9) A person who wishes to appeal against a proposed special assessment shall, within 30 days after the day on which the notice of special assessment is delivered to that person, deliver a notice of appeal to the assessor:

- (a) personally; or
- (b) by mailing it to the office of the assessor by ordinary mail.

(10) A notice of appeal delivered by ordinary mail pursuant to clause (9)(b) is deemed to have been received on the fifth day following the day of its mailing.

(11) A notice of appeal delivered in accordance with this section must:

- (a) be in the form prescribed by the minister;
- (b) state all grounds on which the appeal is based, including:
  - (i) a description of any error alleged in:
    - (A) determining or calculating the frontage or other unit of measurement of the lands used in calculating the special assessment;
    - (B) calculating the special assessment; or
    - (C) preparing the special assessment roll or the notice of the special assessment;
  - (ii) the grounds for every error alleged pursuant to subclause (i); and
  - (iii) in summary form, the material facts on which the appellant relies; and
- (c) include an address for service for the appellant at which documents relating to the appeal may be delivered.

(12) Where an appellant fails to provide any information required in a notice of appeal pursuant to subsection (11), the board of revision, at any time before determining the appeal, may require the appellant to provide that information within a specified period, failing which the board of revision may dismiss the appeal.

(13) The provisions of the following Acts relating to appeals to the board of revision against ordinary assessments apply, as the case requires and with any necessary modification, to appeals to the board of revision pursuant to this section, where the provisions from the following Acts are not inconsistent with this Act:

- (a) *The Municipalities Act*;
- (b) *The Northern Municipalities Act, 2010*;
- (c) **Repealed.** 2005, c.M-36.1, s.436.
- (d) *The Cities Act*.

**Jurisdiction and powers of board of revision**

**34(1)** The board of revision has jurisdiction and power to review the proposed special assessments and to amend them as to all or any of the following matters:

- (a) the names of the owners of the lands;
  - (b) the frontage or other units of measurement of the lands used for calculating the special assessments;
  - (c) the calculation of special assessments, having regard to equity and to their conformance to relevant bylaws and requirements of this Act;
  - (d) the lands to which section 30 applies;
  - (e) the lands that are or will be benefited by a local improvement and subject to special assessment; and
  - (f) conformance of the items included in the cost of a local improvement and conformance of the rate of special assessment to the requirements of this Act.
- (2) The board of revision does not have jurisdiction or authority to review or alter the portions of the cost of the local improvement that are to be borne as the owners' share of the cost and the municipality's share of the cost respectively according to the bylaw providing for the undertaking of the local improvement except as may be required in order to make adjustments to special assessments pursuant to this section.

- (3) The board of revision does not have the power or authority to review or alter:
- (a) the actual costs of a local improvement; or
  - (b) the basis of special assessment chosen by the council pursuant to section 19.

1993, c.L-33.1, s.34.

**Same**

**35(1)** Where it appears to the board of revision in making its decision pursuant to section 34:

- (a) that any lot that has not been specially assessed should be specially assessed;
- (b) that any lot that has been specially assessed should not have been specially assessed; or
- (c) that any lot has been improperly assessed;

the board of revision, before finally determining the matter, shall adjourn the sitting to a future date and cause a notice in the form prescribed by the minister to be given to the owner of the lot of any proposed changes to or additional special assessments and the time, date and place of the adjourned sitting.

- (2) The notice shall be delivered in the same manner as provided by subsection 15(3) at least 10 days before the date fixed for the adjourned sitting of the board of revision, and the owner shall be given the opportunity to be heard by the board of revision at the sitting.
- (3) Subject to section 34, the board of revision has jurisdiction and power to determine and fix the amount of the special assessment on any lot.
- (4) Within 14 days after making its decision, the board of revision shall cause a notice of its decision, including the reasons for its decision, to be delivered to:
- (a) the appellant; and
  - (b) any other person affected by the decision of the board of revision.
- (5) The notice mentioned in subsection (4) shall be delivered in the same manner as provided by subsection 15(3), and subsection 15(3.1) applies, with any necessary modification.

1993, c.L-33.1, s.35; 2000, c.55, s.5.

