

1993

CHAPTER 18

An Act to amend *The Uniform Building and Accessibility Standards Act* and to make Related Amendments to Certain Other Acts

(Assented to May 4, 1993)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Uniform Building and Accessibility Standards Amendment Act, 1993*.

S.S. 1983-84, c.U-1.2 amended

2 *The Uniform Building and Accessibility Standards Act* is amended in the manner set forth in this Act.

Section 2 amended

3 **Subsection 2(1) is amended:**

(a) by adding the following clause after clause (a):

“(a.1) **`alteration'** means a change or extension to any matter, thing or occupancy that is regulated by this Act”;

(b) by adding the following clause after clause (c):

“(c.1) **`building official'** means a building official appointed pursuant to section 5 and includes the chief building official”;

(c) by striking out “section 8” in clause (d) and substituting “Part II”;

(d) by repealing clause (e) and substituting the following:

“(e) **`chief building official'** means the chief building official appointed pursuant to subsection 5(1)”;

(e) by repealing clause (j);

(f) by repealing clause (k) and substituting the following:

“(k) **`local authority'** means:

- (i) a city, town, village or resort village within the meaning of *The Urban Municipality Act, 1984*;
- (ii) a rural municipality within the meaning of *The Rural Municipality Act, 1989*;
- (iii) a town, northern village or northern hamlet within the meaning of *The Northern Municipalities Act*;
- (iv) a regional park authority within the meaning of *The Regional Parks Act, 1979*; or
- (v) with respect to park land within the meaning of *The Parks Act*, the minister responsible for the administration of that Act”;

(g) by adding the following subclause after subclause (m)(iv):

“(v) the secretary-treasurer of a regional park authority”;

(h) by striking out “a building” in clause (o) and substituting “the property under consideration”; and

(i) by adding the following clauses after clause (o):

“(p) **`prescribed'** means prescribed in the regulations;

“(q) **`renovation'** means a renewal of a building or a portion of a building;

“(r) **`repair'** means to restore to good condition by replacing or fixing parts of a building;

“(s) **`unsafe condition'** means a condition that could cause undue hazard to life, limb or

health of any person who is authorized or expected to be on or about the premises”.

Section 4 amended

4(1) Subsection 4(1) is amended by striking out “and the regulations” and substituting “, the regulations and orders and decisions of the appeal board pursuant to sections 12 and 18”.

(2) Subsection 4(2) is repealed and the following substituted:

“(2) Two or more local authorities may enter into an agreement providing for the joint performance of their duties pursuant to subsection (1)”.

(3) Subsection 4(3) is amended:

(a) by striking out “inspectors” and substituting “building officials”; and

(b) by striking out “enforcing this Act and the regulations” and substituting “performing its enforcement duties pursuant to subsection (1)”.

(4) Subsection 4(4) is repealed and the following substituted:

“(4) Where the minister receives a request pursuant to subsection (3), the minister may designate one or more building officials to assist the local authority in performing its enforcement duties pursuant to subsection (1)”.

(5) Subsection 4(5) is amended by striking out the portion that precedes clause (a) and substituting the following:

“Where, pursuant to subsection (4), the minister designates one or more building officials to assist a local authority to perform its enforcement duties pursuant to subsection (1)”.

(6) Subsection 4(6) is amended:

(a) by striking out “an inspector” and substituting “a building official”; and

(b) by striking out “the inspector” wherever it occurs and in each case substituting “the building official”.

Section 5 amended

5(1) Subsection 5(1) is amended by striking out “inspector, inspectors” and substituting “building official, building officials”.

(2) Subsection 5(3) is amended by striking out “an inspector” and substituting “a building official”.

(3) Subsection 5(4) is repealed and the following substituted:

“(4) A local authority may appoint persons who hold a building official's licence as building officials”.

(4) Subsection 5(5) is repealed.

(5) Subsection 5(6) is amended:

(a) by striking out “inspector” and substituting “building official”; and

(b) by striking out “or deemed to be appointed by the local authority pursuant to subsection (5)”.

New section 5.1

6 Section 5.1 is repealed and the following substituted:

Building officials' licences

“5.1(1) The chief building official may issue a building official's licence to a person who:

(a) demonstrates in the prescribed manner that the person is qualified to perform the duties of a building official; and

(b) pays the prescribed fee.

(2) A licence pursuant to subsection (1):

(a) may be issued for a limited period; and

(b) may impose terms, conditions and restrictions on the duties that may be performed by the licensee”.

