
COMMUNITY CHARTER

CHAPTER 26

Assented to May 29, 2003

Contents

Section

PART 1 –PRINCIPLES, PURPOSES AND INTERPRETATION

- 1 Principles of municipal governance
- 2 Principles of municipal-provincial relations
- 3 Purposes of Act
- 4 Broad interpretation
- 5 Definitions and other interpretation rules

PART 2 –MUNICIPAL PURPOSES AND POWERS

Division 1 –Purposes and Fundamental Powers

- 6 Municipalities and their councils
- 7 Municipal purposes
- 8 Fundamental powers
- 9 Spheres of concurrent authority

Division 2 –Scope of Jurisdiction

- 10 Relationship with Provincial laws
- 11 Area of jurisdiction

Division 3 –Ancillary Powers

- 12 Authority to establish variations, terms and conditions
- 13 Services outside municipality
- 14 Intermunicipal service, regulatory and other schemes
- 15 Licensing and standards authority
- 16 Authority to enter on or into property
- 17 Municipal action at defaulter's expense
- 18 Authority to discontinue providing a service
- 19 Requirements for security to be paid to municipality
- 20 Emergency powers

PART 3 –ADDITIONAL POWERS AND LIMITS ON POWERS

Division 1 –Partnering and Other Agreements

- 21 Partnering agreements
- 22 Agreements granting exclusive or limited franchises
- 23 Agreements with other public authorities

Division 2 –Restrictions on Providing Assistance

- 24 Publication of intention to provide certain kinds of assistance
- 25 General prohibition against assistance to business and exceptions

Division 3 –Municipal Property

- 26 Notice of proposed property disposition
- 27 Exchange or other disposal of park land
- 28 Disposal of water systems, sewage systems and other utilities
- 29 Municipal ownership of subdivision park land
- 30 Reservation and dedication of municipal property

Division 4 –Expropriat ion and Compensation

- 31 General expropriation power
- 32 Authority to enter on and use property
- 33 Compensation for expropriation and other actions
- 34 Appropriation of stream channel or bed without compensation

Division 5 –Highways

- 35 Ownership and possession of highways
- 36 General authority in relation to highways
- 37 Intermunicipal boundary highways
- 38 Temporary traffic restriction and traffic control
- 39 Additional powers in relation to highways
- 40 Permanent closure and removal of highway dedication
- 41 Restrictions in relation to highway disposition, closure or alteration
- 42 Agreements respecting compensation for extraordinary traffic
- 43 Agreements respecting municipal equipment on utility poles
- 44 Agreements to reserve land for highway purposes
- 45 Highway construction and dikes
- 46 Use of highways and public places

Division 6 –Animal Control

- 47 Classes of animals
- 48 Seizure and related powers
- 49 Special powers in relation to dangerous dogs

Division 7 –Authority in relation to Trees

- 50 Restrictions in relation to authority
- 51 Compensation not payable
- 52 Right to reconsideration by council

Division 8 –Building Regulation

- 53 General authority in relation to buildings and other structures
- 54 Building permits and occupancy permits
- 55 Requirement for professional certification
- 56 Requirement for geotechnical report
- 57 Note against land title that building regulations contravened
- 58 Cancellation of note against land title

Division 9 –Business Regulation

- 59 Powers to require and prohibit
- 60 Business licence authority
- 61 Restriction on authority to require examination or certification

Division 10 –Other Spheres

- 62 Public place powers
- 63 Protection of persons and property
- 64 Nuisances, disturbances and other objectionable situations

65 Signs and other advertising

Division 11 –Other Powers

66 Fire chief powers

67 Disposal of property in police possession

68 Restriction on authority to fluoridate

69 Specific authority in relation to drainage, sewage and dikes

70 Drainage control

71 Orders and awards respecting drainage or reclamation works

Division 12 –Remedial Action Requirements

72 Council may impose remedial action requirements

73 Hazardous conditions

74 Declared nuisances

75 Harm to drainage or dike

76 Time limit for compliance

77 Notice to affected persons

78 Person affected may request reconsideration by council

79 Shorter time limits in urgent circumstances

80 Recovery of municipal costs through sale of property

PART 4 –PUBLIC PARTICIPATION AND COUNCIL ACCOUNTABILITY

Division 1 –Elections, Petitions and Community Opinion

81 Election proceedings

82 Petitions to council

83 Council may seek community opinion

Division 2 –Approval of the Electors

84 Approval of the electors

85 Assent of the electors

86 Alternative approval process

87 Matters requiring approval or assent may be combined

88 Agreements requiring approval or assent

Division 3 –Open Meetings

89 General rule that meetings must be open to the public

90 Meetings that may or must be closed to the public

91 Other persons attending closed meetings

92 Requirements before meeting is closed

93 Application of rules to other bodies

Division 4 –Public Notice and Access to Records

94 Requirements for public notice

95 Public access to municipal records

96 Agreements that require elector approval or assent

97 Other records to which public access must be provided

Division 5 –Reporting

98 Annual municipal report

99 Annual meeting on report

Division 6 –Conflict of Interest

100 Disclosure of conflict

101 Restrictions on participation if in conflict

-
- 102 Restrictions on inside influence
 - 103 Restrictions on outside influence
 - 104 Exceptions from conflict restrictions
 - 105 Restrictions on accepting gifts
 - 106 Disclosure of gifts
 - 107 Disclosure of contracts with council members and former council members
 - 108 Restrictions on use of insider information
 - 109 Court order for person to give up financial gain

Division 7 –Disqualification

- 110 Circumstances in which a person is disqualified from office on council
- 111 Application to court for declaration of disqualification
- 112 Status of a person subject to an application
- 113 Costs of an application

PART 5 –M UNICIPAL GOVERNMENT AND PROCEDURES

Division 1 –Council Roles and Responsibilities

- 114 Council as governing body
- 115 Responsibilities of council members
- 116 Responsibilities of mayor
- 117 Duty to respect confidentiality
- 118 Size of council
- 119 Term of office for council members
- 120 Oath or affirmation of office
- 121 Resignation from office

Division 2 –Council Proceedings

- 122 Exercise of powers by bylaw or resolution
- 123 General voting rules
- 124 Procedure bylaws
- 125 Council meetings
- 126 Calling of special council meetings
- 127 Notice of council meetings
- 128 Electronic meetings and participation by members
- 129 Quorum for conducting business
- 130 Designation of member to act in place of mayor
- 131 Mayor may require council reconsideration of matter
- 132 Authority of presiding member
- 133 Expulsion from meetings
- 134 Authority to compel witnesses

Division 3 –Bylaw Procedures

- 135 Requirements for passing bylaws
- 136 When a bylaw comes into force
- 137 Power to amend or repeal
- 138 Municipal codes and other general bylaws
- 139 Consolidation of bylaws
- 140 Revision of bylaws

Division 4 –Committees, Commissions and Other Bodies

- 141 Standing committees of council
- 142 Select committees of council

-
- 143 Municipal commissions
 - 144 Authority to rescind appointment
 - 145 Application of procedure rules to other bodies

Division 5 –Officers and Employees

- 146 Officer positions
- 147 Chief administrative officer
- 148 Corporate officer
- 149 Financial officer
- 150 General employment matters
- 151 Suspension of officers and employees
- 152 Termination of officers
- 153 Prohibition against interfering with municipal officers and employees

Division 6 –Delegation

- 154 Delegation of council authority
- 155 Special rules respecting delegation of hearings and other proceedings
- 156 Reconsideration of delegate’s decisions

Division 7 –Other Matters

- 157 Municipal days of recognition
- 158 Freedom of the municipality
- 159 Notice to municipality
- 160 Notice by municipality: obligation satisfied if reasonable effort made
- 161 Court order allowing substituted service
- 162 Certified copies of municipal records
- 163 Evidence of municipal bylaws and other records

PART 6 –F INANCIAL MANAGEMENT

Division 1 –Financial Planning and Accountability

- 164 Fiscal year
- 165 Financial plan
- 166 Public process for development of financial plan
- 167 Annual financial statements
- 168 Reporting of council remuneration, expenses and contracts

Division 2 –Audit

- 169 Municipal auditor
- 170 Audit committee
- 171 Auditor’s reports
- 172 Complaints to council or auditor about financial affairs

Division 3 –Expenditures, Liabilities and Investments

- 173 Limit on expenditures
- 174 Limit on borrowing and other liabilities
- 175 Liabilities under agreements
- 176 Liabilities imposed under prescribed enactments
- 177 Revenue anticipation borrowing
- 178 Short term capital borrowing
- 179 Loan authorization bylaws for long term borrowing
- 180 Elector approval required for some loan authorization bylaws
- 181 Temporary borrowing under loan authorization bylaw

-
- 182 Municipal financing through regional district
 - 183 Investment of municipal funds
 - 184 Property accepted in trust
 - 185 Ownership of corporations
 - 186 Self insurance
 - 187 Indemnification against proceedings

Division 4 –Reserve Funds

- 188 Establishment of reserve funds
- 189 Use of money in reserve funds

Division 5 –Restrictions on Use of Municipal Funds

- 190 Purposes for which borrowed money may be used
- 191 Liabilities for use of money contrary to Act

PART 7 –M UNICIPAL REVENUE

Division 1 –General

- 192 General revenue sources
- 193 Authority for fees and taxes

Division 2 –Fees

- 194 Municipal fees
- 195 Fees in relation to soil removal and deposit
- 196 Fees in relation to fire and security alarm systems

Division 3 –Property Value Taxes

- 197 Annual property tax bylaw
- 198 Assessment averaging and phasing options
- 199 Property tax rates regulations

Division 4 –Parcel Taxes

- 200 Parcel tax bylaw
- 201 Property subject to parcel tax
- 202 Parcel tax roll for purpose of imposing tax
- 203 Content of parcel tax roll
- 204 Parcel tax roll review panel
- 205 Review panel to hear complaints and make corrections
- 206 Authentication of parcel tax roll
- 207 Appeal to Supreme Court from review panel decision
- 208 Updating the parcel tax roll
- 209 Validity of parcel tax roll

Division 5 –Local Service Taxes

- 210 Authority for local area services
- 211 Requirements for establishing a local area service
- 212 Petition for local area service
- 213 Local area service on council initiative – subject to petition against
- 214 Local area service on council initiative – subject to elector assent
- 215 Business improvement areas
- 216 Local service taxes
- 217 Borrowing in relation to a local area service
- 218 Enlargement or reduction of local service area
- 219 Merging of local service areas

Division 6 –Statutory Exemptions

- 220 General statutory exemptions
- 221 Grandparented pollution abatement exemptions
- 222 Phased farm property tax exemption
- 223 Exemptions under regulations

Division 7 –Permissive Exemptions

- 224 General authority for permissive exemptions
- 225 Partnering, heritage, riparian and other special exemption authority
- 226 Revitalization tax exemptions
- 227 Notice of permissive tax exemptions

Division 8 –Tax Liability of Occupiers

- 228 Taxation of Crown land used by others
- 229 Taxation of municipal land used by others
- 230 Taxation of occupier of exempt land

Division 9 –General Revenue Collection Authority

- 231 Recovery of taxes and fees
- 232 Collection agreements with other taxing authorities

Division 10 –Property Tax Due Dates and Tax Notices

- 233 Options for tax due dates
- 234 General tax collection scheme
- 235 Alternative municipal tax collection scheme
- 236 Owner may elect which scheme to use
- 237 General tax notices
- 238 Persons may request copies of tax notices

Division 11 –Adjustments to Taxes

- 239 Interest on overpayment of taxes
- 240 Adjustments for assessment changes
- 241 Taxation based on supplementary roll
- 242 Apportionment of property value taxes if land subdivided
- 243 Apportionment of parcel taxes if land subdivided

Division 12 –Payment of Taxes

- 244 Application of tax payments
- 245 Taxes in arrear
- 246 Delinquent taxes
- 247 Treatment of outstanding taxes on subdivision or cancellation of subdivision
- 248 Statement of outstanding taxes
- 249 Certificate of outstanding taxes

Division 13 –Recovery of Taxes

- 250 Taxes are a special charge on the land
- 251 Liability of assessed owner
- 252 Recovery of taxes by the legal remedy of distress
- 253 Power to accept real property in place of taxes
- 254 Tax sales
- 255 Notice of delinquent taxes on Crown land
- 256 Recovery of taxes on Crown land subject to an agreement for sale
- 257 Recovery of taxes on Crown land held under lease or licence

Division 14 –Recovery of Special Fees

- 258 Special fees may be collected as property taxes
- 259 Special fees that are liens against property

PART 8 –B YLAW ENFORCEMENT AND RELATED MATTERS**Division 1 –Bylaw Enforcement**

- 260 Enforcement powers
- 261 Payment of fines and other penalties to municipality
- 262 Recovery of penalty by legal remedy of distress

Division 2 – *Offence Act* prosecutions

- 263 Penalties in relation to *Offence Act* prosecutions

Division 3 –Ticketing for Bylaw Offences

- 264 Ticket offences
- 265 Penalties in relation to ticket offences
- 266 Laying information and serving ticket
- 267 Choice of paying fine or disputing ticket
- 268 Effect of paying fine
- 269 Hearing of dispute
- 270 Failure to appear at hearing
- 271 Failure to respond to ticket
- 272 Time extensions if person not at fault in failing to respond or appear
- 273 Regulations in relation to ticket offences

Division 4 –Enforcement by Civil Proceedings

- 274 Actions by municipality

Division 5 –Other Matters

- 275 Entry warrants

PART 9 –G OVERNMENTAL RELATIONS**Division 1 –Provincial-Municipal Relations**

- 276 Required consultations
- 277 Consultation agreements
- 278 Enforcement of obligations
- 279 No forced amalgamations

Division 2 –Provincial Regulations

- 280 Regulations providing exemptions from approval requirements
- 281 Regulations providing additional powers and exceptions
- 282 General regulation authority
- 283 Variation authority

Division 3 –Dispute Resolution

- 284 Request for assistance in relation to intergovernmental dispute
- 285 Voluntary binding arbitration
- 286 Mandatory binding arbitration
- 287 Final proposal arbitration
- 288 Full arbitration
- 289 General provisions regarding arbitration process
- 290 Implementation of arbitrator's decision
- 291 Regulations respecting arbitrations

292 Commencement

SCHEDULE –D EFINITIONS AND RULES OF INTERPRETATION

- 1 Definitions
- 2 Application of *Local Government Act* definitions
- 3 Special rule for Mountain Time Zone
- 4 References to municipal officers

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

PART 1 –P RINCIPLES, PURPOSES AND INTERPRETATION

Principles of municipal governance

- 1 (1) Municipalities and their councils are recognized as an order of government within their jurisdiction that
 - (a) is democratically elected, autonomous, responsible and accountable,
 - (b) is established and continued by the will of the residents of their communities, and
 - (c) provides for the municipal purposes of their communities.
- (2) In relation to subsection (1), the Provincial government recognizes that municipalities require
 - (a) adequate powers and discretion to address existing and future community needs,
 - (b) authority to determine the public interest of their communities, within a legislative framework that supports balance and certainty in relation to the differing interests of their communities,
 - (c) the ability to draw on financial and other resources that are adequate to support community needs,
 - (d) authority to determine the levels of municipal expenditures and taxation that are appropriate for their purposes, and
 - (e) authority to provide effective management and delivery of services in a manner that is responsive to community needs.

Principles of municipal-provincial relations

- 2 (1) The citizens of British Columbia are best served when, in their relationship, municipalities and the Provincial government
 - (a) acknowledge and respect the jurisdiction of each,
 - (b) work towards harmonization of Provincial and municipal enactments, policies and programs, and
 - (c) foster cooperative approaches to matters of mutual interest.

Section 3

- (2) The relationship between municipalities and the Provincial government is based on the following principles:
- (a) the Provincial government respects municipal authority and municipalities respect Provincial authority;
 - (b) the Provincial government must not assign responsibilities to municipalities unless there is provision for resources required to fulfill the responsibilities;
 - (c) consultation is needed on matters of mutual interest, including consultation by the Provincial government on
 - (i) proposed changes to local government legislation,
 - (ii) proposed changes to revenue transfers to municipalities, and
 - (iii) proposed changes to Provincial programs that will have a significant impact in relation to matters that are within municipal authority;
 - (d) the Provincial government respects the varying needs and conditions of different municipalities in different areas of British Columbia;
 - (e) consideration of municipal interests is needed when the Provincial government participates in interprovincial, national or international discussions on matters that affect municipalities;
 - (f) the authority of municipalities is balanced by the responsibility of the Provincial government to consider the interests of the citizens of British Columbia generally;
 - (g) the Provincial government and municipalities should attempt to resolve conflicts between them by consultation, negotiation, facilitation and other forms of dispute resolution.

Purposes of Act

- 3 The purposes of this Act are to provide municipalities and their councils with
- (a) a legal framework for the powers, duties and functions that are necessary to fulfill their purposes,
 - (b) the authority and discretion to address existing and future community needs, and
 - (c) the flexibility to determine the public interest of their communities and to respond to the different needs and changing circumstances of their communities.

Broad interpretation

- 4 (1) The powers conferred on municipalities and their councils by or under this Act or the *Local Government Act* must be interpreted broadly in accordance with the purposes of those Acts and in accordance with municipal purposes.
- (2) If
- (a) an enactment confers a specific power on a municipality or council in relation to a matter, and

- (b) the specific power can be read as coming within a general power conferred by or under this Act or the *Local Government Act*,

the general power must not be interpreted as being limited by that specific power, but that aspect of the general power that encompasses the specific power may only be exercised subject to any conditions and restrictions established in relation to the specific power.

Definitions and other interpretation rules

- 5 The Schedule to this Act establishes definitions of terms used in this Act and rules of interpretation that apply to this Act.

PART 2 –M UNICIPAL PURPOSES AND POWERS

Division 1 –Purposes and Fundamental Powers

Municipalities and their councils

- 6
 - (1) A municipality is a corporation of the residents of its area.
 - (2) The governing body of a municipality is its council.
 - (3) New municipalities may be established, and the boundaries of existing municipalities may be altered, in accordance with Part 2 [*Incorporation*] of the *Local Government Act*.

Municipal purposes

- 7 The purposes of a municipality include
 - (a) providing for good government of its community,
 - (b) providing for services, laws and other matters for community benefit,
 - (c) providing for stewardship of the public assets of its community, and
 - (d) fostering the economic, social and environmental well-being of its community.

Fundamental powers

- 8
 - (1) A municipality has the capacity, rights, powers and privileges of a natural person of full capacity.
 - (2) A municipality may provide any service that the council considers necessary or desirable, and may do this directly or through another public authority or another person or organization.
 - (3) A council may, by bylaw, regulate, prohibit and impose requirements in relation to the following:
 - (a) municipal services;
 - (b) public places;

Section 8

- (c) trees;
 - (d) firecrackers, fireworks and explosives;
 - (e) bows and arrows, knives and other weapons not referred to in subsection (5);
 - (f) cemeteries, crematoriums, columbariums and mausoleums and the interment or other disposition of the dead;
 - (g) the health, safety or protection of persons or property in relation to matters referred to in section 63 [*protection of persons and property*];
 - (h) the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [*nuisances, disturbances and other objectionable situations*];
 - (i) public health;
 - (j) protection of the natural environment;
 - (k) animals;
 - (l) buildings and other structures;
 - (m) the removal of soil and the deposit of soil or other material.
- (4) A council may, by bylaw, regulate and impose requirements in relation to matters referred to in section 65 [*signs and other advertising*].
- (5) A council may, by bylaw, regulate and prohibit in relation to the discharge of firearms.
- (6) A council may, by bylaw, regulate in relation to business.
- (7) The powers under subsections (3) to (6) to regulate, prohibit and impose requirements, as applicable, in relation to a matter
- (a) are separate powers that may be exercised independently of one another,
 - (b) include the power to regulate, prohibit and impose requirements, as applicable, respecting persons, property, things and activities in relation to the matter, and
 - (c) may not be used to do anything that a council is specifically authorized to do under Part 26 [*Planning and Land Use Management*] or Part 27 [*Heritage Conservation*] of the *Local Government Act*.
- (8) As examples, the powers to regulate, prohibit and impose requirements under this section include the following powers:
- (a) to provide that persons may engage in a regulated activity only in accordance with the rules established by bylaw;
 - (b) to prohibit persons from doing things with their property;
 - (c) to require persons to do things with their property, to do things at their expense and to provide security for fulfilling a requirement.

- (9) A municipality must make available to the public, on request, a statement respecting the council's reasons for adopting a bylaw under subsection (3), (4), (5) or (6).
- (10) Powers provided to municipalities under this section
 - (a) are subject to any specific conditions and restrictions established by or under this or another Act, and
 - (b) must be exercised in accordance with this Act unless otherwise provided.
- (11) For certainty,
 - (a) the authority under subsection (2) does not include the authority to regulate, prohibit or impose requirements, and
 - (b) for the purposes of subsection (3) (a), a service does not include an activity that is merely the exercise of authority to regulate, prohibit or impose requirements and related enforcement.

Spheres of concurrent authority

- 9** (1) This section applies in relation to the following:
- (a) bylaws under section 8 (3) (i) [*public health*];
 - (b) bylaws under section 8 (3) (j) [*protection of the natural environment*];
 - (c) bylaws under section 8 (3) (k) [*animals*] in relation to wildlife;
 - (d) bylaws under section 8 (3) (l) [*buildings and other structures*] establishing standards that are or could be dealt with by the Provincial building regulations;
 - (e) bylaws under section 8 (3) (m) [*removal and deposit of soil and other material*] that
 - (i) prohibit soil removal, or
 - (ii) prohibit the deposit of soil or other material, making reference to quality of the soil or material or to contamination.
- (2) For certainty, this section does not apply to
- (a) a bylaw under section 8 [*fundamental powers*] that is under a provision not referred to in subsection (1) or is in respect of a matter to which subsection (1) does not apply,
 - (b) a bylaw that is authorized by or under a provision of this Act other than section 8, or
 - (c) a bylaw that is authorized by or under another Act,
- even if the bylaw could have been made under an authority to which this section does apply.
- (3) Recognizing the Provincial interest in matters dealt with by bylaws referred to in subsection (1), a council may not adopt a bylaw to which this section applies unless the bylaw is

Section 10

- (a) in accordance with a regulation under subsection (4),
 - (b) in accordance with an agreement under subsection (5), or
 - (c) approved by the minister responsible.
- (4) The minister responsible may, by regulation, do the following:
 - (a) establish matters in relation to which municipalities may exercise authority as contemplated by subsection (3) (a), either
 - (i) by specifying the matters in relation to which they may exercise authority, or
 - (ii) by providing that the restriction under subsection (3) only applies in relation to specified matters;
 - (b) provide that the exercise of that authority is subject to the restrictions and conditions established by the regulation;
 - (c) provide that the exercise of that authority may be made subject to restrictions and conditions specified by the minister responsible or by a person designated by name or title in the regulation.
- (5) The minister responsible may enter into an agreement with one or more municipalities that has the same effect in relation to the municipalities as a regulation that could be made under subsection (4).
- (6) If
 - (a) a regulation or agreement under this section is amended or repealed, and
 - (b) the effect of the amendment or repeal is that bylaws that previously did not require authorization under subsection (3) would now require that authorization,those bylaws affected that were validly in force at the time of the amendment or repeal continue in force as if they had been approved by that minister.

Division 2 –Scope of Jurisdiction

Relationship with Provincial laws

- 10** (1) A provision of a municipal bylaw has no effect if it is inconsistent with a Provincial enactment.
- (2) For the purposes of subsection (1), unless otherwise provided, a municipal bylaw is not inconsistent with another enactment if a person who complies with the bylaw does not, by this, contravene the other enactment.

Area of jurisdiction

- 11** (1) A municipality and its council may only exercise or perform their powers, duties and functions within the boundaries of the municipality, unless authorized by or under this or another Act.

- (2) The natural person powers of a municipality may be exercised outside the boundaries of the municipality.
- (3) If a municipality has established works or facilities outside the boundaries of the municipality for the purposes of a municipal service, the council's power to regulate the use of those works and facilities may be exercised outside the boundaries of the municipality.

Division 3 –Ancillary Powers

Authority to establish variations, terms and conditions

- 12** (1) A municipal bylaw under this Act may do one or more of the following:
- (a) make different provisions for different areas, times, conditions or circumstances as described by bylaw;
 - (b) establish different classes of persons, places, activities, property or things;
 - (c) make different provisions, including exceptions, for different classes established under paragraph (b).
- (2) A council may, in exercising its powers under section 8 (1) [*natural person powers*], establish any terms and conditions it considers appropriate.

Services outside municipality

- 13** (1) A municipality may provide a service in an area outside the municipality, but it must first obtain consent as follows:
- (a) if the area is in another municipality, the council must obtain the consent of the council of the other municipality;
 - (b) if the area is not in another municipality, the council must obtain the consent of the regional district board for the area.
- (2) In giving consent under subsection (1), the other local government may establish terms and conditions, including terms and conditions respecting
- (a) limits on the service to be provided in its area, and
 - (b) the process for terminating provision of the service in its area.
- (3) If consent is given as referred to in subsection (1), the municipal powers, duties and functions provided by or under this or any other Act in relation to the service may be exercised in the area referred to in that subsection, subject to any applicable terms and conditions established under subsection (2).

Intermunicipal service, regulatory and other schemes

- 14** (1) Two or more municipalities may, by bylaw adopted by the council of each participating municipality, establish an intermunicipal scheme in relation to one or more matters for which they have authority under this Act or the *Local Government Act*.
- (2) A bylaw under subsection (1) may do one or more of the following:

Section 15

- (a) provide that the bylaws of one or more of the participating municipalities in relation to the matters dealt with by the scheme apply in other participating municipalities;
 - (b) provide that the municipal powers, duties and functions of one or more of the participating municipalities may be exercised in relation to the scheme in another participating municipality;
 - (c) provide that the council of one or more of the participating municipalities may delegate under Division 6 [*Delegation*] of Part 5 [*Municipal Government and Procedures*] to council members, council committees, officers, employees and other bodies referred to in section 154 (1) [*delegation of council authority*] of another participating municipality;
 - (d) restrict a participating municipality from separately exercising its authority in relation to the matters dealt with by the scheme;
 - (e) establish the process by which a participating municipality may withdraw from the scheme.
- (3) If an intermunicipal service scheme is established under this section, this section rather than section 13 applies.

Licensing and standards authority

- 15** (1) A council may, in regulating under this Act or the *Local Government Act*, provide for a system of licences, permits or approvals, including by doing one or more of the following:
- (a) prohibiting any activity or thing until a licence, permit or approval has been granted;
 - (b) providing for the granting and refusal of licences, permits and approvals;
 - (c) providing for the effective periods of licences, permits and approvals;
 - (d) establishing
 - (i) terms and conditions of, or
 - (ii) terms and conditions that must be met for obtaining, continuing to hold or renewing
 a licence, permit or approval, or providing that such terms and conditions may be imposed, the nature of the terms and conditions and who may impose them;
 - (e) providing for the suspension or cancellation of licences, permits and approvals for
 - (i) failure to comply with a term or condition of a licence, permit or approval, or
 - (ii) failure to comply with the bylaw;
 - (f) providing for reconsideration or appeals of decisions made with respect to the granting, refusal, suspension or cancellation of licences, permits and approvals.

- (2) A council may, in regulating in relation to a matter under this Act or the *Local Government Act*,
 - (a) establish a standard, code or rule by adopting a standard, code or rule
 - (i) published by a provincial, national or international body or standards association, or
 - (ii) enacted as or under a law of this or another jurisdiction, including a foreign jurisdiction, and
 - (b) adopt the standard, code or rule under paragraph (a)
 - (i) in whole, in part or with any changes considered appropriate, and
 - (ii) as it stands at a specific date, as it stands at the time of adoption or as amended from time to time.

Authority to enter on or into property

- 16**
- (1) This section applies in relation to an authority under this or another Act for a municipality to enter on property.
 - (2) The authority may be exercised by officers or employees of the municipality or by other persons authorized by the council.
 - (3) Subject to this section, the authority includes authority to enter on property, and to enter into property, without the consent of the owner or occupier.
 - (4) Except in the case of an emergency, a person
 - (a) may only exercise the authority at reasonable times and in a reasonable manner, and
 - (b) must take reasonable steps to advise the owner or occupier before entering the property.
 - (5) The authority may only be used to enter into a place that is occupied as a private dwelling if any of the following applies:
 - (a) the occupier consents;
 - (b) the municipality has given the occupier at least 24 hours' written notice of the entry and the reasons for it;
 - (c) the entry is made under the authority of a warrant under this or another Act;
 - (d) the person exercising the authority has reasonable grounds for believing that failure to enter may result in a significant risk to the health or safety of the occupier or other persons;
 - (e) the entry is for a purpose referred to in subsection (6) (a) in relation to regulations, prohibitions or requirements applicable to the place that is being entered.
 - (6) Without limiting the matters to which this section applies, a municipality may enter on property for any of the following purposes:

Section 17

- (a) to inspect and determine whether all regulations, prohibitions and requirements are being met in relation to any matter for which the council, a municipal officer or employee or a person authorized by the council has exercised authority under this or another Act to regulate, prohibit or require;
- (b) to take action authorized under section 17 (1) [*municipal action at defaulter's expense*];
- (c) in relation to section 18 [*authority to discontinue providing a service*], to disconnect or remove the system or works of the service;
- (d) to assess or inspect in relation to the exercise of authority under section 8 (3) (c) [*spheres of authority –trees*].

Municipal action at defaulter's expense

- 17** (1) The authority of a council under this or another Act to require that something be done includes the authority to direct that, if a person subject to the requirement fails to take the required action, the municipality may
- (a) fulfill the requirement at the expense of the person, and
 - (b) recover the costs incurred from that person as a debt.
- (2) Division 14 [*Recovery of Special Fees*] of Part 7 [*Municipal Revenue*] applies to an amount recoverable under subsection (1) that is incurred for work done or services provided in relation to land or improvements.