#### **Correction of special assessment roll**

- 36(1)** The assessor shall make any corrections in the special assessment roll that are necessary to give effect to the decisions of the board of revision and adjust prepayments to be made pursuant to section 38.
- (2) The roll when so corrected shall be certified by the assessor and the municipality shall forthwith send out invoices for the special assessments to owners indicating the date by which payment shall be made.
- (3) When so certified, except insofar as it may be further amended on appeal to the board, the assessment roll and the special assessments, subject to section 37, shall be valid and binding on all persons concerned and on the land specially assessed, notwithstanding any defect, error or omission in the roll or any defect or error in the bylaw providing for the undertaking of the local improvement or in any notice given or proceeding taken or the omission of any proceeding or thing that ought to have been taken or done before the passing of the bylaw providing for the undertaking of the local improvement or thereafter down to and including the completion of the revision.
- (4) Nothing in subsection (3) shall relieve the municipality from the necessity of obtaining the approvals of the board where required by this Act.

1993, c.L-33.1, s.36; 2015, c.21, s.64.

#### **Corrections of errors**

- 37** The council by resolution at any time may correct any gross or obvious error in the special assessment roll, and the assessor shall date and initial any corrections.

1993, c.L-33.1, s.37.

## PAYMENT OF SPECIAL ASSESSMENTS

**Prepayment of special assessments**

**38** A person whose land has been specially assessed with respect to a local improvement may pay his or her portion of the cost of the local improvement within the current taxation year within a time period specified by council, but not less than 30 days after the date the special assessment roll is certified by the assessor, and moneys so paid shall be applied against the owners' share of the cost.

1993, c.L-33.1, s.38.

**Variation of payment of special assessments**

**39** The council may:

(a) by a general bylaw or by a bylaw applicable to a particular local improvement, prescribe the terms and conditions on which a person whose land has been specially assessed with respect to a local improvement at any time may pay or defer payment of some or all of the remaining instalments of the special assessment, and any moneys paid in advance shall be set aside for the purpose intended;

(b) by a general bylaw or a bylaw applicable to a particular local improvement, prescribe the terms and conditions on which a person whose land has been specially assessed with respect to a local improvement at any time may pay the outstanding principal of the special assessment, which payment is to be set aside for repayment of any outstanding borrowing relating to the local improvement.

1993, c.L-33.1, s.39.

## FURTHER APPEAL

**Appeal to the Saskatchewan Municipal Board**

**40(1)** A municipality or the owner of a lot specially assessed may appeal to the board from any decision of the board of revision.

(2) The board shall have the same jurisdiction and powers as are conferred on the board of revision by sections 34 and 35.

(3) The provisions of the following Acts relating to appeals from the board of revision against ordinary assessments apply, as the case requires and with any necessary modification, to appeals pursuant to this section, where the provisions from the following Acts are not inconsistent with this Act:

- (a) *The Municipalities Act*;
- (b) *The Northern Municipalities Act, 2010*;
- (c) **Repealed.** 2005, c.M-36.1, s.436.
- (d) *The Municipal Board Act*;
- (e) *The Cities Act*.

(4) The assessor shall make any corrections in the special assessment roll that are necessary to give effect to the decisions of the board and adjust prepayments to be made pursuant to section 38.

1993, c.L-33.1, s.40; 1996, c.32, s.11; 2000, c.55, s.6; 2002, c.C-11.1, s.391; 2005, c.M-36.1, s.436; 2010, c.N-5.2, s.449.

**Stated case to Court of Appeal**

41 The provisions of *The Municipal Board Act* relating to stated cases shall apply to cases stated pursuant to section 40.

1993, c.L-33.1, s.41.

