The Safer Communities and Neighbourhoods Act

being

Chapter S-0.1* of *The Statutes of Saskatchewan, 2004* (Parts I, III and IV effective October 15, 2004 and Parts II and V effective November 15, 2004) as amended by the *Statutes of Saskatchewan*, 2005, c.41; and 2006, c.R-22.0001.

***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.

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CHAPTER S-0.1

An Act respecting Safer Communities and Neighbourhoods and to make a consequential amendment to *The Residential Tenancies Act*

PART I
Preliminary Matters

Short title

1 This Act may be cited as *The Safer Communities and Neighbourhoods Act*.

Interpretation

2 In this Act:

(a) **"building"** means a structure of any kind, or part of a structure, including:

(i) apartments;

(ii) co-operative housing units;

(iii) condominium units; or

(iv) mobile homes;

(b) **"court"** means the Court of Queen's Bench;

(b.1) **"criminal organization"** means a criminal organization as defined in the *Criminal Code*;

(b.2) **"criminal organization offence"** means a criminal organization offence as defined in the *Criminal Code*.

(c) **"director"** means the director of community operations appointed pursuant to clause 3(a) and includes any deputy director appointed pursuant to clause 3(b);

(c.1) **"gang"** means a group of individuals, usually identified by a group name or designation, who associate with each other for criminal or other unlawful purposes;

(d) **"minister"** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(d.1) **"permit"** means a permit as defined in *The Alcohol and Gaming Regulation Act, 1997*;

(d.2) **"permitted premises"** means permitted premises as defined in *The Alcohol and Gaming Regulation Act, 1997;*

(e) **"person"** includes a partnership, limited partnership or unincorporated organization of persons;

(f) **"prescribed"** means prescribed in the regulations.

2004, c.S-0.1, s.2; 2005, c.41, s.3.

Appointment of director

3 For the purposes of this Act, the minister may appoint:

(a) a director of community operations; and

(b) one or more deputy directors of community operations.

2004, c.S-0.1, s.3.

PART II
Safer Communities and Neighbourhoods

DIVISION 1
Interpretation

Interpretation of Part

4(1) In this Part:

(a) **"complainant"** means a person who has made a complaint to the director pursuant to section 5;

(b) **"intoxicating substance"** means:

(i) glues, adhesives, cements, cleaning solvents, thinning agents and dyes containing toluene or acetone;

(ii) petroleum distillates or products containing petroleum distillates, including naphtha, mineral spirits, Stoddard solvent, kerosene, gasoline, mineral seal oil and other related distillates of petroleum;

(iii) fingernail or other polish removers containing acetone, aliphatic acetates or methyl ethyl ketone;

(iv) any substance that is required pursuant to the *Hazardous Products Act* (Canada) or the regulations pursuant to that Act to bear the label "Vapour Harmful", "Vapour Very Harmful" or "Vapour Extremely Harmful";

(v) aerosol disinfectants and other aerosol products containing ethyl alcohol; or

(vi) any other product or substance that is prescribed in the regulations as an intoxicating substance;

(c) **"owner"** means, in relation to property:

(i) a person who is the registered owner of title to the property pursuant to *The Land Titles Act, 2000*, and if there is more than one registered owner of title to the property, any of them;

(ii) a person who is entitled to be the registered owner of title to the property pursuant to *The Land Titles Act, 2000*;

(iii) a person shown as the owner of the property in the municipal assessment or tax roll records for the property;

(iv) a person who manages or receives rents from the property, whether on his or her behalf or as agent or trustee for another person; or

(v) any of the following persons in whom the property or any estate or interest in the property is vested or with whom decision-making responsibility legally resides:

(A) a guardian;

(B) a property decision-maker or personal decision-maker as defined in *The Adult Guardianship and Co-decision-making Act*;

(C) an executor, administrator or trustee;

(D) an attorney under a power of attorney;

(d) **"property"** means:

(i) a building and the land on which it is located; and

(ii) land on which no building is located;

(e) **"respondent"** means the owner named as a respondent in an application made pursuant to section 7 or 14;

(f) **"specified use"** means, in relation to property, the use of property for:

(i) the use, consumption, sale, transfer or exchange of a substance mentioned in section 90 of *The Alcohol and Gaming Regulation Act, 1997*, in contravention of that Act and the regulations made pursuant to that Act;

(ii) the use, consumption, sale, transfer or exchange of beverage alcohol, as defined in *The Alcohol and Gaming Regulation Act, 1997*, in contravention of that Act and the regulations made pursuant to that Act;

(iii) the use or consumption as an intoxicant by any person of an intoxicating substance, or the sale, transfer or exchange of an intoxicating substance if there is a reasonable basis to believe that the recipient will use or consume the substance as an intoxicant, or cause or permit the intoxicating substance to be used or consumed as an intoxicant;

(iv) the possession, growth, use, consumption, sale, transfer or exchange of a controlled substance, as defined in the *Controlled Drugs and Substances Act* (Canada), in contravention of that Act;

(v) child sexual abuse or activities related to child sexual abuse;

(vi) prostitution or activities related to prostitution;

(vi.1) the commission or promotion of a criminal organization offence;

(vi.2) the accommodation, aid, assistance or support of any nature of a gang or criminal organization or any of its activities or the facilitation of any of its activities; or

(vii) any other prescribed use;

(g) **"tenancy agreement"** means a tenancy agreement as defined in *The Residential Tenancies Act, 2006*.

(2) For the purposes of this Part, a community or neighbourhood is adversely affected by activities if the activities:

(a) negatively affect the health, safety or security of one or more persons in the community or neighbourhood; or

(b) interfere with the peaceful enjoyment of one or more properties in the community or neighbourhood, whether the property is privately or publicly owned.

2004, c.S-0.1, s.4; 2005, c.41, s.4; 2006, c.R-22.0001, s.100.