Authority to discontinue providing a service

- 18** (1) A municipality may, by bylaw, establish circumstances in which it may discontinue providing a municipal utility or other service to a specific property or person
- (a) because of unpaid fees or taxes in relation to the service, or
 - (b) because of non-compliance with the rules established by bylaw or contract respecting the use of the service.
- (2) A bylaw under subsection (1)
- (a) must include provision for reasonable notice, and
 - (b) in relation to a discontinuation under subsection (1) (b), must include provision for the persons affected to have an opportunity to make representations to council.

Requirements for security to be paid to municipality

- 19** (1) This section applies if
- (a) a bylaw requires a person to provide the municipality with security, or
 - (b) the council or a person authorized by the council requires a person to provide security to the municipality as a condition of a licence, permit or approval.

- (2) The person who is subject to the requirement may, at that person's option, provide the security by
 - (a) a cash deposit,
 - (b) an irrevocable letter of credit, or
 - (c) another form of security satisfactory to the council or the person who imposed the requirement for the security.
- (3) The municipality must deal with the security as follows:
 - (a) interest on the security becomes part of the security;
 - (b) the security may only be used for the purpose for which it was provided;
 - (c) any amount not required for that purpose must be returned to the person who provided the security.

Emergency powers

- 20** (1) If an emergency within the meaning of the *Emergency Program Act* arises in a municipality, the council has the powers provided under that Act.
- (2) If another form of emergency arises in a municipality, the council may declare that the emergency exists and provide for the necessary powers to deal with the emergency.

PART 3 – ADDITIONAL POWERS AND LIMITS ON POWERS**Division 1 – Partnering and Other Agreements****Partnering agreements**

- 21** If a municipality enters into a partnering agreement for the provision of a service on behalf of the municipality, the council may
 - (a) provide assistance, other than tax exemptions, to a business in accordance with the agreement, and
 - (b) provide assistance by way of a tax exemption in accordance with Division 7 [*Permissive Exemptions*] of Part 7 [*Municipal Revenue*].

Agreements granting exclusive or limited franchises

- 22** (1) A council may, by bylaw adopted with the approval of the electors, enter into an agreement that grants an exclusive or limited franchise for the provision of one or more of the following in accordance with the agreement:
 - (a) a public transportation system;
 - (b) water through a water supply system;
 - (c) sewage disposal through a sewage system;
 - (d) gas, electrical or other energy supply system.

Section 23

- (2) The maximum term of an initial agreement or a renewal agreement under this section is 21 years.

Agreements with other public authorities

- 23** (1) A council may make agreements with a public authority respecting
- (a) activities and services within the powers of a party to the agreement, including agreements respecting the undertaking, provision and operation of activities and services,
 - (b) operation and enforcement in relation to the exercise of regulatory authority within the powers of a party to the agreement, and
 - (c) the management of property or an interest in property held by a party to the agreement.
- (2) An agreement between a municipality and a public authority in another country respecting the provision and operation of works and services has no effect unless it is approved by the Lieutenant Governor in Council.

Division 2 –Restrictions on Providing Assistance**Publication of intention to provide certain kinds of assistance**

- 24** (1) A council must give notice in accordance with section 94 [*public notice*] of its intention to provide any of the following forms of assistance to a person or organization:
- (a) disposing of land or improvements, or any interest or right in or with respect to them, for less than market value;
 - (b) lending money;
 - (c) guaranteeing repayment of borrowing or providing security for borrowing;
 - (d) assistance under a partnering agreement.
- (2) The notice must be published before the assistance is provided and must
- (a) identify the intended recipient of the assistance, and
 - (b) describe the nature, term and extent of the proposed assistance.

General prohibition against assistance to business and exceptions

- 25** (1) Unless expressly authorized by or under this or another Act, a council must not provide a grant, benefit, advantage or other form of assistance to a business, including
- (a) any form of assistance referred to in section 24 (1) [*publication of intention to provide certain kinds of assistance*], or
 - (b) an exemption from a tax or fee.
- (2) A council may provide assistance to a business for one or more of the following purposes:

- (a) acquiring, conserving and developing heritage property and other heritage resources;
 - (b) gaining knowledge and increasing public awareness about the community's history and heritage;
 - (c) any other activities the council considers necessary or desirable with respect to the conservation of heritage property and other heritage resources.
- (3) A council may, by an affirmative vote of at least 2/3 of all the members of council, provide assistance to a business for the conservation of any of the following property:
 - (a) property that is protected heritage property;
 - (b) property that is subject to a heritage revitalization agreement under section 966 of the *Local Government Act*;
 - (c) property that is subject to a covenant under section 219 of the *Land Title Act* that relates to the conservation of heritage property.

Division 3 –Municipal Property

Notice of proposed property disposition

- 26** (1) Before a council disposes of land or improvements, it must publish notice of the proposed disposition in accordance with section 94 [*public notice*].
- (2) In the case of property that is available to the public for acquisition, notice under this section must include the following:
- (a) a description of the land or improvements;
 - (b) the nature and, if applicable, the term of the proposed disposition;
 - (c) the process by which the land or improvements may be acquired.
- (3) In the case of property that is not available to the public for acquisition, notice under this section must include the following:
- (a) a description of the land or improvements;
 - (b) the person or public authority who is to acquire the property under the proposed disposition;
 - (c) the nature and, if applicable, the term of the proposed disposition;
 - (d) the consideration to be received by the municipality for the disposition.

Exchange or other disposal of park land

- 27** (1) This section applies to land vested in a municipality under
- (a) section 29 [*subdivision park land*] of this Act,
 - (b) section 936 (5) (a) [*park land in place of development cost charges*] of the *Local Government Act*, or
 - (c) section 941 (14) [*park land in relation to subdivision*] of the *Local Government Act*.

Section 28

- (2) A council may, by bylaw adopted with the approval of the electors,
 - (a) dispose of all or part of the land in exchange for other land suitable for a park or public square, or
 - (b) dispose of the land, provided that the proceeds of the disposal are to be placed to the credit of a reserve fund under section 188 (2) (b) [*park land acquisition reserve fund*].
- (3) Land taken in exchange by a municipality under this section is dedicated for the purpose of a park or public square and the title to it vests in the municipality.
- (4) A transfer of land by a municipality under this section has effect free of any dedication to the public for the purpose of a park or a public square and section 30 (3) [*removal of park dedication*] does not apply.

Disposal of water systems, sewage systems and other utilities

- 28** (1) This section applies to works for one or more of the following:
 - (a) the supply, treatment, conveyance, storage and distribution of water;
 - (b) the collection, conveyance, treatment and disposal of sewage;
 - (c) the supply and distribution of gas or electrical energy;
 - (d) a transportation system;
 - (e) a telephone system, closed circuit television system or television rebroadcasting system.
- (2) A council has unrestricted authority to dispose of works referred to in subsection (1) if
 - (a) the works are no longer required for the purpose described in subsection (1), or
 - (b) the works are disposed of to another municipality in the same regional district or to the regional district.
- (3) In the case of works referred to in subsection (1) (a) or (b) that are used by a municipality to provide a water or sewer service, the council may only dispose of the works if
 - (a) an agreement under which the water or sewer service will continue for a period specified in the agreement is in effect, and
 - (b) the intended disposition and agreement receives the assent of the electors.
- (4) In the case of works other than those referred to in subsections (2) and (3), the council may only dispose of the works with the approval of the electors.

Municipal ownership of subdivision park land

- 29** (1) Land in a municipality that is dedicated to the public for the purpose of a park or a public square by a subdivision plan, explanatory plan or reference plan deposited in the land title office is vested in the municipality for that purpose.

- (2) The vesting under subsection (1) is subject to the exceptions described in section 107 (1) (d) of the *Land Title Act* as if the vesting were under that section.

Reservation and dedication of municipal property

- 30** (1) A council may, by bylaw, reserve or dedicate for a particular municipal or other public purpose real property owned by the municipality.
- (2) As a restriction, a bylaw under subsection (1) that reserves or dedicates property
- (a) as a park or public square, or
 - (b) for purposes related to heritage or heritage conservation,
- may only be adopted by an affirmative vote of at least 2/3 of all the members of council.
- (3) A bylaw that removes a reservation or dedication referred to in subsection (2) may only be adopted with the approval of the electors.
- (4) A bylaw that removes a reservation or dedication under subsection (1), other than one referred to in subsection (2), may only be adopted after the council
- (a) gives notice of its intention in accordance with section 94 [*public notice*], and
 - (b) provides an opportunity for persons who consider that they are affected by the bylaw to make representations to council.
- (5) Bylaws adopted or works undertaken by a council that directly affect property reserved or dedicated under this section must be consistent with the purpose for which the property is reserved or dedicated.
- (6) A reservation or dedication under this section does not commit or authorize a council to proceed with implementation of the purpose for which the property is reserved or dedicated.

Division 4 –Expropriation and Compensation

General expropriation power

- 31** (1) For the purpose of exercising or performing its powers, duties and functions, a municipality may expropriate real property or works, or an interest in them, in accordance with the *Expropriation Act*.
- (2) Without limiting subsection (1), in addition to the rights conferred on licensees under sections 27 and 28 of the *Water Act*, a municipality may expropriate
- (a) a licence authorizing the diversion of water from a stream suitable for a water supply for the municipality, and
 - (b) any work constructed or used under authority of the licence.
- (3) The powers under subsections (1) and (2) also apply to property outside the municipality for the purposes of

Section 32

- (a) a service provided by the municipality to an area outside the municipality, or
- (b) establishing and managing quarries, sand pits or gravel pits to acquire material for municipal works.

Authority to enter on and use property

- 32** (1) Without limiting section 31 [*expropriation power*], a municipality may, for the purposes of one or more services of the municipality,
- (a) enter on, break up, alter, take or enter into possession of and use real property, and
 - (b) construct works through, under or over real property.
- (2) If a municipality provides a service outside the municipality, the power under subsection (1) applies to property outside the municipality in relation to that service.
- (3) If a council considers that real property may be injuriously affected by the exercise of a council power, the municipality may enter on real property and undertake works of construction, maintenance or repair in mitigation of injury done or anticipated, or in reduction of compensation.
- (4) In addition to the authority under subsection (1) (b), a municipality may construct works through, under or over land adjoining a highway for the protection of the highway from damage by water.
- (5) The authority under this section may be exercised without the consent of the owner of the property, subject to the restrictions established by section 16 [*authority to enter on or into property*].

Compensation for expropriation and other actions

- 33** (1) Unless expressly provided otherwise, if a municipality expropriates real property or works under this or any other enactment, compensation is payable to the owners, occupiers or other persons interested in the property for any damages necessarily resulting from the exercise of those powers beyond any benefit that the person claiming the compensation may derive from the work resulting from the expropriation.
- (2) If a municipality
- (a) exercises a power to enter on, break up, alter, take or enter into possession of and use any property, or injuriously affects property by the exercise of any of its powers, and
 - (b) exercises a power referred to in paragraph (a) that does not constitute an expropriation within the meaning of the *Expropriation Act*,
- compensation is payable for any loss or damages caused by the exercise of the power.

- (3) For the purposes of subsection (2), compensation must be paid as soon as reasonably possible in an amount set
 - (a) by agreement between the person claiming compensation and the municipality, or
 - (b) if no agreement is reached, by the Expropriation Compensation Board.

Appropriation of stream channel or bed without compensation

- 34** (1) A council may appropriate the land constituting the channel or bed of a stream that passes through the municipality, without compensation to the owner, for the purpose of constructing one or more of the following:
 - (a) dikes;
 - (b) works to maintain the proper flow of water in a stream, ditch, drain or sewer in the municipality;
 - (c) works to reclaim or to protect part of the land mass of the municipality from erosion by action of the sea or a stream or by any other cause;
 - (d) works to protect all or part of the banks of the stream from erosion or damage;
 - (e) works to make a watercourse part of the municipal drainage system, whether the watercourse is on municipal land, private land or a highway;
 - (f) works through, under or over land adjoining a highway to protect the highway from damage by water.
- (2) Before exercising the power under subsection (1), the council must, by bylaw, define the channel or bed of the stream.
- (3) A certified copy of every bylaw under subsection (2), together with a plan showing the channel or bed of the stream as defined in the bylaw, must be filed in the land title office.

Division 5 –Highways

Ownership and possession of highways

- 35** (1) Subject to this section,
 - (a) the soil and freehold of every highway in a municipality is vested in the municipality, and
 - (b) in the case of a highway in a municipality that is not vested under paragraph (a), the right of possession of the highway is vested in the municipality.
- (2) Subsection (1) (a) does not apply to the following:
 - (a) Provincial arterial highways, including the intersection between a Provincial arterial highway and another highway and any interchange between a Provincial arterial highway and another highway;

Section 35

- (b) highways referred to in section 23 (1) of the *Greater Vancouver Transportation Authority Act*;
 - (c) highways in a park, recreation area or ecological reserve established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*;
 - (d) highways in a regional park under the *Park (Regional) Act*;
 - (e) a regional trail under the *Park (Regional) Act*, other than a regional trail that is part of the road system regularly used by vehicle traffic;
 - (f) land, including the improvements on it, on which Provincial works such as ferry terminals, gravel pits, weigh scales and maintenance yards are located;
 - (g) roads referred to in section 66 of the *Forest Practices Code of British Columbia Act* that have not been declared to be public highways;
 - (h) highways vested in the federal government;
 - (i) in relation to a reserve as defined in the *Indian Act* (Canada), highways in the reserve or that pass through the reserve;
 - (j) public rights of way on private land.
- (3) Subsection (1) (b) does not apply to highways referred to in subsection (2) (a) to (h).
- (4) The vesting under subsection (1) (a) and the right of possession under subsection (1) (b)
- (a) are not adversely affected or derogated from by prescription in favour of any other occupier, and
 - (b) are subject to any rights reserved by the persons who laid out the highway.
- (5) The vesting under subsection (1) (a) includes the vesting of all statutory rights of way and other easements owned by the Provincial government solely for purposes relating to the drainage of a highway that is vested under that subsection, and the interest of the Provincial government under those easements is transferred to the municipality and the municipality assumes the rights and obligations of the Provincial government in relation to those easements.
- (6) The minister responsible for the *Highway Act* may file with the land title office an application satisfactory to the registrar of land titles that identifies an easement referred to in subsection (5) and, on filing, the registrar must register ownership of the easement in the name of the municipality.
- (7) The vesting under subsection (1) (a) is subject to the following:
- (a) the right of resumption under subsection (8);
 - (b) the limits referred to in section 23 (2) of the *Land Title Act*;
 - (c) the exceptions described in section 50 (1) (a) (ii) to (iv) and (b) of the *Land Act*, as if the vesting were made by Crown grant under that Act;

- (d) the exceptions described in section 107 (1) (d) of the *Land Title Act*, as if the vesting were under that section.
- (8) The Provincial government may, by order of the Lieutenant Governor in Council, resume the property or interest vested in a municipality under subsection (1) (a), if the Lieutenant Governor in Council considers that this is required
 - (a) for the purpose of or in relation to a Provincial arterial highway,
 - (b) for any other transportation purpose, or
 - (c) for the purpose of or in relation to a park, recreation area or ecological reserve established or proposed to be established under the *Park Act*, the *Ecological Reserve Act* or the *Protected Areas of British Columbia Act*.
- (9) An order under subsection (8) (a) or (b) may only be made on the recommendation of the minister responsible for the *Highway Act*, and an order under subsection (8) (c) may only be made on the recommendation of the minister responsible for the applicable Act referred to in that subsection.
- (10) The minister responsible for the *Highway Act*, after consultation with the minister responsible for this Act, may
 - (a) by order, cancel the Provincial government's right of resumption under subsection (8) in relation to a specified highway or in relation to highways within a specified area, or
 - (b) by regulation, specify circumstances in which the Provincial government's right of resumption is cancelled without a specific order.
- (11) For certainty, a council may grant a licence of occupation or an easement, or permit an encroachment, in respect of a highway that is vested in the municipality under subsection (1) (a).
- (12) This section does not apply to a highway for which the municipality has purchased or taken the land and for which title is registered in the name of the municipality.

General authority in relation to highways

- 36**
- (1) In addition to its authority in relation to highways as a service, a council may, by bylaw, regulate and prohibit in relation to all uses of or involving a highway or part of a highway.
 - (2) The authority of a municipality in relation to highways under any provision of this Act is subject to the following:
 - (a) traffic and parking on highways may only be regulated or prohibited in accordance with the *Motor Vehicle Act*, except as expressly provided in this Act;
 - (b) authority in relation to traffic on Provincial arterial highways is subject to section 124 (13) of the *Motor Vehicle Act*;

Section 37

- (c) extraordinary traffic on Provincial arterial highways may only be regulated or prohibited by bylaw adopted with the approval of the minister responsible for the *Highway Act*;
 - (d) the restrictions established by the *Greater Vancouver Transportation Authority Act*;
 - (e) authority in relation to all electrical transmission and distribution facilities and works that are on, over, under, along or across a highway is subject to the *Utilities Commission Act* and to all orders, certificates and approvals issued, granted or given under that Act.
- (3) Authority in relation to highways that is provided to a municipality by or under this or another Act includes the power to restrict the common law right of passage by the public over a highway that is vested in the municipality, if this restriction is necessary to the exercise of the authority.

Intermunicipal boundary highways

- 37** In the case of an intermunicipal boundary highway,
- (a) the councils of the applicable municipalities have joint jurisdiction over the highway,
 - (b) unless the councils agree otherwise, the highway must be opened, maintained, kept in repair and improved by the municipalities, and
 - (c) bylaws respecting the highway must be mutually acceptable to those municipalities or be in accordance with an intermunicipal scheme under section 14 [*intermunicipal service, regulatory and other schemes*] in relation to the highway.

Temporary traffic restriction and traffic control

- 38** (1) A council may temporarily restrict or prohibit all or some types of traffic on a highway.
- (2) In addition to the authority under section 154 [*delegation of council authority*], a council may, by bylaw, authorize a municipal employee or any other person to control traffic on a highway, or to temporarily restrict or prohibit all or some types of traffic on a highway, in relation to matters specified in the bylaw.

Additional powers in relation to highways

- 39** A council may, by bylaw, do one or more of the following:
- (a) assign a name or number to a highway;
 - (b) assign numbers to buildings and other structures;
 - (c) require owners or occupiers of real property to place assigned numbers in a conspicuous place on or near the property;
 - (d) require owners of private highways to maintain them in a clean, fit and safe state and to post suitable private thoroughfare signs;

- (e) require persons to take specified actions for the purposes of maintaining the cleanliness or safety of a highway that is next to property that they own or occupy, or that is affected by property that they own or occupy;
- (f) require owners or occupiers of land to fence any part of it abutting on a highway.

Permanent closure and removal of highway dedication

- 40** (1) A council may, by bylaw,
- (a) close all or part of a highway that is vested in the municipality to all or some types of traffic, or
 - (b) reopen all or part of such a highway that has been closed.
- (2) A council may, by bylaw, remove the dedication of a highway
- (a) that has been closed by a bylaw under subsection (1) (a), or
 - (b) that is to be closed by the same bylaw, or by a bylaw adopted by the council at the same time.
- (3) Before adopting a bylaw under this section, the council must
- (a) give notice of its intention in accordance with section 94 [*public notice*], and
 - (b) provide an opportunity for persons who consider they are affected by the bylaw to make representations to council.
- (4) In addition to the requirement under subsection (3), before adopting a bylaw under subsection (1) (a), the council must deliver notice of its intention to the operators of utilities whose transmission or distribution facilities or works that council considers will be affected by the closure.
- (5) A bylaw under subsection (2) must be filed in accordance with section 120 of the *Land Title Act* and, on filing, the property subject to the bylaw ceases to be a highway, its dedication as a highway is cancelled and title to the property may be registered in the name of the municipality in accordance with section 120 of the *Land Title Act*.
- (6) As a limit on subsection (2), a council may not remove the dedication of a highway that was dedicated by the deposit of a subdivision or reference plan in the land title office if
- (a) the highway has not been developed for its intended purpose, and
 - (b) the owner of the land at the time the plan was deposited is the owner of all of the parcels created by the plan,
- unless the owner of the parcels consents.
- (7) This section, and not section 30 [*reservation and dedication of municipal property*], applies to cancelling the dedication of a highway.

- (8) For certainty, this section applies to public highways under section 4 of the *Highway Act*.

Restrictions in relation to highway disposition, closure or alteration

- 41** (1) As a restriction, if
- (a) a bylaw under section 40 (1) (a) [*authority to permanently close*] affects a highway, or part of a highway, that provides access to the ocean or a lake, river or other stream or watercourse, and
 - (b) the municipality is proposing to dispose of the highway or part,
- the municipality may only dispose of that highway or part if
- (c) the municipality is exchanging the property for other property that the council considers will provide public access to the same body of water that is of at least equal benefit to the public, or
 - (d) the proceeds of the disposition are to be paid into a reserve fund, with the money from the reserve fund used to acquire property that the council considers will provide public access to the same body of water that is of at least equal benefit to the public.
- (2) If the effect of
- (a) a proposed highway closure under section 40 (1) (a), or
 - (b) a proposed highway alteration
- will be to completely deprive an owner of the means of access to their property, the municipality must either
- (c) obtain the consent of the owner before the owner is deprived of access, or
 - (d) in addition to paying any compensation required under section 33 (2) [*compensation for injurious affection*], ensure that the owner has another means of access that is sufficient for this purpose.
- (3) As a restriction on the authority under section 40 (1), if the highway or part of a highway to be closed or reopened is within 800 metres of an arterial highway, the bylaw under that section may only be adopted if it is approved by the minister responsible for the *Highway Act*.
- (4) The operator of a utility affected by the closure of a highway under section 40 [*permanent closure and removal of highway dedication*] may require the municipality to provide reasonable accommodation of the utility's affected transmission or distribution facilities or works on agreed terms.
- (5) If the parties are unable to reach an agreement under subsection (4), the matters must be settled by arbitration, and for that purpose the *Commercial Arbitration Act* applies.

Agreements respecting compensation for extraordinary traffic

- 42** If a municipal bylaw regulates or prohibits extraordinary traffic on a highway other than an arterial highway, the council may enter into an agreement with a person who is subject to the bylaw that provides
- (a) for the payment of reasonable compensation to the municipality for the damage to the highway or the resulting expense to the municipality that may be caused by the extraordinary traffic, and
 - (b) that, so long as the person is in compliance with the agreement, the person is not subject to the bylaw, or specified provisions of the bylaw, in relation to that traffic.

Agreements respecting municipal equipment on utility poles

- 43** (1) A council may require a person who is permitted to erect poles on highways to provide reasonable accommodation on the poles for wires and equipment of the municipality on agreed terms, and section 174 [*limit on borrowing and other liabilities*] does not apply to the agreement.
- (2) If the parties are unable to reach an agreement under subsection (1), the matters must be settled by arbitration, and for that purpose the *Commercial Arbitration Act* applies.

Agreements to reserve land for highway purposes

- 44** If a council enters into an agreement with an owner of land to reserve any part of the land for highway purposes, the agreement has the effect of a restrictive covenant running with the land and must be registered by the municipality under section 219 of the *Land Title Act*.

Highway construction and dikes

- 45** (1) A person must not interfere with the level of a dike that is crossed by a highway or private road.
- (2) If
- (a) the top of a dike forms a portion of a highway, and
 - (b) the council has not granted a diking commission the privilege of using the existing highway for a dike,
- it is the duty of the council to maintain the dike at a constant level, and to repair all injury directly or indirectly caused to the dike by its use as a highway.
- (3) For certainty, a council's duty under subsection (2) is limited to the highway as a highway and, except as otherwise required, does not extend to or include repair or maintenance of the dike as distinct from the highway.

Section 46

Use of highways and public places

- 46** (1) Except as permitted by bylaw or another enactment, a person must not excavate in, cause a nuisance on, obstruct, foul or damage any part of a highway or other public place.
- (2) A council may, by bylaw,
- (a) authorize the seizure of things unlawfully occupying a portion of a highway or public place,
 - (b) establish fees for such seizure that are payable by the owner of the thing, and
 - (c) provide for the recovery of those fees from the owner of the thing, including by sale of the thing if the owner refuses to pay or cannot be identified after reasonable efforts.

Division 6 –Animal Control**Classes of animals**

- 47** For certainty and without limiting section 12 (1) (a) [*bylaw variation authority*], a bylaw under section 8 (3) (k) [*spheres of authority –animals*] may establish different classes of animals on the basis of sex, age, size or breed.

Seizure and related powers

- 48** A council may, by bylaw, do one or more of the following:
- (a) provide for the seizure of animals that are
 - (i) unlicensed, if there is a requirement that they be licensed,
 - (ii) unlawfully at large on a highway or in a public place,
 - (iii) straying or trespassing on private property, or
 - (iv) on unfenced land and not securely tethered or contained;
 - (b) establish penalties to be paid in relation to animals seized under this section;
 - (c) establish or regulate fees to be paid in respect of seizures under this section;
 - (d) provide for the sale, other disposition or destruction of impounded animals, if
 - (i) the animals are not claimed within the time and in the manner established by the bylaw, or
 - (ii) the penalty or fees are not paid within a reasonable time;
 - (e) provide for the seizure and destruction of any animal that is subject to suffering that the council, or a person designated by council, considers cannot be otherwise reasonably addressed.

Special powers in relation to dangerous dogs

- 49** (1) In this section:

“animal control officer” means

- (a) a municipal employee, officer or agent designated by the council as an animal control officer for the purposes of this section, or
- (b) a peace officer;

“dangerous dog” means a dog that

- (a) has killed or seriously injured a person,
- (b) has killed or seriously injured a domestic animal, while in a public place or while on private property, other than property owned or occupied by the person responsible for the dog, or
- (c) an animal control officer has reasonable grounds to believe is likely to kill or seriously injure a person.

- (2) In addition to the authority under section 48 but subject to this section, an animal control officer may seize a dog if the officer believes on reasonable grounds that the animal is a dangerous dog.
- (3) Before exercising a power under subsection (2), in the case of a dog that has acted as described in paragraph (a) or (b) of the definition of “dangerous dog”, the animal control officer must consider whether the dog was acting while in the course of
 - (a) attempting to prevent a person from committing an unlawful act, or
 - (b) performing law enforcement work.
- (4) An animal control officer may enter a place to exercise the power under subsection (2),
 - (a) in any case, with the consent of the owner or occupier of the place,
 - (b) in any case, in accordance with a warrant under subsection (5) or (6), or
 - (c) if the circumstances referred to in subsection (8) apply, in accordance with that subsection.
- (5) If satisfied by evidence given under oath or affirmation that there are reasonable grounds to believe that there is a dangerous dog in a place, a justice may, by warrant, authorize an animal control officer to enter and search the place and to seize the dog.
- (6) If
 - (a) it is impracticable for an animal control officer to appear personally before a justice to apply for a warrant in accordance with subsection (5), and
 - (b) the officer believes on reasonable grounds that there is a dangerous dog in a place,the officer may apply for a warrant in accordance with the regulations under subsection (7).
- (7) The Lieutenant Governor in Council may make regulations respecting the authority and procedure for warrants under subsection (6).

Section 50

- (8) Subject to subsection (9), an animal control officer may, without a warrant, enter and search any place, except a place that is occupied as a private dwelling, and seize a dog, if the officer believes on reasonable grounds that
 - (a) the dog is a dangerous dog,
 - (b) the dog presents an imminent danger to the public, and
 - (c) the purpose of seizing the dog cannot reasonably be accomplished if the officer is required to obtain a warrant.
- (9) For the purposes of subsection (8), an animal control officer who is not a police officer must be accompanied by a police officer.
- (10) In addition to any other authority, if an animal control officer has reasonable grounds to believe that a dog is a dangerous dog, the officer may apply to the Provincial Court for an order that the dog be destroyed in the manner specified in the order.
- (11) A dog that has been seized under this section may not be impounded and detained for more than 21 days unless court proceedings for a destruction order are commenced within that time.

Division 7 –Authority in Relation to Trees

Restrictions in relation to authority

- 50** (1) A bylaw under section 8 (3) (c) [*spheres of authority –trees*] that is in relation to the protection of trees does not apply to the following:
- (a) land and the trees on it if forestry practices on the land are governed by a tree farm licence, permit or other authority or tenure under the *Forest Act*;
 - (b) land and the trees on it if section 17 of the *Forest Land Reserve Act* applies to the land;
 - (c) tree cutting or removal that is undertaken by a utility, on land owned or held by the utility, and done for the purpose of safety, maintenance or operation of the utility's infrastructure.
- (2) Subject to subsection (3), if a bylaw under section 8 (3) (c) would have the effect on a parcel of land of
- (a) preventing all uses permitted under the applicable zoning bylaw, or
 - (b) preventing the development to the density permitted under the applicable zoning bylaw,
- the bylaw does not apply to the parcel to the extent necessary to allow a permitted use or the permitted density.
- (3) A bylaw referred to in subsection (2) applies without limit to a parcel if the council, by resolution, commits the municipality to
- (a) pay compensation to the owner of the parcel for any reduction in the market value caused by the prohibition, or

- (b) provide, by development permit, development variance permit or otherwise, alternative means for the parcel to be used for a permitted use or developed to the permitted density.
- (4) For the purposes of subsection (3),
 - (a) the compensation must be as determined and paid as soon as reasonably possible in an amount set by agreement between the owner and the municipality or, if no agreement is reached, by the Expropriation Compensation Board, and
 - (b) the council may issue a development permit or development variance permit on its own initiative without an application from the owner.

Compensation not payable

- 51** Except as provided in section 50 (3), no compensation is payable to any person for a reduction in the value of any interest in land that results from
- (a) a bylaw under section 8 (3) (c) [*spheres of authority –trees*], or
 - (b) the issue or refusal of a permit required under such a bylaw.

Right to reconsideration by council

- 52** If a council delegates powers, duties or functions in relation to its authority under section 8 (3) (c) [*spheres of authority –trees*], the owner or occupier of real property that is subject to a decision of a delegate is entitled to have the council reconsider the matter.

