

# 1995

## CHAPTER 35

### An Act to amend *The Urban Municipality Act, 1984*, and to make a Consequential Amendment to *The Municipal Board Act*

(Assented to May 18, 1995)

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 Urban Municipality Amendment Act, 1995*.

#### S.S. 1984, c.U-11 amended

2 *The Urban Municipality Act, 1984* is amended in the manner set forth in this Act.

#### Section 2 amended

3 The following clause is added after clause 2(1)(l):

“(1.1) ‘**home-based business**’ means a business whose premises are located on land or within a building where the land or building is primarily used for residential purposes”.

#### Section 47 amended

4 Subsection 47(1.2) is amended by adding “or (1.1)” after “subsection 33(1)”.

#### Section 65 amended

5 Subsection 65(1) is amended:

(a) in clause (a) by adding “or through a third party that collects moneys on behalf of the urban municipality” after “transfer of funds”;

(b) in subclause (c)(i) by adding “, or another amount determined by bylaw that is equal to or less than the amount for which the treasurer is bonded,” after “\$1,000”; and

(c) in subclause (c)(ii) by adding “, or another amount determined by bylaw that is equal to or less than the amount for which the treasurer is bonded,” after “\$3,000”.

**New section 81****6 Section 81 is repealed and the following substituted:****“Municipal commercial undertakings**

**81(1)** Subject to subsection (3) and to any other express limitation in this or any other Act, an urban municipality has full power and authority to:

- (a) engage in any commercial, industrial or business undertaking within or outside the urban municipality;
- (b) participate in partnership or in any other manner that council considers appropriate, with any person in any commercial, industrial or business undertaking, within or outside the urban municipality;
- (c) incorporate a company for the purposes of engaging in any commercial, industrial or business undertaking within or outside the urban municipality; and
- (d) acquire shares in a corporation engaged in any commercial, industrial or business undertaking within or outside the urban municipality.

(2) For the purposes of this Act, an activity engaged in by an urban municipality pursuant to subsection (1) is a municipal purpose.

(3) Except as otherwise provided in this or any other Act, no urban municipality shall:

- (a) guarantee the payment of any bonds or debentures issued by any commercial, industrial or business undertaking; or
- (b) guarantee loans made to any person”.

**Section 105 amended****7 The following subsections are added after subsection 105(3):**

“(4) Where, pursuant to subsection 240(2), home-based businesses are exempted from business assessment, a council may, by bylaw:

- (a) classify, regulate, control and license home-based businesses or a class or classes of home-based businesses; and
- (b) adopt a scale of licence fees for home-based businesses consistent with clause 96(c).

“(5) Subsection (3) does not apply to a scale of licence fees adopted pursuant to subsection (4)”.

**New section 134.2****8 The following section is added after section 134.1:****"Inspection and enforcement procedures**

**134.2(1)** As an alternative to exercising authority pursuant to any or all of sections 124, 125, 126, 130, 132 and 134, the council of an urban municipality may, by bylaw, provide for standard requirements and procedures regarding the matters provided for in any of those sections, with respect to:

- (a) inspections;
- (b) notices;
- (c) compliance orders;
- (d) time requirements;
- (e) appeal processes and appeal bodies;
- (f) enforcement;
- (g) penalties; and
- (h) general procedural matters.

(2) A bylaw made pursuant to this section may provide for:

- (a) any matters mentioned in subsection (1) with respect to bylaws mentioned in section 33 of *The Fire Prevention Act, 1992*;
- (b) any other matters relating to buildings and property that any other Act provides may be dealt with pursuant to this section.

(3) A copy of any bylaw made pursuant to this section, and any amendment to the bylaw, is to be delivered to the minister within 30 days of being made.

(4) Failure to comply with subsection (3) does not affect the validity of the bylaw or amendment.

(5) A bylaw made pursuant to this section must provide mechanisms that permit prompt action in situations involving an imminent danger to public health and safety.

(6) Any words, terms or expressions used in a bylaw made pursuant to this section that are defined in this Act have the same meaning in the bylaw as in this Act.

(7) A bylaw made pursuant to this section may permit the urban municipality to assign inspection or enforcement duties pursuant to the bylaw to an employee or agent of the urban municipality.