DIVISION 2
Community Safety Orders

SUBDIVISION I
Application by Director for Community Safety Order

Complaint to director

5 A person may make a complaint pursuant to this Part to the director that:

(a) states that the person believes:

(i) that the person's community or neighbourhood is being adversely affected by activities on or near a property in the community or neighbourhood; and

(ii) that the activities indicate that the property is being habitually used for a specified use;

(b) is in a form and manner acceptable to the director; and

(c) contains any other information that the director may require.

2004, c.S-0.1, s.5.

Director's actions after receiving complaint

6(1) At any time after receiving a complaint, the director may do any or all of the following:

(a) investigate the complaint;

(b) require the complainant to provide further information;

(c) send a warning letter to the owner of the property or its occupant, or to anyone else the director considers appropriate;

(d) attempt to resolve the complaint by agreement or informal action;

(e) apply to the court for a community safety order;

(f) decide not to act on the complaint;

(g) take any other action that the director considers appropriate.

(2) The director shall notify the complainant in writing if the director decides not to act on a complaint or not to continue acting on a complaint.

(3) The director is not required to give reasons for any decision made pursuant to this section.

2004, c.S-0.1, s.6.

Application for community safety order

7(1) If the director applies to the court for a community safety order, the application shall name the owner of the property as the respondent.

(2) The factual allegations in the application may be different from those in the complaint.

2004, c.S-0.1, s.7.

When court may make community safety order

8(1) The court may make a community safety order if:

(a) it is satisfied that:

(i) activities have been occurring on or near the property named in the application that give rise to a reasonable inference that it is being habitually used for a specified use; and

(ii) the community or neighbourhood is adversely affected by the activities; or

(b) it is satisfied that the activities about which an application is made are a serious and immediate threat to the health, safety and security of one or more occupants of the property or persons in the community or neighbourhood.

(2) A community safety order shall:

(a) describe the property and the activities with respect to which the order is made;

(b) enjoin all persons from causing, contributing to, permitting or acquiescing in the activities;

(c) require the respondent to do everything reasonably possible to prevent the activities from continuing or reoccurring, including anything specifically ordered by the court pursuant to clause (3)(e);

(d) fix the date on which the order ceases to be in effect; and

(e) contain a statement of the right to appeal the order pursuant to Division 3.

(3) A community safety order may:

(a) require any or all persons to vacate the property on or before a date specified by the court, and enjoin any or all of them from re-entering or reoccupying it;

(b) terminate the tenancy agreement or lease of any tenant of the property on the date specified pursuant to clause (a);

(c) require the director to close the property from use and occupation on a specified date and keep it closed for up to 90 days;

(d) limit the order to part of the property about which the application was made, or to particular persons;

(e) make any other provision that the court considers necessary for the effectiveness of the community safety order, including, but not limited to, an order of possession in favour of the respondent.

(4) The court shall consider the following when deciding the length of a period of closure pursuant to clause (3)(c):

(a) the extent to which the respondent's failure, if any, to exercise due diligence in supervising and controlling the use and occupation of the property contributed to the activities;

(b) the impact of the activities on the community or neighbourhood.

(5) Before the date specified for closure pursuant to clause (3)(c), the respondent may apply to the court to set aside the portion of the community safety order requiring the property to be closed.

(6) In the case of a lease other than a tenancy agreement, before the date specified for termination of the lease of any tenant pursuant to clause (3)(b), a tenant may apply to the court to set aside the portion of the community safety order terminating the lease.

2004, c.S-0.1, s.8.

Director may apply to vary order

9(1) The director may apply to the court to vary a community safety order made pursuant to this Part if the order is still in effect and:

(a) one of the following circumstances applies:

(i) the order did not contain a provision requiring the property to be closed;

(ii) the provision requiring the property to be closed was set aside or varied pursuant to section 10;

(iii) the closure period for the property has expired; or

(b) the director considers it appropriate.

(2) The director may apply to vary a community safety order pursuant to this section more than once.

2004, c.S-0.1, s.9.

Court may set aside or vary order

10 On the application of a respondent pursuant to subsection 8(5), a tenant pursuant to subsection 8(6) or the director pursuant to section 9, the court may do one or more of the following:

(a) set aside the order, if the court is satisfied that the activities about which an order was made have ceased and are not likely to resume;

(b) set aside or vary the order made pursuant to clause 8(3)(a), if the court is satisfied that it is necessary to allow the property to be used again;

(c) vary the order to include any of the things mentioned in subsection 8(3).

2004, c.S-0.1, s.10.

SUBDIVISION II
Application for Variation by Resident of Residential Property

Interpretation of Subdivision

11 In this Subdivision, **"resident"** means an individual who has a right to occupy residential property as his or her residence, or had a right to occupy it as his or her residence, when he or she is required by a community safety order to vacate it, but who does not own the property.

2004, c.S-0.1, s.11.

Application for variation by resident

12(1) A resident may apply to the court for an order varying a provision in a community safety order that:

(a) requires the resident and, if applicable, members of the resident's household to vacate residential property that is their residence and enjoins them from re-entering or reoccupying it;

(b) terminates the resident's tenancy agreement for the residential property; or

(c) requires the director to close the residential property.

(2) The resident shall apply within 14 days after he or she is served with a community safety order to vary it.

(3) The resident shall serve the director with a copy of the application to vary a community safety order.

(4) The director is a party to the application to vary and is entitled to be heard, by counsel or otherwise, on the application.

(5) The court may extend the time for applying if the court is satisfied that the extension is in the interests of justice.

2004, c.S-0.1, s.12.

When court may vary community safety order

13(1) The court may make an order varying a community safety order if it is satisfied:

(a) that the applicant is a resident;

(b) that neither the resident nor any member of the resident's household for whom the resident is seeking a variation caused or contributed to any of the activities with respect to which the order was made;

(c) that no person who caused or contributed to any of the activities is still present at or occupying the property;

(d) that the resident or a member of the resident's household for whom the resident is seeking a variation will suffer undue hardship if the order is not varied; and

(e) if the order was varied pursuant to section 10, that neither the resident nor any member of the resident's household for whom the resident is seeking a variation was an occupant of the property when the order was varied.