Section 6 amended

7 The following subsection is added after subsection 6(7):

“(8) The Lieutenant Governor in Council may make regulations:

- (a) prescribing the amount of a deposit required for an appeal to the appeal board;
- (b) governing recourse to a deposit required for an appeal;
- (c) governing the refund of a deposit or any part of a deposit required for an appeal”.

Section 8 amended

8(1) The following clause is added after clause 8(1)(j):

“(j.1) prescribing and governing duties to be carried out by local authorities in fulfilling their responsibilities pursuant to section 4”.

(2) Subsection 8(2) is repealed and the following substituted:

- “(2) For the purposes of subsection (1), the Lieutenant Governor in Council may make regulations:
- (a) declaring that all or any part of a prescribed edition of the National Building Code of Canada, as amended from time to time or otherwise, is in force;
 - (b) declaring that all or part of any other code of standards respecting materials, equipment or appliances used or installed in the construction or demolition of a building, as amended from time to time or otherwise, is in force;
 - (c) amending, repealing or replacing any provision of a code declared to be in force pursuant to clause (a) or (b)”.

Section 8.1 amended

9(1) Subsection 8.1(1) is amended by striking out “A local authority” and substituting “Subject to section 23.1, a local authority”.

(2) Subsections 8.1(2) and (3) are repealed.

Section 10 amended

10 Clauses 10(2)(d), (e) and (f) are repealed.

Section 11 amended

11 Subsection 11(2) is repealed and the following substituted:

- “(2) For the purposes of subsection (1), the Lieutenant Governor in Council may make regulations:
- (a) declaring that all or any part of a prescribed edition of the National Building Code of Canada, as amended from time to time or otherwise, is in force;
 - (b) declaring that all or part of any other code of standards respecting accessibility, as amended from time to time or otherwise, is in force;
 - (c) amending, repealing or replacing any provision of a code declared to be in force pursuant to clause (a) or (b)”.

Sections 11.1 and 11.2 repealed

12 Sections 11.1 and 11.2 are repealed.

Section 12 amended

13(1) Subsections 12(1) to (4) are repealed and the following substituted:

“(1) An owner of a building or proposed building may apply to the appeal board for an order exempting the owner from compliance with all or part of the accessibility standards by:

- (a) filing a written notice of the application with the chief building official;
- (b) submitting to the chief building official all substantiating information considered necessary by the chief building official; and
- (c) placing a deposit in the prescribed amount with the chief building official.

“(2) Within 30 days after all of the things described in clauses (1)(a) to (c) have been done, the appeal board shall conduct a hearing, consider the matter and render its decision in writing.

“(3) The appeal board may grant an order exempting the owner of a building or proposed building from compliance with all or any part of the accessibility standards to the extent and on the conditions that the appeal board considers necessary where the appeal board is satisfied that:

- (a) compliance with the accessibility standards would cause the owner undue hardship;

(b) compliance with the accessibility standards would prevent optimum utilization of land by the owner;

(c) compliance with the accessibility standards is, in the opinion of the appeal board, impractical or inappropriate; or

(d) a proposal submitted by the owner will provide accessibility that is equal to or better than that which is required or intended by the accessibility standards.

“(3.1) An order pursuant to subsection (3) must be in writing and must be served on the owner by registered mail addressed to the owner at his or her last known address.

“(4) Within 30 days after service of the order, an owner aggrieved by the order may appeal the order to a judge of the court on a question of law alone”.

Section 13 amended

14 The following clause is added after clause 13(f):

“(g) requiring an applicant for a permit to demolish or remove a building to furnish a deposit, prescribing the amount of the deposit and governing recourse to the deposit and any refund of the deposit”.

Section 14 amended

15(1) Subsection 14(1) is amended by striking out “subsections (3) and (4), a local authority that is administering and enforcing this Act and the regulations” and substituting “section 23.1, a local authority”.

(2) Subsections 14(2) to (4) are repealed.

Section 16 amended

16(1) Subsection 16(1) is amended by striking out “an inspector” and substituting “a building official”.

(2) Subsection 16(2) is amended:

(a) by striking out “an inspector” wherever it occurs and in each case substituting “a building official”; and

(b) by striking out “the inspector” wherever it occurs and in each case substituting “the building official”.

Section 17 amended

17(1) Subsection 17(1) is amended:

(a) by striking out “An inspector” and substituting “A building official”; and

(b) by striking out “inspector's” in clause (e) and substituting “building official's”.