## BORROWING POWERS

**Borrowing by councils, issue of debentures**

42(1) When the application for a local improvement has been approved by the board, the council may:

- (a) borrow by way of temporary loans, subject to:
  - (i) Division 6 of Part IX of *The Municipalities Act*;
  - (ii) Division 6 of Part IX of *The Northern Municipalities Act, 2010*; or
  - (iii) Division 6 of Part IX of *The Cities Act*.

as the case requires, the necessary moneys to meet the cost of the local improvement, but the moneys are not to exceed the maximum borrowing authorized by the board; or

- (b) borrow after completion of a local improvement, on the credit of the municipality at large, and subject to:
  - (i) Division 7 of Part IX of *The Municipalities Act*;
  - (ii) Division 7 of Part IX of *The Northern Municipalities Act, 2010*; or
  - (iii) Division 7 of Part IX of *The Cities Act*.

as the case requires, any moneys that may be necessary to defray the cost of work, including the municipality's share of the cost, or to repay temporary loans incurred to meet the cost of a work pending completion, and may issue debentures for the moneys so borrowed.

(2) The provisions of this Act and of *The Municipal Board Act* as to bylaws for creating debts apply to bylaws passed pursuant to this section, but the debentures shall be payable within the lifetime of a work.

(3) Instead of passing a bylaw pursuant to this section with respect to each individual local improvement, the council:

- (a) may pass one bylaw with respect to two or more local improvements, giving in the bylaw substantially the same information as would be given in individual bylaws respecting the local improvements; and
- (b) may provide in the bylaw for:
  - (i) borrowing the aggregate cost; and
  - (ii) issuing one series of debentures.

(4) Every bylaw for raising the amount of the cost of a local improvement, or any part of it, shall state:

- (a) the amount of debt that the bylaw is intended to create and, in general terms, the object for which the debt is to be created;
- (b) the total amount required to be raised annually for the purpose of paying the debt and interest under the bylaw;
- (c) the portion that is payable by way of special assessment and the method of special assessment applicable pursuant to section 19; and
- (d) that the debt is contracted on the credit and security of the municipality at large.

(5) The instalments of special assessments imposed for the owners' share of the cost of a local improvement shall:

- (a) be set aside for repayment of any borrowing pursuant to this section and payment of the interest on it; and
- (b) not be applied for any other purpose;

and the moneys may be invested, in accordance with any terms and conditions set by the board, pursuant to section 160 of *The Municipalities Act*, section 132 of *The Cities Act* or section 182 of *The Northern Municipalities Act, 2010*, as applicable.

1993, c.L-33.1, s.42; 2002, c.C-11.1, s.391; 2005, c.M-36.1, s.436; 2010, c.N-5.2, s.457.

**Consolidation of debts, change of interest rates**

43(1) Where:

- (a) two or more local improvements have been undertaken; and
- (b) the bylaws provided for by section 42 have been passed;

the council, by bylaw, may consolidate the amount of the long-term debt to be created pursuant to the bylaws, but no consolidating bylaw takes effect until it is approved by the board.

(2) The consolidating bylaw shall indicate those bylaws of which it is composed.

(3) The consolidating bylaw does not need to impose a rate to provide for the payment of the debentures issued under it or the interest on them, but the rates imposed by the separate bylaws shall be levied, collected and applied for that purpose.

(4) Where:

(a) owing to a decline or advance in the rate of interest between the passing of a bylaw pursuant to section 42 and the sale or other disposal of debentures, the debentures or any of them cannot be sold or disposed of except at a heavy premium or at a discount involving a substantial reduction in the amount required to be provided; or

(b) in the opinion of the council, with a view to the better marketing of the municipal securities, it is desirable that the whole or any part of the debentures authorized by the bylaw bear a rate of interest differing from the rate specified in the bylaw;

the council, with the approval of the board, which is by this subsection authorized to give the approval, may pass a bylaw to amend the first-mentioned bylaw by providing for a different rate of interest on all or any of the debentures and for a corresponding change in the moneys to be raised annually for the municipality's share of the cost.

(5) Where any part of moneys provided for by a bylaw passed pursuant to section 42 has been raised, the council may repeal the bylaw as to any part of the residue, and as to a proportionate part of the moneys to be raised annually, and the repealing bylaw shall:

(a) recite the facts on which it is founded;

(b) state that it shall take effect on December 31 in the year in which it is passed;

(c) not affect any rates due or penalties incurred before that date; and

(d) not take effect until it has been approved by the board.

1993, c.L-33.1, s.43.