Division 8 –Building Regulation**General authority in relation to buildings and other structures**

- 53** A council may only exercise its authority under section 8 (3) (1) [*spheres of authority –buildings and other structures*] or this Division for the health, safety or protection of persons or property.

Building permits and occupancy permits

- 54**
- (1) If requested by an applicant, a building inspector must give written reasons for his or her refusal to issue a building permit that is required by a bylaw under section 8 (3) (1) [*spheres of authority –buildings and other structures*].
 - (2) If a municipal permit is required before a building or part of a building is occupied, in addition to any conditions established under section 15 [*licensing and standards authority*], the permit may be withheld until the building or part of it complies with the following:
 - (a) the Provincial building regulations;
 - (b) bylaws under section 8 (3) (1) [*spheres of authority –buildings and other structures*];
 - (c) any other health and safety requirements established by bylaw;

- (d) any other federal or Provincial enactment in relation to health or safety.

Requirement for professional certification

55 A council may, by bylaw, do one or both of the following:

- (a) require applicants for building permits, in circumstances as specified in the bylaw that relate to
 - (i) site conditions,
 - (ii) the size or complexity of developments, or
 - (iii) aspects of developments,to provide the municipality with a certification by a professional engineer, professional geoscientist or architect that the plans submitted with the permit application, or specified aspects of those plans, comply with the then current Provincial building code and other applicable enactments respecting safety;
- (b) authorize building inspectors for the municipality to require applicants for building permits to provide the municipality with a certification referred to in paragraph (a) if a building inspector considers that this is warranted by circumstances that relate to matters referred to in paragraph (a) (i) to (iii).

Requirement for geotechnical report

56 (1) For the purposes of this section:

“construction” means

- (a) the new construction of a building or structure, or
- (b) the structural alteration of or addition to an existing building or structure, but does not include the repair of an existing building or structure;

“qualified professional” means

- (a) a professional engineer, or
 - (b) a professional geoscientist
- with experience or training in geotechnical study and geohazard assessments.

(2) If

- (a) a bylaw regulating the construction of buildings or structures is in effect, and
 - (b) a building inspector considers that construction would be on land that is subject to or is likely to be subject to flooding, mud flows, debris flows, debris torrents, erosion, land slip, rockfalls, subsidence or avalanche,
- the building inspector may require the owner of land to provide the building inspector with a report certified by a qualified professional that the land may be used safely for the use intended.

- (3) If a qualified professional determines that the land may not be used safely for the use intended, a building inspector must not issue a building permit.

- (4) A building inspector may issue a building permit in accordance with subsection (5) if a qualified professional certifies that the land may be used safely for the use intended if the land is used in accordance with the conditions specified in the professional's report.
- (5) A building permit under subsection (4) may only be issued on the following conditions:
 - (a) the owner of the land covenants with the municipality to use the land only in the manner certified by the qualified professional as enabling the safe use of the land for the use intended;
 - (b) the covenant contains conditions respecting reimbursement by the owner for any expenses that may be incurred by the municipality as a result of a breach of a covenant under paragraph (a);
 - (c) the covenant is registered under section 219 of the *Land Title Act*.
- (6) If a building inspector is authorized to issue a building permit under subsection (4) but refuses to do so, the council may, on application of the owner, direct the building inspector to issue the building permit subject to the requirements of subsection (5).

Note against land title that building regulations contravened

- 57** (1) A building inspector may recommend to the council that it consider a resolution under subsection (3) if, during the course of carrying out duties, the building inspector
- (a) observes a condition, with respect to land or a building or other structure, that the inspector considers
 - (i) results from the contravention of, or is in contravention of,
 - (A) a municipal bylaw,
 - (B) a Provincial building regulation, or
 - (C) any other enactmentthat relates to the construction or safety of buildings or other structures, and
 - (ii) that, as a result of the condition, a building or other structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or
 - (b) discovers that
 - (i) something was done with respect to a building or other structure, or the construction of a building or other structure, that required a permit or an inspection under a bylaw, regulation or enactment referred to in paragraph (a) (i), and
 - (ii) the permit was not obtained or the inspection not satisfactorily completed.

Section 58

- (2) A recommendation under subsection (1) must be given in writing to the corporate officer, who must
 - (a) give notice to the registered owner of the land to which the recommendation relates, and
 - (b) after notice under paragraph (a), place the matter before the council.
- (3) After providing the building inspector and the owner an opportunity to be heard, the council may confirm the recommendations of the building inspector and pass a resolution directing the corporate officer to file a notice in the land title office stating that
 - (a) a resolution relating to that land has been made under this section, and
 - (b) further information about it may be inspected at the municipal hall.
- (4) The corporate officer must ensure that all records are available for the purpose of subsection (3) (b).
- (5) If the registrar of land titles receives a notice under subsection (3) and payment of the prescribed fee, the registrar must make a note of the filing against the title to the land that is affected by the notice.
- (6) The note of a filing of a notice under this section is extinguished when a new title to the land is issued as a result of the deposit of a plan of subdivision or a strata plan.
- (7) In the event of any omission, mistake or misfeasance by the registrar or an employee of the registrar in relation to the making of a note of the filing under subsection (5), or a cancellation under section 58, after the notice is received by the land title office,
 - (a) the registrar is not liable nor is the Provincial government liable vicariously, and
 - (b) the assurance fund or the Attorney General as a nominal defendant is not liable under Part 20 of the *Land Title Act*.
- (8) Neither the building inspector nor the municipality is liable for damage of any kind for the doing of anything, or the failure to do anything, under this section or section 58 that would have, but for this subsection, constituted a breach of duty to any person.
- (9) The authority under this section is in addition to any other action that a building inspector is authorized to take in respect of a matter referred to in subsection (1).

Cancellation of note against land title

- 58** (1) On receiving a report from a building inspector that the condition that gave rise to the filing of the notice under section 57 (3) has been rectified, the corporate officer must file a cancellation notice and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.

- (2) An owner of land with respect to which a notice has been filed under section 57 (3), may apply to the council for a resolution that the note be cancelled.
- (3) After hearing an applicant under subsection (2), the council may pass a resolution directing the corporate officer to file a cancellation notice.
- (4) If a resolution has been passed under subsection (3), the corporate officer must file a cancellation notice in the land title office and, on receiving the notice, the registrar of land titles must cancel the note against the title to which it relates.
- (5) If the council does not pass a resolution under subsection (3), the owner may apply to the Supreme Court and notify the municipality to attend before the court to show cause why the note should not be cancelled.
- (6) On an application under subsection (5), after reviewing any evidence that the owner and the municipality may adduce, the court may make an order directing the registrar to cancel the note made under section 57 (5) and, on receiving the order, the registrar of land titles must cancel the note accordingly.

Division 9 –Business Regulation

Powers to require and prohibit

- 59** (1) A council may, by bylaw, do one or more of the following:
- (a) require operators of premises in which rooms or suites are let for living purposes to maintain, in accordance with the bylaw, a register of persons living there;
 - (b) in relation to persons engaged in the business activity of purchasing, taking in barter or receiving used or second hand goods,
 - (i) require such persons, after purchasing, taking in or receiving used or second hand goods, to notify the chief constable who has jurisdiction in the municipality within the time period established by the bylaw, and
 - (ii) prohibit such persons from altering the form of, selling, exchanging or otherwise disposing of those goods during the time period established by the bylaw;
 - (c) require manufacturers and processors to dispose of the waste from their plants in the manner directed by the bylaw;
 - (d) prohibit the operation of a public show, exhibition, carnival or performance of any kind or in any particular location;
 - (e) prohibit the operation of places of amusement to which the public has access, including halls and other buildings where public events are held;
 - (f) prohibit professional boxing, professional wrestling and other professional athletic contests.

Section 60

- (2) Before adopting a bylaw under subsection (1) or section 8 (6) [*business regulation*], a council must
 - (a) give notice of its intention in accordance with subsection (3), and
 - (b) provide an opportunity for persons who consider they are affected by the bylaw to make representations to council.
- (3) Notice required under subsection (2) (a) may be provided in the form and manner, at the times and as often as the council considers reasonable.

Business licence authority

- 60** (1) An application for a business licence may be refused in any specific case, but
 - (a) the application must not be unreasonably refused, and
 - (b) on request, the person or body making the decision must give written reasons for the refusal.
- (2) In addition to the authority under section 15 (1) (e) [*licences, permits and approvals –suspension and cancellation*], a business licence may be suspended or cancelled for reasonable cause.
- (3) Before suspending or cancelling a business licence, the council must give the licence holder notice of the proposed action and an opportunity to be heard.
- (4) Despite section 155 (2) (b) [*restriction on delegation of hearings*], a council may, by bylaw under section 154 [*delegation of council authority*], authorize a municipal officer or employee to suspend or cancel a business licence.
- (5) If a municipal officer or employee exercises authority to grant, refuse, suspend or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have the council reconsider the matter.

Restriction on authority to require examination or certification

- 61** A provision in a bylaw under section 8 (6) [*spheres of authority –business*] that requires an examination or certification of a person engaged in a trade or occupation does not apply to a person who has been granted a certificate or other evidence of competence for that trade or occupation under a Provincial or federal Act.

Division 10 –Other Spheres**Public place powers**

- 62** The authority under section 8 (3) (b) [*spheres of authority –public places*] includes the authority in relation to persons, property, things and activities that are in, on or near public places.

Protection of persons and property

- 63** The authority of a council under section 8 (3) (g) [*spheres of authority –protection of persons and property*] may be exercised in relation to the following:

- (a) emergency exits in places to which the public is invited;
- (b) smoke alarms, to the extent that any standards established under this authority do not exceed those established by the Provincial building regulations;
- (c) any matter within the scope of the *Fire Services Act*;
- (d) the enclosure of swimming pools and other pools;
- (e) trailer courts, manufactured home parks and camping grounds;
- (f) rental units and residential property, as those are defined in the *Residential Tenancy Act*, that are subject to a tenancy agreement, as defined in that Act, to the extent that any standard established under this authority does not exceed those established by the Provincial building regulations.

Nuisances, disturbances and other objectionable situations

64 The authority of a council under section 8 (3) (h) [*spheres of authority – nuisances, disturbances and other objectionable situations*] may be exercised in relation to the following:

- (a) nuisances;
- (b) noise, vibration, odour, dust, illumination or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;
- (c) the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere;
- (d) refuse, garbage or other material that is noxious, offensive or unwholesome;
- (e) the use of waste disposal and recycling services;
- (f) the accumulation of water on property;
- (g) unsanitary conditions on property;
- (h) drains, cesspools, septic tanks and outhouses;
- (i) trees, weeds or other growths that council considers should be removed, cut down or trimmed;
- (j) the carrying on of a noxious or offensive business activity;
- (k) graffiti and unsightly conditions on property;
- (l) indecency and profane, blasphemous or grossly insulting language.

Signs and other advertising

65 The authority of a council under section 8 (4) [*spheres of authority – signs and other advertising*] may be exercised in relation to the erection, placing, alteration, maintenance, demolition and removal of signs, sign boards, advertisements, advertising devices and structures.

Division 11 –Other Powers

Fire chief powers

- 66** (1) A council may, by bylaw, authorize the municipal fire chief or another person designated in the bylaw to exercise one or more of the following powers:
- (a) enter on property and inspect premises for conditions that may cause a fire, increase the danger of a fire or increase the danger to persons or property from a fire;
 - (b) take measures to prevent and suppress fires, including the demolition of buildings and other structures to prevent the spreading of fire;
 - (c) require an owner or occupier of real property to undertake any actions directed by the fire chief or other authorized person for the purpose of removing or reducing any thing or condition that person considers is a fire hazard or increases the danger of fire;
 - (d) exercise some or all of the powers of the fire commissioner under section 25 of the *Fire Services Act*, and for these purposes that section applies.
- (2) If a bylaw under subsection (1) confers authority on the municipal fire chief, that authority may be exercised by a person acting under the authority of the fire chief.

Disposal of property in police possession

- 67** (1) Property that has come into the custody and possession of the police force or police department on behalf of a municipality may be disposed of and the proceeds from that disposal dealt with in accordance with the regulations under this Act, if
- (a) the owner of the property has not been identified after reasonable effort, and
 - (b) a court of competent jurisdiction has not made an order in respect of the property.
- (2) A person who receives or purchases property by a disposal under this section has a good and sufficient title to that article as against any former owner of it.
- (3) The municipality, a member of the council, a person in lawful custody of property referred to in subsection (1), or an officer, employee or agent of the municipality, is not liable, in damages or otherwise, for or in respect of any claim that may arise in respect of the property after its disposal in accordance with this section.

Restriction on authority to fluoridate

- 68** A council must not fluoridate a water supply for the municipality unless it has adopted a bylaw for this and the bylaw has received the assent of the electors.

Specific authority in relation to drainage, sewage and dikes

- 69** A council may, by bylaw, do one or more of the following:

- (a) in relation to drainage and sewerage works provided by persons other than the municipality,
 - (i) regulate their design and installation, and
 - (ii) require property owners to connect their buildings and structures to the works in the manner specified in the bylaw;
- (b) impose requirements on persons undertaking the construction of works to
 - (i) maintain the proper flow of water in a stream, ditch, drain or sewer in the municipality, or
 - (ii) reclaim or protect part of the land mass of the municipality from erosion by any cause;
- (c) impose requirements on the owners of dikes or persons undertaking the construction of dikes;
- (d) make a watercourse part of the municipal drainage system, whether the watercourse is on municipal land, private land or a highway.

Drainage control

- 70** (1) This section applies if a council
- (a) considers that, in the public interest,
 - (i) the drainage of surface water from outside the municipality into or through an area inside the municipality should be prevented, diverted or improved, or
 - (ii) drainage of or from an area in the municipality should be prevented, continued beyond the municipality, diverted or improved, and
 - (b) proposes to undertake works for these purposes.
- (2) Before undertaking the proposed works, the council must
- (a) serve notice of its intention on all owners of land that may be affected,
 - (b) give notice of its intention to any other local government whose area may be affected, and
 - (c) provide an opportunity for persons who consider they are affected by the works to make representations to council.
- (3) After complying with subsection (2), the municipality may enter on property, including property outside the municipality, for the purpose of undertaking the proposed works.

Orders and awards respecting drainage or reclamation works

- 71** (1) This section applies if, on account of proceedings taken under this Act or the *Local Government Act* for drainage or reclamation works and local assessments for them,
- (a) damages are recovered against the municipality or parties constructing the drainage or reclamation works, or

- (b) other relief is given by an order of a court or an award made under this Act or the *Local Government Act*.
- (2) In the circumstances referred to in subsection (1),
 - (a) the council must make the changes in drainage or reclamation works necessary to comply with an order or award, and
 - (b) the money required for the municipality to comply with the order or award must be recovered by taxes imposed on the same basis as the existing assessments for those works.

Division 12 –Remedial Action Requirements

Council may impose remedial action requirements

- 72** (1) A council may impose remedial action requirements in relation to
- (a) matters or things referred to in section 73 [*hazardous conditions*],
 - (b) matters or things referred to in section 74 [*declared nuisances*], or
 - (c) circumstances referred to in section 75 [*harm to drainage or dike*].
- (2) In the case of matters or things referred to in section 73 or 74, a remedial action requirement
- (a) may be imposed on one or more of
 - (i) the owner or lessee of the matter or thing, and
 - (ii) the owner or occupier of the land on which it is located, and
 - (b) may require the person to
 - (i) remove or demolish the matter or thing,
 - (ii) fill it in, cover it over or alter it,
 - (iii) bring it up to a standard specified by bylaw, or
 - (iv) otherwise deal with it in accordance with the directions of council or a person authorized by council.
- (3) In the case of circumstances referred to in section 75, a remedial action requirement
- (a) may be imposed on the person referred to in that section, and
 - (b) may require the person to undertake restoration work in accordance with the directions of council or a person authorized by council.

Hazardous conditions

- 73** (1) Subject to subsection (2), a council may impose a remedial action requirement in relation to any of the following:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
 - (b) a natural or artificial opening in the ground, or a similar matter or thing;

- (c) a tree;
 - (d) wires, cables, or similar matters or things, that are on, in, over, under or along a highway;
 - (e) matters or things that are attached to a structure, erection or other matter or thing referred to in paragraph (a) that is on, in, over, under or along a highway.
- (2) A council may only impose the remedial action requirement if
- (a) the council considers that the matter or thing is in or creates an unsafe condition, or
 - (b) the matter or thing contravenes the Provincial building regulations or a bylaw under section 8 (3) (1) [*spheres of authority – buildings and other structures*] or Division 8 [*Building Regulation*] of this Part.

Declared nuisances

- 74** (1) A council may declare that any of the following is a nuisance and may impose a remedial action requirement in relation to the declared nuisance:
- (a) a building or other structure, an erection of any kind, or a similar matter or thing;
 - (b) a natural or artificial opening in the ground, or a similar matter or thing;
 - (c) a drain, ditch, watercourse, pond, surface water, or a similar matter or thing;
 - (d) a matter or thing that is in or about any matter or thing referred to in paragraphs (a) to (c).
- (2) Subsection (1) also applies in relation to a thing that council considers is so dilapidated or unclean as to be offensive to the community.

Harm to drainage or dike

- 75** A council may impose a remedial action requirement if a person has
- (a) obstructed, filled up or damaged a ditch, drain, creek or watercourse that was constructed or improved under this Act or the *Local Government Act*, or
 - (b) damaged or destroyed a dike or other drainage or reclamation work connected with it.

Time limit for compliance

- 76** (1) The resolution imposing a remedial action requirement must specify the time by which the required action must be completed.
- (2) Subject to section 79 [*shorter time limits in urgent circumstances*], the time specified under subsection (1) must not be earlier than 30 days after notice under section 77 (1) [*notice to affected persons*] is sent to the person subject to the remedial action requirement.

Section 77

- (3) The council may extend the time for completing the required action even though the time limit previously established has expired.

Notice to affected persons

- 77** (1) Notice of a remedial action requirement must be given by personal service or by registered mail to
- (a) the person subject to the requirement, and
 - (b) the owner of the land where the required action is to be carried out.
- (2) In addition, notice of the remedial action requirement must be mailed to
- (a) each holder of a registered charge in relation to the property whose name is included on the assessment roll, at the address set out in that assessment roll and to any later address known to the corporate officer, and
 - (b) any other person who is an occupier of that land.
- (3) A notice under this section must advise
- (a) that the person subject to the requirement, or the owner of the land where the required action is to be carried out, may request a reconsideration by council in accordance with section 78 [*person affected may request reconsideration*], and
 - (b) that, if the action required by the remedial action requirement is not completed by the date specified for compliance, the municipality may take action in accordance with section 17 [*municipal action at defaulter's expense*] at the expense of the person subject to the requirement.

Person affected may request reconsideration by council

- 78** (1) A person who is required to be given notice under section 77 (1) [*notice to affected persons*] may request that the council reconsider the remedial action requirement.
- (2) Subject to section 79 [*shorter time limits in urgent circumstances*], a request under subsection (1) must be made by written notice provided within 14 days of the date on which the notice under section 77 (1) was sent or a longer period permitted by council.
- (3) If the council receives a notice that complies with subsection (2), it must provide the person with an opportunity to make representations to the council.
- (4) After providing the opportunity referred to in subsection (3), the council may confirm, amend or cancel the remedial action requirement.
- (5) Notice of a decision under subsection (4) must be provided in accordance with section 77 (1) and (2) [*notice to affected persons*].

Shorter time limits in urgent circumstances

- 79** If the council considers that there is a significant risk to health or safety if action is not taken earlier, the resolution imposing the remedial action requirement may
- (a) set a time limit under section 76 [*time limit for compliance*] that is shorter than the minimum otherwise applicable under subsection (2) of that section, and
 - (b) set a time limit for giving notice under section 78 [*persons affected may request reconsideration*] that is shorter than the limit otherwise applicable under subsection (2) of that section.

Recovery of municipal costs through sale of property

- 80** (1) This section applies to remedial action requirements in relation to the following:
- (a) matters or things referred to in section 73 (1) (a) [*unsafe and non-complying structures*];
 - (b) matters or things referred to in section 74 (1) (a) [*nuisances in relation to structures*];
 - (c) matters or things referred to in section 74 (1) (d) [*nuisances in relation to things in or near structures*] that are in or about a matter or thing referred to in section 74 (1) (a).
- (2) Subject to this section, if a remedial action requirement has not been satisfied by the date specified for compliance, the municipality may sell the matter or thing in relation to which the requirement was imposed or any part or material of it.
- (3) The earliest date on which the municipality may sell property referred to in subsection (2) is the later of
- (a) the date specified for compliance, and
 - (b) 60 days after the notice under section 77 (1) [*notice to affected persons*] is given.
- (4) If a municipality sells property under this section, it
- (a) may retain from the proceeds
 - (i) the costs incurred by the municipality in carrying out the sale, and
 - (ii) if applicable, the costs incurred by the municipality in exercising its power under section 17 [*municipal actions at defaulter's expense*] that have not yet been paid by the person subject to the requirement, and
 - (b) must pay the remainder of the proceeds to the owner or other person lawfully entitled.
- (5) For certainty, the authority under this section is in addition to that provided by section 17 [*municipal action at defaulter's expense*].

PART 4 –PUBLIC PARTICIPATION AND COUNCIL ACCOUNTABILITY**Division 1 –Elections, Petitions and Community Opinion****Election proceedings**

- 81** (1) A general local election for the mayor and all councillors of each municipality must be held in the year 2005 and every 3 years after that.
- (2) By-elections for office on municipal council must be held as required under section 37 [*by-elections*] of the *Local Government Act*.
- (3) General local elections and by-elections must be held in accordance with Part 3 [*Electors and Elections*] of the *Local Government Act*.

Petitions to council

- 82** (1) A petition to a council is deemed to be presented to council when it is filed with the corporate officer.
- (2) A petition to a council must include the full name and residential address of each petitioner.

Council may seek community opinion

- 83** (1) A council may seek community opinion on a question that the council believes affects the municipality, by voting or any other process the council considers appropriate.
- (2) The results of a process under this section are not binding on the council.

Division 2 –Approval of the Electors**Approval of the electors**

- 84** If approval of the electors is required by or under this Act or the *Local Government Act* in relation to a proposed bylaw, agreement or other matter, that approval may be obtained either by
- (a) assent of the electors in accordance with section 85, or
 - (b) approval of the electors by alternative approval process in accordance with section 86.

Assent of the electors

- 85** (1) If assent of the electors is required or authorized by or under this Act or the *Local Government Act* in relation to a proposed bylaw, agreement or other matter, that assent is obtained only if a majority of the votes counted as valid are in favour of the bylaw or question.
- (2) Part 4 [*Other Voting*] of the *Local Government Act* applies to obtaining the assent of the electors.

Alternative approval process

- 86** (1) Approval of the electors by alternative approval process under this section is obtained if
- (a) notice of the approval process is published in accordance with subsection (2),
 - (b) through elector response forms established under subsection (3), electors are provided with an opportunity to indicate that council may not proceed with the bylaw, agreement or other matter unless it is approved by assent of the electors, and
 - (c) at the end of the time for receiving elector responses, as established under subsection (3), the number of elector responses received is less than 10% of the number of electors of the area to which the approval process applies.
- (2) Notice of an alternative approval process must be published in accordance with section 94 *[public notice]* and must include the following:
- (a) a general description of the proposed bylaw, agreement or other matter to which the approval process relates;
 - (b) a description of the area to which the approval process applies;
 - (c) the deadline for elector responses in relation to the approval process;
 - (d) a statement that the council may proceed with the matter unless, by the deadline, at least 10% of the electors of the area indicate that the council must obtain the assent of the electors before proceeding;
 - (e) a statement that
 - (i) elector responses must be given in the form established by the council,
 - (ii) elector response forms are available at the municipal hall, and
 - (iii) the only persons entitled to sign the forms are the electors of the area to which the approval process applies;
 - (f) the number of elector responses required to prevent the council from proceeding without the assent of the electors, determined in accordance with subsection (3);
 - (g) other information required by regulation to be included.
- (3) For each alternative approval process, the council must
- (a) establish the deadline for receiving elector responses, which must be at least 30 days after the second publication of the notice under subsection (2),
 - (b) establish elector response forms, which
 - (i) may be designed to allow for only a single elector response on each form or for multiple elector responses, and
 - (ii) must be available to the public at the municipal hall from the time of first publication until the deadline, and

Section 87

- (c) make a fair determination of the total number of electors of the area to which the approval process applies.
- (4) The council must make available to the public, on request, a report respecting the basis on which the determination under subsection (3) (c) was made.
- (5) For the purposes of this section, the electors of the area to which an alternative approval process applies are the persons who would meet the qualifications referred to in section 161 (1) (a) *[who may vote at other voting]* of the *Local Government Act* if assent of the electors were sought in respect of the matter.
- (6) Elector responses may be made on an elector response form obtained under subsection (3) or on an accurate copy of the form.
- (7) For an elector's response to be considered for the purposes of this section, the elector must
 - (a) sign an elector response form that includes
 - (i) the person's full name and residential address, and
 - (ii) if applicable, the address of the property in relation to which the person is entitled to register as a non-resident property elector, and
 - (b) submit the elector response form to the corporate officer before the deadline established for the alternative approval process.
- (8) After the deadline for an alternative approval process has passed, the corporate officer must determine and certify, on the basis of the elector response forms received before that deadline, whether elector approval in accordance with this section has been obtained.
- (9) A determination under subsection (8) is final and conclusive.
- (10) A person must not sign more than one elector response form in relation to the same alternative approval process, and a person who is not an elector for the area of the approval process must not sign an elector response form.

Matters requiring approval or assent may be combined

- 87** (1) If two or more related matters require approval of the electors or assent of the electors, instead of seeking that approval or assent in relation to each matter, the council may seek the approval or assent in relation to the related matters as if they were a single matter.
- (2) As a restriction, if any of the related matters referred to in subsection (1) requires the assent of the electors, approval of the electors under that subsection may only be obtained by assent of the electors.

Agreements requiring approval or assent

- 88** (1) If an agreement is in relation to a matter that requires approval of the electors or assent of the electors, the requirement also applies to an amendment to the agreement in relation to that matter.

- (2) As an exception, subsection (1) does not apply if the amendment is authorized by regulation or is made with the approval of the minister.

Division 3 –Open Meetings

General rule that meetings must be open to the public

- 89** (1) A meeting of a council must be open to the public, except as provided in this Division.
- (2) A council must not vote on the reading or adoption of a bylaw when its meeting is closed to the public.

Meetings that may or must be closed to the public

- 90** (1) A part of a council meeting may be closed to the public if the subject matter being considered relates to or is one or more of the following:
- (a) personal information about an identifiable individual who holds or is being considered for a position as an officer, employee or agent of the municipality or another position appointed by the municipality;
 - (b) personal information about an identifiable individual who is being considered for a municipal award or honour, or who has offered to provide a gift to the municipality on condition of anonymity;
 - (c) labour relations or other employee relations;
 - (d) the security of the property of the municipality;
 - (e) the acquisition, disposition or expropriation of land or improvements, if the council considers that disclosure could reasonably be expected to harm the interests of the municipality;
 - (f) law enforcement, if the council considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of an enactment;
 - (g) litigation or potential litigation affecting the municipality;
 - (h) an administrative tribunal hearing or potential administrative tribunal hearing affecting the municipality, other than a hearing to be conducted by the council or a delegate of council;
 - (i) the receipt of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (j) information that is prohibited, or information that if it were presented in a document would be prohibited, from disclosure under section 21 of the *Freedom of Information and Protection of Privacy Act*;
 - (k) negotiations and related discussions respecting the proposed provision of a municipal service that are at their preliminary stages and that, in the view of the council, could reasonably be expected to harm the interests of the municipality if they were held in public;

Section 91

- (l) discussions with municipal officers and employees respecting municipal objectives, measures and progress reports for the purposes of preparing an annual report under section 98 [*annual municipal report*];
 - (m) a matter that, under another enactment, is such that the public may be excluded from the meeting;
 - (n) the consideration of whether a council meeting should be closed under a provision of this subsection or subsection (2);
 - (o) the consideration of whether the authority under section 91 [*other persons attending closed meetings*] should be exercised in relation to a council meeting.
- (2) A part of a council meeting must be closed to the public if the subject matter being considered relates to one or more of the following:
- (a) a request under the *Freedom of Information and Protection of Privacy Act*, if the council is designated as head of the local public body for the purposes of that Act in relation to the matter;
 - (b) the consideration of information received and held in confidence relating to negotiations between the municipality and a provincial government or the federal government or both, or between a provincial government or the federal government or both and a third party;
 - (c) a matter that is being investigated under the *Ombudsman Act* of which the municipality has been notified under section 14 [*ombudsman to notify authority*] of that Act;
 - (d) a matter that, under another enactment, is such that the public must be excluded from the meeting.
- (3) If the only subject matter being considered at a council meeting is one or more matters referred to in subsection (1) or (2), the applicable subsection applies to the entire meeting.

Other persons attending closed meetings

- 91**
- (1) If all or part of a meeting is closed to the public, the council may allow one or more municipal officers and employees to attend or exclude them from attending, as it considers appropriate.
 - (2) If all or part of a meeting is closed to the public, the council may allow a person other than municipal officers and employees to attend,
 - (a) in the case of a meeting that must be closed under section 90 (2), if the council considers this necessary and the person
 - (i) already has knowledge of the confidential information, or
 - (ii) is a lawyer attending to provide legal advice in relation to the matter, and
 - (b) in other cases, if the council considers this necessary.

- (3) The minutes of a meeting or part of a meeting that is closed to the public must record the names of all person in attendance.

Requirements before meeting is closed

- 92** Before holding a meeting or part of a meeting that is to be closed to the public, a council must state, by resolution passed in a public meeting,
- (a) the fact that the meeting or part is to be closed, and
 - (b) the basis under the applicable subsection of section 90 on which the meeting or part is to be closed.