(2) In a variation order, the court may:

(a) fix a later date for:

(i) the resident's tenancy agreement to be terminated;

(ii) the resident and members of the resident's household to vacate the property; or

(iii) the director to close the property;

(b) set aside the termination of the resident's tenancy agreement, or reinstate the tenancy agreement if the date of termination has already passed;

(c) set aside the requirement to vacate or close the property;

(d) if the resident and members of the resident's household have already vacated the property, authorize them to re-enter and reoccupy it, and, if applicable, require the respondent to allow them to re-enter and reoccupy it;

(e) if the property has already been closed, require the respondent to open it for the purpose of clause (d) and make it ready for occupation;

(f) make any other provision that the court considers appropriate.

(3) The court may consider the following factors respecting an application for an order to vary:

(a) whether the respondent will suffer undue hardship if the requested order is made;

(b) whether there is a tenancy agreement between the resident and the respondent, or whether there was a tenancy agreement when the resident was required to vacate the property;

(c) if the order would authorize a resident who does not or did not have a tenancy agreement to re-enter and reoccupy the property, whether the respondent is opposed to the requested order;

(d) any other factors that the court considers relevant.

2004, c.S-0.1, s.13.

SUBDIVISION III
Application by Complainant for Community Safety Order

Application by complainant for order

14(1) A complainant may apply to the court for a community safety order if:

(a) the complainant has made a complaint to the director pursuant to section 5; and

(b) the director:

(i) has decided not to act or continue to act on the complaint; or

(ii) has discontinued any application to the court.

(2) The complainant must file with the court the director's written notice provided pursuant to subsection 6(2).

2004, c.S-0.1, s.14.

When court may make community safety order

15(1) Subject to subsection (2), subsections 7(1) and (2), clause 8(1)(a), subsections 8(2) to (6), sections 9 to 14, and sections 20, 22 and 23 apply, with any necessary modification, to an application by a complainant.

(2) If a community safety order made pursuant to this subdivision contains a provision requiring the property to be closed, the court shall order the director to close the property.

(3) In an application by a complainant, the court shall not draw an adverse inference from the fact that:

(a) the director did, or did not do, any of the things set out in subsection 6(1); or

(b) the director discontinued the application.

2004, c.S-0.1, s.15.

Service on the director

16 A complainant shall:

(a) serve the director with an application for a community safety order;

(b) serve the director with an application to vary a community safety order;

(c) as soon as possible after a community safety order is made or varied, serve a copy of the order on the director; and

(d) as soon as possible after an application is dismissed, serve a notice on the director stating that the application has been dismissed.

2004, c.S-0.1, s.16.

Discontinuance of application by complainant

17(1) A complainant shall serve notice on the director at least 10 days before filing a notice with the court discontinuing an application.

(2) An application shall not be discontinued by a complainant unless the complainant files with the court the director's written confirmation that the director does not intend to apply to continue the application pursuant to subsection (3).

(3) If the director is served with a complainant's notice of discontinuance and the director applies to the court to have the application continued in the director's name, the court may order a complainant's application be continued in the director's name.

2004, c.S-0.1, s.17.

Director may appear in application

18 The director is entitled as of right to appear and be heard, either in person or through counsel, in a complainant's application for a community safety order or application for variation to request that it be dismissed if the director believes that the application:

(a) is frivolous or vexatious; or

(b) is not in the public interest.

2004, c.S-0.1, s.18.

Costs on frivolous or vexatious applications

19 If the court finds that a complainant's application is frivolous or vexatious, the court may order the complainant to pay costs to the director in addition to any other order for costs.

2004, c.S-0.1, s.19.

SUBDIVISION IV
General

Court must consider merits

20 Notwithstanding the fact that the respondent consents to an order or does not oppose an application, the court shall not grant a community safety order, or variation to that order, unless the court is satisfied that the order should be made.

2004, c.S-0.1, s.20.

Variation applications

21 Any application to vary a community safety order does not stay the operation of the order.

2004, c.S-0.1, s.21.

Service

22(1) The director shall, as soon as possible after a community safety order is made:

(a) serve a copy of the order on the respondent; and

(b) post a copy of the order in a conspicuous place on the property with respect to which the order is made.

(2) The director, or a person acting on behalf of the director, may enter the property to post a copy of the order in accordance with clause (1)(b) if he or she is accompanied by a peace officer.

(3) Any notice or document that is required to be served pursuant to this Part must be served:

(a) by personal service made:

(i) in the case of an individual, on that individual;

(ii) in the case of a partnership, on any partner; or

(iii) in the case of a corporation, on any officer or director of the corporation; or

(b) by registered mail addressed to the person to be served.

(4) A notice or document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, the person did not receive the notice or document or received it at a later date.

(5) A community safety order is effective on the date it is served on the respondent.

(6) After the respondent is served with a community safety order, the respondent shall, as soon as possible, serve a copy of the order on every other person who is lawfully occupying the property or who has a right to occupy it.

2004, c.S-0.1, s.22.

Registration of an interest based on a community safety order

23(1) The director may apply to the Registrar of Titles to register an interest based on a community safety order against the affected title.

(2) An application pursuant to subsection (1) must be accompanied by a copy of the community safety order.

(3) After an interest based on a community safety order is registered, the director:

(a) may, at any time, apply to the Registrar of Titles to discharge the registration of the interest; and

(b) shall apply to the Registrar of Titles to discharge the registration of the interest if the community safety order is no longer in effect.

(4) The registration of an interest may be discharged pursuant to subsection (3) with respect to:

(a) all of the parcels of land described in the community safety order by applying for discharge in accordance with subsection (3); or

(b) any portion of the parcels of land described in the community safety order by applying to amend the registration of the interest.