(2) Subsection 17(2) is amended:

(a) by striking out “An inspector” and substituting “A building official”; and

(b) by striking out “inspector” in clause (a) and substituting “building official”.

(3) Subsection 17(3) is amended:

(a) by striking out “An inspector” and substituting “A building official”; and

(b) by striking out “an inspector” and substituting “a building official”.

(4) Subsection 17(4) is amended:

(a) in the portion that precedes clause (a):

(i) by striking out “an inspector” and substituting “a building official”; and

(ii) by striking out “because of” and substituting “is in an unsafe condition because of”; and

(b) in the portion that follows clause (e):

(i) by striking out “is in an unsafe condition”; and

(ii) by striking out “the inspector” and substituting “the building official”.

(5) Subsections 17(5) and (6) are repealed and the following substituted:

“(5) Notwithstanding any other provision of this Act, if a building official is satisfied that a building, whether commenced or completed before or after the coming into force of this Act, is in such a

condition that it constitutes an imminent danger to the safety of occupants or the public, a building official or a person appointed by the appropriate local authority may enter the land or the building and do, or cause to be done, any acts that the building official or appropriate local authority considers necessary to eliminate the danger, and subsections 21(2) and (3) apply, with any necessary modification, to the expenses incurred in eliminating a danger pursuant to this section.

“(6) The owner of a building or the owner’s agents, contractors, employees, successors or assigns or the registered owner of the land on which the building is situated shall submit to the appropriate local authority a report of the occurrence of:

- (a) structural failure of the building or part of the building; or
- (b) failure of any equipment, device or appliance that is regulated by this Act or the regulations;

that causes or has the potential to cause serious injury or loss of life”.

(6) Clause 17(7)(e) is amended by striking out “inspector” and substituting “building official”.

Section 17.1 repealed

18 Section 17.1 is repealed.

Section 17.2 amended

19(1) Subclause 17.2(2)(b)(iii) is repealed and the following substituted:

“(iii) the person or firm that is to review the work to determine whether or not the construction conforms to the design”.

(2) Subsection 17.2(3) is amended by striking out “an inspector” wherever it occurs:

- (a) in clause (b); and**
- (b) in clause (c);**

and in each case substituting “a building official”.

(3) Subsection 17.2(6) is repealed.

New sections 18 and 19

20 Sections 18 and 19 are repealed and the following substituted:

Appeal to appeal board

“18(1) An owner of a building may appeal an order made pursuant to section 17 within 15 days after service of the order on the owner by:

- (a) filing a written notice of the appeal with the chief building official;
- (b) submitting to the chief building official all substantiating information considered necessary by the chief building official; and
- (c) placing a deposit in the prescribed amount with the chief building official.

(2) Within 30 days after all of the things described in clauses (1)(a) to (c) have been done, the appeal board shall conduct a hearing, consider the matter and render its decision in writing.

(3) On an appeal of an order made pursuant to subsection 17(1) or (2), the appeal board shall make an order:

- (a) confirming the order appealed against where the appeal board is satisfied that compliance with the order would result in compliance with the building standards or the accessibility standards; or
- (b) revoking or varying all or any part of the order appealed against where the appeal board is satisfied that:
 - (i) compliance with the order would not result in compliance with the building standards or the accessibility standards; or
 - (ii) a proposal submitted by the owner will result in conditions that are equal to or better than those that are required or intended by the building standards or the accessibility standards.

(4) On an appeal of an order made pursuant to subsection 17(3), the appeal board shall make an order:

- (a) confirming the order appealed against where the appeal board is satisfied that the

- building official's order was reasonable in the circumstances;
- (b) revoking the order appealed against where the appeal board is satisfied that the order was not necessary to bring about compliance with the building standards or the accessibility standards; or
- (c) varying the order appealed against where, in the opinion of the appeal board, sufficient cause is established.
- (5) On an appeal of an order made pursuant to subsection 17(4), the appeal board shall make an order:
- (a) confirming the order appealed against where the appeal board is satisfied that an unsafe condition exists and that the steps prescribed in the order are necessary to eliminate the unsafe condition;
- (b) revoking the order appealed against where the appeal board is satisfied that:
- (i) an unsafe condition does not exist; or
- (ii) the steps prescribed in the order are not necessary to eliminate the unsafe condition; or
- (c) varying the order appealed against where, in the opinion of the appeal board, sufficient cause is established.
- (6) An order pursuant to subsection (3), (4) or (5):
- (a) may be made subject to any conditions that the appeal board considers necessary;
- (b) must be in writing; and
- (c) must be served on the owner by registered mail addressed to the owner at his or her last known address.