Application of rules to other bodies

- 93** In addition to its application to council meetings, this Division and section 133 [*expulsion from meetings*] also applies to meetings of the following:
- (a) council committees;
 - (b) a municipal commission established under section 143;
 - (c) a parcel tax roll review panel established under section 204;
 - (d) a board of variance established under section 899 of the *Local Government Act*;
 - (e) an advisory body established by a council;
 - (f) a body that under this or another Act may exercise the powers of a municipality or council;
 - (g) a body prescribed by regulation.

Division 4 –Public Notice and Access to Records**Requirements for public notice**

- 94**
- (1) If this section applies, the applicable notice must be
 - (a) posted in the public notice posting places, and
 - (b) published in accordance with this section.
 - (2) Subject to subsection (4), publication under subsection (1) (b)
 - (a) must be in a newspaper that is distributed at least weekly
 - (i) in the area affected by the subject matter of the notice, and
 - (ii) if the area affected is not in the municipality, also in the municipality, and
 - (b) unless otherwise provided, must be once each week for 2 consecutive weeks.
 - (3) The obligation under subsection (2) may be met by publication of the notice in more than one newspaper, if this is in accordance with that subsection when the publications are considered together.

Section 95

- (4) If publication under subsection (2) is not practicable, the notice may be given in the areas by alternative means as long as the notice
 - (a) is given within the same time period as required for publication,
 - (b) is given with the same frequency as required for publication, and
 - (c) provides notice that the council considers is reasonably equivalent to that which would be provided by newspaper publication if it were practicable.
- (5) As an exception, subsection (4) (b) does not apply in relation to an area if the alternative means is by individual distribution to the persons resident in the area.
- (6) If the same matter is subject to 2 or more requirements for publication in accordance with this section, the notices may be combined so long as the requirements of all applicable provisions are met.
- (7) A council may provide any additional notice respecting a matter that it considers appropriate, including by the Internet or other electronic means.

Public access to municipal records

- 95** (1) In addition to the public access provided by the *Freedom of Information and Protection of Privacy Act*, a council may, by bylaw, provide for public access to its records and establish procedures respecting that access.
- (2) If an enactment requires that a municipal record be available for public inspection, that obligation is met by having the record available for public inspection at the municipal hall during regular office hours.
- (3) If a municipal record is available for public inspection, a person may have a copy made of all or part of the record on payment of any applicable fee established by the council under section 194 [*municipal fees*].
- (4) A person inspecting a record of a municipality must not, without authorization, remove the record from the place where it has been provided for inspection.
- (5) An obligation or authority under this Act to provide public access to a municipal record does not apply to records that must not be disclosed under the *Freedom of Information and Protection of Privacy Act*.

Agreements that require elector approval or assent

- 96** If an agreement is proposed or made in relation to a matter that requires approval of the electors or assent of the electors,
- (a) the agreement, and
 - (b) all records relating to the agreement that are in the custody or under the control of the municipality
- must be available for public inspection at the municipal hall during the time when the approval or assent process is underway.

Other records to which public access must be provided

- 97** (1) The following municipal records, or copies of them, must be available for public inspection:
- (a) all bylaws and all proposed bylaws that have been given first reading;
 - (b) all minutes of council meetings, other than a meeting or part of a meeting that is closed to the public;
 - (c) all minutes of meetings of bodies referred to in section 93 [*application of rules to other bodies*], other than a meeting or part of a meeting that is closed to the public;
 - (d) the annual municipal report under section 98;
 - (e) all disclosure statements under section 106 [*disclosure of gifts*];
 - (f) the report under section 168 [*council remuneration, expenses and contracts*];
 - (g) the written disclosures referred to in section 6 (1) [*disclosures by council members and nominees*] of the *Financial Disclosure Act*;
 - (h) any applicable agreements under section 9 (5) [*concurrent authority agreements*].
- (2) The obligation under subsection (1) is met if the record is made available at the municipal hall within 7 days after it has been requested.

Division 5 –Reporting**Annual municipal report**

- 98** (1) Before June 30 in each year, a council must
- (a) prepare an annual report,
 - (b) make the report available for public inspection under section 97, and
 - (c) have the report available for public inspection at the meeting required under section 99.
- (2) The annual report must include the following:
- (a) the audited annual financial statements referred to in section 167 (4) for the previous year;
 - (b) for each tax exemption provided by a council under Division 7 [*Permissive Tax Exemptions*] of Part 7 [*Municipal Revenue*], the amount of property taxes that would have been imposed on the property in the previous year if it were not exempt for that year;
 - (c) a report respecting municipal services and operations for the previous year;
 - (d) a progress report respecting the previous year in relation to the objectives and measures established for that year under paragraph (f);
 - (e) any declarations of disqualification made under section 111 [*application to court for declaration of disqualification*] in the previous year, including

Section 99

identification of the council member or former council member involved and the nature of the disqualification;

- (f) a statement of municipal objectives, and the measures that will be used to determine progress respecting those objectives, for the current and next year;
- (g) any other information the council considers advisable.

Annual meeting on report

- 99**
- (1) The council must annually consider, at a council meeting or other public meeting,
 - (a) the annual report prepared under section 98, and
 - (b) submissions and questions from the public.
 - (2) The annual meeting must occur at least 14 days after the annual report is made available for public inspection under section 97.
 - (3) The council must give notice of the date, time and place of the annual meeting in accordance with section 94 [*public notice*].

Division 6 –Conflict of Interest**Disclosure of conflict**

- 100**
- (1) This section applies to council members in relation to
 - (a) council meetings,
 - (b) council committee meetings, and
 - (c) meetings of any other body referred to in section 93 [*application of open meeting rules to other bodies*].
 - (2) If a council member attending a meeting considers that he or she is not entitled to participate in the discussion of a matter, or to vote on a question in respect of a matter, because the member has
 - (a) a direct or indirect pecuniary interest in the matter, or
 - (b) another interest in the matter that constitutes a conflict of interest,the member must declare this and state in general terms the reason why the member considers this to be the case.
 - (3) After making a declaration under subsection (2), the council member must not do anything referred to in section 101 (2) [*restrictions on participation*].
 - (4) As an exception to subsection (3), if a council member has made a declaration under subsection (2) and, after receiving legal advice on the issue, determines that he or she was wrong respecting his or her entitlement to participate in respect of the matter, the member may
 - (a) return to the meeting or attend another meeting of the same body,

- (b) withdraw the declaration by stating in general terms the basis on which the member has determined that he or she is entitled to participate, and
 - (c) after this, participate and vote in relation to the matter.
- (5) For certainty, a council member who makes a statement under subsection (4) remains subject to section 101 *[restrictions on participation if in conflict]*.
- (6) When a declaration under subsection (2) or a statement under subsection (4) is made,
 - (a) the person recording the minutes of the meeting must record
 - (i) the member's declaration or statement,
 - (ii) the reasons given for it, and
 - (iii) the time of the member's departure from the meeting room and, if applicable, of the member's return, and
 - (b) unless a statement is made under subsection (4), the person presiding at that meeting or any following meeting in respect of the matter must ensure that the member is not present at any part of the meeting during which the matter is under consideration.

Restrictions on participation if in conflict

- 101** (1) This section applies if a council member has a direct or indirect pecuniary interest in a matter, whether or not the member has made a declaration under section 100.
- (2) The council member must not
- (a) remain or attend at any part of a meeting referred to in section 100 (1) during which the matter is under consideration,
 - (b) participate in any discussion of the matter at such a meeting,
 - (c) vote on a question in respect of the matter at such a meeting, or
 - (d) attempt in any way, whether before, during or after such a meeting, to influence the voting on any question in respect of the matter.
- (3) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on inside influence

- 102** (1) A council member must not use his or her office to attempt to influence in any way a decision, recommendation or other action to be made or taken
- (a) at a meeting referred to in section 100 (1) *[disclosure of conflict]*,
 - (b) by an officer or an employee of the municipality, or
 - (c) by a delegate under section 154 *[delegation of council authority]*,

Section 103

if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.

- (2) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on outside influence

- 103** (1) In addition to the restriction under section 102, a council member must not use his or her office to attempt to influence in any way a decision, recommendation or action to be made or taken by any other person or body, if the member has a direct or indirect pecuniary interest in the matter to which the decision, recommendation or other action relates.
- (2) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Exceptions from conflict restrictions

- 104** (1) Sections 100 to 103 do not apply if one or more of the following circumstances applies:
- (a) the pecuniary interest of the council member is a pecuniary interest in common with electors of the municipality generally;
 - (b) in the case of a matter that relates to a local service, the pecuniary interest of the council member is in common with other persons who are or would be liable for the local service tax;
 - (c) the matter relates to remuneration, expenses or benefits payable to one or more council members in relation to their duties as council members;
 - (d) the pecuniary interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member in relation to the matter;
 - (e) the pecuniary interest is of a nature prescribed by regulation.
- (2) Despite sections 100 to 103, if a council member
- (a) has a legal right to be heard in respect of a matter or to make representations to council, and
 - (b) is restricted by one or more of those sections from exercising that right in relation to the matter,
- the council member may appoint another person as a representative to exercise the member's right on his or her behalf.

Restrictions on accepting gifts

- 105** (1) A council member must not, directly or indirectly, accept a fee, gift or personal benefit that is connected with the member's performance of the duties of office.
- (2) Subsection (1) does not apply to
- (a) a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office,
 - (b) compensation authorized by law, or
 - (c) a lawful contribution made to a member who is a candidate for election to a local government.
- (3) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Disclosure of gifts

- 106** (1) This section applies if
- (a) a member receives a gift or personal benefit referred to in section 105 (2) (a) that exceeds \$250 in value, or
 - (b) the total value of such gifts and benefits, received directly or indirectly from one source in any 12 month period, exceeds \$250.
- (2) In the circumstances described in subsection (1), the council member must file with the corporate officer, as soon as reasonably practicable, a disclosure statement indicating
- (a) the nature of the gift or benefit,
 - (b) its source, including, if it is from a corporation, the full names and addresses of at least 2 individuals who are directors of the corporation,
 - (c) when it was received, and
 - (d) the circumstances under which it was given and accepted.
- (3) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Disclosure of contracts with council members and former council members

- 107** (1) If a municipality enters into a contract in which
- (a) a council member, or
 - (b) a person who was a council member at any time during the previous 6 months,
- has a direct or indirect pecuniary interest, this must be reported as soon as reasonably practicable at a council meeting that is open to the public.

Section 108

- (2) In addition to the obligation under section 100 [*disclosure of conflict*], a council member or former council member must advise the corporate officer, as soon as reasonably practicable, of any contracts that must be reported under subsection (1) in relation to that person.
- (3) A person who contravenes subsection (2) is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Restrictions on use of insider information

- 108**
- (1) A council member or former council member must not use information or a record that
 - (a) was obtained in the performance of the member's office, and
 - (b) is not available to the general public,for the purpose of gaining or furthering a direct or indirect pecuniary interest of the council member or former council member.
 - (2) A person who contravenes this section is disqualified from holding local government office for the period established by section 110 (2), unless the contravention was done inadvertently or because of an error in judgment made in good faith.

Court order for person to give up financial gain

- 109**
- (1) If a council member or former council member has
 - (a) contravened this Division, and
 - (b) realized financial gain in relation to that contravention,the municipality or an elector may apply to the Supreme Court for an order under this section.
 - (2) Within 7 days after the petition commencing an application under this section is filed, it must be served on
 - (a) the council member or former council member, and
 - (b) in the case of an application brought by an elector, the municipality.
 - (3) On an application under this section, the Supreme Court may order the council member or former council member to pay to the municipality an amount equal to all or part of the person's financial gain as specified by the court.
 - (4) In the case of an application made by an elector, if the court makes an order under subsection (3), the municipality must promptly pay the elector's costs within the meaning of the Rules of Court.
 - (5) The court may order that costs to be paid under subsection (4) may be recovered by the municipality from any other person as directed by the court in the same manner as a judgment of the Supreme Court.

- (6) Except as provided in subsection (4), the costs of an application are in the discretion of the court.

Division 7 –Disqualification

Circumstances in which a person is disqualified from office on council

- 110** (1) A person elected or appointed to office on a council is disqualified from holding that office if any of the following applies:
- (a) the person does not make the required oath or affirmation of office within the time established by section 120 (1) *[oath or affirmation of office]*;
 - (b) the person is absent from council meetings for a period of 60 consecutive days or 4 consecutive regularly scheduled council meetings, whichever is the longer time period, unless the absence is because of illness or injury or is with the leave of the council;
 - (c) the person is disqualified under any of the following:
 - section 101 *[restrictions on participation if in conflict]*;
 - section 102 *[restrictions on inside influence]*;
 - section 103 *[restrictions on outside influence]*;
 - section 105 *[restrictions on accepting gifts]*;
 - section 106 *[disclosure of gifts]*;
 - section 107 *[disclosure of contracts]*;
 - section 108 *[restrictions on use of insider information]*;
 - (d) the person is disqualified under section 191 *[liabilities for use of money contrary to Act]*;
 - (e) the person is disqualified under section 66 (2) *[who may hold elected office]* of the *Local Government Act* or section 38 (2) *[who may hold elected office]* of the *Vancouver Charter*.
- (2) A person disqualified under subsection (1) is disqualified from holding office on a local government, including office on the council of the City of Vancouver, as follows:

<i>Applicable provision</i>	<i>Period of disqualification</i>
(1) (a) <i>[failure to take oath]</i>	until the next general local election;
(1) (b) <i>[unexcused absence]</i>	until the next general local election;
(1) (c) <i>[conflict]</i>	until the next general local election;
(1) (d) <i>[unauthorized use of money]</i>	for 3 years from the date of the vote to which the disqualification relates;

Section 111

<i>Applicable provision</i>	<i>Period of disqualification</i>
(1) (e) <i>[election disqualifications]</i>	in accordance with Part 3 <i>[Electors and Elections]</i> of the <i>Local Government Act</i> .

Application to court for declaration of disqualification

- 111** (1) If it appears that a person is disqualified under section 110 and is continuing to act in office,
- (a) 10 or more electors of the municipality, or
 - (b) the municipality,
- may apply to the Supreme Court for an order under this section.
- (2) As a restriction, a municipality may only make an application under subsection (1) if this is approved by a resolution that
- (a) is adopted by a vote at least 2/3 of all council members, and
 - (b) identifies the grounds for disqualification under section 110 which the council considers apply.
- (3) Sections 100 *[disclosure of conflict]* and 101 *[restrictions on participation if in conflict]* do not apply to the council member who is subject to a resolution referred to in subsection (2) of this section in relation to that resolution.
- (4) An application under this section may only be made within 45 days after the alleged basis of the disqualification comes to the attention of
- (a) any of the electors bringing the application, in the case of an application under subsection (1) (a), or
 - (b) any member of council other than the person alleged to be disqualified, in the case of an application under subsection (1) (b).
- (5) Within 7 days after the petition commencing an application under this section is filed, it must be served on
- (a) the person whose right to hold office is being challenged, and
 - (b) in the case of an application under subsection (1) (a), the municipality.
- (6) On the hearing of the application, the court may declare
- (a) that the person is qualified to hold office,
 - (b) that the person is disqualified from holding office, or
 - (c) that the person is disqualified from holding office and that the office is vacant.

Status of person subject to an application

- 112** (1) A person who is subject to an application under section 111 and who considers that he or she is qualified to hold office may continue to act in office pending the determination of the Supreme Court respecting the application.

- (2) If a person who is declared disqualified from holding office by the Supreme Court appeals the decision, the appeal does not operate as a stay of the declaration and the person is disqualified pending the final determination of the appeal.
- (3) If a declaration of disqualification referred to in subsection (2) is overturned on final appeal and the term of office for which the person was elected has not ended,
 - (a) the person is entitled to take office for the remainder of the term if otherwise qualified, and
 - (b) for this purpose, any other person elected or appointed to the office since the declaration of disqualification ceases to hold office at the time the person declared qualified takes office.

Costs of an application

- 113**
- (1) In the case of an application under section 111 made by a group of electors, if the court declares that the person challenged is not qualified to hold office, the municipality must promptly pay the electors' costs within the meaning of the Rules of Court.
 - (2) The court may order that costs to be paid under subsection (1) may be recovered by the municipality from the person who was declared disqualified or any other person as directed by the court in the same manner as a judgment of the Supreme Court.
 - (3) Except as provided in subsection (1), the costs of an application are in the discretion of the court.

PART 5 –M UNICIPAL GOVERNMENT AND PROCEDURES**Division 1 –Council Roles and Responsibilities****Council as governing body**

- 114**
- (1) The members of a municipal council are the mayor and the councillors.
 - (2) Despite a change in its membership, the council of a municipality is a continuing body and may complete any proceedings started but not completed before the change.
 - (3) The powers, duties and functions of a municipality are to be exercised and performed by its council, except as otherwise provided by or under this or another Act, and a council, in exercising or performing its powers, duties and functions, is acting as the governing body of the municipality.
 - (4) A council has all necessary power to do anything incidental or conducive to the exercise or performance of any power, duty or function conferred on a council or municipality by this or any other enactment.

Section 115

Responsibilities of council members

115 Every council member has the following responsibilities:

- (a) to consider the well-being and interests of the municipality and its community;
- (b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;
- (c) to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed;
- (d) to carry out other duties assigned by the council;
- (e) to carry out other duties assigned by or under this or any other Act.

Responsibilities of mayor

116 (1) The mayor is the head and chief executive officer of the municipality.

(2) In addition to the mayor's responsibilities as a member of council, the mayor has the following responsibilities:

- (a) to provide leadership to the council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;
- (b) to communicate information to the council;
- (c) to preside at council meetings when in attendance;
- (d) to provide, on behalf of the council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the council;
- (e) to establish standing committees in accordance with section 141;
- (f) to suspend municipal officers and employees in accordance with section 151;
- (g) to reflect the will of council and to carry out other duties on behalf of the council;
- (h) to carry out other duties assigned by or under this or any other Act.

Duty to respect confidentiality

117 (1) A council member or former council member must, unless specifically authorized otherwise by council,

- (a) keep in confidence any record held in confidence by the municipality, until the record is released to the public as lawfully authorized or required, and
- (b) keep in confidence information considered in any part of a council meeting or council committee meeting that was lawfully closed to the public, until the council or committee discusses the information at a meeting that is open to the public or releases the information to the public.

- (2) If the municipality suffers loss or damage because a person contravenes subsection (1) and the contravention was not inadvertent, the municipality may recover damages from the person for the loss or damage.

Size of council

- 118** (1) Unless otherwise provided by letters patent or by a bylaw under this section, the council size for municipalities must be as follows:
- (a) for a city or district having a population of more than 50 000, the council is to consist of a mayor and 8 councillors;
 - (b) for a city or district having a population of 50 000 or less, the council is to consist of a mayor and 6 councillors;
 - (c) for a town or village, the council is to consist of a mayor and 4 councillors.
- (2) For the purposes of this section, any change to a council size under subsection (1) is to be based on the population of the municipality as at January 1 in a general local election year and the change takes effect for the purposes of that election.
- (3) A council may, by bylaw, establish the number of council members as a mayor and 4, 6, 8 or 10 councillors.
- (4) If a bylaw under subsection (3) would
- (a) reduce the number of council members, or
 - (b) maintain the current number of council members, despite an increase that would otherwise result under subsection (2),
- it may only be adopted if it receives the assent of the electors.
- (5) A bylaw under subsection (3)
- (a) must be made at least 6 months before the next general local election, and
 - (b) does not become effective until that general local election.
- (6) The size of council as established under subsection (3) applies despite any provision of a municipality's letters patent.

Term of office for council members

- 119** (1) Subject to subsections (2) to (4), the term of office for a council member elected at a general local election
- (a) begins on the first council meeting date referred to in section 125 (1) [*council meetings*] that follows the election, and
 - (b) ends immediately before the first council meeting date referred to in section 125 (1) that follows the next general local election.
- (2) A person who has delivered the oath or affirmation of office to the corporate officer in accordance with section 120 (5) takes office
- (a) on the date referred to in subsection (1) (a), if delivery to the corporate officer is done before this time, and

- (b) otherwise, at the time of delivery.
- (3) For the purpose of maintaining continuity in the office of mayor, if the incoming mayor has not taken office on the date referred to in subsection (1) (a), the previous mayor continues to hold office until the successor has taken office.
- (4) As a transitional measure, if, on the date referred to in subsection (1) (a), the number of incoming council members who have taken office is less than a quorum, until such a quorum has taken office the council consists of
 - (a) the previous councillors, who continue in office until that time,
 - (b) if applicable under subsection (3), the previous mayor, and
 - (c) the incoming council members who have taken office.

Oath or affirmation of office

- 120**
- (1) A person elected or appointed to office on a council must make an oath or solemn affirmation of office within the following applicable time limit:
 - (a) in the case of a person elected by acclamation, within 50 days after the date set for general voting day had an election by voting been required;
 - (b) in the case of a person elected by voting, within 45 days after the declaration of the results of the election;
 - (c) in the case of a person appointed to office, within 45 days after the effective date of the appointment.
 - (2) A council may, by bylaw, establish the oath or solemn affirmation of office for the purposes of this section, which may be different for the office of mayor and the office of councillor.
 - (3) If no bylaw under subsection (2) applies, the oath or solemn affirmation of office to be made is that prescribed by regulation.
 - (4) The oath or solemn affirmation of office must be made before a judge of the Court of Appeal, Supreme Court or Provincial Court, a justice of the peace, a commissioner for taking affidavits for British Columbia, the corporate officer or the chief election officer.
 - (5) Before a person takes office as a council member, the person must produce the completed oath or affirmation, or a certificate of it, to the corporate officer.

Resignation from office

- 121**
- (1) A council member may only resign his or her office by delivering a written resignation to the council at a council meeting or to the corporate officer at any time.
 - (2) A resignation is effective
 - (a) from the date specified in the resignation, or

- (b) if no date is specified, from the time the resignation is delivered to the council or corporate officer, as applicable.
- (3) Once a resignation has been delivered under subsection (1), it may not be revoked.

Division 2 –Council Proceedings

Exercise of powers by bylaw or resolution

- 122**
- (1) A council may only exercise its authority by resolution or bylaw.
 - (2) If an enactment provides that a council is required or empowered to exercise a power by bylaw, that power may only be exercised by bylaw.
 - (3) If a council may exercise a power by resolution, that power may also be exercised by bylaw.
 - (4) An act or proceeding of a council is not valid unless it is authorized or adopted by bylaw or resolution at a council meeting.

General voting rules

- 123**
- (1) Unless otherwise provided, a motion on a bylaw or resolution, or on any other question before council, is decided by a majority of the council members present at the meeting.
 - (2) Each council member has one vote on any question.
 - (3) Each council member present at the time of a vote must vote on the matter.
 - (4) If a council member does not indicate how he or she votes, the member is deemed to have voted in the affirmative.
 - (5) If the votes of the members present at a council meeting at the time of the vote are equal for and against a motion, the motion is defeated.
 - (6) A requirement under an enactment for an affirmative vote of a specified portion of all members of a council means an affirmative vote of that portion of the number of members of which the council consists under section 118 [*size of council*].
 - (7) The voting rules established by this section also apply to council committees.

Procedure bylaws

- 124**
- (1) A council must, by bylaw, establish the general procedures to be followed by council and council committees in conducting their business.
 - (2) Without limiting the matters that may be dealt with under this section, a council must, by bylaw, do the following:

Section 125

- (a) establish rules of procedure for council meetings, including the manner by which resolutions may be passed and the manner by which bylaws may be adopted in accordance with Division 3 [*Bylaw Procedures*] of this Part;
 - (b) establish rules of procedure for meetings of council committees;
 - (c) provide for the taking of minutes of council meetings and council committee meetings, including requiring certification of those minutes;
 - (d) provide for advance public notice respecting the time, place and date of council committee meetings and establish the procedures for giving that notice;
 - (e) identify places that are to be public notice posting places for the purposes of section 94 [*public notice*];
 - (f) establish the procedure for designating a person under section 130 [*designation of member to act in place of the mayor*];
 - (g) establish the first regular council meeting date referred to in section 125 (1) [*council meetings*] as a day in the first 10 days of December following a general local election.
- (3) A bylaw under this section must not be amended, or repealed and substituted, unless the council first gives notice in accordance with section 94 [*public notice*] describing the proposed changes in general terms.

Council meetings

- 125**
- (1) The first regular council meeting following a general local election must be on the day set by procedure bylaw under section 124 (2) (g).
 - (2) If a quorum of council members elected at the general local election has not taken office by the time referred to in subsection (1), the first regular council meeting must be called by the corporate officer and held as soon as reasonably possible after a quorum has taken office.
 - (3) After the first regular meeting, a council must meet
 - (a) regularly in accordance with the applicable procedure bylaw, and
 - (b) as it decides and as provided in this Act.
 - (4) A special council meeting is a council meeting other than a regular meeting or an adjourned meeting.

Calling of special council meetings

- 126**
- (1) The mayor may call a special council meeting in his or her discretion.
 - (2) Two or more council members may, in writing, request that the mayor call a special council meeting.
 - (3) Two or more council members may themselves call a special council meeting if,

- (a) within 24 hours after receiving a request under subsection (2), no arrangements are made under subsection (1) for a special council meeting to be held within the next 7 days, or
 - (b) both the mayor and the person designated under section 130 [*designation of member to act in place of mayor*] are absent or otherwise unable to act.
- (4) If a special council meeting is called under subsection (3), the council members calling the meeting or the corporate officer must sign the notice under section 127 [*notice of council meetings*] in place of the mayor.

Notice of council meetings

- 127** (1) A council must
- (a) make available to the public a schedule of the date, time and place of regular council meetings, and
 - (b) give notice of the availability of the schedule in accordance with section 94 [*public notice*] at least once a year.
- (2) Subject to subsection (4), notice of a special council meeting must be given at least 24 hours before the time of meeting by
- (a) posting a copy of the notice at the regular council meeting place,
 - (b) posting a copy of the notice at the public notice posting places, and
 - (c) leaving one copy for each council member at the place to which the member has directed notices be sent.
- (3) The notice under subsection (2) must include the date, time and place of the meeting, describe in general terms the purpose of meeting and be signed by the mayor or the corporate officer.
- (4) Notice of a special council meeting may be waived by unanimous vote of all council members.

Electronic meetings and participation by members

- 128** (1) If this is authorized by procedure bylaw and the requirements of subsection (2) are met,
- (a) a special council meeting may be conducted by means of electronic or other communication facilities, or
 - (b) a member of council or a council committee who is unable to attend at a council meeting or a council committee meeting, as applicable, may participate in the meeting by means of electronic or other communication facilities.
- (2) The following rules apply in relation to a meeting referred to in subsection (1):
- (a) the meeting must be conducted in accordance with the applicable procedure bylaw;

Section 129

- (b) the facilities must enable the meeting's participants to hear, or watch and hear, each other;
 - (c) for a special council meeting referred to in subsection (1) (a),
 - (i) the notice under section 127 (2) [*notice of special meetings*] must include notice of the way in which the meeting is to be conducted and the place where the public may attend to hear the proceedings that are open to the public, and
 - (ii) except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the meeting at the specified place, and a designated municipal officer must be in attendance at the specified place;
 - (d) for a meeting referred to in subsection (1) (b), except for any part of the meeting that is closed to the public, the facilities must enable the public to hear, or watch and hear, the participation of the member.
- (3) Members of council or a council committee who are participating under this section in a meeting conducted in accordance with this section are deemed to be present at the meeting.

Quorum for conducting business

- 129**
- (1) Subject to an order under subsection (3) or (4), the quorum is a majority of the number of members of the council provided for under section 118 [*size of council*].
 - (2) The acts done by a quorum of council are not invalid by reason only that the council is not at the time composed of the number of council members required under this Act.
 - (3) If the number of members of a council is reduced to less than a quorum, the minister may either
 - (a) order that the remaining members of the council constitute a quorum until persons are elected and take office to fill the vacancies, or
 - (b) appoint qualified persons to fill the vacancies until persons are elected and take office to fill them.
 - (4) The municipality may apply to the Supreme Court for an order under subsection (5) if, as a result of section 100 [*disclosure of conflict*], the number of council members who may discuss and vote on a matter falls below
 - (a) the quorum for the council, or
 - (b) the number of council members required to adopt the applicable bylaw or resolution.
 - (5) On an application under subsection (4), the court may

- (a) order that all or specified council members may discuss and vote on the matter, despite sections 100 [*disclosure of conflict*] and 101 [*restrictions on participation*], and
 - (b) make the authority under paragraph (a) subject to any conditions and directions the court considers appropriate.
- (6) An application under subsection (4) may be made without notice to any other person.

Designation of member to act in place of mayor

- 130**
- (1) The council must, in accordance with its applicable procedure bylaw, provide for the designation of a councillor as the member responsible for acting in the place of the mayor when the mayor is absent or otherwise unable to act or when the office of mayor is vacant.
 - (2) If both the mayor and member designated under subsection (1) are absent from a council meeting, the members present must choose a member to preside.
 - (3) The member designated under subsection (1) or chosen under subsection (2) has the same powers and duties as the mayor in relation to the applicable matter.

Mayor may require council reconsideration of a matter

- 131**
- (1) Without limiting the authority of a council to reconsider a matter, the mayor may require the council to reconsider and vote again on a matter that was the subject of a vote.
 - (2) As restrictions on the authority under subsection (1),
 - (a) the mayor may only initiate a reconsideration under this section
 - (i) at the same council meeting as the vote took place, or
 - (ii) within the 30 days following that meeting, and
 - (b) a matter may not be reconsidered under this section if
 - (i) it has had the approval of the electors or the assent of the electors and was subsequently adopted by the council, or
 - (ii) there has already been a reconsideration under this section in relation to the matter.
 - (3) On a reconsideration under this section, the council
 - (a) must deal with the matter as soon as convenient, and
 - (b) on that reconsideration, has the same authority it had in its original consideration of the matter, subject to the same conditions that applied to the original consideration.
 - (4) If the original decision was the adoption of a bylaw or resolution and that decision is rejected on reconsideration, the bylaw or resolution is of no effect and is deemed to be repealed.