**Alternate procedure for meeting costs of local improvements**

44(1) Instead of borrowing the amount of the cost of a local improvement, the council, on approval of the board, may include the municipality's portion of the cost, or the entire cost, in the estimates of the year or may meet the municipality's portion of the cost or the entire cost from the general operating fund of the municipality.

(2) Where any portion of the cost, or the entire cost, of a local improvement is, pursuant to subsection (1), included in the estimates of the year or met from the general operating fund of the municipality, the municipality, nevertheless, may impose special assessments for the owners' share of the cost.

1993, c.L-33.1, s.44.

**Rates for payments of debentures**

**45(1)** Any rate imposed by a bylaw providing for the issue of debentures to pay for all or part of the cost of a local improvement shall be levied by the council in the period:

- (a) commencing with the passing of the bylaw; and
- (b) ending no later than two years following the year in which the local improvement is completed.

(2) Any or all of the debentures issued pursuant to a bylaw may be issued after the levying of the rate.

1993, c.L-33.1, s.45.

**Validity of certain bylaws**

**46** In the case of any local improvement, if the special assessment with respect to it has been certified pursuant to section 36, no bylaw for borrowing moneys to defray the cost or for imposing the special assessment shall be quashed, set aside, amended or adjudged to be invalid by reason of its illegality or of any defect in it, but the court in which a proceeding for quashing or setting aside the bylaw or declaring it to be invalid is taken, on any terms and conditions as to costs and otherwise as may be deemed proper, may direct the council:

- (a) to amend or repeal the bylaw; and
- (b) where a repealing bylaw is directed, to pass a new bylaw in proper form in lieu of the repealed bylaw;

and the council shall pass such a bylaw accordingly.

1993, c.L-33.1, s.46.

**Binding effect of debentures, obligations and liabilities**

**47** Every liability or obligation incurred and every debenture issued by the municipality pursuant to a bylaw directed under section 46 to be amended or repealed is as effectual and binding as if the amending or new bylaw directed to be passed had been passed and was in force when the liability or obligation was incurred or the debenture was issued.

1993, c.L-33.1, s.47.

**Amending bylaw or new bylaw**

**48** Notwithstanding that no proceeding has been taken to quash or set aside a bylaw passed in the case of a local improvement, or to declare the bylaw invalid, the council, of its own motion, and if required by a person to whom any liability has been incurred on the faith of the bylaw to do so shall, may pass an amending or new bylaw as may be necessary to make effectual and binding the liability so incurred and any debenture issued under the bylaw, and section 47 applies, with any necessary modification, with respect to the effect of the amending or new bylaw.

1993, c.L-33.1, s.48.

## SPECIAL CASES – WATER AND SEWER

**Requirement to connect to certain works**

49(1) Subject to subsection (2), the council, by bylaw, may require all owners of property in the municipality, or in any defined part of the municipality, whether occupied or not, to connect the property by connections approved by the municipality with the municipal systems of sanitary sewers, storm sewers and waterworks, or with any one or more of those systems, as constructed or as they may be extended from time to time, notwithstanding that any of the property is connected with any of the systems.

(2) This section applies only to property owners, a portion of whose land is benefiting from the sanitary sewers, storm sewers or waterworks.

(3) Where the council has passed a bylaw pursuant to subsection (1), the council shall give each owner of property required to have work done pursuant to the bylaw notice as provided by section 15 of:

- (a) its requirement;
- (b) the consequences of failing to comply; and
- (c) the owner's right to appear before council at its next meeting to state reasons why the work required to be done should not proceed.

(4) An owner of property required to have work done pursuant to a bylaw pursuant to subsection (1) may appear before the council, at its next meeting after receipt of the notice referred to in subsection (3), to dispute the requirement or otherwise to show cause why the work required to be done should not proceed.

(5) Where an owner has satisfied the council pursuant to subsection (4) that all or part of the work should not be proceeded with, the council may rescind or amend its decision.

(6) Where an owner of a property has failed:

- (a) to comply with the requirement of the council pursuant to subsection (1); or
- (b) to comply by requesting connection pursuant to section 50;

within 90 days of the publication of notice or any greater period of time specified in the bylaw, the council may cause the required connection to be made as a local improvement pursuant to section 11 and other relevant provisions of this Act.

