

2010

CHAPTER 24

An Act to amend *The Municipalities Act* and to make related amendments to *The Local Government Election Act*

(Assented to May 20, 2010)

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 Municipalities Amendment Act, 2010*.

S.S. 2005, c.M-36.1 amended

2 *The Municipalities Act* is amended in the manner set forth in this Act.

Section 2 amended

3 Section 2 is amended:

(a) by renumbering it as subsection 2(1);

(b) by repealing clause (1)(e) and substituting the following:

“(e) **‘building’** means any structure used or occupied or intended for supporting or sheltering any use or occupancy and includes a trailer, mobile home or portable shack that:

(i) is situated within the municipality for a period of more than 30 days; and

(ii) is not:

(A) in storage; or

(B) a travel trailer”;

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

“(f.1) **‘business day’** means a day other than a Saturday, Sunday or holiday”;

(d) by adding the following clause after clause (zz):

“(zz.1) **‘travel trailer’** means a structure that:

(i) is equipped to travel on a road;

(ii) is intended to provide accommodation for vacation or recreational use;

(iii) is not connected or attached to an improvement; and

(iv) is not connected to any utility service provided by a public utility”; **and**

(e) by adding the following subsection after subsection (1):

“(2) When making a direction pursuant to clause (1)(ee), the minister may direct the use of different means of determining population for different purposes”.

Section 6 amended

4 Section 6 is amended:

(a) by renumbering it as subsection 6(1); and

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

“(2) Any specific power to pass bylaws provided for in this Act to be exercised by a municipality is intended to operate without limiting the generality of any general power that might otherwise be interpreted as including the specific power and without limiting the generality of subsection (1) and of section 8”.

Section 8 amended

5(1) Clause 8(1)(f) is amended by striking out “*The Highway Traffic Act*” and substituting “*The Traffic Safety Act*”.

(2) Clause 8(2)(c) is repealed and the following substituted:

“(c) for each offence committed by a corporation, imposing a fine not exceeding \$25,000 or providing that the directors or officers of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence are guilty of the offence and liable on summary conviction to the penalties mentioned in clause (b) in the case of individuals, whether or not the corporation has been prosecuted or convicted, or both”.

Section 13 amended

6(1) Subclause 13(1)(b)(ii) is amended by striking out “Minister of Highways and Transportation” and substituting “minister responsible for the administration of *The Highways and Transportation Act, 1997*”.

(2) Subsection 13(2) is amended in the portion preceding clause (a) by striking out “Minister of Highways and Transportation” and substituting “minister responsible for the administration of *The Highways and Transportation Act, 1997*”.

(3) Subsection 13(4) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.

(4) Clause 13(12)(b) is amended by striking out “Minister of Highways and Transportation” and substituting “minister responsible for the administration of *The Highways and Transportation Act, 1997*”.

Section 14 amended

7(1) Subsection 14(2) is amended:

(a) in the portion preceding clause (a) by striking out “Department of Highways and Transportation” and substituting “Ministry of Highways and Infrastructure”;

(b) in clause (a) by striking out “Minister of Highways and Transportation” and substituting “minister responsible for the administration of *The Highways and Transportation Act, 1997*”; and

(c) in clause (b) by striking out “Minister of Highways and Transportation” and substituting “minister responsible for the administration of *The Highways and Transportation Act, 1997*”.

(2) Subsection 14(4) is amended by striking out “Minister of Highways and Transportation” and substituting “minister responsible for the administration of *The Highways and Transportation Act, 1997*”.

Section 22 amended

8(1) Clause 22(1)(c) is repealed and the following substituted:

“(c) in the council’s opinion, the transportation of the goods mentioned in clause (b) and the movement of any vehicles or equipment required to produce or ship those goods is likely to result in damage to the streets or roads”.

(2) The following subsection is added after subsection 22(1):

“(1.1) Notwithstanding any other provision of this Act, no council shall require any person to enter into an agreement with a municipality for the purposes of the maintenance of municipal roads other than in accordance with this section”.

(3) Subsections 22(3) and (4) are repealed.

(4) Subsection 22(5) is amended in the portion preceding clause (a) by striking out “subsection (3)” and substituting “section 22.1”.