Section 132

Authority of presiding member

- 132**
- (1) The mayor or the member presiding at a council meeting must preserve order and decide points of order that may arise, subject to an appeal under this section.
 - (2) On an appeal by a council member from a decision of the presiding member under subsection (1), the question as to whether the chair is to be sustained must be immediately put by the presiding member and decided without debate.
 - (3) As exceptions to section 123 [*general voting rules*],
 - (a) the mayor or other presiding may not vote on a motion under subsection (2),
 - (b) the motion passes in the affirmative if the votes are equal, and
 - (c) the mayor or other presiding member must be governed by the result.
 - (4) If the mayor or presiding member refuses to put the question under subsection (2),
 - (a) the council must immediately appoint another member to preside temporarily,
 - (b) that other member must proceed in accordance with subsection (2), and
 - (c) a motion passed under this subsection is as binding as if passed under subsection (2).

Expulsion from meetings

- 133**
- (1) If the person presiding at a council meeting considers that another person at the meeting is acting improperly, the person presiding may order that the person is expelled from the meeting.
 - (2) If a person who is expelled does not leave the meeting, a peace officer may enforce the order under subsection (1) as if it were a court order.

Authority to compel witnesses

- 134**
- (1) A council or council committee
 - (a) has power, under the signature of the mayor, to summon witnesses for examination on oath respecting matters related to the administration of the municipality, and
 - (b) has the same power to enforce the attendance of witnesses and compel them to give evidence as is vested in a court of law in civil cases.
 - (2) A member of council or the corporate officer may administer the oath to or take the solemn affirmation of a witness.
 - (3) A witness may be examined, cross examined and re-examined according to the rules and practice of the Supreme Court in civil cases.

Division 3 –Bylaw Procedures

Requirements for passing bylaws

- 135** (1) Before a bylaw is adopted by a council, it must be given 3 readings by the council.
- (2) Subject to this section and the applicable procedure bylaw, a bylaw may be given up to 3 readings at one meeting of council.
- (3) There must be at least one day between the third reading and the adoption of a bylaw.
- (4) If this or another Act requires that a bylaw receive
- (a) approval of the Lieutenant Governor in Council, a minister or the inspector, or
 - (b) approval of the electors or assent of the electors,
- the approval or assent must be obtained after the bylaw has been given third reading and before it is adopted.
- (5) If a bylaw is subject to both requirements referred to in subsection (4), the approval referred to in subsection (4) (a) must be obtained before the bylaw is submitted for the approval or assent referred to in subsection (4) (b).
- (6) Once a bylaw is adopted,
- (a) the council member presiding at the meeting at which it was adopted, and
 - (b) the corporate officer
- must sign the bylaw.

When a bylaw comes into force

- 136** A bylaw comes into force on the later of
- (a) the date it is adopted by council, and
 - (b) a date set by the bylaw.

Power to amend or repeal

- 137** (1) Unless otherwise provided,
- (a) the power to adopt a bylaw under this or any other Act includes the power to repeal or amend the original bylaw,
 - (b) the included power to amend or repeal must be exercised by bylaw and is subject to the same approval and other requirements, if any, as the power to adopt the original bylaw, and
 - (c) a bylaw may include provisions that, at a future date set by the bylaw, amend or repeal the bylaw.
- (2) A bylaw that requires approval of the electors or assent of the electors may be amended or repealed without that approval or assent if the minister approves and subject to any terms and conditions the minister considers appropriate.

Section 138

Municipal codes and other general bylaws

- 138** (1) Unless otherwise provided, a council may, by a single bylaw, exercise any number of its powers to act by bylaw.
- (2) A bylaw under subsection (1), or an equivalent bylaw created by consolidation under section 139 or revision under section 140, is subject to all requirements that would apply to the exercise of the powers by separate bylaws.

Consolidation of bylaws

- 139** (1) A council may, by bylaw, authorize the corporate officer to consolidate one or more of the bylaws of the municipality.
- (2) In consolidating a bylaw, the corporate officer must
- (a) incorporate in it all amendments that have been made to the bylaw, and
 - (b) omit any provision that has been repealed or that has expired.
- (3) A printed document purporting
- (a) to be a copy of a bylaw consolidated under this section, and
 - (b) to be printed by authority of the corporate officer
- is proof, in the absence of evidence to the contrary, of the original bylaw, of all bylaws amending it and of the fact of adoption of the original and all amending bylaws.

Revision of bylaws

- 140** (1) A council may, by bylaw, authorize the revision of all or any of the bylaws of the municipality in accordance with the regulations under this section.
- (2) The Lieutenant Governor in Council may, by regulation, provide municipalities with an authority to revise their bylaws that is equivalent to the authority provided in relation to statutes under the *Statute Revision Act*, including regulations establishing the legal effect of the revised bylaws and providing for the correction of revision errors.
- (3) As an exception to section 138 (2), a revised bylaw adopted in accordance with regulations under this section is deemed to be a bylaw that has been adopted as if all requirements respecting the approval and adoption of its provisions have been met.

Division 4 –Committees, Commissions and Other Bodies**Standing committees of council**

- 141** (1) The mayor must establish standing committees for matters the mayor considers would be better dealt with by committee and must appoint persons to those committees.
- (2) At least half of the members of a standing committee must be council members.

- (3) Subject to subsection (2), persons who are not council members may be appointed to a standing committee.

Select committees of council

- 142** (1) A council may establish and appoint a select committee to consider or inquire into any matter and to report its findings and opinion to the council.
- (2) At least one member of a select committee must be a council member.
- (3) Subject to subsection (2), persons who are not council members may be appointed to a select committee.

Municipal commissions

- 143** (1) A council may establish and appoint a commission to do one or more of the following:
- (a) operate services;
 - (b) undertake operation and enforcement in relation to the council's exercise of its regulatory authority;
 - (c) manage property and licences held by the municipality.
- (2) If a council adopts a bylaw under this section to establish an athletic commission consisting of at least 3 members, in addition to any delegation under section 154 [*delegation of council authority*], the council may, by bylaw, do one or more of the following:
- (a) authorize the commission to make rules regulating professional boxing, wrestling and similar activities, contests and exhibitions;
 - (b) in relation to contraventions of the bylaw or rules made under it, authorize the commission to impose reasonable fines for misconduct and to prohibit those participants or persons from taking part in contests or exhibitions in the municipality for reasonable periods;
 - (c) whether or not a penalty has been imposed, authorize the commission to restrain, by legal action brought by the commission in its name, a person conducting a contest or exhibition or participating in it without a required permit, and for these purposes section 274 (2) [*actions by municipality*] applies;
 - (d) provide that a decision of the commission under this section is subject to appeal to the council.

Authority to rescind appointment

- 144** The authority to appoint under this Division includes the authority to rescind the appointment at any time and appoint another person in place of the person whose appointment was rescinded.

Application of procedure rules to other bodies

- 145** (1) Subject to subsection (2), the rules established by procedure bylaw respecting the taking of minutes at council committee meetings apply to meetings of other bodies referred to in section 93 [*application of open meeting rules to other bodies*].
- (2) The rules referred to in subsection (1) do not apply
- (a) if a procedure bylaw provides for other procedures for the taking of minutes by one or more bodies referred to in that subsection,
 - (b) if the body is exempted by regulation, or
 - (c) to the extent they are modified by regulation.

Division 5 –Officers and Employees**Officer positions**

- 146** A council
- (a) must, by bylaw, establish officer positions in relation to the powers, duties and functions under sections 148 [*corporate officer*] and 149 [*financial officer*],
 - (b) may, by bylaw, establish other officer positions, and
 - (c) may assign powers, duties and functions to its officer positions.

Chief administrative officer

- 147** A bylaw under section 146 may establish the position of chief administrative officer of the municipality, whose powers, duties and functions include the following:
- (a) overall management of the operations of the municipality;
 - (b) ensuring that the policies, programs and other directions of the council are implemented;
 - (c) advising and informing the council on the operation and affairs of the municipality.

Corporate officer

- 148** One of the municipal officer positions must be assigned the responsibility of corporate administration, which includes the following powers, duties and functions:
- (a) ensuring that accurate minutes of the meetings of the council and council committees are prepared and that the minutes, bylaws and other records of the business of the council and council committees are maintained and kept safe;
 - (b) ensuring that access is provided to records of the council and council committees, as required by law or authorized by the council;

- (c) administering oaths and taking affirmations, affidavits and declarations required to be taken under this Act or any other Act relating to municipalities;
- (d) certifying copies of bylaws and other documents, as required or requested;
- (e) accepting, on behalf of the council or municipality, notices and documents that are required or permitted to be given to, served on, filed with or otherwise provided to the council or municipality;
- (f) keeping the corporate seal, if any, and having it affixed to documents as required.

Financial officer

149 One of the municipal officer positions must be assigned the responsibility of financial administration, which includes the following powers, duties and functions:

- (a) receiving all money paid to the municipality;
- (b) ensuring the keeping of all funds and securities of the municipality;
- (c) investing municipal funds, until required, in authorized investments;
- (d) expending municipal money in the manner authorized by the council;
- (e) ensuring that accurate records and full accounts of the financial affairs of the municipality are prepared, maintained and kept safe;
- (f) exercising control and supervision over all other financial affairs of the municipality.

General employment matters

150 In the event of a conflict between terms and conditions of employment established by municipal bylaw, resolution or policy and those established by a contract of employment or collective agreement, the contract or agreement prevails.

Suspension of officers and employees

- 151** (1) The mayor must suspend a municipal officer or employee if the mayor considers this necessary.
- (2) A suspension under subsection (1) must be reported to the council at its next meeting, and the council may
- (a) reinstate the officer or employee,
 - (b) confirm the suspension,
 - (c) confirm and extend the suspension, or
 - (d) dismiss the officer or employee.

Termination of officers

152 (1) Subject to a contract of employment and subject to providing the officer with an opportunity to be heard, the appointment of a municipal officer may be terminated by the council as follows:

Section 153

- (a) in the case of termination for cause, by immediate termination without any period of notice;
 - (b) in any other case, by termination on reasonable notice.
- (2) A termination under subsection (1) (b) may only be made by the affirmative vote of at least 2/3 of all council members.

Prohibition against interfering with municipal officers and employees

- 153** A person must not interfere with, hinder or obstruct a municipal officer or employee in the exercise or performance of his or her powers, duties or functions.

Division 6 –Delegation**Delegation of council authority**

- 154** (1) A council may, by bylaw, delegate its powers, duties and functions, including those specifically established by an enactment, to the extent provided, to
- (a) a council member or council committee,
 - (b) an officer or employee of the municipality, or
 - (c) another body established by the council.
- (2) As exceptions, a council may not delegate the following:
- (a) the making of a bylaw;
 - (b) a power or duty exercisable only by bylaw;
 - (c) a power or duty established by this or any other Act that the council give its approval or consent to, recommendations on, or acceptance of an action, decision or other matter;
 - (d) a power or duty established by an enactment that the council hear an appeal or reconsider an action, decision or other matter;
 - (e) a power or duty to terminate the appointment of an officer;
 - (f) the power to impose a remedial action requirement under Division 12 [*Remedial Action Requirements*] of Part 3.
- (3) Despite subsection (1), a council may only delegate a power or duty to appoint or suspend an officer to its chief administrative officer.
- (4) A council may not delegate under subsection (1) to a corporation.

Special rules respecting delegation of hearings and other proceedings

- 155** (1) This section applies to the delegation of
- (a) council hearings that are required by law or authorized by an enactment, other than hearings referred to in section 154 (2) (d), and
 - (b) council proceedings in which a person is entitled under this Act to make representations to council.

- (2) The following rules apply in relation to a delegation referred to in subsection (1):
- (a) the delegation may be made specifically, by class of hearings or proceedings, or generally;
 - (b) the delegation may only be made to one or more council members;
 - (c) if a council decision is to be made following a delegated hearing or proceeding, the authority to make the decision may only be delegated to the council members to whom the matter is delegated;
 - (d) if a council decision referred to in paragraph (c) is not delegated under that provision, the council must not make the decision until the applicable council members report to the council the views expressed at the hearing or proceeding.
- (3) For certainty, if a delegation has been made under this section, the council may exercise its authority under this section to revoke that delegation or change the delegation to a different delegation in relation to a specific hearing or proceeding.

Reconsideration of delegate's decisions

- 156** (1) A council may, by bylaw, establish a right to have decisions delegated under this Division reconsidered by council.
- (2) If
- (a) a council delegates a power to make a decision, and
 - (b) in relation to that delegation, a provision of this or another Act, or a bylaw under subsection (1), establishes a right to have a delegated decision reconsidered by the council,
- the council must, by bylaw, establish procedures for such a reconsideration, including how a person may apply for the reconsideration.
- (3) In undertaking a reconsideration referred to in subsection (2), a council has the same authority as that conferred on the delegate.
- (4) If there is a right of reconsideration, the person making the decision must advise the person subject to the decision of this right.

Division 7 –Other Matters**Municipal days of recognition**

- 157** A council may declare, or the mayor may proclaim, a day of recognition that is to be observed in the municipality.

Freedom of the municipality

- 158** (1) A council may, by unanimous vote, confer freedom of the municipality on
- (a) a distinguished person, or
 - (b) a distinguished unit of the armed forces of Canada or another nation.

Section 159

- (2) Unless the council revokes the honour, a person given freedom of the municipality or the commander of the armed forces unit, as applicable,
 - (a) is deemed to be an elector of the municipality and is eligible to be registered as such and to vote in an election for mayor or councillor, and
 - (b) despite any other enactment, if the person is a Canadian citizen, is deemed to be qualified to be nominated, be elected and hold office on the council.

Notice to municipality

159 If an enactment requires or permits

- (a) notice to be given to a council or a municipality,
- (b) a document to be served on a council or a municipality,
- (c) a document to be filed with a council or a municipality, or
- (d) a document to be delivered, sent, submitted or otherwise provided to a council or a municipality,

the notice, service, filing or other provision is effected if the notice or document is, as applicable, given to, served on, filed with or otherwise provided to the corporate officer.

Notice by municipality: obligation satisfied if reasonable effort made

160 If this or another Act requires a municipality, a council or a municipal officer or employee to give notice or to mail, send or deliver a notice, the obligation is satisfied if a reasonable effort was made to mail or otherwise deliver the notice.

Court order allowing substituted service

- 161** (1) If this or another Act requires a municipality, a council or a municipal officer or employee to serve a notice or other document on a person, that obligation may be met by serving the notice in accordance with an order under subsection (2).
- (2) On application, the Supreme Court may order that a document referred to in subsection (1) may be served by substituted service in accordance with the order.

Certified copies of municipal records

162 The corporate officer must provide a copy of all or part of a record of the municipality, certified by the corporate officer, if

- (a) the person requesting the copy pays the fee set by the council, and
- (b) the person is entitled under the *Freedom of Information and Protection of Privacy Act*, or is otherwise permitted, to inspect the record or part for which the copy is requested.

Evidence of municipal bylaws and other records

- 163** (1) Judicial notice must be taken of municipal bylaws.
- (2) A printed document purporting

- (a) to be a copy of a municipal bylaw, and
 - (b) to be printed by authority of the council of the municipality
- must be admitted in evidence as proof, in the absence of evidence to the contrary, of the bylaw and of the fact of its adoption.
- (3) A copy of a bylaw, resolution or other record of a municipality certified by the corporate officer as a true copy of the original must be admitted in evidence as proof, in the absence of evidence to the contrary, of the bylaw, resolution or other record, without further proof of the record, of the signature or of the official position of the person signing the copy.

PART 6 –FINANCIAL MANAGEMENT

Division 1 –Financial Planning and Accountability

Fiscal year

- 164** The fiscal year for a municipality is the calendar year.

Financial plan

- 165**
- (1) A municipality must have a financial plan that is adopted annually, by bylaw, before the annual property tax bylaw is adopted.
 - (2) For certainty, the financial plan may be amended by bylaw at any time.
 - (3) The planning period for a financial plan is 5 years, that period being the year in which the plan is specified to come into force and the following 4 years.
 - (4) The financial plan must set out the following for each year of the planning period:
 - (a) the proposed expenditures by the municipality;
 - (b) the proposed funding sources;
 - (c) the proposed transfers to or between funds.
 - (5) The total of the proposed expenditures and transfers to other funds for a year must not exceed the total of the proposed funding sources and transfers from other funds for the year.
 - (6) The proposed expenditures must set out separate amounts for each of the following as applicable:
 - (a) the amount required to pay interest and principal on municipal debt;
 - (b) the amount required for capital purposes;
 - (c) the amount required for a deficiency referred to in subsection (9);
 - (d) the amount required for other municipal purposes.
 - (7) The proposed funding sources must set out separate amounts for each of the following as applicable:

Section 166

- (a) revenue from property value taxes;
 - (b) revenue from parcel taxes;
 - (c) revenue from fees;
 - (d) revenue from other sources;
 - (e) proceeds from borrowing, other than borrowing under section 177 [*revenue anticipation borrowing*].
- (8) The proposed transfers to or between funds must set out separate amounts for
- (a) each reserve fund under Division 4 of this Part, and
 - (b) accumulated surplus.
- (9) If actual expenditures and transfers to other funds for a year exceed actual revenues and transfers from other funds for the year, the resulting deficiency must be included in the next year's financial plan as an expenditure in that year.

Public process for development of financial plan

- 166** A council must undertake a process of public consultation regarding the proposed financial plan before it is adopted.

Annual financial statements

- 167** (1) Municipal financial statements for a fiscal year must be
- (a) prepared by the financial officer, and
 - (b) presented to council for its acceptance.
- (2) Subject to subsection (3), the financial statements must be prepared in accordance with generally accepted accounting principles for local governments.
- (3) The inspector may require or authorize, generally or for a specified municipality, that the financial statements vary from or include additional information to the requirements of subsection (2).
- (4) By May 15 in each year, a municipality must submit to the inspector its audited financial statements for the preceding year and any other financial information requested by the inspector.
- (5) In addition to any requirement under subsection (4), the financial officer must compile and supply information on the financial affairs of the municipality requested by the inspector.

Reporting of council remuneration, expenses and contracts

- 168** (1) At least once a year, a council must have prepared a report separately listing the following for each council member by name:
- (a) the total amount of remuneration paid to the council member for discharge of the duties of office, including any amount specified as an expense allowance;

- (b) the total amount of expense payments for the council member made to the council member as reimbursement for expenses incurred by the council member or as an allowance that is not reported under paragraph (a);
 - (c) the total amount of any benefits, including insurance policies and policies for medical or dental services, provided to the council member or the member's dependants;
 - (d) any contracts reported under section 107 [*disclosure of contracts with council members and former council members*], including a general description of their nature.
- (2) If applicable, the report under this section must also list contracts referred to in subsection (1) (d) for each former council member.

Division 2 –Audit

Municipal auditor

- 169**
- (1) A council must appoint an auditor for the municipality.
 - (2) A municipal auditor must be a person who is qualified to be the auditor of a reporting company under section 180 of the *Company Act*.
 - (3) A municipal auditor has the power and duty to conduct the examinations necessary to prepare the reports required under this Division and, for these purposes, has the same authority in relation to the municipality as the auditor of a company under the *Company Act*.
 - (4) A municipal auditor who receives information from a person whose right to disclose that information is restricted by law holds that information under the same restrictions respecting disclosure that govern the person from whom the information was obtained.

Audit committee

- 170**
- (1) As a limitation on section 154 [*delegation of council authority*], a council may only delegate its powers, duties and functions under this Division to a committee comprised of council members.
 - (2) Reports submitted by the municipal auditor to a committee under this section are deemed to have been submitted to council.

Auditor's reports

- 171**
- (1) The municipal auditor must report to the council on the annual financial statements of the municipality.
 - (2) The report under subsection (1) must be in accordance with the form and the reporting standards recommended by the Canadian Institute of Chartered Accountants.
 - (3) In addition to the report under subsection (1),

Section 172

- (a) the council or the inspector may require further reports from the municipal auditor, and
 - (b) the municipal auditor may, on the auditor's own initiative, make further reports.
- (4) On request by the inspector, the municipal auditor must forward to the inspector copies of
 - (a) reports under subsections (1) and (3), and
 - (b) recorded communications in relation to those reports from the auditor to the council, a council committee or a municipal officer.

Complaints to council or auditor about financial affairs

- 172**
- (1) A person may complain in writing to the council or to the municipal auditor, if the person considers that
 - (a) a disbursement, expenditure, liability or other transaction is not authorized by or under this or another Act, or
 - (b) there has been a theft, misuse or other defalcation or irregularity in the funds, accounts, assets, liabilities and financial obligations of the municipality.
 - (2) If a complaint is made under subsection (1) to the council, the council must give notice of the matter to the municipal auditor.
 - (3) If a complaint is made under subsection (1) to the municipal auditor, the auditor must give notice of the matter to the council and must report to the council on the subject matter of the complaint.

Division 3 –Expenditures, Liabilities and Investments**Limit on expenditures**

- 173**
- (1) A municipality must not make an expenditure other than one authorized under subsection (2) or (3).
 - (2) A municipality may make an expenditure that is included for that year in its financial plan, so long as the expenditure is not expressly prohibited by or under this or another Act.
 - (3) A municipality may make an expenditure for an emergency that was not contemplated for that year in its financial plan, so long as the expenditure is not expressly prohibited by or under this or another Act.
 - (4) The following apply in relation to the authority under subsection (3):
 - (a) the council must establish procedures to
 - (i) authorize expenditures under that subsection, and
 - (ii) provide for such expenditures to be reported to the council at a regular meeting;

- (b) if an expenditure is made under that subsection, as soon as practicable, the council must amend the financial plan to include the expenditure and the funding source for the expenditure;
- (c) the authority under that subsection does not include the authority to borrow for the purpose of making the expenditure.

Limit on borrowing and other liabilities

- 174**
- (1) A municipality may only incur a liability as expressly authorized by or under this or another Act.
 - (2) A municipality may not incur a liability if incurring the liability would cause the municipality to exceed a limit established under subsection (3) unless this is approved under subsection (4).
 - (3) For the purposes of subsection (2), the Lieutenant Governor in Council may make regulations
 - (a) establishing a limit on the aggregate liabilities and the method for determining that limit, and
 - (b) establishing a limit on the annual cost of servicing the aggregate liabilities and the method for determining that limit.
 - (4) With the approval of the inspector, a municipality may exceed the limit established under subsection (3).
 - (5) Except for borrowing under section 177 [*revenue anticipation borrowing*], a municipality must not incur a liability for which expenditures are required during the planning period for its financial plan, unless those expenditures are included for the applicable year in the financial plan.

Liabilities under agreements

- 175**
- (1) A council may, under an agreement, incur a liability if
 - (a) the liability is not a debenture debt, and
 - (b) the period of the liability is not longer than the reasonable life expectancy of the activity, work or service under the agreement.
 - (2) Subject to subsections (4) and (5), if an agreement under subsection (1) is
 - (a) for more than 5 years, or
 - (b) for a period that could exceed 5 years by exercising rights of renewal or extension,the council may only incur the liability with the approval of the electors.
 - (3) The matter put before the electors under subsection (2) must identify the other parties to the agreement and the nature, term and amount of the liability.
 - (4) Approval of the electors is not required under subsection (2) for the following:

Section 176

- (a) a liability to be incurred under an employment contract or collective agreement;
 - (b) a liability to be incurred for the supply of materials, equipment or services under an agreement referred to in section 3 of the *Police Act*;
 - (c) a liability to be incurred in circumstances prescribed by regulation or in relation to an agreement or class of agreement prescribed by regulation, subject to any conditions established by regulation.
- (5) If
 - (a) the concept for a partnering agreement has received the approval of the electors, and
 - (b) within 5 years after that approval, the municipality enters into a partnering agreement that is in accordance with that approved concept,approval under subsection (2) is not required for the partnering agreement.
- (6) For the purposes of subsection (5), the concept for the agreement to be put before the electors must identify the following:
 - (a) the nature of the activity, work or facility to be provided under the partnering agreement;
 - (b) the maximum term of the agreement;
 - (c) the maximum liability that may be incurred by the municipality under the agreement;
 - (d) any other information required by regulation.

Liabilities imposed under prescribed enactments

- 176**
- (1) A municipality may incur a liability that is within a class prescribed under this section.
 - (2) The authority to incur a liability under this section is not authority to borrow for the purposes of the liability.
 - (3) The Lieutenant Governor in Council may make regulations prescribing classes of liability that are imposed by or under an enactment as liabilities to which this section applies.

Revenue anticipation borrowing

- 177**
- (1) A council may, by bylaw, provide for the borrowing of money that may be necessary to
 - (a) meet current lawful expenditures, and
 - (b) pay amounts required to meet the municipality's taxing obligations in relation to another local government or other public body.
 - (2) The debt outstanding under this section must not exceed the total of
 - (a) the unpaid taxes for all purposes imposed during the current year, and

- (b) the money remaining due from other governments.
- (3) Before the adoption of the annual property tax bylaw in any year, the taxes in that year are deemed to be 75% of all property taxes imposed for all purposes in the preceding year.
- (4) When collected, revenue from property taxes must be used as necessary to repay money borrowed under this section.

Short term capital borrowing

- 178**
- (1) A council may, by bylaw adopted with the approval of the inspector, contract a debt for any purpose of a capital nature.
 - (2) A bylaw and the debt under this section must comply with the following:
 - (a) the debt must not cause the municipality to exceed the limit prescribed by regulation;
 - (b) the debt and securities for it must be payable no later than the lesser of
 - (i) 5 years from the date on which the securities were issued, and
 - (ii) the reasonable life expectancy of the capital asset for which the debt is contracted;
 - (c) the bylaw must set out
 - (i) the amount of the debt intended to be incurred, and
 - (ii) in brief and general terms, the purpose for which the debt is to be incurred.

Loan authorization bylaws for long term borrowing

- 179**
- (1) A council may, by a loan authorization bylaw adopted with the approval of the inspector, incur a liability by borrowing for one or more of the following:
 - (a) any purpose of a capital nature;
 - (b) lending to any person or public authority under an agreement;
 - (c) guaranteeing repayment of the borrowing, or providing security for the borrowing, of a person or public authority, if this is provided under an agreement with the person or public authority;
 - (d) complying with an order or requirement to pay money into the Supreme Court as security
 - (i) for payment of a judgment or other debt,
 - (ii) for damages or costs, or
 - (iii) for the costs of an appeal from the decision of a court or an arbitrator;
 - (e) satisfying a judgment or other order of a court against the municipality;
 - (f) satisfying an award resulting from an arbitrator's determination of liability or quantum of damages against the municipality, including orders of the arbitrator related to that determination;

Section 180

- (g) paying compensation in respect of property expropriated or injured or carrying out works referred to in section 32 (3) [*entry on land to mitigate damage*].
- (2) A loan authorization bylaw must set out the following:
 - (a) the total amount proposed to be borrowed under the bylaw;
 - (b) in brief and general terms, each of the purposes for which the debt is to be incurred;
 - (c) the amount allocated by the bylaw to each of the purposes for which the debt is to be incurred;
 - (d) the maximum term for which the debentures may be issued.
- (3) A loan authorization bylaw may not be included as part of a general bylaw.
- (4) The authority to borrow under a loan authorization bylaw ends,
 - (a) in the case of a loan authorization bylaw under subsection (1) (b) or (c), at the end of the term of the agreement required by that subsection, and
 - (b) in other cases, 5 years from the date of adoption of the bylaw,
 for any part of the amount authorized by the bylaw that has not already been used to secure borrowing under section 181 [*temporary borrowing under loan authorization bylaw*] or 182 [*municipal financing through regional district*].
- (5) The maximum term of a debt that may be authorized by a loan authorization bylaw is as follows:
 - (a) in the case of a bylaw under subsection (1) (a), the lesser of
 - (i) 30 years, and
 - (ii) the reasonable life expectancy of the capital asset for which the debt is contracted;
 - (b) in the case of a loan authorization bylaw under subsection (1) (b) or (c), the remaining term of the applicable agreement;
 - (c) in all other cases, 30 years.
- (6) A decision of the inspector refusing to approve a loan authorization bylaw may be appealed in accordance with section 1024 [*appeal from inspector's decisions in relation to borrowing*] of the *Local Government Act*.

Elector approval required for some loan authorization bylaws

- 180**
- (1) Subject to subsection (2), a loan authorization bylaw may only be adopted with the approval of the electors.
 - (2) Approval of the electors is not required for the following:
 - (a) money borrowed for a purpose referred to in section 179 (1) (d) to (g) [*loan authorization bylaws for court, arbitration and expropriation requirements*];

- (b) money borrowed for works required to be carried out under an order of the Inspector of Dikes, an order under section 32 of the *Waste Management Act* or an order of the minister responsible or the Lieutenant Governor in Council under the *Environment Management Act*;
 - (c) money borrowed for a purpose prescribed by regulation or in circumstances prescribed by regulation, subject to any conditions established by regulation.
- (3) In addition to the exception provided by section 137 (2) [*power to amend or repeal*], a loan authorization bylaw may be amended or repealed without the approval of the electors if the inspector approves and subject to any terms and conditions the inspector considers appropriate.

Temporary borrowing under loan authorization bylaw

- 181**
- (1) A council that has adopted a loan authorization bylaw may, by bylaw, temporarily borrow money not exceeding the difference between the total amount authorized by the loan authorization bylaw and the amount already borrowed in relation to that bylaw.
 - (2) To the extent necessary, the proceeds of the borrowing under section 182 [*municipal financing through regional district*] must be used to repay the money temporarily borrowed.