- (8) A bylaw made pursuant to this section may contain reasonable provisions:
- (a) permitting inspectors and experts accompanying inspectors to enter buildings, structures or premises other than private dwellings at reasonable times and without the consent of the owner or occupant;
  - (b) permitting an inspector to perform tests and take samples; and
  - (c) providing penalties for obstructing an inspector who is performing his or her duties.
- (9) A bylaw made pursuant to this section must contain reasonable provisions for giving notice to owners and other persons affected by the operation of the provisions of the bylaw, or reasonable provisions concerning the circumstances in which notice may be dispensed with in the interest of protecting public safety.
- (10) A bylaw made pursuant to this section must provide for reasonable times in which orders made pursuant to the bylaw are to be complied with, or if an inspector or other person is given the authority to set times, must provide that those times are to be reasonable.
- (11) A bylaw made pursuant to this section must provide that:
- (a) an order made pursuant to the bylaw may be appealed to a local appeal board established or designated by the urban municipality; and
  - (b) an order made by the local appeal board may be appealed to the Saskatchewan Municipal Board.
- (12) An appeal pursuant to this section does not operate as a stay of the order appealed from unless the local appeal board, on an application by the appellant, decides otherwise.
- (13) On an appeal pursuant to subsection (11), the local appeal board or Saskatchewan Municipal Board as the case may be, may confirm, modify or repeal the order or decision appealed from, or substitute its own order or decision for the order or decision being appealed from.
- (14) Notwithstanding section 33 of *The Municipal Board Act*, a decision made by the Saskatchewan Municipal Board pursuant to clause (11)(b) may be appealed to the Court of Queen's Bench on a point of law or jurisdiction only within 30 days after the date the decision is made.
- (15) On an appeal pursuant to subsection (14), the Court of Queen's Bench may confirm, modify or repeal the order or decision appealed from or order the matter to be returned to the Saskatchewan Municipal Board to be dealt with in light of the court's decision on the question of law or jurisdiction.
- (16) A bylaw made pursuant to this section may contain reasonable provisions for:
- (a) the performance by the urban municipality of any work ordered pursuant to the bylaw that has not been performed by the owner within the time specified in the order, subject to a stay if the order is appealed;
  - (b) the payment by the owner of the costs of the work; and
  - (c) the addition to the owner's taxes of any costs incurred pursuant to clause (b) that have not been paid by the owner.
- (17) Section 134.1 applies to any bylaws made pursuant to this section".

**9 The following section is added after section 136:**

**"Fire-fighter liability**

**136.1**(1) For the purposes of this section, **`fire-fighter'** means a person performing duties for an urban municipality, whether for wages or otherwise, pursuant to section 136 or *The Fire Prevention Act, 1992* or regulations made pursuant to that Act.

(2) No action lies or shall be instituted against a fire-fighter for any loss or damage suffered by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by the fire-fighter while performing his or her duties as a fire-fighter.

(3) A fire-fighter shall be indemnified by the urban municipality for reasonable legal costs incurred:

(a) in the defence of a civil action arising out of the performance of his or her duties, if the fire-fighter is found not liable;

(b) in the defence of a criminal prosecution arising out of the performance of his or her duties, if the fire-fighter is found not guilty;

(c) with respect to any other proceeding in which the fire-fighter's performance of his or her duties is in issue, if the fire-fighter acted in good faith.

(4) In cases where the indemnification of the legal costs of fire-fighters is provided for in an agreement, indemnification is to be made pursuant to the terms of the agreement, and subsection (3) does not apply".

**New section 163**

**10 Section 163 is repealed and the following substituted:**

**"Liability of owner or person in charge of vehicle**

**163**(1) In this section:

(a) **`authorized person'** means a person who is in charge of a vehicle with the express or implied consent of the owner of the vehicle;

(b) **`owner'** means, with respect to any vehicle, the person to whom a current certificate of registration or registration permit for a vehicle is issued;

(c) **`unauthorized person'** means a person who is in charge of a vehicle without the express or implied consent of the owner of the vehicle.

(2) Where a vehicle is used in the commission of an offence against a bylaw made pursuant to sections 158 to 161, the owner of the vehicle is liable for the offence, as well as any other person who may have actually committed the offence, unless the owner proves to the satisfaction of the court that, at the time of the offence, the vehicle:

(a) was not being operated and had not been parked or left by the owner; and

(b) was not being operated and had not been parked or left by any authorized person in charge of the vehicle.