Appeal to judge

- "19(1) Within 30 days after service of an order of the appeal board pursuant to section 18, an owner aggrieved by the order may appeal the order to a judge of the court on a question of law alone.
- (2) The decision of a judge pursuant to subsection (1) is final".

Section 20 amended

21 Subsection 20(1) is amended by striking out "an inspector" and substituting "a building official".

Section 21 amended

22(1) Subsection 21(1) is repealed and the following substituted:

"(1) If a person does not comply with an order made pursuant to section 17 or 18 within the time specified in the order, a building official or a person appointed by the appropriate local authority may enter the land or the building and do, or cause to be done, any acts that the building official or the local authority considers necessary to carry out the order.

"(1.1) The minister or the chief building official may take any action authorized by subsection (1) or subsection 17(5) on behalf of a local authority where:

- (a) it is requested by a local authority or considered necessary by the minister; and
- (b) the minister considers that inaction by the local authority will result in a danger to public safety".

(2) Subsection 21(2) is amended by striking out "subsection (1)" and substituting "subsection (1.1)".

Section 22 amended

23(1) Subsection 22(1) is amended:

- (a) by striking out ", 17.1" in clause (b); and
- (b) by striking out "an inspector" in clause (c) and substituting "a building official".

(2) Subsection 22(4) is repealed and the following substituted:

"(4) A fine resulting from an offence pursuant to this Act that took place within the boundaries of the geographical area in which the local authority has jurisdiction accrues to that local authority".

New section 23 amended

24 Section 23 is repealed and the following substituted:

Court order

"23(1) The minister or a local authority, as the case may be, may apply to a judge of the court for an order described in subsection (3) if a person:

- (a) fails to comply with an order directed to that person pursuant to section 17 or 18 within the time specified in the order;
 - (b) refuses to allow a building official or a person appointed by the local authority to carry out pursuant to section 21 an order made pursuant to section 17 or 18;
 - (c) interferes with or attempts to interfere with the carrying out of an order made pursuant to section 17 or 18; or
 - (d) demonstrates the intent to contravene an order made pursuant to section 17 or 18.
- (2) An application may be made pursuant to subsection (1) whether or not the person has been prosecuted.
- (3) On an application pursuant to subsection (1), a judge of the court may grant an order requiring the person:
- (a) to comply with the order made pursuant to section 17 or 18;
 - (b) to refrain from interfering in any manner with the carrying out of an order made pursuant to section 17 or 18; or
 - (c) to refrain from contravening an order made pursuant to section 17 or 18.

New section 23.1

25 The following section is added in Part VI before section 24:

Submission of bylaws for approval

- "23.1(1) A local authority shall file two certified true copies of any bylaw or amending bylaw made pursuant to this Act with the minister within 30 days after its enactment.
- (2) For the purposes of subsection (1), copies of bylaws are to be certified by the official of a local authority who is authorized to certify copies of bylaws by:
- (a) the Act by which the local authority is established or continued; or
 - (b) any other Act that confers bylaw-making authority on the local authority.
- (3) Within 60 days after the filing of a bylaw or an amending bylaw pursuant to subsection (1):
- (a) where the minister is of the opinion that the bylaw does not conflict with this Act or the regulations, the minister shall approve the bylaw;
 - (b) where the minister is of the opinion that the bylaw conflicts with this Act or the regulations, the minister shall not approve the bylaw;
 - (c) where the minister is of the opinion that a part of the bylaw conflicts with this Act or the regulations but that a part of the bylaw does not conflict with the Act or the regulations and is severable from the part of the bylaw that conflicts with the Act or the regulations, the minister shall approve the bylaw in part; or
 - (d) approve the bylaw on the condition that the council effects amendments to it that, in the opinion of the minister, do not materially affect the bylaw in principle or substance.
- (4) Where the minister issues an approval or an approval in part, the bylaw or the approved parts of the bylaw come into force on the date of approval.
- (5) Where the minister issues a conditional approval:
- (a) the bylaw comes into force on the date of approval except for the part that requires further amendment; and
 - (b) the council shall submit the amended bylaw to the minister for approval, and subsections (1) to (4) apply, with any necessary modification, to the amended bylaw.
- (6) Where the minister does not issue an approval, an approval in part or a conditional approval of a bylaw, the bylaw is void.
- (7) Where a bylaw that is approved pursuant to this section deals with the same subject matter as a regulation made pursuant to section 13, the bylaw supersedes the regulation".