(7) The amount to be assessed against each lot with respect to a water or sewer connection is the cost of making the connection from the centre of the street to the building, whether or not the sewer or water main is laid in the centre of the street, unless the council, by bylaw, prescribes some other method of assessment.

(8) Section 42 applies, with any necessary modification, with respect to:

- (a) the raising of temporary loans; and
- (b) borrowing on the credit of the municipality at large by way of debenture;

to defray the cost of any connection undertaken under this section.

**Sewer and water connections, bylaws for borrowing and paying of costs**

**50(1)** The council may pass bylaws providing:

- (a) that, on the written application of the owners of benefiting lots, sewer and water connections may be constructed from the sewer or water main to the street line or to any building or buildings on the lots; and
  - (b) for assessing the costs of the connections against the properties affected.
- (2) The council, for the purpose of paying for the connections in the first instance and before any connection is made, may borrow moneys on the credit of the municipality at large and issue debentures for the borrowing.
- (3) It is not necessary to pass bylaws imposing special assessments on individual properties connected but the assessments may be made under the terms of a bylaw of general application.
- (4) The amount to be assessed against each lot with respect to a sewer or water connection shall be calculated as from the centre of the street whether or not the main to which the connection is made is laid in the centre of the street.
- (5) The assessment may be paid by the owner in a lump sum or in any number of annual instalments, as the council may prescribe, and in fixing the amount of the annual instalments moneys sufficient to cover interest at a rate determined by the council may be added.
- (6) Each annual instalment prescribed by the council pursuant to subsection (5) shall be added to and form part of the taxes on the land on which the connection is made.

1993, c.L-33.1, s.50.

**Council may connect sewer and water to land not subject to special assessment**

**51** Where the owner of land that is not subject to a special assessment with respect to the cost of the construction of a sewer or water main applies in writing to have the land connected with the sewer or water main, the council may connect the land with the sewer or water main on any terms and conditions that may be agreed on with the owner.

1993, c.L-33.1, s.51.

## MISCELLANEOUS

**Special assessments not an encumbrance on land**

**52** The special assessment levied on the land for the cost of a local improvement, except as much of the levy as may be in arrears, shall not encumber the land including the right to enjoy the use of or convey the land.

1993, c.L-33.1, s.52.

**Special assessment on land not affected by change of ownership**

**53** Subject to compliance with other relevant provisions of this Act, the right of a municipality to impose special assessments on any land with respect to a local improvement shall not be affected by a change in the ownership of the land whenever occurring.

1993, c.L-33.1, s.53.

**Application of Act to certain bylaws and works**

**54(1)** A bylaw previously passed pertaining to any local improvement undertaken or to be undertaken shall be deemed to have been passed pursuant to this Act, and this Act applies with respect to the local improvement.

(2) A local improvement previously undertaken shall be deemed to have been undertaken under this Act, and this Act applies with respect to it.

1993, c.L-33.1, s.54.

**Maintenance and repair to be undertaken and paid by municipality**

**55(1)** Subject to subsection (2), where a work has been undertaken and completed as a local improvement, maintenance and repair of it during its lifetime shall be undertaken by and at the expense of the municipality except as otherwise provided pursuant to this Act or under an agreement pursuant to subsection 29(1).

(2) Sewer or water connections constructed pursuant to section 50, or any works constructed pursuant to section 49, between a street line and any building or buildings shall be maintained and repaired during their lifetimes by the owner or occupant of the land on which the building or buildings are situated.

1993, c.L-33.1, s.55.

**Unpaid amounts, added to taxes**

**56(1)** Subject to any bylaw passed pursuant to clause 39(a), where any local improvement special assessment, or part of it, owed by the owner of benefited land remains unpaid after December 31 in the year in which the moneys owed came due, that amount shall be added to and form part of the arrears of taxes on the land.

(2) Division 6 of Part XI of *The Municipalities Act*, Division 6 of Part XI of *The Northern Municipalities Act, 2010*, as the case requires, applies, with any necessary modification, to any special assessments or parts of them added to and forming arrears of taxes on land.