Municipal financing through regional district

- 182**
- (1) Except as permitted by section 181 [*temporary borrowing under loan authorization bylaw*] or the *Municipal Finance Authority Act*, a municipality must not borrow money under a loan authorization bylaw unless
 - (a) the financing is undertaken by the applicable regional district under section 824 [*financing municipal undertakings*] of the *Local Government Act* through the Municipal Finance Authority of British Columbia, and
 - (b) the regional district board has consented to undertake the financing.
 - (2) In giving consent referred to in subsection (1), the board may
 - (a) separately consent to financing each amount proposed to be borrowed under the authority of the loan authorization bylaw, or
 - (b) consent to financing all the borrowing authorized by the loan authorization bylaw or all the remaining amount that has not already been financed by the regional district.
 - (3) In relation to regional district financing under section 824 of the *Local Government Act* after giving consent under subsection (2) of this section, the municipal loan authorization bylaw is the regional district's authority to proceed under that section and must not be amended or repealed without the consent of the board.

Section 183

Investment of municipal funds

- 183** Money held by a municipality that is not immediately required may only be invested or reinvested in one or more of the following:
- (a) securities of the Municipal Finance Authority;
 - (b) pooled investment funds under section 16 of the *Municipal Finance Authority Act*;
 - (c) securities of Canada or of a province;
 - (d) securities guaranteed for principal and interest by Canada or by a province;
 - (e) securities of a municipality, regional district or greater board;
 - (f) investments guaranteed by a chartered bank;
 - (g) deposits in a savings institution, or non-equity or membership shares of a credit union;
 - (h) other investments specifically authorized under this or another Act.

Property accepted in trust

- 184**
- (1) All money that is held by a municipality and is subject to a trust must be invested in accordance with section 183 until it is required for the purposes of the trust.
 - (2) If, in the opinion of a council, the terms or trusts imposed by a donor, settlor, transferor or testator are no longer in the best interests of the municipality, the council may apply to the Supreme Court for an order under subsection (3).
 - (3) On an application under subsection (2), the Supreme Court may vary the terms or trusts as the court considers will better further both the intention of the donor, settlor, transferor or testator and the best interests of the municipality.
 - (4) Section 87 [*discharge of trustee's duty*] of the *Trustee Act* applies to an order under subsection (3).

Ownership of corporations

- 185**
- (1) A municipality may only
 - (a) incorporate a corporation other than a society, or
 - (b) acquire shares in a corporationwith the approval of the inspector or as authorized by regulation.
 - (2) An incorporation or acquisition under subsection (1) applies as an exception to the restriction under section 183 [*investment of municipal funds*].

Self insurance

- 186** A municipality may self insure, but may only enter into a scheme of self insurance protection involving other participants in accordance with section 300 [*self insurance by local authorities*] of the *Local Government Act*.

Indemnification against proceedings

- 187** A council may only provide for the indemnification of municipal officials referred to in section 287.2 [*indemnification against proceedings*] of the *Local Government Act* in accordance with that section.

Division 4 –Reserve Funds**Establishment of reserve funds**

- 188** (1) A council may, by bylaw, establish a reserve fund for a specified purpose and direct that money be placed to the credit of the reserve fund.
- (2) If a municipality receives money in respect of any one of the following, the council must establish a reserve fund for the applicable purpose:
- (a) money received from the imposition of a development cost charge, which must be placed to the credit of a reserve fund in accordance with section 935 [*use of development cost charges*] of the *Local Government Act*;
 - (b) money received
 - (i) from the sale of park land,
 - (ii) under section 27 (2) (b) [*disposal of park land*], or
 - (iii) under section 941 (12) [*provision of park land on subdivision*] of the *Local Government Act*,which must be placed to the credit of a reserve fund for the purpose of acquiring park lands;
 - (c) money received under section 41 (1) (d) [*disposal of highway property that provides access to water*], which must be placed to the credit of a reserve fund in accordance with that section;
 - (d) money received under section 906 (3) [*parking space requirements*] of the *Local Government Act*, which must be placed to the credit of a reserve fund for the purpose of providing off-street parking spaces;
 - (e) except for tax sale proceeds, money received from the sale of land and improvements, which must be placed to the credit of a reserve fund for the purposes of paying any debt remaining in relation to the property and of acquiring land, improvements and other assets of a capital nature.

Use of money in reserve funds

- 189** (1) Subject to this section, money in a reserve fund, and interest earned on it, must be used only for the purpose for which the fund was established.
- (2) If the amount to the credit of a reserve fund is greater than required for the purpose for which the fund was established, the council may, by bylaw, transfer all or part of the amount to another reserve fund.
- (3) If the current municipal revenue is not sufficient for the amount required to pay compensation in respect of property expropriated or injured or to carry out works

referred to in section 32 (3) [*entry on land to mitigate damage*], the council may, by bylaw, use money from a reserve fund to the extent required.

- (4) As a restriction on subsection (2), a transfer from a reserve fund established for a capital purpose may only be made to another reserve fund established for a capital purpose.
- (5) As a restriction on subsections (2) and (3), a council may not transfer amounts or use money from a fund required under section 188 (2) (a) [*development cost charge reserve fund*] or (b) [*park land acquisition reserve fund*] unless the bylaw is approved by the minister.

Division 5 –Restrictions on Use of Municipal Funds

Purposes for which borrowed money may be used

- 190**
- (1) Subject to this section, money borrowed by a municipality under any Act must not be used for a purpose other than that specified in the bylaw or agreement authorizing the borrowing.
 - (2) A council may, by bylaw adopted with the approval of the electors, use all or part of money borrowed for a specific purpose and not repayable in the current year for any other lawful purpose of the municipality.
 - (3) If some of the money borrowed for a specified purpose remains unused after payment of the costs related to that purpose, a council may, by bylaw, provide for the use of the unused money for one or more of the following:
 - (a) to retire debentures issued for the purpose;
 - (b) to purchase and cancel debentures issued for the purpose;
 - (c) for expenditures of a nature similar to the purpose in the bylaw authorizing the money to be borrowed;
 - (d) for a reserve fund for matters in paragraph (a), (b) or (c).

Liabilities for use of money contrary to Act

- 191**
- (1) A council member who votes for a bylaw or resolution authorizing the expenditure, investment or other use of money contrary to this Act or the *Local Government Act* is personally liable to the municipality for the amount.
 - (2) As an exception, subsection (1) does not apply if the council member relied on information provided by a municipal officer or employee and the officer or employee was guilty of dishonesty, gross negligence or malicious or willful misconduct in relation to the provision of the information.
 - (3) In addition to any other penalty to which the person may be liable, a council member who is liable to the municipality under subsection (1) is disqualified from holding local government office for the period established by section 110 (2).

- (4) Money owed to a municipality under this section may be recovered for the municipality by
- (a) the municipality,
 - (b) an elector or taxpayer of the municipality, or
 - (c) a person who holds a security under a borrowing made by the municipality.

PART 7 –M UNICIPAL REVENUE

Division 1 –General

General revenue sources

- 192** Municipalities have the following revenue sources:
- (a) fees under Division 2 [*Fees*];
 - (b) taxes under Division 3 [*Property Value Taxes*];
 - (c) taxes under Division 4 [*Parcel Taxes*];
 - (d) taxes under Division 5 [*Local Service Taxes*];
 - (e) taxes under section 353 [*taxation of utility company property*] of the *Local Government Act*;
 - (f) fines and other penalties referred to in section 261 [*payment of fines and other penalties to municipality*];
 - (g) revenues raised by other means authorized by or under this or another Act;
 - (h) revenues received by way of agreement, enterprise, gift, grant or otherwise.

Authority for fees and taxes

- 193**
- (1) A municipality may not impose fees or taxes except as expressly authorized by or under this or another Act.
 - (2) Section 12 (1) [*authority to establish variations*] does not apply in relation to bylaws imposing taxes referred to in section 192 (b), (c), (d) and (e).
 - (3) A council may only provide an exemption from property taxes if expressly authorized by this Part or another Act.
 - (4) For the purposes of assessment, taxation, recovery of taxes and tax sale, parcels combined under the *Assessment Act* to form one parcel are deemed to constitute one parcel.

Division 2 –Fees

Municipal fees

- 194**
- (1) A council may, by bylaw, impose a fee payable in respect of
 - (a) all or part of a service of the municipality,

Section 195

- (b) the use of municipal property, or
 - (c) the exercise of authority to regulate, prohibit or impose requirements.
- (2) Without limiting subsection (1), a bylaw under this section may do one or more of the following:
 - (a) apply outside the municipality, if the bylaw is in relation to an authority that may be exercised outside the municipality;
 - (b) base the fee on any factor specified in the bylaw and, in addition to the authority under section 12 (1) [*variation authority*], establish different rates or levels of fees in relation to different factors;
 - (c) establish fees for obtaining copies of documents that are available for public inspection.
- (3) As exceptions, a council may not impose a fee under this section
 - (a) in relation to Part 3 [*Electors and Elections*] or 4 [*Other Voting*] of the *Local Government Act*, or
 - (b) in relation to any other matter for which this or another Act specifically authorizes the imposition of a fee.
- (4) A municipality must make available to the public, on request, a report respecting how a fee imposed under this section was determined.
- (5) A municipality may not impose a highway toll unless specifically provided by a Provincial or federal enactment.

Fees in relation to soil removal and deposit

- 195** (1) A council may, by bylaw, do one or both of the following:
- (a) impose rates or levels of fees for a permit required under a municipal bylaw for
 - (i) the removal of soil from, or
 - (ii) the deposit of soil or other material onany land in the municipality or in any area of the municipality;
 - (b) impose rates or levels of fees for the activities referred to in paragraph (a).
- (2) Without limiting section 12 (1) [*variation authority*], fees under subsection (1) may vary according to the quantity of soil removed or the quantity of soil or other material deposited and may be different for different areas of the municipality.
- (3) A bylaw under subsection (1) has no effect until it is approved by the minister.

Fees in relation to fire and security alarm systems

- 196** (1) In relation to fire alarm systems and security alarm systems, a council may, by bylaw, impose fees that are to be paid

- (a) by the owner or occupier of real property to which services are provided by or on behalf of the municipality, including policing services under section 3 (2) of the *Police Act*, in response to a false alarm of a system, or
 - (b) by the persons who lease or otherwise provide these systems to the owners or occupiers of real property, if services referred to in paragraph (a) are provided in response to a false alarm of a system.
- (2) Without limiting section 12 (1) [*variation authority*], a fee under subsection (1) may vary in relation to the number of occasions on which services referred to in that subsection are provided.
- (3) As an exception, a bylaw under this section does not apply to fire alarm systems that are intended to alert only the occupants of the dwelling unit in which they are installed.

Division 3 –Property Value Taxes

Annual property tax bylaw

- 197**
- (1) Each year, after adoption of the financial plan but before May 15, a council must, by bylaw, impose property value taxes for the year by establishing tax rates for
 - (a) the municipal revenue proposed to be raised for the year from property value taxes, as provided in the financial plan, and
 - (b) the amounts to be collected for the year by means of rates established by the municipality to meet its taxing obligations in relation to another local government or other public body.
 - (2) Unless otherwise permitted by this or another Act, a property value tax under subsection (1) must be imposed
 - (a) on all land and improvements in the municipality, other than land and improvements that are exempt under this or another Act in relation to the tax, and
 - (b) on the basis of the assessed value of the land and improvements.
 - (3) For the purposes of subsection (1) (a), the bylaw may establish for each property class
 - (a) a single rate for all revenue to be raised, or
 - (b) separate rates for revenue to be raised for different purposes but, in this case, the relationships between the different property class rates must be the same for all purposes.
 - (4) For the purposes of subsection (1) (b), for each local government or other public body in relation to which the amounts are to be collected,
 - (a) the bylaw must establish separate rates for each property class, and

- (b) the relationships between the different property class rates must be the same as the relationships established under subsection (3) unless otherwise required by or under this or another Act.
- (5) If the amount of revenue raised in any year for a body under subsection (1) (b) is more or less than the amount that is required to meet the municipality's obligation, the difference must be used to adjust the rate under subsection (1) (b) for the next year.
- (6) The minimum amount of tax under subsection (1) in any year on a parcel of real property is \$1.
- (7) Property value taxes under subsection (1) are deemed to be imposed on January 1 of the year in which the bylaw under that subsection is adopted, unless expressly provided otherwise by the bylaw or by the enactment under which they are imposed.

Assessment averaging and phasing options

- 198**
- (1) Instead of imposing tax rates on the assessed value of land, an annual property tax bylaw may impose rates applicable to one or more property classes by assessment averaging or assessment phasing in accordance with the regulations under subsection (2).
 - (2) For the purpose of allowing municipalities to moderate the impact of sudden changes in the assessed value of land, the Lieutenant Governor in Council may make regulations as follows:
 - (a) establishing formulas for determining modified assessed values that are to be used to impose property value taxes and authorizing variation of those formulas;
 - (b) exempting, or authorizing the exemption of, particular types of property within a property class, or of property in prescribed circumstances, from the application of a bylaw under this section;
 - (c) providing for a process to review and correct errors made in applying a bylaw under this section to any property;
 - (d) establishing restrictions, conditions and requirements relating to the imposition of tax rates under this section;
 - (e) in relation to taxes that are imposed under other enactments and collected by a municipality, providing that, despite the other enactments,
 - (i) the values imposed under this section apply, and
 - (ii) the rates to be imposed are to be determined using those values.

Property tax rates regulations

- 199**
- The Lieutenant Governor in Council may make regulations respecting tax rates that may be established by an annual property tax bylaw, including regulations doing one or more of the following:

- (a) prescribing limits on tax rates;
- (b) prescribing relationships between tax rates;
- (c) prescribing formulas for calculating the limits or relationships referred to in paragraph (a) or (b);
- (d) allowing the inspector under prescribed circumstances to vary, by order, a limit, relationship or formula prescribed under this section.

Division 4 –Parcel Taxes

Parcel tax bylaw

- 200** (1) A council may, by bylaw, impose a parcel tax in accordance with this Division to provide all or part of the funding for a service.
- (2) A bylaw under subsection (1) must do the following:
- (a) state the service for which the tax is imposed;
 - (b) state the years for which the tax is imposed;
 - (c) identify the parcel tax roll under this Division that is to be used to impose the tax;
 - (d) state the basis on which the tax is to be imposed, as referred to in section 202 (2) [*basis of taxation for parcel taxes*];
 - (e) impose the tax in accordance with subsection (3).
- (3) A bylaw under subsection (1) must impose the parcel tax as follows:
- (a) in the case of a tax to be imposed on the basis provided under section 202 (2) (a) [*single amount per parcel*], by establishing the amount to be paid as tax;
 - (b) in the case of a tax to be imposed on the basis provided under section 202 (2) (b) or (c) [*taxable area or taxable frontage*], by establishing either
 - (i) the rate of tax to be paid per unit of taxable area or taxable frontage, or
 - (ii) rates of tax to be paid for different ranges of taxable area or taxable frontage.
- (4) The municipality must make available to the public, on request, a report respecting how amounts or rates were determined for the purposes of subsection (3).
- (5) In each year that a parcel tax is imposed under this Division, it is deemed to be imposed on January 1 of the year, unless expressly provided otherwise by the bylaw under subsection (1).

Property subject to parcel tax

- 201** (1) Unless otherwise permitted by or under this or another Act, a parcel tax under this Division must be imposed on all parcels within the municipality, other than those that are exempt from the tax.
- (2) In the case of a service that is provided to land or improvements, a parcel tax under this Division may be imposed only on parcels that have the opportunity to be provided with the service, whether or not they are in fact being provided with the service.
- (3) A bylaw under section 200 [*parcel tax bylaw*] may provide for waiving or reducing the tax if the owner or a previous owner of the parcel has
- (a) provided all or part of the service at the owner's expense, or
 - (b) already paid towards the cost of the service on terms and conditions specified in the bylaw.

Parcel tax roll for purpose of imposing tax

- 202** (1) A council may, by bylaw, direct the preparation of a parcel tax roll for the purposes of imposing a parcel tax.
- (2) A bylaw under subsection (1) must establish the basis on which a parcel tax may be imposed using the parcel tax roll, which may be on the basis of one or more of the following:
- (a) a single amount for each parcel;
 - (b) the taxable area of the parcel;
 - (c) the taxable frontage of the parcel.
- (3) If the bylaw provides a basis under subsection (2) (b) or (c), it must establish how the taxable area or taxable frontage of a parcel is to be determined, subject to the following:
- (a) the methods for determination must be based on the physical characteristics of the parcel and may be different for parcels having different classes of physical characteristics;
 - (b) the basis established for parcels having one class of physical characteristics must be fair and equitable as compared with the basis established for parcels having other classes of physical characteristics.

Content of parcel tax roll

- 203** (1) A parcel tax roll must set out the following:
- (a) the parcels on which the tax is to be imposed;
 - (b) the name and address of the owner of each parcel;
 - (c) unless the tax is imposed on the basis of a single amount for each parcel, the taxable area or the taxable frontage of each parcel, as applicable;

- (d) if the name of a holder of a registered charge is included on the assessment roll under section 4 of the *Assessment Act* for a parcel, the name and address of that person.
- (2) The collector may correct errors on the parcel tax roll at any time before the roll is authenticated under section 206.
- (3) Once it has been prepared by the collector, the parcel tax roll must be available for public inspection.
- (4) If requested by an owner, the collector must amend a parcel tax roll that is to be available for public inspection by omitting or obscuring the address of the owner or other information about the owner in order to protect the privacy or security of the owner.
- (5) A request under subsection (4) continues to apply to other parcel tax rolls under this Division until the request is rescinded.

Parcel tax roll review panel

- 204**
- (1) Before a parcel tax is imposed for the first time, a parcel tax roll review panel must consider any complaints respecting the parcel tax roll and must authenticate the roll in accordance with this Division.
 - (2) For the purposes of this Division, the council must
 - (a) appoint at least 3 persons as the members of the parcel tax roll review panel,
 - (b) establish the time and place for the sitting of the panel, and
 - (c) have advance notice of the time and place published in accordance with section 94 [*public notice*].
 - (3) At least 14 days before the date set for the sitting of the parcel tax roll review panel, the collector must mail to the owner of every parcel of land that is to be taxed a notice stating
 - (a) the service in relation to which the parcel tax is to be imposed,
 - (b) the taxable area or the taxable frontage, if applicable,
 - (c) the time and place of the first sitting of the review panel, and
 - (d) that the parcel tax roll is available for inspection at the municipal hall during its regular office hours.

Review panel to hear complaints and make corrections

- 205**
- (1) Subject to subsection (2), a person may make a complaint to the parcel tax roll review panel on one or more of the following grounds:
 - (a) there is an error or omission respecting a name or address on the parcel tax roll;
 - (b) there is an error or omission respecting the inclusion of a parcel;

Section 206

- (c) there is an error or omission respecting the taxable area or the taxable frontage of a parcel;
 - (d) an exemption has been improperly allowed or disallowed.
- (2) A complaint must not be heard by the parcel tax roll review panel unless written notice of the complaint has been given to the municipality at least 48 hours before the time set for the first sitting of the review panel.
- (3) The parcel tax roll review panel may direct the correction of the parcel tax roll respecting any matter referred to in subsection (1).
- (4) As a limit on subsection (3), a correction that would
 - (a) include a parcel on the parcel tax roll that had not been included before, or
 - (b) increase the taxable area or taxable frontage of a parcel on the parcel tax roll
 must not be directed until 5 days after notice has been mailed to the owner of the parcel.
- (5) The notice under subsection (4) must state
 - (a) the intention of the parcel tax roll review panel, and
 - (b) the time and place set for the panel to give its direction.
- (6) The following sections of the *Assessment Act* apply to a parcel tax roll review panel:
 - section 32 (3), (4) and (5) [*complaints by local government or assessor*];
 - section 33 (3) [*contents of notice of complaint*];
 - section 35 (1) (b) and (c) and (2) [*notice of hearing to complainant*];
 - section 36 [*daily schedule of review panel*];
 - section 37 [*notice of withdrawal of complaint*];
 - section 38 (2) (a), (7) and (9) [*review panel procedures*];
 - section 40 [*burden of proof*].
- (7) For the purposes of subsection (6), a reference in those sections to a review panel is deemed to be a reference to a parcel tax roll review panel and a reference to an assessor is deemed to be a reference to the collector.

Authentication of parcel tax roll

- 206**
- (1) The chair of the parcel tax roll review panel must review the parcel tax roll to confirm that the directed corrections have been made and must report this to the review panel.
 - (2) After receiving the report, the review panel must confirm and authenticate the parcel tax roll by certificate signed by a majority of its members.
 - (3) Within 10 days after a parcel tax roll is authenticated, the collector must mail notice of the decision made by the parcel tax roll review panel, or of its refusal to adjudicate the complaint made, to

- (a) the owner of the property to which the decision relates, and
 - (b) the complainant, if the complainant is not the owner.
- (4) Notice under subsection (3) must include a statement that the decision may be appealed to the Supreme Court in accordance with section 207.

Appeal to Supreme Court from review panel decision

- 207**
- (1) A decision of the parcel tax roll review panel may be appealed to the Supreme Court by a person entitled to notice under section 206 (3) or by the municipality.
 - (2) In order for a person entitled to notice to appeal a decision, within 10 days after the notice is mailed or otherwise delivered to the person, the person must serve on the municipality a written notice of intention to appeal that
 - (a) is signed by the person, or by the person's solicitor or an agent authorized in writing, and
 - (b) sets out the grounds of appeal.
 - (3) In order for the municipality to appeal a decision, within 10 days after the date on which the parcel tax roll is authenticated, it must serve a written notice as described in subsection (2) on the property owner affected by the appeal and, if applicable, on the complainant.
 - (4) The court must set a date for hearing the appeal, notice of which must be given to the municipality, the property owner and, if applicable, the complainant.
 - (5) On an appeal under this section,
 - (a) the collector must produce before the court the parcel tax roll and all records in that officer's possession affecting the matter, and
 - (b) the court must hear the appeal, including evidence given on oath before it, in a summary manner.
 - (6) The court may adjourn the hearing of an appeal under this section and defer judgment in its discretion, but so that all appeals may be determined within 30 days from the authentication of the parcel tax roll by the parcel tax roll review panel.
 - (7) If an appeal is not decided within the time referred to in subsection (6), the decision of the parcel tax roll review panel stands.
 - (8) A decision of the Supreme Court under this section may be appealed on a question of law to the Court of Appeal with leave of a justice of the Court of Appeal.

Updating the parcel tax roll

- 208**
- (1) The collector may amend the parcel tax roll in relation to a matter referred to in section 205 (1) [*grounds for complaints to review panel*] on receiving a request under subsection (2) or on the collector's own initiative.

Section 209

- (2) A person who owns a parcel included on a parcel tax roll may request that the roll be amended under this section respecting a matter referred to in section 205 (1), but only in relation to the person's own property.
- (3) In each year after the first year in which a parcel tax is imposed, the municipality must publish in a newspaper a notice indicating the following:
 - (a) the parcel tax roll is available for inspection at the municipal hall during its regular office hours;
 - (b) a person who owns a parcel included on the parcel tax roll may request that the roll be amended respecting a matter referred to in section 205 (1) [*complaints to review panel*], but only in relation to the person's own property;
 - (c) the time by which a request must be made in order to be considered for that year.
- (4) A request under subsection (2) must be made in writing to the municipality before the time specified in the notice.
- (5) Notice of an amendment, or a refusal to make an amendment requested under subsection (2), must be mailed to the owners of parcels in relation to which the amendment was made or the request received, and for the purposes of sending notices to these owners, section 205 (4) and (5) [*notice of sitting by review panel*] applies.
- (6) A person who is an owner referred to in subsection (5) may make a complaint on one or more of the grounds set out in section 205 (1) [*complaints to review panel*], but only in relation to the person's own property.
- (7) A complaint under subsection (6) is made by giving written notice of the complaint to the municipality within 30 days after the date on which the notice under subsection (5) was delivered.
- (8) If a municipality receives a complaint in accordance with subsection (7), it must establish a parcel tax roll review panel to deal with the complaint, and for these purposes sections 205 to 207 [*review panel process*] apply.
- (9) A parcel tax roll review panel under subsection (8) only has authority to amend the parcel tax roll in relation to parcels in respect of which a complaint under subsection (6) has been made.
- (10) If no complaints under subsection (6) are received, the parcel tax roll as it is amended under subsection (1) is deemed to have been authenticated by a parcel tax review panel.

Validity of parcel tax roll

- 209** Subject to amendment under section 207 [*appeal to Supreme Court*] and despite any omission, defect or error in procedure, in a parcel tax roll, in a notice or in the omission to deliver a notice,

- (a) the initial parcel tax roll, as authenticated by the parcel tax roll review panel, is valid and binding on all parties concerned until amended under section 208 [*updating the parcel tax roll*], and
- (b) any subsequent parcel tax roll prepared under section 208 that is authenticated or deemed to be authenticated by a parcel tax roll review panel under that section is valid and binding on all parties concerned until any further amendments are made under that section.

Division 5 –Local Service Taxes

Authority for local area services

- 210**
- (1) A local area service is a municipal service that is to be paid for in whole or in part by a local service tax under section 216 [*local service taxes*].
 - (2) The only services that may be provided as local area services are
 - (a) services that the council considers provide particular benefit to part of the municipality, and
 - (b) business improvement area services under section 215 [*business improvement areas*].
 - (3) Nothing in this Division restricts a municipality from recovering part of the costs of a local area service by means of any other source of municipal revenue.

Requirements for establishing a local area service

- 211**
- (1) A municipality must adopt a bylaw to establish a local area service, and may only do this if
 - (a) the service and its cost recovery methods have been proposed by petition in accordance with section 212 [*petition for local area service*],
 - (b) the service and its cost recovery methods have been proposed by council initiative in accordance with section 213 [*local area service on council initiative –subject to petition against*], or
 - (c) the bylaw has received assent of the electors in accordance with section 214 [*local area service on council initiative –subject to elector assent*].
 - (2) The bylaw establishing a local area service must
 - (a) describe the service,
 - (b) define the boundaries of the local service area,
 - (c) identify the methods of cost recovery for the service, including the form of local service tax and the portion of the costs of the service that are to be recovered by the local service tax, and
 - (d) if applicable, identify the portion of the costs of the service that are to be recovered by a general property tax.

- (3) If the minister exercises authority under section 137 (2) [*power to amend or repeal bylaws*] in relation to a bylaw establishing a local area service, the restriction in subsection (1) of this section does not apply.

Petition for local area service

- 212** (1) The persons who may petition for a local area service are the owners of parcels that would be subject to the local service tax for the service.
- (2) Each page of a petition for a local area service must do the following:
- (a) describe the service in general terms;
 - (b) define the boundaries of the local service area;
 - (c) provide an estimate of the costs of the service;
 - (d) if it is proposed that the municipality borrow for the purposes of the service and all or part of the costs of the borrowing are to be recovered by means of the local service tax, indicate
 - (i) the total amount proposed to be borrowed under the bylaw,
 - (ii) the maximum term for which the debentures may be issued, and
 - (iii) the portion of those costs that are to be recovered by a local service tax;
 - (e) indicate the proposed methods of cost recovery for the service, including the form of local service tax and the portion of the costs of the service that are to be recovered by the local service tax;
 - (f) if applicable, indicate what portion of the costs are proposed to be recovered by a general municipal tax;
 - (g) include any other information that council requires.
- (3) In order for a petition for a local area service to be certified as sufficient and valid,
- (a) the petition must be signed by the owners of at least 50% of the parcels that would be subject to the local service tax, and
 - (b) the persons signing must be the owners of parcels that in total represent at least 50% of the assessed value of land and improvements that would be subject to the local service tax.
- (4) The corporate officer must determine the sufficiency and validity of a petition to a council and must certify this determination.
- (5) A certified determination under subsection (4) is final and conclusive.
- (6) The following apply for the purposes of a petition under this section:
- (a) if 2 or more persons are owners of a parcel,
 - (i) they must be considered as one owner only,
 - (ii) they are not entitled to petition unless a majority of them concurs, and
 - (iii) unless a petition is signed by a majority of them, their signatures must be disregarded in determining whether the petition is sufficient;

- (b) a person who would be liable for a local service tax by reason of being the holder or occupier of land held in the manner referred to in Division 8 [*Tax Liability of Occupiers*] of this Part may sign the petition as if the person were the owner;
- (c) in relation to persons referred to in paragraph (b), in computing the values of the land and improvements, only the assessed value of the person's interest in them is to be used.

Local area service on council initiative –subject to petition against

- 213**
- (1) If a council proposes to undertake a local area service on its own initiative in accordance with this section, it must give notice of this intention
 - (a) in accordance with section 94 [*public notice*], and
 - (b) to the owners of parcels that would be subject to the local service tax.
 - (2) The notice under subsection (1) must include
 - (a) the information required under section 212 (2) [*information requirements for petition*],
 - (b) if the council is proposing that all or part of the costs may be waived or reduced in accordance with section 201 (3) [*property subject to parcel tax*], the amount that the property owner will be required to pay for this purpose, and
 - (c) a statement indicating that the council may proceed with establishing the service unless a petition against the service is presented within 30 days after notice has been given in accordance with this section.
 - (3) For the purposes of subsection (1) (b), the corporate officer must mail the notice to the applicable address as set out in the last authenticated assessment roll.
 - (4) Council may proceed with the local area service in accordance with the notice unless it receives a sufficient petition against the service within 30 days after the second publication under subsection (1) (a).
 - (5) Section 212 (3) to (6) [*rules respecting petitions for local service*] applies to a petition under this section.
 - (6) If a council has been prevented from undertaking a local area service because of a petition under this section, the council must not propose the same service on its own initiative within a period of one year after the presentation of the petition.
 - (7) As an exception to subsection (6), a council may again propose a local area service on its own initiative within the period referred to in that subsection if the service is varied from or less expensive than that originally proposed to be undertaken.

Section 214

Local area service on council initiative –subject to elector assent

- 214** (1) If a council proposes to undertake a local area service on its own initiative in accordance with this section, the bylaw establishing the service may only be adopted with the assent of the electors in the local service area.
- (2) As an exception, a council may not undertake a business improvement area service under this section.

