

2010

CHAPTER 5

An Act to amend *The Cities Act* and to make a consequential amendment to *The Land Surveys Act, 2000*

(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 Cities Amendment Act, 2010*.

S.S. 2002, c.C-11.1 amended

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

Section 2 amended

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

(a) by repealing clause (a) and substituting the following:

“(a) **‘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 city for a period of more than 30 days; and

(ii) is not:

(A) in storage; or

(B) a travel trailer”;

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

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

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

“(hh.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”.

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

“(3) When making a direction pursuant to clause (1)(y), 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 city 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5 Clause 8(2)(c) is repealed and the following substituted: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”.

New section 13

6 Section 13 is repealed and the following substituted:

“Street closure

13(1) A council may, by bylaw, provide for closing, selling or leasing any street if:

(a) the council determines that the street is no longer needed for use by the travelling public; and

(b) in the case of a public highway that provides continuity to a provincial highway as defined in *The Highways and Transportation Act, 1997* and for which there is a plan on file in the Ministry of Highways and Infrastructure, the consent of the minister responsible for the administration of *The Highways and Transportation Act, 1997* is first obtained.

(2) If the title to a street is vested in the Crown, a sale of the street pursuant to this section is subject to the following conditions:

(a) compensation must be provided to the Crown for land that was originally purchased by the Crown as a provincial highway;

(b) if the Crown, a Crown utility corporation or the city requests the return of the road allowance land sold so that it may be used by the public as a street or for the purposes of a public utility, and if the land has not become part of a plan of subdivision:

(i) the road allowance land or any interest in it that is necessary to enable the Crown, the Crown utility corporation or the city to fulfil the purpose on which its request is based must be returned to the Crown, the Crown utility corporation or the city, as the case may be, without compensation; or

(ii) other land or any interest in land that is suitable to the Crown, the Crown utility corporation or the city to fulfil the purpose on which its request is based must be given to the Crown, the Crown utility corporation or the city, as the case may be, without compensation;

(c) the city shall register in the Land Titles Registry an interest against the land based on a notice that sets out the conditions mentioned in clause (b).

(3) A city shall ensure that a lease or sale entered into pursuant to this section:

(a) does not result in the elimination of the only legal access to a site; and

(b) is subject to any easement or right of way required for a public utility service that was provided as at the date on which the lease or sale agreement was entered into.

(4) A city shall obtain the consent of the appropriate authority before closing any street in the city that connects to a public highway in any other municipality, Indian reserve or other jurisdiction.

(5) A council shall ensure that any lease entered into pursuant to this section contains at least one of the following provisions:

(a) a provision permitting the council to terminate the lease on six months' written notice to the lessee if the council considers it necessary to provide public access to the street that has been closed;

(b) a provision stating that the lessee shall grant public access to the street that has been closed if the council provides the lessee with 30 days' written notice.

(6) A council shall ensure that public notice is given before initially considering any report on a proposed bylaw to close a street.

(7) Before passing a bylaw closing a street, a council shall give a person who claims to be affected prejudicially by the bylaw, or that person's agent, an opportunity to be heard by the council.

(8) Subject to subsection 309(2.1), a person whose land is injuriously affected by a bylaw passed pursuant to this section is entitled to be compensated for damages caused to the land by reason of anything done pursuant to the bylaw.

(9) If the amount of compensation for damages is not agreed on, either party may apply to a judge of the court to have the amount determined.

(10) On an application pursuant to subsection (9), a judge of the court may determine the amount of the compensation and, for that purpose, subsections 7(2) and (3) of *The Municipal Expropriation Act* apply, with any necessary modification, to that determination.

(11) Subsections (6) to (10) do not apply to that part of a street immediately adjacent to private land and known as a boulevard, not developed as a street or sidewalk and leased to the owner of that private land”.

Section 15 amended

7(1) Clause 15(1)(b) is amended by striking out “Department of Highways and Transportation” and substituting “Ministry of Highways and Infrastructure”.

(2) Subsection 15(2) is amended by striking out “Minister of Highways and Transportation” and substituting “minister responsible for the administration of *The Highways and Transportation Act, 1997*”:

(a) in the portion preceding clause (a); and

(b) in clause (b).

Section 17 amended

8 Subsection 17(2) is amended by striking out “20 years” and substituting “30 years”.

Section 43 amended

9 Subsection 43(7) is amended by striking out “prescribed in regulations made” and substituting “established”.

Section 54 amended

10 Subsection 54(4) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.

Section 57 amended

11 Subsection 57(6) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.

New section 63.1

12 The following section is added after section 63:

“Criminal record checks

63.1(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 at least 90 days before the day of a general election”.