(5) Without limiting the generality of section 63, no action lies or shall be commenced against the director for any loss or damage suffered by any person by reason of:

(a) the registration of an interest pursuant to this section;

(b) the amendment of an interest pursuant to this section; or

(c) the failure of the director to:

(i) register an interest pursuant to this section; or

(ii) discharge an interest pursuant to this section.

2004, c.S-0.1, s.23.

DIVISION 3
Appeals

Appeal

24(1) An order of the court made pursuant to this Part may be appealed to the Court of Appeal:

(a) on a question of law; and

(b) with leave of a judge of the Court of Appeal.

(2) An application for leave to appeal must be made within 14 days after the day the order of the court is pronounced or within any further time that a judge of the Court of Appeal may allow.

2004, c.S-0.1, s.24.

Limitation on other actions and proceedings

25(1) Subject to subsection (2), no action or proceeding shall be commenced or maintained:

(a) to prevent the making of a community safety order;

(b) to prevent a community safety order from being carried out;

(c) to set aside or vary a community safety order made pursuant to section 10;

(d) for judicial review of a community safety order; or

(e) to obtain relief from forfeiture with respect to a tenancy agreement or lease that is ordered to be terminated.

(2) Subsection (1) does not apply to:

(a) an application pursuant to subsection 8(5), subsection 8(6) or section 12; or

(b) an appeal pursuant to section 24.

2004, c.S-0.1, s.25.

DIVISION 4
Closure of Property by Director

Director may enter property

26(1) If a community safety order that includes a provision to close a property is in effect, the director may enter the property without the consent of the owner or occupant to close it and keep it closed.

(2) The director may employ any tradespersons and workers that the director considers necessary to safely and effectively close the property and keep it closed.

(3) The director may take any measures that the director considers necessary to safely and effectively close the property and keep it closed, including:

(a) ordering any occupants still occupying the property and any other persons at the property to leave it immediately;

(b) attaching locks, hoarding or other security devices;

(c) erecting fences;

(d) changing or terminating utility services; and

(e) making interior or exterior alterations to the property so that it is not a hazard while it is closed.

(4) The director may, for any purpose that the director considers appropriate, allow others access to property that is closed pursuant to a community safety order.

(5) The director is not responsible, whether at the end of the period of closure or otherwise, for the removal or cost of removal of anything attached to or erected at the property, or the reversal or cost of reversal of anything done to or at the property, to close it or keep it closed.

2004, c.S-0.1, s.26.

Occupants required to leave property

27(1) If a community safety order requires the director to close a property, all occupants of the property and any other persons at the property shall leave it immediately on request of the director, even if they have not been previously served with the order that requires the director to close the property.

(2) If an occupant of the property and any other persons at the property do not comply with a request to leave, the director may obtain the assistance of a peace officer to remove them from the property.

(3) Subject to any order made pursuant to section 13, after leaving the property, and while the property is closed, no occupant or other person shall enter or occupy the property without the director's consent.

2004, c.S-0.1, s.27.

Respondent must pay cost of closing property

28(1) The respondent shall, on demand from the director, pay to the Minister of Finance the cost of closing, securing and keeping the property closed, in the amount certified by the director pursuant to section 29.

(2) An amount payable pursuant to subsection (1) is a debt due and owing to the Crown in right of Saskatchewan.

2004, c.S-0.1, s.28.

Recovery of director's costs – filing of certificate

29(1) If the director undertakes any work for the purposes of this Division and incurs any costs and expenses as a result, the director may file in the office of the local registrar of the court at the judicial centre nearest to the place where the work or the greatest portion of the work was done a certificate that is signed by the director and that sets out:

(a) the amount of the costs and expenses incurred pursuant to this Division;

(b) the respondent from whom the costs and expenses are recoverable; and

(c) the director's address for service.

(2) If the director files a certificate pursuant to subsection (1), the director shall serve a copy of the certificate on the respondent.

(3) The certificate filed pursuant to subsection (1) is conclusive evidence of the amount of the debt due to the Crown in right of Saskatchewan by the respondent.

(4) A certificate filed pursuant to this section has the same effect as if it were a judgment obtained in the court for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

(5) A respondent who has been served with a copy of a certificate pursuant to subsection (2) may, within 30 days after receiving the copy, make written representations to the director requesting the director to reconsider the amount of the costs and expenses.

(6) On receipt of written representations pursuant to subsection (5), the director may:

(a) withdraw the certificate;

(b) vary the amount of the costs and expenses and, for that purpose, withdraw the certificate and file a new certificate with the new costs and expenses; or

(c) confirm the certificate.

(7) The director shall notify the respondent of the director's decision as soon as is reasonably practicable after making the decision.

2004, c.S-0.1, s.29.

Appeal to court re certificate

30(1) A respondent may appeal against the amount of the costs and expenses set out in the certificate to the court:

(a) within 30 days after the date of the filing of the certificate; or

(b) if the respondent has made representations to the director pursuant to section 29, within 30 days after the director has notified the respondent of the decision.

(2) On hearing an appeal pursuant to this section, the court may issue an order:

(a) confirming the amount of costs and expenses set out in the certificate;

(b) amending or varying the amount of costs and expenses set out in the certificate;

(c) quashing the certificate; or

(d) doing any other thing that the court considers appropriate.

(3) In an order issued pursuant to subsection (2), the court may specify the period within which the order must be complied with.

2004, c.S-0.1, s.30.

DIVISION 5
Role of the Director

Director's authority

31(1) For the purposes of carrying out a responsibility or exercising a power pursuant to this Part, the director is authorized:

(a) to collect information from a government institution, as defined in *The Freedom of Information and Protection of Privacy Act*, or a local authority, as defined in *The Local Authority Freedom of Information and Protection of Privacy Act*, about a person who owns or occupies property with respect to which an application pursuant to this Act may be made, including:

(i) the person's name and address;

(ii) the whereabouts of the person; and

(iii) the person's place of employment;

(b) to collect information from any source about the ownership of property with respect to which an application pursuant to this Part may be made;

(c) to collect information from any source about the occurrence of activities with respect to which an application pursuant to this Part may be made;

(d) to make and maintain written, recorded, electronic or videotaped records of any information received pursuant to clause (a), (b) or (c) or of the occurrence of activities with respect to which an application pursuant to this Part may be made; and

(e) to disclose information obtained pursuant to clause (a), (b) or (c) and records made pursuant to clause (d), to a person, court, government institution, local authority or law enforcement agency.