Business improvement areas

- 215** (1) In this section:
- “business improvement area”** means the local service area for a service under this section;
- “business improvement area service”** means the provision of grants under subsection (2);
- “business promotion scheme”** means
- (a) carrying out studies or making reports respecting one or more areas in the municipality where business or commerce is carried on,
 - (b) improving, beautifying or maintaining streets, sidewalks or municipally owned land, buildings or structures in one or more business improvement areas,
 - (c) the removal of graffiti from buildings and other structures in one or more business improvement areas,
 - (d) conserving heritage property in one or more business improvement areas, and
 - (e) encouraging business in one or more business improvement areas.
- (2) A council may grant money to a corporation or other organization that has, as one of its aims, functions or purposes, the planning and implementation of a business promotion scheme.
- (3) All or part of a grant paid under subsection (2) must be recovered by means of a local service tax.
- (4) The authority under subsection (2) is an exception to section 25 (1) *[prohibition against assistance to business]*.
- (5) In addition to the requirements under section 211 (2) *[requirements for establishing a local area service]*, the bylaw establishing a business improvement area service
- (a) must identify the business promotion scheme for which and the organization to which the money will be granted under subsection (2),
 - (b) must establish the maximum amount of money to be granted and the maximum term over which it may be granted, and

- (c) may set conditions and limitations on the receipt and expenditure of the money.
- (6) Money granted under this section must be expended only
 - (a) by the organization to which it is granted,
 - (b) in accordance with the conditions and limitations set out in the bylaw, and
 - (c) for the business promotion scheme described in the bylaw.

Local service taxes

- 216** (1) In all cases, all or part of the costs of a local area service may be recovered, in accordance with the establishing bylaw for the service, by means of either or both of
- (a) a property value tax under Division 3 of this Part, which may be imposed on land, on improvements, or on both, and
 - (b) a parcel tax under Division 4 of this Part,
- that are imposed only within the local service area.
- (2) In the case of a business improvement area service, in addition to the taxes referred to in subsection (1), all or part of the costs of the service may be recovered by means of a tax, based on any factor set out in the establishing bylaw, that is imposed only within the business improvement area.
- (3) A local service tax under subsection (1) or (2) in relation to a business improvement area
- (a) may only be imposed on land or improvements, or both, that are
 - (i) used during the year to operate a business of a class specified in the bylaw, or
 - (ii) classified as Class 5 [*light industry*] or 6 [*business and other*] property class, and
 - (b) may have different rates for different classes of business, as those classes are established by the bylaw.
- (4) Subject to this section, the other provisions of this Part apply in respect of a local service tax.
- (5) Revenue from a local service tax may only be expended for the local area service in relation to which it is imposed.

Borrowing in relation to a local area service

- 217** (1) If all of the costs of borrowing for the purposes of a local area service are to be recovered by a local service tax, the loan authorization bylaw does not require the approval of the electors under section 180 [*elector approval required for some loan authorization bylaws*], but it may only be adopted if
- (a) the borrowing has been proposed by petition in accordance with section 212 [*petition for local area service*],

Section 218

- (b) the borrowing has been proposed by council initiative in accordance with section 213 [*local area service on council initiative –subject to petition against*], or
 - (c) the bylaw has received assent of the electors in accordance with section 214 [*local area service on council initiative –subject to elector assent*].
- (2) If part of the costs of borrowing for the purposes of a local area service are to be recovered by a local service tax,
 - (a) a separate loan authorization bylaw is required for the borrowing in relation to which costs are to be recovered by the local service tax, with the bylaw adopted in accordance with subsection (1), and
 - (b) a separate loan authorization bylaw is required for the borrowing in relation to which costs are to be recovered by any other means, with the bylaw adopted in accordance with Part 6 [*Financial Management*].

Enlargement or reduction of local service area

- 218**
- (1) This section applies to the amendment of the bylaw establishing a local area service that has the effect of enlarging or reducing the size of the local service area.
 - (2) The requirements under section 211 (1) [*requirements for establishing a local area service*] apply only in relation to the area to be included or excluded from the local service area and not to the rest of the local service area.
 - (3) If a local service area has been enlarged or reduced under this section, the liabilities incurred on behalf of the area as it was before enlargement or reduction must be borne by all the owners of parcels of land in the area as enlarged or reduced.

Merging of local service areas

- 219**
- (1) A council may, by bylaw, merge 2 or more local service areas into one local service area.
 - (2) A bylaw under subsection (1) may provide that repayment of any debt of one or more of the merged local service areas that is outstanding at the time of merger is to continue to be borne by the applicable former local service area as if that area continued to exist.
 - (3) Section 211 (1) [*requirements for establishing a local area service*] does not apply to the bylaw under subsection (1) of this section if
 - (a) there is no outstanding debt of any of the local service areas being merged,
 - (b) the outstanding debt of each of those local service areas is kept separate under subsection (2), or
 - (c) the bylaw establishing the service currently includes a provision for merger with one or more other local service areas and the merger is in accordance with the provision.

- (4) If section 211 (1) applies to a bylaw under this section, the approval of the electors must be obtained separately for each local service area being merged.

Division 6 –Statutory Exemptions

General statutory exemptions

- 220** (1) Unless otherwise provided in this Act or the *Local Government Act*, the following property is exempt from taxation to the extent indicated:
- (a) land, improvements or both vested in or held by the Provincial government;
 - (b) land, improvements or both vested in or held by
 - (i) the municipality, or
 - (ii) the municipality jointly with another municipality or a regional district;
 - (c) land, improvements or both exempt from municipal taxation by another Act;
 - (d) land, improvements or both
 - (i) of a public library under the *Library Act*, or
 - (ii) vested in or held by a municipality and occupied by a public library under the *Library Act*;
 - (e) land, improvements or both of an Indian, in a municipality incorporated under section 12 (1) of the *Local Government Act*, who is an owner under the letters patent, except for taxation under section 197 (1) (a) [*municipal property taxes*];
 - (f) land, improvements or both in a municipality, other than a municipality incorporated under section 12 (1) of the *Local Government Act*, that
 - (i) are held in trust by the Crown for a band of Indians, and
 - (ii) are not leased to or occupied by a person who is not a member of the band;
 - (g) the land of a cemetery under the *Cemetery and Funeral Services Act* actually used and occupied for the interment of the dead or designated as an approved interment area by the registrar under that Act, together with the improvements included as part of the cemetery under that Act, other than
 - (i) funeral homes within the meaning of that Act,
 - (ii) crematoriums within the meaning of that Act, and
 - (iii) premises, or that part of premises, used primarily for the sale of cemetery services or funeral services within the meaning of that Act;
 - (h) a building set apart for public worship, and the land on which the building stands, if title to the land is registered in the name of
 - (i) the religious organization using the building,
 - (ii) trustees for the use of that organization, or

- (iii) a religious organization granting a lease of the building and land to be used solely for public worship;
 - (i) a building that was constructed or reconstructed with the assistance of aid granted by the Provincial government after January 1, 1947 but before April 1, 1974 and that is owned and used exclusively without profit by a corporation to provide homes for elderly citizens, together with the land on which the building stands;
 - (j) a building set apart and used solely as a hospital under the *Hospital Act*, except a private hospital under that Act, together with the land on which the building stands;
 - (k) land and improvements for future hospital requirements that are
 - (i) designated for the purposes of this section by the minister responsible for the *Hospital Act*, and
 - (ii) vested in, or held by, a society or corporation that is not operated for profit and that has as an object the operation of a hospital;
 - (l) a building owned by an incorporated institution of learning that is regularly giving children instruction accepted as equivalent to that given in a public school, in actual occupation by the institution and wholly in use for the purpose of giving the instruction, together with the land on which the building stands;
 - (m) fruit trees;
 - (n) improvements, other than dwellings and the fixtures, machinery and similar things mentioned in paragraph (o), erected on farm land and used exclusively to operate a farm, up to but not exceeding an assessed value of \$50 000;
 - (o) fixtures, machinery and similar things located on farm land and used exclusively to operate the farm that, if erected or placed, in or on land, a building or fixture or structure in or on it, would, as between landlord and tenant, be removable by the tenant;
 - (p) an improvement designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the *Emergency Program Act*;
 - (q) sewage treatment plants, manure storage facilities, effluent reservoirs, effluent lagoons, deodorizing equipment, dust and particulate matter eliminators;
 - (r) a floating dry dock, other than the onshore facilities of the floating dry dock, if the floating dry dock has a lift capacity greater than 20 000 tonnes.
- (2) Septic disposal systems are not exempt from taxation under subsection (1) (q).
- (3) An exemption under subsection (1) (b) to (p) does not include exemption from a fee.

- (4) An exemption under subsection (1) (b), (d), (g), (h), (i) or (l) extends only to taxation under section 197 (1) (a) [*municipal property taxes*].

Grandparented pollution abatement exemptions

221 (1) In this section:

“final determination under the *Assessment Act*” means a determination on the assessment roll for a taxation year, subject to any change that is finally determined under the *Assessment Act* by supplementary assessment roll, by correction of a property assessment review panel, on complaint to a property assessment review panel or on further appeal;

“pollution abatement provision” means section 339 (1) (q) of the *Local Government Act*, section 15 (1) (s) of the *Taxation (Rural Area) Act* or section 396 (1) (e.01) of the *Vancouver Charter*; as those provisions read before their repeal and replacement by the *Budget Measures Implementation Act, 1997*.

- (2) Land and improvements that were exempt for the 1996 taxation year under a pollution abatement provision are exempt to the extent established by subsection (3), if
- (a) the land and improvements were exempt under that provision for the 1996 taxation year on final determination under the *Assessment Act*, and
 - (b) as applicable,
 - (i) for an exemption in relation to land only, the land continues to be exclusively or primarily used for the purpose of abating pollution,
 - (ii) for an exemption in relation to improvements only, the improvements continue to be exclusively or primarily used for the purpose of abating pollution, or
 - (iii) for an exemption in relation to land and improvements, the land and improvements continue to be exclusively or primarily used for the purpose of abating pollution.
- (3) The amount of an exemption under subsection (2) for a taxation year is limited to the portion of the assessed value of land and improvements that is the least of the following:
- (a) the portion that the assessment commissioner, in his or her discretion, determines is attributable to the use of pollution abatement for that taxation year, subject to final determination under the *Assessment Act*;
 - (b) the portion that was exempt for pollution abatement purposes for the immediately preceding taxation year on final determination under the *Assessment Act*;
 - (c) the portion that was exempt for the 1996 taxation year on final determination under the *Assessment Act*.

Section 222

Phased farm property tax exemption

- 222** (1) This section applies to real property
- (a) that is in a newly incorporated municipality, or in an area newly included in a municipality, and
 - (b) that was, immediately before the incorporation or inclusion, exempt from taxation because of section 15 (1) (f) of the *Taxation (Rural Area) Act* but that, after the incorporation or inclusion, is not exempt from taxation under this Act.
- (2) Real property referred to in subsection (1) is exempt from taxation for the first 5 years after incorporation or inclusion, to the indicated percentage of the exemption that would have applied had the incorporation or inclusion not taken place, as follows:

<i>year after incorporation</i>	<i>% of exemption that would have applied</i>
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%

Exemptions under regulations

- 223** (1) In addition to the provisions of any other Act, the Lieutenant Governor in Council may make regulations prescribing exemptions from property taxes under any Act in respect of one or more of the following:
- (a) prescribed industrial or business improvements;
 - (b) prescribed improvements at prescribed community airports;
 - (c) prescribed land or improvements at prescribed community ports.
- (2) Without limiting section 283 [*variation authority*], regulations under subsection (1) may be different for different community airports and different community ports.
- (3) An exemption under subsection (1) (b) or (c) applies to an airport or port only for a taxation year in which it is operated as a community airport or community port, as applicable.

Division 7 –Permissive Exemptions**General authority for permissive exemptions**

- 224** (1) A council may, by bylaw in accordance with this section, exempt land or improvements, or both, referred to in subsection (2) or (3) from taxation under

section 197 (1) (a) [*municipal property taxes*], to the extent, for the period and subject to the conditions provided in the bylaw.

- (2) Tax exemptions may be provided under this section for the following:
- (a) land or improvements that
 - (i) are owned or held by a charitable, philanthropic or other not for profit corporation, and
 - (ii) the council considers are used for a purpose that is directly related to the purposes of the corporation;
 - (b) land or improvements that
 - (i) are owned or held by a municipality, regional district or other local authority, and
 - (ii) the council considers are used for a purpose of the local authority;
 - (c) land or improvements that the council considers would otherwise qualify for exemption under section 220 [*general statutory exemptions*] were it not for a secondary use;
 - (d) the interest of a public authority, local authority or any other corporation or organization in land or improvements that are used or occupied by the corporation or organization if
 - (i) the land or improvements are owned by a public authority or local authority, and
 - (ii) the land or improvements are used by the corporation or organization for a purpose in relation to which an exemption under this Division or Division 6 of this Part would apply or could be provided if the land or improvements were owned by that corporation or organization;
 - (e) the interest of a public authority, local authority or any other corporation or organization in land or improvements that are used or occupied by the corporation or organization if
 - (i) the land or improvements are owned by a person who is providing a municipal service under a partnering agreement,
 - (ii) an exemption under section 225 [*partnering and other special tax exemption authority*] would be available for the land or improvements in relation to the partnering agreement if they were used in relation to the service,
 - (iii) the partnering agreement expressly contemplates that the council may provide an exemption under this provision, and
 - (iv) the land or improvements are used by the corporation or organization for a purpose in relation to which an exemption under this Division or Division 6 of this Part would apply or could be provided if the land or improvements were owned by that corporation or organization;
 - (f) in relation to property that is exempt under section 220 (1) (h) [*buildings for public worship*],

Section 224

- (i) an area of land surrounding the exempt building,
 - (ii) a hall that the council considers is necessary to the exempt building and the land on which the hall stands, and
 - (iii) an area of land surrounding a hall that is exempt under subparagraph (ii);
 - (g) land or improvements used or occupied by a religious organization, as tenant or licensee, for the purpose of public worship or for the purposes of a hall that the council considers is necessary to land or improvements so used or occupied;
 - (h) in relation to property that is exempt under section 220 (1) (i) [*seniors' homes*], (j) [*hospitals*] or (l) [*private schools*], any area of land surrounding the exempt building;
 - (i) land or improvements owned or held by an athletic or service club or association and used as a public park or recreation ground or for public athletic or recreational purposes;
 - (j) land or improvements owned or held by a person or organization and operated as a private hospital licensed under the *Hospital Act* or an institution licensed under the *Community Care Facility Act*;
 - (k) land or improvements for which a grant has been made, after March 31, 1974, under the *Housing Construction (Elderly Citizens) Act* before its repeal.
- (3) The authority under subsection (2) (e) and (g) to (j) is not subject to section 25 (1) [*prohibition against assistance to business*].
- (4) Subject to subsection (5), a bylaw under this section
- (a) must establish the term of the exemption, which may not be longer than 10 years,
 - (b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 227 [*notice of permissive tax exemptions*], and
 - (c) does not apply to taxation in a calendar year unless it comes into force on or before October 31 in the preceding year.
- (5) Subsection (4) (a) and (b) does not apply in relation to exemptions under subsection (2) (f) and (h).
- (6) If only a portion of a parcel of land is exempt under this section, the bylaw under this section must include a description of the land that is satisfactory to the assessment commissioner.
- (7) A bylaw under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

Partnering, heritage, riparian and other special exemption authority

- 225** (1) In this section:
- “**eligible property**” means property that is eligible under subsection (2);
- “**exemption agreement**” means an agreement under subsection (5).
- (2) The following property is eligible for a tax exemption under this section:
- (a) eligible partnering property, being property that
 - (i) is owned by a person or public authority providing a municipal service under a partnering agreement, and
 - (ii) the council considers will be used in relation to the service being provided under the partnering agreement;
 - (b) eligible heritage property, being property that is
 - (i) protected heritage property,
 - (ii) subject to a heritage revitalization agreement under section 966 of the *Local Government Act*,
 - (iii) subject to a covenant under section 219 of the *Land Title Act* that relates to the conservation of heritage property, or
 - (iv) if property referred to in subparagraphs (i) to (iii) is a building or other improvement so affixed to the land as to constitute real property, an area of land surrounding that improvement;
 - (c) eligible riparian property, being property that
 - (i) is riparian land,
 - (ii) is subject to a covenant under section 219 of the *Land Title Act* that
 - (A) relates to the protection of the property as riparian property, and
 - (B) has the municipality granting the exemption under this section as a covenantee in whose favour the covenant is made, and
 - (iii) meets any other requirements prescribed by regulation;
 - (d) eligible cemetery property, being land held for cemetery purposes;
 - (e) eligible golf course property, being land maintained as a golf course.
- (3) A council may, by bylaw, exempt eligible property from taxation under section 197 (1) (a) [*municipal property taxes*] to the extent provided in the bylaw and subject to the conditions established by exemption agreement.
- (4) The authority under subsection (3) is not subject to section 25 (1) [*prohibition against assistance to business*].
- (5) For the purposes of this section, the council may enter into an agreement with the owner of property that is exempt or is to be exempt under this section, respecting the extent of the exemption and the conditions on which it is made.
- (6) Without limiting subsection (5), an exemption agreement may do one or more of the following:

Section 226

- (a) require the eligible property to be subject to a covenant under section 219 of the *Land Title Act* in favour of the municipality;
 - (b) provide that the exemption is subject to specified conditions;
 - (c) provide that, if
 - (i) a condition is not met,
 - (ii) a required covenant under section 219 of the *Land Title Act* is discharged, or
 - (iii) any other circumstances specified in the agreement occur,the property owner must pay to the municipality an amount determined in accordance with the agreement.
- (7) A bylaw under this section
- (a) must establish the term of the exemption,
 - (b) may only be adopted after notice of the proposed bylaw has been given in accordance with section 227 [*notice of permissive tax exemptions*],
 - (c) may only be adopted by an affirmative vote of at least 2/3 of all council members, and
 - (d) does not apply to taxation in a calendar year unless it comes into force on or before October 31 in the preceding year.
- (8) An exemption under this section ceases to apply to property, the use or ownership of which no longer conforms to the conditions necessary to qualify for exemption and, after this, the property is liable to taxation.

Revitalization tax exemptions

- 226** (1) A revitalization tax exemption may be provided under this section if
- (a) the property is in a revitalization area designated under subsection (2),
 - (b) the exemption would be in accordance with a revitalization tax exemption program bylaw under subsection (4),
 - (c) an agreement under subsection (6) applies, and
 - (d) a tax exemption certificate for the property has been issued under subsection (7).
- (2) A council may, for the purpose of encouraging revitalization of an area of the municipality, designate an area as a revitalization area in either the annual financial plan under section 165 or an official community plan.
- (3) The designation under subsection (2) must include statements of the reasons for the designation and the objectives of the designation.
- (4) For an area designated under subsection (2), the council may, by bylaw, establish a revitalization tax exemption program which may include the following:
- (a) the kinds of property revitalization that will be eligible for a tax exemption under this section;

- (b) the extent of the revitalization tax exemption available;
 - (c) the conditions on which a tax exemption certificate may be issued;
 - (d) provision for a recapture amount that must be paid by the owner of the property to the municipality if the conditions on which a tax exemption certificate is issued are not met.
- (5) A bylaw under subsection (4)
 - (a) may only provide for exemptions in respect of
 - (i) the construction of a new improvement, or
 - (ii) the alteration of an existing improvement,
 - (b) may only provide for a maximum exemption that does not exceed the increase in the assessed value of land and improvements on the parcel between
 - (i) the year before the construction or alteration began, and
 - (ii) the year in which the tax exemption certificate is issued,
 - (c) must establish the amounts of exemptions that may be provided under the bylaw, by specifying amounts or by establishing formulas by which the amounts are to be determined, or both,
 - (d) must establish the maximum term of a revitalization tax exemption, which may not be longer than 5 years,
 - (e) may provide for a single renewal of a revitalization tax exemption for a term not longer than 5 years,
 - (f) may be different for
 - (i) different property classes under the *Assessment Act*,
 - (ii) different classes of improvements as established by the bylaw,
 - (iii) different classes of property as established by the bylaw, and
 - (iv) different uses as established by zoning bylaw, and
 - (g) may only be adopted after notice of the proposed bylaw has been given in accordance with section 227 [*notice of permissive tax exemptions*].
- (6) For the purposes of this section, the council may enter into an agreement with the owner of property respecting the provision of an exemption under this section and the conditions on which it is made.
- (7) Once the conditions established in the bylaw under subsection (4) and the agreement under subsection (6) have been met, a revitalization tax exemption certificate must be issued for the property in accordance with the agreement.
- (8) A revitalization tax exemption certificate must, in accordance with the bylaw under subsection (4) and the agreement under subsection (6), specify the following:
 - (a) the amount of the tax exemption or the formula for determining the exemption;

Section 227

- (b) the term of the tax exemption;
 - (c) if applicable, the conditions on which the tax exemption is provided;
 - (d) if applicable, that a recapture amount is payable if the certificate is cancelled and how that amount is to be determined.
- (9) So long as a revitalization tax exemption certificate has not been cancelled, the land and improvements subject to the certificate are exempt, to the extent, for the period and subject to the conditions provided in the certificate, from taxation under section 197 (1) (a) [*municipal property value taxes*].
- (10) A revitalization tax exemption certificate may be cancelled by the council
 - (a) on the request of the property owner, or
 - (b) if any of the conditions in the tax exemption certificate are not met.
- (11) A revitalization tax exemption certificate or cancellation does not apply to taxation in a calendar year unless it is issued or cancelled, as applicable, on or before October 31 in the preceding year.
- (12) The designated municipal officer must
 - (a) provide a copy of a revitalization tax exemption certificate to the relevant assessor as soon as practicable after it is issued, and
 - (b) if applicable, notify that assessor as soon as practicable after a revitalization tax exemption certificate is cancelled.
- (13) The authority to provide a tax exemption under this section is not subject to section 25 (1) [*prohibition against assistance to business*].

Notice of permissive tax exemptions

- 227**
- (1) A council must give notice of a proposed bylaw under this Division in accordance with section 94 [*public notice*].
 - (2) Subject to subsection (3), the notice under subsection (1) must
 - (a) identify the property that would be subject to the bylaw,
 - (b) describe the proposed exemption,
 - (c) state the number of years that the exemption may be provided, and
 - (d) provide an estimate of the amount of taxes that would be imposed on the property if it were not exempt, for the year in which the proposed bylaw is to take effect and the following 2 years.
 - (3) In the case of a bylaw under section 226 (4) [*revitalization tax exemption program bylaw*], the notice under subsection (1) must
 - (a) identify the designated area for the program,
 - (b) describe the reasons for and the objectives of the program,
 - (c) describe how the proposed program is intended to accomplish the objectives, and

- (d) state the maximum term of exemptions that may be provided under the program.

Division 8 –Tax Liability of Occupiers

Taxation of Crown land used by others

- 228** (1) Subject to this section, land and its improvements are liable to taxation if the land is
- (a) owned in fee simple by the Crown or some person or organization on behalf of the Crown, and
 - (b) held or occupied other than by or on behalf of the Crown.
- (2) This section does not make the following liable to taxation:
- (a) land or improvements otherwise exempt under section 220 (1) (b) to (m) [*general statutory exemptions*];
 - (b) land and improvements that are exempt under Division 7 [*Permissive Exemptions*] of this Part;
 - (c) a highway occupied by
 - (i) a gas, electric light, telephone, telegraph, power, pipeline, water, motor bus, electric trolley bus, radio or television broadcasting or closed circuit television company, or
 - (ii) a company that, in addition to any other function, provides a service similar in nature to a service referred to in subparagraph (i).
- (3) Except as provided under the *Veterans' Land Act* (Canada) and subsection (4), the taxes imposed on land and improvements referred to in subsection (1)
- (a) are a liability only of the holder or occupier, recoverable in the manner set out in this Act, and
 - (b) are not a lien or charge on the land and improvements that are not liable to tax sale.
- (4) In the case of land disposed of by the Provincial government for which the Crown grant has not been registered,
- (a) the land, together with its improvements, is liable to tax sale,
 - (b) the taxes imposed are a lien and charge on the land and its improvements, and
 - (c) the provisions of this Act and the *Local Government Act* for assessment, taxation, recovery of taxes and tax sales apply for the purposes of this subsection.
- (5) If a supplementary assessment roll has been prepared under the *Assessment Act* for land held or occupied in the manner referred to in subsection (1),

Section 229

- (a) the holder or occupier is liable to real property tax in the calendar year in which the holding or occupancy began for the portion of the calendar year the land was held or occupied, and
 - (b) section 241 [*taxation based on supplementary roll*] applies for the purposes of this subsection.
- (6) This section also applies to
- (a) improvements owned, held or occupied by or leased to, a person other than the Crown, located on land the fee of which is vested in the Crown or in some other person or organization on behalf of the Crown, and
 - (b) land held in trust for a band of Indians and occupied, other than in an official capacity, by a person who is not an Indian.

Taxation of municipal land used by others

- 229** If the fee simple of land is vested in a municipality, but the land is held or occupied other than by or on behalf of the municipality, the rules for taxation of Crown land used by others, as set out in section 228 (1), (2), (3) and (6) (a), apply to the land and its improvements and make them liable for taxation.

Taxation of occupier of exempt land

- 230** An occupier of land in the municipality assessed under section 27 of the *Assessment Act* is subject to taxation in the same manner as an occupier of land taxed under section 229.

Division 9 –General Revenue Collection Authority**Recovery of taxes and fees**

- 231** (1) Taxes and fees owed to a municipality, together with any applicable interest or penalties, are a debt due to the municipality recoverable in any court of competent jurisdiction.
- (2) In addition to recovery under subsection (1), amounts referred to in that subsection may be recovered by any other method authorized under this or another Act and, unless otherwise provided, the use of one method does not prevent seeking recovery by one or more other methods.

Collection agreements with other taxing authorities

- 232** (1) A council may, by bylaw, enter into an agreement with any other authority having taxing powers in respect of land, or land and improvements, located in the municipality respecting the exercise of the powers of the municipality and of the other authority in relation to the collection of taxes, recovery of unpaid taxes and related matters.

- (2) An agreement under subsection (1) may provide that a party to the agreement may exercise a power of another party to the agreement in relation to matters referred to in that subsection.

Division 10 –Property Tax Due Dates and Tax Notices

Options for tax due dates

233 Property taxes are due as follows:

- (a) if the municipality has not established an alternative scheme, in accordance with the general tax collection scheme under section 234;
- (b) if the municipality has established an alternative scheme under section 235, in accordance with the election of the owner under section 236.

General tax collection scheme

- 234** (1) If this section applies, property taxes for a year are due on July 2 of the year.
- (2) The Lieutenant Governor in Council may make regulations establishing penalties and interest that must be applied by municipalities in relation to payments made after the tax due date under subsection (1).

Alternative municipal tax collection scheme

- 235** (1) A council may, by bylaw, establish one or more dates on which all or part of the property taxes under this Part are due.
- (2) A bylaw under subsection (1) must establish an annual period during which owners may make elections under section 236 [*owner may elect which scheme to use*].
- (3) A bylaw under subsection (1) may do one or more of the following:
- (a) establish procedures for determining the amount of taxes due on each of the due dates;
 - (b) provide for
 - (i) estimating, before the adoption of the annual property tax bylaw, the amount of taxes payable in the year, and
 - (ii) making adjustments to payments due after the adoption of that bylaw in order to take into account variations between the estimated and actual taxes payable;
 - (c) establish discounts to be applied in relation to payments made before a tax due date established by the bylaw;
 - (d) establish penalties and interest to be applied in relation to payments made after a tax due date established by the bylaw;
 - (e) set terms, conditions and procedures in relation to payments, which may be different for different classes of owners as established by the bylaw.

Section 236

- (4) As a limitation on subsection (3) (a), there must not be more than 12 months between the first and last due dates for annual taxes for any year.

Owner may elect which scheme to use

- 236** (1) If an alternative municipal tax collection scheme is established under section 235, the applicable scheme is determined in accordance with the following:
- (a) if an owner has elected in accordance with subsection (2) to pay under the municipal scheme, that scheme applies;
 - (b) if an owner has elected in accordance with subsection (2) to pay under the general tax collection scheme, that scheme applies;
 - (c) if paragraph (a) or (b) does not apply and the municipal tax collection scheme
 - (i) has not established due dates that are before July 2,
 - (ii) has not established any interest, or has established interest that does not exceed the interest for the general tax collection scheme prescribed under section 234 (2), and
 - (iii) has not established any penalty, or has established penalties that do not exceed the penalties for the general tax collection scheme prescribed under section 234 (2),the municipal tax collection scheme applies;
 - (d) if no other paragraph applies, the general tax collection scheme applies.
- (2) An owner may make an election, or change an election, referred to in subsection (1) (a) or (b) by giving written notice of the election to the municipality within the period established under section 235 (2) [*alternative municipal tax collection scheme*].
- (3) If the land title registration of a property indicates that there is more than one registered owner of the property, a person giving notice under subsection (2) may only do so with the written consent of the number of those persons who, together with the person giving notice, are a majority of the registered owners.
- (4) As a limit on subsection (2), after an election or change has been made under this section, no further change in election may be made for the same year.
- (5) Once an election or change has been made under this section, the owner is liable to make payments in accordance with the applicable scheme until the owner has made a subsequent change in election under this section.

General tax notices

- 237** (1) Each year a municipality must mail a tax notice in accordance with this section to each owner of property subject to tax under this Act.
- (2) A tax notice must include the following:

- (a) a short description of the property;
 - (b) the taxes imposed under this Act for the current year, separately stated for
 - (i) property value taxes imposed under section 197 (1) (a) [*municipal property taxes*],
 - (ii) each property value tax imposed under section 197 (1) (b) [*property taxes for other bodies*],
 - (iii) each property value tax collected by the municipality on behalf of another local government or other public body on the basis of tax rates imposed by the other body, and
 - (iv) each parcel tax imposed under Division 4 [*Parcel Taxes*] of this Part;
 - (c) other taxes or fees that are payable in relation to the property;
 - (d) any credit or abatement authorized by this or another Act;
 - (e) when the penalties under this Division will be added if taxes are not paid;
 - (f) other information that may be prescribed by regulation.
- (3) The tax notice must include or have enclosed with it an application for a grant under the *Home Owner Grant Act*.
- (4) A tax notice under this section must also be mailed to each holder of a registered charge in relation to the property whose name is included on the assessment roll.
- (5) For the purposes of this section, the tax notice is to be mailed to the owner or other person at the address on the assessment roll.
- (6) If a number of parcels are assessed in the name of the same owner,
- (a) any number of those parcels may be included in one tax notice, and
 - (b) if several of the parcels are assessed at the same value, the tax notice is sufficient if it clearly identifies the property assessed and taxed as a block, parts of a block or a series of lots, without the full description for each parcel.