New section 22.1

9 The following section is added after section 22:

“Road maintenance – determination of issues

22.1(1) In this section:

(a) ‘**agreement**’ means an agreement for the maintenance of any municipal road entered into pursuant to section 22 and includes a proposed agreement in the case where a municipality has caused notice to be served on a person that an agreement is required pursuant to section 22;

(b) ‘**board**’ means the Saskatchewan Municipal Board;

(c) ‘**party**’ means a party to an agreement or, if a municipality has caused notice to be served on a party that an agreement is required pursuant to section 22, a proposed party to an agreement.

- (2) Notwithstanding any terms or conditions of an agreement, a party may apply, in writing, to the board to have the board make a determination respecting:
- (a) if a municipality has caused notice to be served on a person that an agreement is required pursuant to section 22, either or both of the following issues:
 - (i) whether or not a proposed agreement is required;
 - (ii) the terms of the proposed agreement;
 - (b) if the parties have entered into an agreement, any issue involving any matter governed by the agreement.
- (3) An application made pursuant to subsection (2) shall be in the form required by the board and shall include:
- (a) a statement of the issue in dispute;
 - (b) either:
 - (i) a statement that the parties have discussed the issue in dispute, specifying the date and outcome of that discussion, including the details of any facts or issues agreed to by the parties; or
 - (ii) if the parties have not discussed the issue in dispute, a statement to that effect specifying why no discussion was held; and
 - (c) a copy of any written agreement.
- (4) A party who applies pursuant to this section shall serve the other parties with a copy of the written application made pursuant to subsection (2).
- (5) Subject to subsection (6), if an applicant does not comply with this section in filing an application, the board may refuse the application.
- (6) If, in the opinion of the board, the applicant's failure to perfect an application in accordance with this section is due to a procedural defect that does not affect the substance of the application, the board may allow the application to proceed on any terms and conditions that it considers just.
- (7) For the purposes of making a determination, the board may require the parties to provide the board with any information that the board may reasonably require.
- (8) If an application is not refused pursuant to subsection (5), the board shall make its determination within 10 business days after the date it receives the written application pursuant to subsection (2) unless:
- (a) the parties agree otherwise; or
 - (b) the regulations made by the minister establish a longer period.

- (9) In its determination, the board may:
- (a) if the issue that is the subject of the written application is one mentioned in clause (2)(a), make an order doing all or any of the following:
 - (i) determining that a proposed agreement is not required;
 - (ii) setting out all or any of the terms of the agreement;
 - (iii) if no agreement has been entered into, directing the parties to enter into an agreement;
 - (iv) making any other order that the board considers necessary or reasonable; or
 - (b) if the issue that is the subject of the written application is one mentioned in clause (2)(b), make an order determining the issue in any manner that the board considers appropriate.
- (10) For the purposes of this section, one member of the board selected by the chairperson of the board may exercise the board's powers given by this section and *The Municipal Board Act* and determine the issue that is the subject of the application.
- (11) A determination of the member of the board in accordance with subsection (10) is deemed to be a determination of the board.
- (12) A determination of the board pursuant to this section is binding on and shall be implemented by the parties.
- (13) Notwithstanding section 33.1 of *The Municipal Board Act*, a determination of the board pursuant to this section is final and there is no appeal to the Court of Appeal.
- (14) The minister may make regulations respecting the period for the board to make a determination pursuant to this section”.

Section 23 amended

10 Subsection 23(2) is amended by striking out “20 years” and substituting “30 years”.

Section 80 amended

11 Subsection 80(4) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.

Section 83 amended

12 Subsection 83(3) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.

New section 89.1**13 The following section is added after section 89:****“Criminal record checks**

89.1(1) A council may, by bylaw, require that every candidate submit a criminal record check in the form required by the minister in addition to the nomination paper submitted pursuant to section 46 of *The Local Government Election Act*.

(2) Any bylaw made pursuant to subsection (1) must be made:

(a) in the case of a municipality other than a rural municipality, at least 90 days before the day of a general election; and

(b) in the case of a rural municipality, before August 1 of the year in which it is to take effect”.

Section 97 amended**14 Subsections 97(3) and (4) are repealed and the following substituted:**

“(3) If all the seats on a council become vacant for any reason or if the remaining members of council do not constitute a quorum, the minister may, by order, do one or more of the following:

(a) appoint a returning officer and fix a date for an election to fill the vacancies;

(b) appoint one or more persons to act as members of council and hold office until the vacancies are filled at an election, and every person so appointed has all the powers, rights and obligations of an elected member;

(c) deem one or more persons appointed pursuant to clause (b) to constitute a quorum”.