Section 26 amended

26 Section 26 is amended:

- (a) **by adding** “the appeal board,” **after** “employee of the department”; **and**
(b) **by striking out** “an inspector” **and substituting** “a building official”.

New section 26.1

27 The following section is added after section 26:

Service of documents by registered mail

“26.1 A document served by registered mail is deemed to have been received on the fifth day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of that person, the person did not receive the document or received it at a later date”.

TRANSITIONAL

Transitional

28 Notwithstanding the amendment of section 12 and the repeal of section 18 of *The Uniform Building and Accessibility Standards Act* and its replacement by new section 18, an appeal to the appeal board that was commenced pursuant to section 12 or 18 prior to the coming into force of this Act is to be continued pursuant to that section as it existed prior to the coming into force of this Act.

RELATED AMENDMENTS

S.S. 1984-85-86, c.N-5.1 amended

29 Sections 91 and 91.1 of *The Northern Municipalities Act* are repealed and the following substituted:

Location of buildings, etc.

“91 A council may, by bylaw:

- (a) regulate the distances of buildings, fences, erections or structures from the street line, the minimum space to be allowed between buildings and the lines of the lots on which they are constructed and the levels at which they are constructed;
- (b) prohibit the placing of any building, fence, erection or structure except in conformity with a bylaw made pursuant to clause (a) and unless authorized by a location permit;
- (c) provide for the issue of location permits and set the fees for their issuance;
- (d) provide for the inspection, by a municipal employee authorized pursuant to clause (e), of all buildings, fences, erections or structures during the progress of their placement;
- (e) notwithstanding section 81.1, authorize municipal employees to enter at all reasonable times on any land to ascertain whether the provisions of any bylaw respecting the placement of buildings, fences, erections or structures are obeyed and, if entry is refused, suspend the location permit issued until entry is permitted;
- (f) authorize the pulling down, removal, alteration or repair of any building, fence, erection or structure that is placed in contravention of any bylaw respecting the placement of buildings, fences, erections or structures, and the cost of the work is to be added to, and forms part of, the taxes on the land on which the building, fence, erection or structure is or was situated.

Building bylaws

“91.1(1) Subject to *The Uniform Building and Accessibility Standards Act*, a council may, by bylaw, regulate the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use, occupancy or change of occupancy of any building.

(2) A council may, by bylaw, regulate the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal or use of any fence, erection or structure”.

S.S. 1983-84, c.U-11 amended

30 Sections 122 and 123 of *The Urban Municipality Act, 1984* are repealed and the following substituted:

Location of buildings, etc.

"122 A council may, by bylaw:

- (a) regulate the distances of buildings, fences, erections or structures from the street line, the minimum space to be allowed between buildings and the lines of the lots on which they are constructed and the levels at which they are constructed;
- (b) prohibit the placing of any building, fence, erection or structure except in conformity with a bylaw made pursuant to clause (a) and unless authorized by a location permit;
- (c) provide for the issue of location permits and set the fees for their issuance;
- (d) provide for the inspection, by a municipal employee authorized pursuant to clause (e), of all buildings, fences, erections or structures during the progress of their placement;
- (e) notwithstanding section 95, authorize municipal employees to enter at all reasonable times on any land to ascertain whether the provisions of any bylaw respecting the placement of buildings, fences, erections or structures are obeyed and, if entry is refused, suspend the location permit issued until entry is permitted;
- (f) authorize the pulling down, removal, alteration or repair of any building, fence, erection or structure that is placed in contravention of any bylaw respecting the placement of buildings, fences, erections or structures, and the cost of the work is to be added to, and forms part of, the taxes on the land on which the building, fence, erection or structure is or was situated.

Building bylaws

"123(1) Subject to *The Uniform Building and Accessibility Standards Act*, a council may, by bylaw, regulate the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal, use, occupancy or change of occupancy of any building.

(2) A council may, by bylaw, regulate the construction, erection, placement, alteration, repair, renovation, demolition, relocation, removal or use of any fence, erection or structure".

Coming into force

31 This Act or any provision of this Act comes into force on a day or days to be fixed by proclamation of the Lieutenant Governor.