(3) Where, at the time of the commission of any offence against a bylaw made pursuant to sections 158 to 161 involving a vehicle, the vehicle was not being operated and had not been parked or left by the owner or by any authorized person in charge of the vehicle, the unauthorized person in charge of the vehicle is liable for the offence, as well as any other person who may have actually committed the offence, unless the unauthorized person in charge of the vehicle proves to the satisfaction of the court that, at the time of the offence, the vehicle:

(a) was not being operated, and had not been parked or left by that unauthorized person in charge of the vehicle; and

(b) was not being operated and had not been parked or left by any person in charge of the vehicle with the express or implied consent of that unauthorized person in charge of the vehicle".

#### **Section 174 amended**

##### **11 Section 174 is amended:**

(a) **by renumbering it as subsection 174(1); and**

(b) **by adding the following subsection after subsection (1):**

"(2) In this section, **'public accommodation'** includes, but is not limited to, hotels, motels, hostels and related services such as restaurants considered necessary by the council".

#### **Section 175 amended**

##### **12 Subsection 175(2.1) is amended:**

(a) **by striking out "and" after clause (a);**

(b) **by adding "and" after clause (b); and**

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

"(c) may, subject to this Act and *The Municipal Board Act*, incur any debts not payable within the current year as the council considers expedient for the purpose of carrying out the agreement".

**New section 201.1****13 The following section is added after section 201:****“Service fees**

**201.1(1)** Except as otherwise provided in this Act, a council may, by bylaw:

- (a) set fees in connection with any services provided by the urban municipality;
- (b) set times by which, places where, and the manner in which the fees are to be paid;
- (c) set terms and conditions in connection with the fees and the services provided; and
- (d) provide for enforcing the terms and conditions and the payment of the fees by discontinuing service until the terms and conditions have been complied with or the fee has been paid.

(2) Any fee set pursuant to subsection (1) that is payable with respect to services supplied to lands or improvements that are exempt from taxation pursuant to this or any other Act shall:

- (a) apply uniformly on the same basis to lands or improvements that are exempt from taxation as to those that are not exempt from taxation; and
- (b) apply at the same rate to all lands and improvements that are exempt from taxation that receive the services to which the fee applies”.

**Section 204 amended****14 Subsection 204(2) is amended:**

- (a) **by striking out “and” after clause (b); and**
- (b) **by adding the following after clause (b):**

“(b.1) the board may, in approving the budget, mill rate and capital works plan, make any alterations, variations, increases or decreases in the budget or mill rate that it considers advisable, and the urban municipality and its council shall comply with those alterations, variations, increases or decreases; and”.

**Section 210 amended****15 Subsection 210(2) is amended by striking out “A” and substituting “Subject to section 212.1, a”.**

**New section 212.1****16 The following section is added after section 212:****“Unapproved long-term debt**

**212.1(1)** Notwithstanding sections 210 and 212 of this Act and sections 22 and 23 of *The Municipal Board Act*, the council of an urban municipality with a population greater than 30,000 may, by bylaw, provide for the incurring of a long-term debt without applying to the Saskatchewan Municipal Board for authorization or approval of the bylaw, if:

- (a) a copy of the bylaw is forwarded to the Saskatchewan Municipal Board when passed; and
- (b) the amount of the long-term debt authorized for the urban municipality pursuant to section 211 is not exceeded.

(2) The bylaw, and every security issued or to be issued in conformity with the bylaw, is valid and binding on the urban municipality and on the land and buildings and businesses liable to the rate imposed by or pursuant to the bylaw, if the requirements of this and any other Act have been met.

(3) Securities that are issued or that may be issued pursuant to the authority of this section are not to be signed by the chairperson of the Saskatchewan Municipal Board or his or her designate”.

**Section 213 amended**

**17 Subclause 213(1)(a)(v) is amended by adding “or, in the case of a bylaw made pursuant to section 212.1, approved by the council” after “Board”.**

**Section 214 amended****18 The following subsection is added after subsection 214(2):**

“(2.1) In the case of borrowing undertaken pursuant to section 212.1, the council need not apply to the Saskatchewan Municipal Board, and may extend the time for issuing securities mentioned in subsection (1) by specifying a new period in an amendment to the bylaw made to incur the long-term debt, but before doing so shall review the rate and any other terms and conditions of the bylaw to ensure that they remain appropriate”.