Section 98 amended

13 Clause 98(1)(c) is amended by striking out “regular” and substituting “ordinary”.

Section 101 amended

14 Subsection 101(2) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.

Section 103 amended

15 Subsection 103(3) is repealed and the following substituted:

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

Section 116 amended

16(1) Subsection 116(2.1) is repealed and the following substituted:

“(2.1) 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.

“(2.2) The annual declaration required pursuant to subsection (2.1) shall be submitted on or before November 30 in each year”.

(2) Subsection 116(3) is amended:

- (a) in clause (a) by striking out “clause (2.1)(a)” and substituting “clause (2.1)(b)”; and**
- (b) in clause (b) by striking out “clause (2.1)(b)” and substituting “each declaration submitted pursuant to subsection (2.1)”.**

Section 123 amended

17 Subclause 123(3)(b)(ii) is amended by striking out “salary” and substituting “remuneration”.

Section 124 amended

18 Subsection 124(2) is amended in the portion preceding clause (a) by striking out “a citizen” and substituting “an elector”.

Section 125 amended

19 Clause 125(1)(c) is repealed and the following substituted:

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

Section 127.1 amended

20 Subsection 127.1(2) is amended in the portion preceding clause (a) by adding “that has been collected” after “levy”.

Section 275 amended

21 Subsection 275(3) is amended by striking out “give public notice” and substituting “ensure that public notice is given”.

Section 287 amended

22(1) Subsection 287(1) is repealed and the following substituted:

“(1) In this section and in sections 288 to 296 and 299:

- (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 city 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 287(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 288 amended

23 The following subsection is added after subsection 288(6):

“(7) 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 300 amended

24 Subsection 300(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”.

New section 307

25 Section 307 is repealed and the following substituted:**“Limitation of action**

307(1) Notwithstanding *The Limitations Act*, no action is to be brought against a city for the recovery of damages after the expiration of one year from the time when the damages were sustained, and no action is to be continued unless service of the statement of claim is made within that one-year period.

(2) If a defendant in a legal action institutes a third party claim against a city 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 325 amended

26 Clause 325(1)(a) is amended by adding “work or” after “carry out the”.

Section 330 amended

27 Subsection 330(2) is amended by adding “or be scheduled for demolition” after “condition”.

Section 338 amended

28(1) Subsections 338(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 328, 331 or 344;

(b) obstruct or interfere with an employee or agent of the city engaged in exercising on behalf of the city any of the powers conferred by this Act, or by a bylaw of the city 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 city pursuant to this Act or any bylaw of the city 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 338(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 347

29 Section 347 is repealed and the following substituted:

“Service of documents

347(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 city 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 city 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 city 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 circulating in the city; 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 353 amended

30 Subsection 353(2) is amended by adding “or the Saskatchewan Municipal Board as an inspector” after “inspectors”.

S.S. 2000, c.L-4.1, new section 44

31 Section 44 of *The Land Surveys Act, 2000* is repealed and the following substituted:

“Road closure

44(1) In this section:

- (a) **‘provincial highway’** means a provincial highway as defined in *The Highways and Transportation Act, 1997*;
- (b) **‘public highway’** means a public highway as defined in *The Highways and Transportation Act, 1997*.

(2) If the minister responsible for the administration of *The Highways and Transportation Act, 1997* closes a provincial highway, that minister shall submit to the Controller a notice of road closure in the prescribed manner.

(3) If the minister responsible for the administration of *The Highways and Transportation Act, 1997* closes a public highway or a portion of a public highway and the plan of survey is to be submitted to the Controller in accordance with section 14 of *The Highways and Transportation Act, 1997*, that minister shall submit to the Controller, in the prescribed manner:

- (a) a notice of road closure; and
- (b) a plan with respect to the affected land.

(4) If a public highway is closed pursuant to section 13 of *The Cities Act*, section 13 of *The Municipalities Act* or section 114.1 of *The Northern Municipalities Act* or pursuant to the provisions of the Lloydminster Charter within the meaning of *The City of Lloydminster Act*, the city, municipality or northern municipality, as the case may be, shall submit to the Controller a copy of the road closure bylaw.

(5) If a portion of a public highway is closed pursuant to section 13 of *The Cities Act*, section 13 of *The Municipalities Act* or section 114.1 of *The Northern Municipalities Act* or pursuant to the provisions of the Lloydminster Charter within the meaning of *The City of Lloydminster Act*, the city, municipality or northern municipality, as the case may be, shall submit to the Controller:

- (a) a copy of the road closure bylaw; and
- (b) a plan with respect to the affected land”.

Coming into force

32 This Act comes into force on assent.