(2) If the director requests information pursuant to clause (1)(a), (b) or (c), the person, government institution, local authority or law enforcement agency shall provide the information that is within its knowledge or is in any record in their possession or control, and give the director a copy of the record in which the information is contained, if applicable.

(3) The director may disclose information obtained pursuant to clause (1)(a), (b) or (c), or records made pursuant to clause (1)(d):

(a) to a person, to assist that person in serving or posting a community safety order; or

(b) to a peace officer, to enable that peace officer to carry out a community safety order.

(4) The director may contract with or authorize any person to investigate a complaint.

2004, c.S-0.1, s.31.

DIVISION 6
Confidentiality of Complaint

Complaint confidential

32(1) No person, including the director, shall, without the prior written consent of the complainant:

(a) disclose the identity of the complainant, or any information by which the complainant may be identified, to another person or to a court, government institution, local authority or law enforcement agency; or

(b) disclose, provide access to or produce the complaint, or another document or thing by which the complainant may be identified, to another person or to a court, government institution, local authority or law enforcement agency without severing any information by which the complainant may be identified.

(2) Subsection (1) applies notwithstanding *The Freedom of Information and Protection of Privacy Act* or *The Local Authority Freedom of Information and Protection of Privacy Act*.

2004, c.S-0.1, s.32.

Non-compellability

33(1) The director, and any person acting for or under the direction of the director, is not compellable in a court or in any other proceeding:

(a) to identify the complainant or give evidence about information or produce a document or thing by which the complainant may be identified;

(b) to give evidence about other information obtained by or on behalf of the director for the purposes of this Part; or

(c) to produce any other document or thing obtained by or on behalf of the director for the purposes of this Part.

(2) Clauses (1)(b) and (c) do not apply to an application by the director or to an application continued in the director's name.

2004, c.S-0.1, s.33.

DIVISION 7
General

Effect of transfer of property

34(1) A person who transfers a legal or beneficial interest in property to another person, or gives a right of occupancy of property to another person, after being served with an application or becoming aware of an application with respect to the property shall fully inform the other person about the application before completing the transfer or giving the right of occupancy.

(2) A person who transfers a legal or beneficial interest in property to another person, or gives a right of occupancy of property to another person, while a community safety order with respect to the property is in effect shall fully inform the other person about the order before completing the transfer or giving the right of occupancy.

(3) A person who receives an interest in property that is the subject of an application is deemed to be a respondent to the application when the transfer of the interest is complete, and any order made by the court is binding on that person.

2004, c.S-0.1, s.34.

Offences and penalties

35(1) No person shall:

(a) without the director's consent, remove, deface or interfere with a copy of a community safety order or any other order posted in accordance with this Part;

(b) without the director's consent:

(i) fail to vacate a property that is closed under a community safety order; or

(ii) enter or re-enter a property that is closed under a community safety order; or

(c) fail to comply with a community safety order.

(2) Every person who contravenes subsection (1), section 27, subsection 31(2), section 32, subsection 34(1) or (2), or an order of the director is guilty of an offence.

(3) Every person who is guilty of an offence is liable on summary conviction:

(a) for a first offence:

(i) in the case of an individual, to a fine of not more than $10,000, to imprisonment for a term of not more than one year or to both; and

(ii) in the case of a corporation, to a fine of not more than $25,000; and

(b) for a second or subsequent offence:

(i) in the case of an individual, to a fine of not more than $25,000, to imprisonment for a term of not more than one year or to both; and

(ii) in the case of a corporation, to a fine of not more than $100,000.

(4) If a corporation commits an offence pursuant to this Part, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.

2004, c.S-0.1, s.35.

Part prevails

36 Unless another Act expressly states otherwise, if any provision of this Part, the regulations made for the purposes of this Part or an order made pursuant to this Part conflicts with *The Residential Tenancies Act, 2006*, the provision of this Part, the regulations made for the purposes of this Part or the order prevails.

2004, c.S-0.1, s.36; 2006, c.R-22.0001, s.100.

Crown bound

37 The Crown is bound by this Part.

2004, c.S-0.1, s.37.

PART III
Fortified Buildings

DIVISION 1
Interpretation and Application of Part

Interpretation of Part

38(1) In this Part:

(a) **"closure order"** means a closure order made pursuant to section 46;

(b) **"fortified building"** means a building protected by one or more of the following:

(i) bulletproof material or material designed to be resistant to explosives on a door or window;

(ii) protective metal plating on the interior or exterior of the building that is not required for the structural integrity of the building;

(iii) armoured or specially reinforced doors;

(iv) metal bars on exterior doors or windows;

(v) any other method or material prescribed in the regulations;

(c) **"inspector"** means a person appointed as an inspector pursuant to section 39;

(d) **"owner"** means, in relation to a building:

(i) a person who is the registered owner of title to the property on which the building is located pursuant to *The Land Titles Act, 2000*, and if there is more than one registered owner of title to the property, any of them;

(ii) a person who is entitled to be the registered owner of title to the property on which the building is located pursuant to *The Land Titles Act, 2000*;

(iii) a person shown as the owner of the building or the property on which the building is located in the municipal assessment or tax roll records for the property;

(iv) a person who manages or receives rents from the building, whether on his or her behalf or as agent or trustee for another person; or

(v) any of the following persons in whom the building or the property on which the building is located or any estate or interest in the building or the property is vested or with whom decision-making responsibility legally resides:

(A) a guardian;

(B) a property decision-maker or personal decision-maker as defined in *The Adult Guardianship and Co-decision-making Act*;

(C) an executor, administrator or trustee;

(D) an attorney under a power of attorney;

(e) **"removal order"** means a removal order made pursuant to section 45.