**Section 215 amended****19 Section 215 is amended:**

- (a) by renumbering it as subsection 215(1);
- (b) in subsection (1) by striking out “A” and substituting “Subject to subsection (2), a”; and



**(c) by adding the following subsections after subsection (1):**

“(2) A council need not obtain approval of the Saskatchewan Municipal Board of a consolidating bylaw that only consolidates long-term debt incurred pursuant to two or more existing bylaws made pursuant to section 212.1.

“(3) A copy of a consolidating bylaw mentioned in subsection (2) is to be forwarded to the Saskatchewan Municipal Board when passed.

“(4) Failure to comply with subsection (3) does not affect the validity of the bylaw”.

**Section 216 amended**

**20 The following subsection is added after subsection 216(4):**

“(5) Notwithstanding subsections (1) and (3), a council need not obtain the approval of the Saskatchewan Municipal Board to amend or repeal a bylaw to incur a long-term debt if:

(a) the bylaw was made pursuant to section 212.1;

(b) a copy of the amending or repealing bylaw is forwarded to the Saskatchewan Municipal Board when passed; and

(c) either:

(i) no securities have been issued; or

(ii) the securities issued are owned by the urban municipality”.

**Section 218 amended**

**21 Section 218 is amended by striking out “Securities” and substituting “Except in the case of long-term borrowing undertaken pursuant to section 212.1, securities”.**

**New section 221.1**

**22 Section 221.1 is repealed and the following substituted:**

**“Exchange of municipal debentures**

**221.1** The treasurer, at the request of the owner of a security, and subject to the payment of a fee set by the council and the receipt of one or more securities from the owner, may issue in exchange for the security or securities, to the owner or any person that the owner directs, one or more securities having the same aggregate principal amount and terms and conditions as the original security or securities tendered for exchange”.

**Section 240 amended**

**23 Section 240 is amended:**

**(a) by renumbering it as subsection 240(1); and**

**(b) by adding the following subsection after subsection (1):**

“(2) Notwithstanding subsection (1), a council may, by bylaw, exempt home-based businesses or a class or classes of home-based businesses from the requirement of assessment for business tax purposes, and license the business or class or classes of businesses pursuant to subsection 105(4)”.

**Section 244 amended****24 Subsection 244(1) is amended:**

- (a) **in the portion preceding clause (a) by striking out “, in the form approved by the minister;”;**
- (b) **in clause (c) by adding “, and any phased-in assessed value of the land, improvement or business if the council of the urban municipality has passed a bylaw pursuant to subsection 22(11) of *The Assessment Management Agency Act*” after “business”; and**
- (c) **in subclause (d)(i):**
  - (i) **by striking out “or” after paragraph (B);**
  - (ii) **by adding “or” after paragraph (C); and**
  - (iii) **by adding the following paragraph after paragraph (C):**

“(D) in the case of land that is not exempt from taxation, of any occupant under a lease, licence, permit or contract who is not the registered owner but who is to be assessed pursuant to an agreement between the occupant and the owner”.

**Section 249 amended****25 The following subsection is added after subsection 249(4):**

- “(5) Notwithstanding subsection (3), where, pursuant to subsection 22(11) of *The Assessment Management Agency Act*, the council of an urban municipality passes a bylaw providing for the phasing in of assessed values resulting from a revaluation, the council may, by bylaw, dispense with the mailing of assessment notices in the second and any subsequent year of the phase-in period, if the assessment notice in the first year of the phase-in period contains the phased-in assessed values for each year of the phase-in period, except where:
- (a) the name of the owner or occupant, as the case may be, on the assessment roll has changed since the issuance of the last assessment notice; or
  - (b) the assessed value has changed for a reason other than the revaluation”.

**New sections 279.1 and 279.2****26 The following sections are added after section 279:****"Phase-in of assessments, other taxing authorities**

**279.1** Where, pursuant to subsection 22(11) of *The Assessment Management Agency Act*, the council of an urban municipality passes a bylaw providing for the phasing in of assessed values resulting from a revaluation, and the urban municipality levies taxes on behalf of another taxing authority, the council shall:

- (a) use the assessed values as phased in as the basis for levying those taxes; and
- (b) by resolution, and notwithstanding any other Act, following consultation with the affected taxing authority, substitute a rate that is sufficient to raise the same amount of tax revenue for that taxing authority as the amount that would have been raised for that taxing authority had the phasing-in bylaw not been adopted.