Section 124 amended**15 Clause 124(1)(c) is amended by striking out “regular” and substituting “ordinary”.****Section 128 amended****16 Subsection 128(1) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.****Section 129 amended****17 Subsection 129(4) is repealed and the following substituted:**

“(4) The council shall ensure that public notice of the meeting is given”.

Section 142 amended**18(1) Subsection 142(3) is repealed and the following substituted:**

“(3) Every member of council who has previously filed a public disclosure statement pursuant to subsection (1) shall annually submit a declaration that:

(a) declares that no material change has occurred since the last public disclosure statement was filed pursuant to this section; or

(b) details the material changes that have occurred since the last public disclosure statement was filed pursuant to this section.

“(3.1) The annual declaration required pursuant to subsection (3) shall be submitted on or before November 30 in each year”.

(2) Subsection 142(4) is amended:

(a) in clause (a) by striking out “clause (3)(a)” and substituting “clause (3)(b)”; and

(b) in clause (b) by striking out “clause (3)(b)” and substituting “each declaration submitted pursuant to subsection (3)”.

Section 150 amended

19 Subclause 150(3)(b)(ii) is amended by striking out “salary” and substituting “remuneration”.

Section 151 amended

20 Subsection 151(2) is amended in the portion preceding clause (a) by striking out “citizen” and substituting “voter”.

Section 152 amended

21 Clause 152(1)(c) is repealed and the following substituted:

“(c) **‘capital property’** means tangible capital assets as defined in the generally accepted accounting principles for municipal governments recommended from time to time by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants”.

Section 154.1 amended

22 Subsection 154.1(2) is amended in the portion preceding clause (a) by adding “that has been collected” after “levy”.

Section 312 amended

23 Subsection 312(3) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.

Section 323 amended

24(1) Subsection 323(1) is repealed and the following substituted:

“(1) In this section and in sections 324 to 332 and 335:

(a) **‘goods’** includes a house trailer;

(b) **‘house trailer’** means a trailer or mobile home that:

(i) is intended for occupancy; and

(ii) is a building during the time when a tax notice is sent respecting the trailer or mobile home;

(c) **‘tax notice’** means a tax notice sent pursuant to Division 4 of this Part.

“(1.1) A municipality may issue a distress warrant:

(a) to recover tax arrears pursuant to this Part; or

(b) with respect to a house trailer, to recover tax arrears respecting the house trailer or tax that remains unpaid respecting the house trailer after the date shown on the tax notice sent to the taxpayer”.

(2) Subsection 323(4) is repealed and the following substituted:

“(4) If a person refuses to sign a bailee’s undertaking, the person placing goods under seizure may:

- (a) remove the goods from the premises; or
- (b) in the case of a house trailer, remove the house trailer from the premises or cause the house trailer to be immobilized.

“(4.1) If a house trailer has been immobilized pursuant to subsection (4), no person shall tamper with or remove any immobilization device that has been used for the purpose of immobilizing the house trailer”.

Section 324 amended**25 The following subsection is added after subsection 324(9):**

“(10) The expenses necessarily incurred in seizing and immobilizing a house trailer may be added to the tax roll and collected in the same manner as taxes”.

Section 336 amended**26 Subsection 336(4) is amended in the portion preceding clause (a) by striking out “is demolished or removed contrary to subsection (2), within 12 months after the date of demolition or removal” and substituting “is removed contrary to subsection (2), within 12 months after the date of removal”.****Section 344 amended****27 Subsections 344(2) and (3) are repealed and the following substituted:**

“(2) If a defendant in a legal action institutes a third party claim against a municipality for contribution or indemnity arising out of that legal action, the day on which the defendant was served with the claim for the legal action is deemed to be the day on which the act or omission on which that defendant’s third party claim is based took place.

“(3) Subsection (2) applies whether the right to contribution and indemnity arises with respect to a tort or otherwise”.