(2) This Part applies to every building in Saskatchewan whether the building was fortified before, on or after the coming into force of this Part.

2004, c.S-0.1, s.38.

DIVISION 2
Inspectors

Appointment of inspectors

39 The minister may appoint any person or class of persons as an inspector or inspectors for the purposes of this Part, subject to any terms and conditions set out by the minister.

2004, c.S-0.1, s.39.

Identification card

40(1) The minister shall provide to each inspector an identification card for the purposes of this Part.

(2) An inspector who is acting pursuant to this Part shall produce his or her identification card if requested to do so.

2004, c.S-0.1, s.40.

Investigation

41(1) In this section and sections 42 and 43, **"record"** means a book, paper, document or thing, whether in electronic form or otherwise, that may contain information relevant to the administration or enforcement of this Part.

(2) An inspector may conduct an investigation with respect to any matter that he or she considers necessary respecting the administration or enforcement of this Part or the regulations made for the purposes of this Part.

(3) For the purposes of an investigation pursuant to this section, the inspector may, at any reasonable time:

(a) subject to subsection (4), enter and inspect any building that the inspector believes on reasonable grounds is a fortified building;

(b) take measurements and photographs of, and conduct any tests or any type of audio or visual recordings in or on, a building or on the property on which the building is located that the inspector considers necessary to determine if a building is a fortified building; and

(c) require any person to produce for inspection and copying any record that the inspector believes on reasonable grounds contains any information relevant to the administration or enforcement of this Part.

(4) An inspector may enter a dwelling place only:

(a) with the occupant's consent;

(b) pursuant to the authority of a warrant issued pursuant to section 43; or

(c) pursuant to the right of inspection set out in subsection 45(4).

(5) No person shall obstruct or hinder, or make a false or misleading statement to, an inspector who is acting pursuant to this Part.

2004, c.S-0.1, s.41.

Copies of records

42(1) The inspector may make copies of a record that has been inspected pursuant to section 41.

(2) A copy of a record certified by the inspector to be a copy made pursuant to this section:

(a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate; and

(b) has the same probative force as the original record.

(3) The inspector shall ensure that, after copies of any records inspected pursuant to section 41 are made, the originals are promptly returned to:

(a) the place they were removed from; or

(b) any other place that may be agreed to by the inspector and the person who had custody, possession or control of the record.

2004, c.S-0.1, s.42.

Warrant authorizing entry

43(1) If the inspector, pursuant to section 41, requires entry to a building and the owner or occupant of the building refuses or neglects to permit investigation, the inspector may apply *ex parte* to a justice of the peace or a judge of the provincial court for a warrant authorizing a person named in the warrant to:

(a) enter and search any building named in the warrant for the purposes of administering and enforcing this Part; and

(b) seize and take possession of any record or other thing that the inspector believes on reasonable grounds contains any information relevant to the administration and enforcement of this Part.

(2) A justice of the peace or judge of the provincial court may issue a warrant authorizing an inspector and any other person named in the warrant to enter and inspect the building and the property on which the building is located and to seize and take possession of any record if the justice of the peace or judge of the provincial court is satisfied on oath of the inspector that there are reasonable grounds to believe that:

(a) a building is a fortified building;

(b) entry to the building or the property on which the building is located is necessary for a purpose relating to the administration or enforcement of this Part; and

(c) entry to the building or the property on which the building is located has not been provided or there are reasonable grounds to believe that entry will not be provided.

2004, c.S-0.1, s.43.

DIVISION 3
Designation and Orders respecting Fortified Buildings

Designating fortified building a threat to public safety

44(1) Subject to subsection (4), the director may designate a fortified building as a threat to public safety.

(2) In determining whether a fortified building is a threat to public safety, the director may take into account:

(a) the number and type of fortifications in or on the building or on the property on which the building is located;

(b) whether the fortifications could significantly impair the ability of emergency response personnel and law enforcement officials to gain access to the building;

(c) whether the fortifications could significantly impair the ability of people inside the building to escape in an emergency;

(d) the nature of the neighbourhood or area in which the building is located;

(e) the proximity of the building to schools, playgrounds and other places where children are likely to be present;

(f) the proximity of the building to other buildings;

(g) the purpose for which the building is being used;

(h) whether the fortifications are reasonably necessary given the purpose for which the building is being used;

(i) the persons who own, occupy or visit the building;

(j) whether any criminal activity or other disruptive behaviour has previously taken place in or around the building; and

(k) any other factor that the director considers reasonable.

(3) The director may make a designation pursuant to subsection (1) without giving prior notice to the owner or occupant of the building and without holding a hearing.

(4) The director shall not designate a fortified building as a threat to public safety pursuant to subsection (1) if it has been fortified in a manner that does not exceed reasonable security measures commonly taken for:

(a) the type of business being operated in the fortified building; or

(b) a residential dwelling.

2004, c.S-0.1, s.44.

Removal order

45(1) If the director designates a fortified building as a threat to public safety pursuant to section 44, the director shall issue a removal order:

(a) specifying the fortifications that must be removed from the building or the property on which the building is located; and

(b) requiring the owner or occupant of the building, or both, to remove the specified fortifications by a date that must be at least 21 days after the removal order is made.

(2) A removal order issued pursuant to subsection (1) must contain:

(a) a provision stating that a closure order for the building will be issued if the specified fortifications are not removed by the date set out in the removal order;

(b) a statement of the right to appeal the removal order pursuant to Division 4; and

(c) any other information the director considers appropriate.

(3) The director shall serve the removal order on the owner and any occupant of the building to whom the removal order is made.

(4) If a removal order has been issued for a building, an inspector has the right to enter and inspect the building to determine if the specified fortifications have been removed.