**"Municipal tax phase-in plan**

**279.2(1)** Where the incidence of taxation in an urban municipality changes as a result of a revaluation pursuant to *The Assessment Management Agency Act*, the council of the urban municipality may, by bylaw, implement a plan to phase in resulting changes in taxes over a period of not more than three years.

(2) A tax phase-in plan established by a council pursuant to subsection (1) may:

- (a) set limits on the amounts or percentages of tax increase or decrease resulting from revaluation to be permitted in each year of the plan for land, improvements or businesses, or for any class of land, improvements or businesses, and those limits need not be the same for tax increases and decreases or for each category or class of category to which the limits apply;
- (b) define classes of land, improvements or businesses to which limits set pursuant to clause (a) or a levy set pursuant to subsection (3) may be applied;
- (c) specify the method of funding the difference in each year of the plan between any limit on tax increase set pursuant to clause (a) and the tax increase that would otherwise result from revaluation.

(3) A method specified pursuant to clause (2)(c) is to include one or more of the following:

- (a) a reduction of the tax decreases that would otherwise result from revaluation;
- (b) a meeting of the difference through a levy on land, improvements or businesses, or a class of land, improvements or businesses;
- (c) a transfer from surplus or reserve funds.

- (4) A tax phase-in plan established by a council pursuant to subsection (1) shall:
- (a) ensure that the difference between any limit set pursuant to subsection (2) and the tax increase that would otherwise result from revaluation in each year of the plan is funded in each current year;
  - (b) exclude from the plan tax increases or decreases resulting from any change in assessed values that is not the result of revaluation; and
  - (c) ensure that the full amount of any tax increase or decrease resulting from revaluation is in effect after completion of the tax phase-in plan.
- (5) A tax phase-in plan established pursuant to subsection (1):
- (a) shall be implemented by adjusting the levy set pursuant to section 279; and
  - (b) may be extended to any other rates required by this or any other Act by agreement with any other taxing authority on whose behalf the urban municipality levies taxes”.

**Section 282 amended****27 Section 282 is amended:**

- (a) **in the portion preceding clause (1)(a) by striking out “, in a form approved by the minister”; and**
- (b) **by adding the following subsection after subsection (5):**

“(6) Where a person has been assessed pursuant to paragraph 244(1)(d)(i)(D) with respect to land that is owned by another person, the treasurer, at the time that he or she sends a notice pursuant to subsection (1) to the person assessed with respect to the land, shall mail a copy of the notice to the registered owner of the land”.

**Section 296 amended****28 Subsection 296(6) is repealed and the following substituted:**

- “(6) If a person pays only a portion of the taxes owing by him or her with respect to any land, improvements or business, the treasurer shall:
- (a) first apply the amount in payment of any arrears of taxes due from the person with respect to the land, improvements or business; and
  - (b) apportion the amount paid between the urban municipality and any other taxing authorities on whose behalf the urban municipality levies taxes in shares corresponding to their respective tax rates for current taxes and to the amount of taxes in arrears owed by the person”.

**New section 297.2****29 The following section is added after section 297.1:****"Limitation on recovery of tax payments**

**297.2(1)** In this section, `action' means an action for the return by an urban municipality of any moneys paid to it, whether under protest or otherwise, on account of a claim made on behalf of the urban municipality for taxes, whether the claim is valid, invalid or void.

(2) Subject to any other provision of this Act, no action shall be commenced after the expiration of six months from the date of payment of the moneys.

(3) After the six-month period mentioned in subsection (2) has expired without an action being commenced, the payment made to the urban municipality is deemed to be a voluntary payment".

**Section 329 amended**

**30 Subsection 329(1) is amended by adding "**, a board of revision, any other board or committee established by a council pursuant to this Act" **after "a council".**

## CONSEQUENTIAL AMENDMENT AND COMING INTO FORCE

**S.S. 1988-89, c.M-23.2, new section 18.2****31 The following section is added after section 18.1 of *The Municipal Board Act*:****"Section 134.2, *The Urban Municipality Act, 1984***

**18.2** The board has jurisdiction to hear and determine appeals pursuant to section 134.2 of *The Urban Municipality Act, 1984*".

**Coming into force**

**32** This Act comes into force on proclamation.