Section 363 amended**28 Clause 363(1)(a) is amended by adding “work or” after “carry out the”.****Section 366 amended****29 Subsection 366(2) is amended by adding “or be scheduled for demolition” after “condition”.****Section 381 amended****30(1) Subsections 381(1) and (2) are repealed and the following substituted:**

“(1) No person shall:

- (a) contravene or fail to comply with a provision of this Act or the regulations for which no other penalty is specifically provided or an order made pursuant to section 19, 364, 367 or 387;

(b) obstruct or interfere with an employee or agent of the municipality engaged in exercising on behalf of the municipality any of the powers conferred by this Act, or by a bylaw of the municipality passed pursuant to this Act; or

(c) destroy, pull down, alter or interfere with any work carried out or thing done by or for the municipality pursuant to this Act or any bylaw of the municipality passed pursuant to this Act.

“(2) Every person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to:

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

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

(c) in the case of a continuing offence, to a maximum daily fine of not more than \$2,500 for each day or part of a day during which the offence continues”.

(2) The following subsection is added after subsection 381(3):

“(4) If a corporation commits an offence described in this section, 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 in the case of individuals, whether or not the corporation has been prosecuted or convicted”.

New section 390

31 Section 390 is repealed and the following substituted:

“Service of documents

390(1) Except where otherwise provided in this Act, any notice, order or other document required by this Act or the regulations to be given or served may be served:

(a) personally;

(b) by registered mail to the last known address of the person being served;

(c) by hand delivering a copy of the notice, order or document to the last known address of the person being served; or

(d) by posting a copy of the notice, order or document at the land, building or structure or on a vehicle to which the notice, order or document relates.

(2) A notice, order or document served in accordance with clause (1)(b) is deemed to have been served on the tenth business day after the date of its mailing.

- (3) Notwithstanding subsection (2), if the municipality or other person serving a notice, order or document in accordance with clause (1)(b) has received a signed post office receipt card and:
- (a) the delivery date shown on the signed post office receipt card is a date earlier than the tenth business day after the date of its mailing, the notice, order or document is deemed to have been served on the delivery date; or
 - (b) the delivery date is not shown on the signed post office receipt card but the signed post office receipt card is returned to the municipality or other person on a date earlier than the tenth day after the date of its mailing, the notice, order or document is deemed to have been served on the day on which the signed post office receipt card is returned to the municipality or other person.
- (4) A notice, order or document served in accordance with clause (1)(c) or (d) is deemed to have been served on the business day after the date of its delivery or posting.
- (5) If service cannot be effected in accordance with subsection (1):
- (a) the notice, order or other document may be served by publishing it in two issues of a newspaper; and
 - (b) for the purposes of clause (a), the second publication must appear at least three business days before any action is taken with respect to the matter to which the notice, order or document relates.
- (6) Except where otherwise provided in this Act, any notice, order or other document that is given or served by ordinary mail pursuant to this Act or the regulations is deemed to have been given or served on the tenth business day after the date of its mailing, unless the person to whom the notice, order or other document was sent establishes that, through no fault of his or her own, the person did not receive the notice, order or other document or received it at a later date.
- (7) No defect, error, omission or irregularity in the form or substance of a notice, order or other document, or in its service, transmission or receipt, invalidates an otherwise valid notice, order or document or any subsequent proceedings relating to the notice, order or document.
- (8) Notwithstanding subsections (2) and (6), if a notice, order or other document deals with an appeal, any dispute resolution or the collection of tax arrears and the notice, order or other document is given or served by registered or ordinary mail, the notice, order or other document is deemed to have been given or served on the fifth business day after the date of its mailing, unless the person to whom the notice, order or other document was sent establishes that, through no fault of his or her own, the person did not receive the notice, order or other document or received it at a later date”.

Section 396 amended

32 Subsection 396(2) is amended by adding “or the Saskatchewan Municipal Board as an inspector” **after** “inspectors”.

S.S. 1982-83, c.L-30.1 amended

33(1) *The Local Government Election Act* is amended in the manner set forth in this section.

(2) Subsection 46(2) is amended:

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

“(d) with respect to a candidate in a municipal election, accompanied by any criminal record check required pursuant to a bylaw passed pursuant to section 63.1 of *The Cities Act* or section 89.1 of *The Municipalities Act*”.

(3) Subsection 160.19(1) is repealed and the following substituted:

“(1) No nomination is valid or shall be accepted by the returning officer unless the nomination paper is duly completed and signed and accompanied by:

- (a) the candidate’s acceptance duly completed and signed; and
- (b) with respect to a candidate in a rural municipal election, any criminal record check required pursuant to a bylaw passed pursuant to section 89.1 of *The Municipalities Act*”.

Coming into force

34 This Act comes into force on assent.