2004, c.S-0.1, s.45.

Closure order

46(1) If the fortifications specified in a removal order are not removed by the date set out in that order, the director may issue an order closing the building for a period of not more than 90 days to allow for the removal of the specified fortifications in accordance with Division 5.

(2) A closure order issued pursuant to subsection (1) must contain:

(a) a provision requiring all persons to vacate the building and not to re-enter it until the closure order ceases to be in effect; and

(b) any other information the director considers appropriate.

(3) The director shall serve the closure order on the owner and any occupant of the building to whom the closure order is made.

(4) The director shall post a copy of the closure order in a conspicuous place on the building that is the subject of the closure order.

(5) The director shall terminate a closure order as soon as all fortifications specified in a removal order have been removed.

(6) If a closure order is terminated, the director shall advise the owner of the building that the closure order is no longer in effect.

2004, c.S-0.1, s.46.

Service

47(1) Any removal order or closure order must be served:

(a) by personal service made:

(i) in the case of an individual, on that individual;

(ii) in the case of a partnership, on any partner; or

(iii) in the case of a corporation, on any officer or director of the corporation;

(b) by registered mail addressed to the person to be served; or

(c) if service cannot be effected by one of the methods described in clauses (a) and (b):

(i) by publishing a copy of the order in two issues of a newspaper having general circulation in the area where the fortified building is located; and

(ii) by posting a copy of the order in a conspicuous place on the building with respect to which the order is made.

(2) A removal order or closure order sent by registered mail is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, the person did not receive the removal order or closure order or received it at a later date.

(3) A removal order or closure order served in accordance with clause (1)(c) is deemed to have been served on the date it is published in the newspaper for the second time or on the third day following the date it is posted on the building, whichever is the later.

(4) An order is effective on the date it is served.

2004, c.S-0.1, s.47.

Registration of an interest based on a removal order or closure order

48(1) The director may apply to the Registrar of Titles to register an interest based on a removal order or closure order against the affected title.

(2) An application pursuant to subsection (1) must be accompanied by a copy of the removal order or closure order, as the case may be.

(3) After an interest based on a removal order or closure order is registered, the director:

(a) may, at any time, apply to the Registrar of Titles to discharge the registration of the interest; and

(b) shall apply to the Registrar of Titles to discharge the registration of the interest if the removal order or closure order is no longer in effect.

(4) The registration of an interest may be discharged pursuant to subsection (3) with respect to:

(a) all of the parcels of land described in the removal order or closure order by applying for discharge in accordance with subsection (3); or

(b) any portion of the parcels of land described in the removal order or closure order by applying to amend the registration of the interest.

(5) Without limiting the generality of section 63, no action lies or shall be commenced against the director for any loss or damage suffered by any person by reason of:

(a) the registration of an interest pursuant to this section;

(b) the amendment of an interest pursuant to this section; or

(c) the failure of the director to:

(i) register an interest pursuant to this section; or

(ii) discharge an interest pursuant to this section.

2004, c.S-0.1, s.48.

DIVISION 4
Appeals

Appeal of removal order

49(1) An owner or occupant of a fortified building that is the subject of a removal order may appeal the order to the court.

(2) A notice of appeal must be served on the director within 14 days after a removal order has been served.

(3) The director is a party to any appeal and is entitled to be heard, by counsel or otherwise, on the appeal.

(4) The court shall hear and determine an appeal by way of a hearing and the court may hear evidence and submissions respecting the removal order subject to appeal.

2004, c.S-0.1, s.49.

Decision by court

50(1) On hearing an appeal, the court shall take into account the considerations set out in subsection 44(2) and may:

(a) dismiss the appeal;

(b) allow the appeal;

(c) allow the appeal subject to terms;

(d) vary the order of the director;

(e) refer the matter back to the director for further consideration and order; or

(f) make any other order that the court considers appropriate.

(2) The court may make any order as to costs that it considers appropriate.

2004, c.S-0.1, s.50.

No further appeal

51 There is no further appeal pursuant to this Part.

2004, c.S-0.1, s.51.

Appeal stays operation of removal order

52 If a notice of appeal has been filed in accordance with this Part, the operation of a removal order is stayed and no further action may be taken with respect to the order except in accordance with an order of the court hearing the appeal.

2004, c.S-0.1, s.52.

No appeal of closure order

53 There is no appeal of a closure order.

2004, c.S-0.1, s.53.

DIVISION 5
Closure of Building by Director

Director may enter building

54(1) If a closure order is in effect, the director or a person authorized by the director may enter the building without the consent of the owner or occupant to:

(a) remove the fortifications specified in the removal order; and

(b) secure the closure of the building.

(2) The director may employ any tradespersons and workers that the director considers necessary to:

(a) remove the fortifications specified in the removal order; and

(b) secure the closure of the building.

(3) The director may take any measures that the director considers necessary to safely and effectively secure the closure of the building, including:

(a) attaching locks, hoarding or other security devices;

(b) erecting fences;

(c) changing or terminating utility services; and

(d) making interior or exterior alterations to the building so that it is not a hazard while it is closed.

(4) The director is not responsible, whether at the end of the period of closure or otherwise, for the removal or cost of removal of anything attached to or erected on a building, or the reversal or cost of reversal of anything done to a building pursuant to this section.

2004, c.S-0.1, s.54.

Director to close building

55(1) If a closure order is in effect, the director shall secure the closure of a building, and all occupants of the building and any other persons at the building shall leave it immediately on the order of the director, even if they have not been previously served with the closure order.

(2) If an occupant of a building and any other persons at the building do not comply with a request to leave, the director may obtain the assistance of a peace officer to remove them from the building.

2004, c.S-0.1, s.55.

Responsibility for cost of closure and removal

56(1) The owner of a building that is the subject of a closure order shall, on demand from the director, pay to the Minister of Finance the cost of removing all fortifications and closing the building, in the amount certified by the director pursuant to section 57.