1993, c.L-33.1, s.56; 2002, c.C-11.1, s.391; 2005, c.M-36.1, s.436; 2008, c.33, s.11; 2010, c.N-5.2, s.457; 2016, c28, s.13.

**Succeeding councils may continue**

**57** Proceedings for undertaking a local improvement begun by one council may be continued, and the local improvement may be begun, continued and completed, by a succeeding council.

1993, c.L-33.1, s.57.

**Approval of forms by Saskatchewan Municipal Board**

**58(1)** The board may approve bylaws, notices and other proceedings to be passed, given or taken by a municipality, consistent with the provisions of this Act and any matters prescribed pursuant to these provisions.

(2) No bylaw, notice or other proceeding that is in substantial conformity with the form approved by the board is open to objection on the ground that it is not in the form required pursuant to the provisions of this Act.

1993, c.L-33.1, s.58.

## GENERAL AND TRANSITIONAL

**Regulations by Lieutenant Governor in Council**

**59** The Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Act but not defined in this Act;
- (b) extending the time within which any of the provisions of this Act may be complied with;
- (c) respecting any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (d) governing the conducting, consideration or continuation by the board or a committee of the board of any authority, appeal, application, approval or other responsibility with respect to a local improvement that the board has, pursuant to *The Local Improvements Act* or any other Act or law, jurisdiction on the day immediately prior to the day on which this Act comes into force;
- (e) governing requirements for, or the procedure to be followed with respect to, any matter or thing:
  - (i) authorized by this Act in any case where the provisions of this Act are insufficient or inapplicable; or
  - (ii) relating to transition from the provisions of *The Local Improvements Act* to this Act in any case for which the provisions of this Act do not specifically provide;
- (f) respecting any other matter or thing that he or she considers necessary or advisable to carry out effectively the intent and purposes of this Act.

1993, c.L-33.1, s.59.

**Regulations of minister**

**60** The minister, for the purpose of carrying out the provisions of this Act according to their intent, may make regulations or prescribe notices or forms respecting any matter or thing that is required or authorized by this Act to be prescribed by the minister.

1993, c.L-33.1, s.60.

**Offence and penalty**

**61(1)** Every person who fails to comply with or contravenes any provision of this Act or any order, decision, approval, regulation, term or condition, or bylaw made or given pursuant to this Act is guilty of an offence and is liable on summary conviction to a fine of not more than \$500, and in the case of a continuing offence to a further fine of not more than \$75 for each day during which the offence continues.

(2) The provisions of this section apply in addition to any provisions to which a person may be subject pursuant to the appropriate municipal Act.

1993, c.L-33.1, s.61.

**Continuation of rights of appeal, approvals, etc.**

**62(1)** Subject to any right of appeal and to any other Act or law, every decision, approval, requirement, order, regulation, form, proceeding, bylaw or document respecting any local improvement that exists or was complete on the day immediately prior to the day on which this Act comes into force remains in effect and continues until replaced, amended or superseded pursuant to this Act.

(2) Any proceeding, application, authority, appeal, approval, process, responsibility or other matter respecting a local improvement that was underway or within the jurisdiction of the appropriate board or a municipality on the day immediately prior to the day on which this Act comes into force may be continued, exercised and completed in accordance with the statutory provisions in force at the time of its commencement as if this Act had not come into force and the former provisions had remained in force.

1993, c.L-33.1, s.62.

## REFERENCES AND CONSEQUENTIAL CHANGES

**References**

**63** A reference in any order in council, regulation, order, approval, municipal charter, authorization, legal process, proceeding or other document or process to *The Local Improvements Act* is deemed to be a reference to *The Local Improvements Act, 1993*.

1993, c.L-33.1, s.63.

**64 to 69** **Dispensed.** These sections make consequential amendments to other Acts. The amendments have been incorporated into the corresponding Acts.

## REPEAL AND COMING INTO FORCE

**R.S.S. 1978, c.L-33 repealed**

**70** *The Local Improvements Act* is repealed.

1993, c.L-33.1, s.70.

**Coming into force**

**71** This Act comes into force on a day to be fixed by proclamation of the Lieutenant Governor.

1993, c.L-33.1, s.71.