(2) An amount payable pursuant to subsection (1) is a debt due and owing to the Crown in right of Saskatchewan.

2004, c.S-0.1, s.56.

Recovery of director's costs – filing of certificate

57(1) If the director undertakes any work for the purposes of this Division and incurs any costs and expenses as a result, the director may file in the office of the local registrar of the court at the judicial centre nearest to the place where the work or the greatest portion of the work was done a certificate that is signed by the director and that sets out:

(a) the amount of the costs and expenses incurred pursuant to this Division;

(b) the owner from whom the costs and expenses are recoverable; and

(c) the director's address for service.

(2) If the director files a certificate pursuant to subsection (1), the director shall cause a copy of the certificate to be served on the owner.

(3) The certificate filed pursuant to subsection (1) is conclusive evidence of the amount of the debt due to the Crown in right of Saskatchewan by the owner.

(4) A certificate filed pursuant to this section has the same effect as if it were a judgment obtained in the court for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges with respect to its filing.

(5) An owner who has been served with a copy of a certificate pursuant to subsection (2) may, within 30 days after receiving the copy, make written representations to the director requesting the director to reconsider the amount of the costs and expenses.

(6) On receipt of a written representation pursuant to subsection (5), the director may:

(a) withdraw the certificate;

(b) vary the amount of the costs and expenses and, for that purpose, withdraw the certificate and file a new certificate with the new costs and expenses; or

(c) confirm the certificate.

(7) The director shall notify the owner of the director's decision as soon as is reasonably practicable after making the decision.

2004, c.S-0.1, s.57.

Appeal to court re certificate

58(1) An owner with respect to whom a certificate has been entered as a judgment pursuant to section 57 may appeal against the amount of the costs and expenses set out in the certificate to the court:

(a) within 30 days after the date of the filing of the certificate; or

(b) if the owner has made representations to the director pursuant to section 57, within 30 days after the director has notified the respondent of the decision.

(2) On hearing an appeal pursuant to this section, the court may issue an order:

(a) confirming the amount of costs and expenses set out in the certificate;

(b) amending or varying the amount of costs and expenses set out in the certificate;

(c) quashing the certificate; or

(d) doing any other thing that the court considers appropriate.

(3) In an order issued pursuant to subsection (2), the court may specify the period within which the order must be complied with.

2004, c.S-0.1, s.58.

DIVISION 6
General

Offences and penalties

59(1) No person shall:

(a) without the director's consent, remove, deface or interfere with a copy of a closure order posted in accordance with subsection 46(4) or clause 47(1)(c);

(b) without the director's consent:

(i) fail to vacate a building that is closed under a closure order; or

(ii) enter or re-enter a building that is closed under a closure order; or

(c) fail to comply with a removal order or a closure order.

(2) Every person who contravenes subsection (1), subsection 41(5) or an order of the director is guilty of an offence.

(3) Every person who is guilty of an offence is liable on summary conviction:

(a) for a first offence:

(i) in the case of an individual, to a fine of not more than $10,000, to imprisonment for a term of not more than one year or to both; and

(ii) in the case of a corporation, to a fine of not more than $25,000; and

(b) for a second or subsequent offence:

(i) in the case of an individual, to a fine of not more than $25,000, to imprisonment for a term of not more than one year or to both; and

(ii) in the case of a corporation, to a fine of not more than $100,000.

(4) If a corporation commits an offence pursuant to this Part, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.

2004, c.S-0.1, s.59.

PART IV
General

Assistance of peace officer

60 If requested to do so, a peace officer shall provide any assistance required by an inspector or the director in the performance of the inspector's or director's duties pursuant to this Act.

2004, c.S-0.1, s.60.

Gang colours prohibited in permitted premises

60.1(1) In this section, **"gang colours"** means any sign, symbol, logo or other representation identifying, associated with or promoting a gang or a criminal organization.

(2) No individual shall wear gang colours in any permitted premises or in the place described in a permit.

(3) Every individual who contravenes subsection (2) is guilty of an offence and is liable on summary conviction:

(a) in the case of a first offence, to a fine of not more than $10,000, to imprisonment for a term of not more than one year or to both that fine and imprisonment; and

(b) in the case of a subsequent offence, to a fine of not more than $25,000, to imprisonment for a term of not more than one year or to both that fine and imprisonment.

2005, c.41, s.5.

Presumption re offences

60.2 In an application made pursuant to this Act:

(a) there is a rebuttable presumption that a person is a member of a criminal organization if he or she has been found guilty or convicted of a criminal organization offence;

(b) evidence that a person was found guilty, convicted or found not criminally responsible on account of mental disorder with respect to an offence is admissible in evidence as proof that the person committed the offence; and

(c) evidence that a person was charged with and acquitted of an offence, or that a charge respecting an offence was withdrawn or stayed, is not relevant in making a finding of fact.

2005, c.41, s.5.

Limitation on prosecution

61 No prosecution for a contravention of Part II or III of this Act is to be commenced more than two years from the date the facts on which the alleged contravention is based first come to the knowledge of the director.

2004, c.S-0.1, s.61.

Other remedies preserved

62 The right to commence any action or proceeding pursuant to this Act is in addition to, and does not derogate from, the right to commence any other action or proceeding that exists at common law or pursuant to any other Act.

2004, c.S-0.1, s.62.

Immunity

63 No action or proceeding lies or shall be commenced against the Crown, the minister, the director, an inspector or any other person if that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

2004, c.S-0.1, s.63.

Regulations

64 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(b) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(c) for the purposes of subclause 4(1)(f)(vii), prescribing other uses as specified uses;

(d) for the purposes of subclause 38(1)(b)(v), prescribing other methods or materials of fortification;

(e) respecting any other matter or thing the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2004, c.S-0.1, s.64.

PART V
Consequential Amendment and Coming into Force

65 **Dispensed.** This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act.

Coming into force

66 This Act comes into force on proclamation.

2004, c.S-0.1, s.66.

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