Persons may request copies of tax notices

- 238** (1) The collector must mail a copy of a tax notice under section 237 [*general tax notices*] and any statement under section 248 [*statement of outstanding taxes*] to all persons who have requested this during the current year in accordance with subsection (2).
- (2) For the purposes of this section, a person must make a written request to the municipality and include in it a description of the property for which the tax notice is requested that is sufficient to allow the property to be identified.

Division 11 –Adjustments to Taxes

Interest on overpayment of taxes

- 239** (1) If a person is refunded an amount of taxes paid under this Act, the municipality must pay the person interest at the rate prescribed under subsection (2).
- (2) The Lieutenant Governor in Council may prescribe a rate of interest for the purposes of this section.

Adjustments for assessment changes

- 240** (1) If an assessment is set aside or varied after the annual property tax bylaw is adopted, the collector must make the necessary adjustments to the taxes imposed on the affected property.
- (2) The amount of any tax as amended under this section is the amount of taxes imposed for the current year on the property affected and, despite the terms of a receipt given by the collector, any excess paid must be refunded and any balance unpaid is tax due and payable.

Taxation based on supplementary roll

- 241** (1) If taxes are to be imposed on the basis of a supplementary roll under the *Assessment Act*, 30 days' notice must be given for payment of those taxes and a penalty must not be added in that period.
- (2) If an assessment on a supplementary roll is set aside or the assessed value reduced under the *Assessment Act*, the collector must refund to an owner the excess amount of taxes, and any penalty and interest on that excess, paid by the owner, less any taxes in arrear or delinquent taxes the person owes to the municipality.

Apportionment of property value taxes if land subdivided

- 242** (1) If a plan of subdivision is deposited in the land title office after November 30 in any year and before June 1 in the next year, the collector may
- (a) apportion the property value taxes payable in that next year between the parcels created by the subdivision in the same proportions as taxes would have been payable in respect of the parcels had the subdivision occurred on or before November 30 in the first year, and
 - (b) on making an apportionment under paragraph (a), record the apportionment in the manner that the collector considers necessary.
- (2) Taxes apportioned to a parcel under subsection (1) are the taxes payable in respect of the parcel in the year for which they are apportioned.
- (3) The assessor for the area in which the land is located must provide the collector with the assessed values necessary to calculate the proportions of taxes referred to in subsection (1).

Apportionment of parcel taxes if land subdivided

- 243** (1) If a parcel of land subject to tax under Division 4 [*Parcel Taxes*] of this Part is subdivided, the collector must apportion the parcel taxes payable between the parcels created by the subdivision in the same proportions as taxes would have been payable in respect of the parcels had the subdivision occurred before the parcel tax roll was authenticated.
- (2) Taxes apportioned to a parcel under subsection (1) are the taxes payable in respect of the parcel.
- (3) An apportionment or reapportionment of a parcel tax under this section does not
- (a) require authorization or confirmation by bylaw or by a parcel tax roll review panel,
 - (b) operate as a new parcel tax assessment, or
 - (c) in any way invalidate, reopen or affect the parcel tax roll other than for the land in respect of which the apportionment or reapportionment has been made.

Division 12 –Payment of Taxes**Application of tax payments**

- 244** (1) Payments for taxes must be credited by the collector against the following in the indicated order:
- (a) delinquent taxes, including interest, from past years;
 - (b) taxes in arrear, including interest, from the preceding year;
 - (c) a penalty added in the current year;
 - (d) taxes imposed under the *School Act* for the current year;
 - (e) taxes under Division 5 [*Local Service Taxes*] of this Part in the current year;
 - (f) any unpaid municipal taxes for the current year.
- (2) Acceptance of a payment on account of taxes does not affect the liability of a person for full payment or of the land or improvements to be sold for the amount of taxes unpaid.

Taxes in arrear

- 245** (1) The taxes for the current year on land or improvements, or both, together with any applicable penalties, that are unpaid on December 31 in the year imposed
- (a) are taxes in arrear on that date, and
 - (b) bear interest from that date at a rate prescribed by the Lieutenant Governor in Council under section 11 (3) of the *Taxation (Rural Area) Act*.
- (2) Taxes
- (a) imposed by a municipality under section 197 (1) (b) [*property taxes for other bodies*], or

Section 246

- (b) collected by the municipality on behalf of another local government or other public body on the basis of tax rates imposed by the other body that are unpaid on December 31 in the year imposed, together with any applicable penalties, become municipal taxes in arrear under subsection (1) on that date.
- (3) The interest under subsection (1) (b) is part of the taxes in arrear, and the total amount of the taxes in arrear is a charge on the land or improvements, or both, as if the penalties and interest had originally formed part of the taxes imposed.

Delinquent taxes

- 246**
- (1) Any taxes in arrear remaining unpaid on December 31 in the year following the year in which they became taxes in arrear
 - (a) are delinquent on that date, and
 - (b) bear interest from that date at a rate prescribed by the Lieutenant Governor in Council under section 11 (3) of the *Taxation (Rural Area) Act* until paid or recovered.
 - (2) The added interest under subsection (1) (b) is part of the delinquent taxes and is a charge as in section 245 (3) [*taxes in arrear*].

Treatment of outstanding taxes on subdivision or cancellation of subdivision

- 247**
- (1) If a parcel of land appears on the assessment roll to have been subdivided, the collector must apportion taxes in arrear and delinquent taxes in the same proportion as the assessment for each new parcel bears to the total assessment.
 - (2) The assessor for the area in which the land is located must provide the collector with the assessment apportionment required for the purpose of subsection (1).
 - (3) Subsections (1) and (2) also apply if part of a parcel on which taxes are due has been sold and the transfer has been delivered to the purchaser.
 - (4) If a plan of subdivision has been cancelled, the amount of any taxes in arrear or delinquent taxes against a parcel in the plan or subdivision cancelled are taxes in arrear or delinquent taxes against the parcel of land as it appears after cancellation.

Statement of outstanding taxes

- 248**
- (1) No later than the date on which the tax notice under section 237 [*general tax notices*] is mailed, the collector must mail a statement of the amount of the taxes in arrear and of delinquent taxes to each assessed owner of
 - (a) property for which there are taxes in arrear or delinquent taxes, or
 - (b) property sold by tax sale under the *Local Government Act*, but remaining subject to redemption under section 417 [*redemption by owner*] of that Act.
 - (2) A statement under subsection (1) must also be mailed to each holder of a registered charge in relation to the property whose name is included on the assessment roll.

- (3) If applicable, the statement under subsection (1) must be in the form prescribed by regulation.

Certificate of outstanding taxes

- 249** (1) On demand and without charge, the collector must give the owner of real property whichever of the following is applicable to the property:
- (a) a written statement showing the amount of all unpaid taxes;
 - (b) a certificate that all taxes and fees imposed against the real property identified in the certificate have been fully paid.
- (2) The collector must provide, to any person who requests this, a certificate showing
- (a) the amount of unpaid taxes charged against specified real property,
 - (b) whether the real property has been sold for taxes, and
 - (c) if the property has been sold for taxes, the time if any remaining for redemption and the amount required to redeem it.
- (3) An error in a statement or certificate given under this section does not subject the municipality to damages.

Division 13 –Recovery of Taxes**Taxes are a special charge on the land**

- 250** (1) Taxes accrued and to accrue on land and its improvements, and a judgment under section 231 [*recovery of taxes and fees*] for the taxes, are a charge that
- (a) is a special charge on the land and improvements,
 - (b) has priority over any claim, lien, privilege or encumbrance of any person except the Crown, and
 - (c) does not require registration to preserve it.
- (2) If it is necessary or advisable to protect or enforce a charge under subsection (1) by a proceeding, this may be done by order of the court, on application and on notice the court considers appropriate.

Liability of assessed owner

- 251** (1) A person who, in any year, is an assessed owner of land, improvements or both in a municipality, or of a taxable interest in them, is liable to the municipality for
- (a) all taxes imposed by the municipality under any Act or former Act on the land, improvements or both during the year, and
 - (b) all unpaid taxes imposed in a previous year.
- (2) The liability referred to in subsection (1) is a debt owed to the municipality, and a copy of the tax notice under section 237 [*general tax notices*] that refers to the taxes payable by the person, certified as a true copy by the corporate officer, is evidence of that debt.

Section 252

- (3) The liability referred to in subsection (1) must not be enforced by action against a person whose name appears on an assessment roll only as a personal representative or trustee of an estate, except to the extent and value of the assets of the estate that have come into that person's hands.

Recovery of taxes by the legal remedy of distress

- 252** (1) Despite any Act, with the approval of the council, a collector may, directly or by agent, levy the amount of taxes due, with costs, by distress of one or more of the following:
- (a) the output of the taxed property;
 - (b) goods and chattels of the person liable to pay the taxes;
 - (c) any goods and chattels in British Columbia in the possession of the person liable to pay the taxes;
 - (d) any goods and chattels found on the premises of the person liable to pay the taxes;
 - (e) any goods and chattels found on the property of or in the possession of another occupant of the premises of the person liable to pay the taxes that would be subject to distress for arrears of rent due to a landlord.
- (2) Subject to subsection (3), the costs chargeable on distress under this section are those payable as between landlord and tenant.
- (3) A council may, by bylaw, regulate and alter the scale of costs payable in cases of distress under this section.
- (4) A collector who makes distress must give notice in accordance with section 94 [*public notice*] of
- (a) the time and place of the sale, and
 - (b) the name of the taxpayer whose property is to be sold.
- (5) At the time given in the notice under subsection (4), the collector or agent must sell at public auction the seized property or as much as may be necessary.
- (6) If there is a surplus from the sale over the amount of the taxes and costs, the surplus must be paid to the person in possession of the property when it was seized, unless claim to it is made by another person on the ground that the property sold belonged to the other person, or that the other person was entitled by lien or other right to the surplus.
- (7) If a claim is made by the person for whose taxes the property was distrained and the claim is admitted, the surplus must be paid to the claimant.
- (8) If the claim referred to in subsection (7) is contested, the surplus must be retained by the collector until the rights of the parties have been determined.
- (9) A person receiving a surplus under this section must give a receipt for it.

Power to accept real property in place of taxes

- 253** (1) A council may, by bylaw, accept, in place of all unpaid taxes, rates, interest and costs against otherwise unencumbered real property in the municipality, an absolute conveyance to the municipality of the whole of the real property from its registered owner.
- (2) Delivery of the conveyance must be made to the municipality and, after receipt, the designated municipal officer must promptly apply to the proper land title office for registration of the municipality as owner.
- (3) Registration of the municipality as owner of the land or real property is deemed to be in payment of and discharges all taxes, rates, interest and costs assessed and chargeable against the land or real property at the date of the conveyance.

Tax sales

- 254** If applicable, a municipality must recover unpaid property taxes, including any interest and penalties owing on those taxes, by tax sale in accordance with Part 11 [*Tax Collection*] of the *Local Government Act*.

Notice of delinquent taxes on Crown land

- 255** If taxes become delinquent on land that the Provincial government has agreed to sell under an agreement to purchase,
- (a) the collector must notify the minister responsible for the administration of the *Land Act* within 3 months after taxes with respect to the person holding the land became delinquent, and
 - (b) that minister must cause a suitable notation to be made on the record of purchase and may take any other steps considered advisable.

Recovery of taxes on Crown land subject to an agreement for sale

- 256** (1) This section applies if the Provincial government has agreed to sell land in a municipality on terms of deferred payment and the holder of the agreement for sale
- (a) has defaulted in payment for the land, or has abandoned the land with the title remaining in the Provincial government, and
 - (b) has defaulted in payment of municipal taxes against the land.
- (2) The municipal taxes referred to in subsection (1) (b) are a first charge against the land and, following the sale of the land, the Provincial government must pay the municipal taxes out of the proceeds of the sale, subject to the limit that the amount paid must not exceed the amount received by the Provincial government for the sale.

Recovery of taxes on Crown land held under lease or licence

- 257** (1) The collector must not sell land the fee simple of which is vested in the Provincial government and which is held under lease, licence, permit or location.

- (2) Within 5 months from the date when taxes on land referred to in subsection (1) become delinquent, the collector must give written notice to the person liable for them, either by serving the notice or by sending it by registered mail, that the lease, licence, permit or location will be cancelled if the person does not pay the delinquent taxes, together with interest and all subsequent taxes, within 6 months from the date when the taxes became delinquent.
- (3) The collector must send a copy of the notice under subsection (2) to the minister responsible for the administration of the *Land Act*.
- (4) If payment of the delinquent taxes, with interest, and all subsequent taxes is not made within the 6 months,
 - (a) the collector must forward to the minister referred to in subsection (3) a list of defaulting lessees, licensees, permittees or locators, and
 - (b) that minister must at once cancel the leases, licences, permits or locations.
- (5) Until the minister referred to in subsection (3) notifies the collector of cancellation under subsection (4), the collector must not cancel an amount due.
- (6) On cancellation of a lease, licence, permit or location, the minister referred to in subsection (3) must notify the collector, who must then cancel the amount due.
- (7) If good reasons are shown to the satisfaction of the minister referred to in subsection (3) that the defaulting person, from poverty, sickness or other cause, has been unable to pay the amount due within the time limit, the minister may extend the time within which payment must be made before cancellation takes effect.

Division 14 –Recovery of Special Fees

Special fees may be collected as property taxes

- 258** (1) This section applies to the following:
- (a) fees imposed, under this Act or the *Local Government Act*, for work done or services provided to land or improvements;
 - (b) fees imposed under section 196 (1) (a) [*fire and security alarms systems*];
 - (c) amounts that a municipality is entitled to recover for work done or services provided to land or improvements under any other provision of this Act or the *Local Government Act* that authorizes the municipality to recover amounts in the event of default by a person.
- (2) An amount referred to in subsection (1)
- (a) may be collected in the same manner and with the same remedies as property taxes, and
 - (b) if it is due and payable by December 31 and unpaid on that date, is deemed to be taxes in arrear.

- (3) If an amount referred to in subsection (2) (b) is a fee referred to in section 194 (2) (a) [*municipal fees for services outside the municipality*],
 - (a) the collector must promptly, after December 31, forward a statement showing the amount of the fee
 - (i) to the Surveyor of Taxes in the case of real property that is not in a municipality, or
 - (ii) to the applicable municipal collector in other cases, and
 - (b) the Surveyor of Taxes or collector must add the amount of the fee to the taxes payable on the property.
- (4) If an amount is added under subsection (3) (b),
 - (a) the amount is deemed to be a municipal tax or Provincial tax, as applicable, and must be dealt with in the same manner as taxes against the property would be under this Act, the *Local Government Act* or the *Taxation (Rural Area) Act*, and
 - (b) when it is collected, the collecting municipality or Minister of Finance must pay the amount to the municipality to which it is owed.
- (5) If an amount is added under subsection (3) (b) and is not paid at the time the property is sold by tax sale,
 - (a) if the upset price is obtained at the time of the tax sale, the minister or municipality referred to in subsection (4) must pay out of the proceeds of the sale the amount due under this section to the municipality to which it is owed, or
 - (b) if the upset price is not obtained and subsequently the property is sold, the proceeds of sale must be applied according to the respective interests in the upset price.

Special fees that are liens against property

- 259** (1) This section applies to amounts that are referred to in section 258 (1) [*special fees that may be collected as property taxes*].
- (2) An amount referred to in subsection (1)
 - (a) is a charge or lien on the land and its improvements in respect of which the charge is imposed, the work done or services provided,
 - (b) has priority over any claim, lien, privilege or encumbrance of any person except the Crown, and
 - (c) does not require registration to preserve it.
 - (3) An owner of land or real property aggrieved by the creation of a charge or lien under this section may, on 10 days' written notice to the municipality, apply to the Supreme Court for an order that the charge be removed or that the amount for which it was imposed be varied.

- (4) On an application under subsection (3), if the court is satisfied that any of the amount for which the charge or lien was created was imposed improperly, it may order that the charge or lien be removed or that the amount be varied, or make another order it considers appropriate.

PART 8 –B YLAW ENFORCEMENT AND RELATED MATTERS

Division 1 –Bylaw Enforcement

Enforcement powers

- 260** (1) A council may make bylaws for the purposes of enforcing the bylaws of the municipality.
- (2) Without limiting the available remedies, the authority of a municipality to deal with a contravention of a bylaw includes the following:
- (a) prosecution of the offence in accordance with the *Offence Act*;
 - (b) proceeding under Division 3 [*Ticketing for Bylaw Offences*] of this Part;
 - (c) court action under Division 4 [*Enforcement by Civil Proceedings*] of this Part.
- (3) If a bylaw establishes a regulation or requirement to be observed in a municipality, a person who contravenes the regulation or requirement commits an offence that is punishable in the same manner as if the bylaw had expressly forbidden persons from doing or refraining from doing the act.
- (4) Section 12 (1) [*authority to establish variations*] does not apply in relation to bylaws imposing fines and other penalties under this Part.

Payment of fines and other penalties to municipality

- 261** Fines and other penalties imposed and collected under or because of a municipal bylaw must be paid to the municipality.

Recovery of penalty and costs by legal remedy of distress

- 262** (1) If a penalty, or part of a penalty, and all costs imposed are not paid promptly, the justice or court may, by order, authorize all or part of the penalty and costs to be levied by distress and sale of the offender's goods and chattels.
- (2) If there is no distress out of which the penalty and costs or part of the penalty and all of the costs can be levied, the justice or court may commit the offender to imprisonment for the term, or part of the term, specified in the bylaw.

Division 2 – *Offence Act* Prosecutions

Penalties in relation to *Offence Act* prosecutions

- 263** (1) A bylaw under section 260 (1) [*enforcement powers*] may establish one or more of the following penalties to which a person convicted of an offence in a prosecution under the *Offence Act* is liable:
- (a) a minimum fine;
 - (b) a maximum fine of up to \$10 000;
 - (c) in the case of a continuing offence, for each day that the offence continues either or both of
 - (i) a minimum fine under paragraph (a), or
 - (ii) a maximum fine under paragraph (b);
 - (d) imprisonment for not more than 6 months.
- (2) If no other penalties are established in relation to an offence referred to in subsection (1), the penalties established by section 4 [*general penalty*] of the *Offence Act* apply.
- (3) In a prosecution for an offence against a municipal bylaw, the justice or court may impose all or part of the penalties applicable in relation to the offence, together with the costs of prosecution.

Division 3 – Ticketing for Bylaw Offences

Ticket offences

- 264** (1) A council may, by bylaw,
- (a) designate a bylaw for the purpose of this section, other than a bylaw in relation to a matter prescribed by regulation,
 - (b) designate as a bylaw enforcement officer a person who comes within a class of persons prescribed by regulation, and
 - (c) authorize the use of any word or expression on a ticket issued under subsection (2) to designate an offence against a bylaw.
- (2) If a bylaw is designated under subsection (1), a bylaw enforcement officer may lay an information by means of a ticket for contravention of the bylaw.
- (3) Despite section 13 (1) of the *Offence Act*, an information laid by means of a ticket is valid whether or not it is taken under oath.
- (4) The use on a ticket of
- (a) any word or expression authorized by bylaw under subsection (1) (c) to designate an offence against a bylaw, or
 - (b) a general description of an offence against a bylaw,

Section 265

is deemed sufficient for all purposes to describe the offence designated by that word, expression or general description.

Penalties in relation to ticket offences

- 265** (1) A bylaw under section 260 (1) [*enforcement powers*] may establish one or more of the following penalties in relation to an offence that is dealt with under this Division:
- (a) a fine not greater than the amount prescribed by regulation;
 - (b) in the case of a continuing offence, for each day that the offence continues, a fine not greater than the amount prescribed by regulation.
- (2) In addition but subject to subsection (1), the bylaw may establish different fine amounts that apply depending on whether the amount
- (a) is paid on or before the 30th day from the date on which the notice is served under section 266 [*laying information and serving ticket*], or
 - (b) is paid after that date.

Laying information and serving ticket

- 266** (1) When laying an information by means of a ticket, a bylaw enforcement officer must indicate on the ticket the offence charged and must sign the ticket.
- (2) The bylaw enforcement officer must serve the ticket on the person alleged to have contravened the bylaw.
- (3) Service of a ticket under subsection (2) may be effected by
- (a) serving a copy of the ticket on the person alleged to have contravened the bylaw immediately after the alleged contravention, or
 - (b) causing a copy of the ticket to be served in the same manner as a summons may be served under the *Offence Act*.
- (4) Service of a ticket under subsection (2) may be proved by
- (a) the oral evidence given under oath of the person who served it, or
 - (b) the certificate of the person who served the ticket, if the certificate is endorsed on the ticket or a copy of the ticket.
- (5) The certificate referred to in subsection (4) is proof of the facts stated in the certificate and of the authority of the person who signed it without further proof of the person's appointment or signature.

Choice of paying fine or disputing ticket

- 267** (1) If a fine established in accordance with section 265 [*penalties in relation to ticket offences*] is indicated on a ticket for an offence charged, the person on whom the ticket is served may, within 14 days after the date of service,
- (a) pay the fine indicated on the ticket to the municipality in accordance with the prescribed instructions, or

- (b) dispute the allegation contained in the ticket by
 - (i) delivering or having delivered to the address set out in the ticket a written notice of dispute, or
 - (ii) appearing in person at the location set out in the ticket to give notice of dispute.
- (2) A notice of dispute under subsection (1) must contain an address for the person disputing the allegation and sufficient information to identify the ticket and the alleged contravention being disputed.
- (3) For the purpose of subsection (1), a notice of dispute that is delivered by mail is deemed to have been delivered on the date it was mailed.

Effect of paying fine

- 268**
- (1) A person who pays a fine in accordance with section 267 (1) (a) [*choice of paying fine or disputing ticket*] is deemed to have pleaded guilty to the offence with which the person was charged and to have paid the fine imposed.
 - (2) If a person who is served with a ticket pays the fine as referred to in subsection (1), no conviction need be drawn up or entered unless it is required under the bylaw contravened or by the person convicted or a prosecutor.

Hearing of dispute

- 269**
- (1) If notice of dispute is given in accordance with section 267 (1) (b) [*choice of paying fine or disputing ticket*], the council must refer the ticket to the Provincial Court for a hearing.
 - (2) If a ticket is referred to the Provincial Court under subsection (1), the clerk of the court must send to the person who was served with the ticket, by ordinary mail to the person's address set out in the notice of dispute, a notice of the hearing specifying a time and place for the appearance of the person before a justice.
 - (3) If a person appears before a justice at the time and place specified in the notice under subsection (2), section 58 of the *Offence Act* does not apply to the person and the justice has jurisdiction to hear the dispute without examining the notice of dispute or the notice of the hearing or inquiring into the service of the ticket on the person.
 - (4) Despite section 60 of the *Offence Act* but subject to the Rules of Court, a justice hearing the trial on a ticket may
 - (a) admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the justice considers is relevant to an issue in the trial and is credible and trustworthy, and
 - (b) adopt procedures that are conducive to justly and expeditiously determining the matter.

Section 270

- (5) As a restriction, a justice may not admit under subsection (4) (a) anything that is privileged under the laws of evidence.
- (6) If a person who is served with a ticket has
 - (a) appeared before a justice at the time and place specified in the notice under subsection (2), and
 - (b) pleaded guilty to or been found guilty of the offence with which the person was charged in the ticket,no conviction need be drawn up or entered unless it is required under the bylaw contravened or by the person convicted or a prosecutor.

Failure to appear at hearing

- 270**
- (1) A person is deemed to have not disputed a charge if the person fails to appear before a justice to dispute the charge
 - (a) at the time and place specified in the notice of the hearing referred to in section 269 (2) *[hearing of dispute]*, or
 - (b) at a new time and place set under section 272 (4) *[time extensions if person not at fault in failing to respond or appear]*.
 - (2) If a person is deemed under subsection (1) to have not disputed a charge, a justice must examine the ticket and proceed as follows:
 - (a) if the ticket is complete and regular on its face, the justice must
 - (i) convict the person in the person's absence and without a hearing, and
 - (ii) impose the fine established under section 265 *[penalties in relation to ticket offences]* for the offence charged;
 - (b) if the ticket is not complete and regular on its face, the justice must quash the proceeding.
 - (3) Nothing in subsection (1) or (2) is to be construed as abrogating the right of a person to appeal the conviction under section 102 of the *Offence Act*.

Failure to respond to ticket

- 271**
- (1) A person served with a ticket under section 266 *[laying information and serving ticket]* is deemed to have not disputed the charge if
 - (a) the person does not pay the fine or dispute the charge, as provided in section 267 (1) *[choice of paying fine or disputing ticket]*, and
 - (b) at least 14 days have elapsed since the ticket was served on the person.
 - (2) If a person is deemed under subsection (1) to have not disputed the charge, a justice, on being satisfied that the conditions set out in that subsection have been met, must examine the ticket and proceed in accordance with section 270 (2) *[procedure if person fails to appear at hearing]*.
 - (3) The conditions set out in subsection (1) may be proved to the satisfaction of the justice by oral evidence given under oath or by affidavit in the prescribed form.

- (4) Nothing in subsection (1) is to be construed as abrogating the right of a person to appeal the conviction under section 102 of the *Offence Act*.

Time extensions if person not at fault in failing to respond or appear

- 272** (1) A person who is served with a ticket but
- (a) does not dispute the charge, or
 - (b) fails to appear before a justice at the time and place specified in the notice under section 269 (2) [*notice of hearing*],
- may apply to a justice for a time extension in the circumstances established by this section.
- (2) In the case of a person who did not dispute the charge, the person may only apply if
- (a) the person has, through no fault of that person, not had an opportunity to dispute the charge, and
 - (b) not more than 30 days have passed since the end of the period referred to in section 267 (1) [*choice of paying fine or disputing ticket*].
- (3) In the case of a person who failed to appear before a justice to dispute the charge, the person may only apply if
- (a) the failure was through no fault of the person, and
 - (b) not more than 30 days have passed since the date specified in the notice under section 269 (2) [*notice of hearing*].
- (4) The justice to whom the application is made, on being satisfied by affidavit in the prescribed form and with or without hearing from the applicant, that the applicable conditions set out in subsection (2) or (3) have been met may
- (a) strike out the conviction, if any,
 - (b) in the case of a person who did not dispute the charge, allow the person 14 days after the date the conviction is struck to dispute the charge in accordance with section 267 (1) [*choice of paying fine or disputing ticket*], and
 - (c) in the case of a person who failed to appear to dispute the charge, set a new time and place for the appearance of the person before a justice.
- (5) If a conviction is struck out under subsection (4), the justice must give the person a certificate of the fact in the prescribed form.

Regulations in relation to ticket offences

- 273** The Lieutenant Governor in Council may make regulations as follows:
- (a) prescribing the form and content of the tickets issued under this Division;
 - (b) prescribing matters for the purpose of section 264 (1) (a) [*matters not subject to ticket offences*];

- (c) prescribing classes of persons for the purpose of section 264 (1) (b) *[ticket offences]*;
- (d) prescribing an amount for the purposes of section 265 (1) *[penalties in relation to ticket offences]*;
- (e) prescribing the form of a certificate of service for the purpose of section 266 (4) *[laying information and serving ticket]*;
- (f) prescribing instructions for paying a fine for the purpose of section 267 (1) (a) *[choice of paying fine or disputing ticket]*;
- (g) prescribing the form of affidavits for the purposes of sections 271 (3) *[failure to respond to ticket]* and 272 (4) *[time extensions if person not at fault in failing to respond to ticket]*;
- (h) prescribing the form of a certificate under section 272 (5) *[time extensions if person not at fault in failing to respond to ticket]*.

Division 4 –Enforcement by Civil Proceedings

Actions by municipality

- 274** (1) A municipality may, by a proceeding brought in Supreme Court, enforce, or prevent or restrain the contravention of,
- (a) a bylaw or resolution of the council under this Act or any other Act, or
 - (b) a provision of this Act or the *Local Government Act* or a regulation under those Acts.
- (2) For a civil proceeding referred to in subsection (1), or relating to any damage to or interference with a highway in the municipality,
- (a) the proceeding may be brought by the municipality in its own name,
 - (b) it is not necessary that the Provincial government, the Attorney General or an officer of the Provincial government be a plaintiff in the proceeding, and
 - (c) the municipality must serve a copy of the originating documents on the Attorney General
 - (i) before the end of the time limit for appearance by the defendant, or
 - (ii) within a further time that may be allowed by the court.
- (3) The authority under subsection (1) is in addition to any other remedy or penalty provided by or under this Act or the *Local Government Act* and may be exercised whether or not a penalty has been imposed for the contravention.

Division 5 –Other Matters

Entry warrants

- 275** If satisfied by evidence on oath or affirmation that access to property is necessary
- (a) for the purposes of this Act or the *Local Government Act*, or

(b) for the purposes of a municipal power, duty or function under another Act, a justice may issue a warrant authorizing a person named in the warrant to enter on or into property and conduct an inspection or take other action as authorized by the warrant.

PART 9 –G OVERNMENTAL RELATIONS

Division 1 –Provincial-Municipal Relations

Required consultations

- 276** (1) The minister responsible must consult with representatives of the Union of British Columbia Municipalities before the Provincial government
- (a) reduces the amount of revenue transfers under the *Local Government Grants Act*,
 - (b) proposes the amendment or repeal of this Act, the *Local Government Act* or the *Local Government Grants Act*, or
 - (c) proposes the enactment, amendment or repeal of
 - (i) a regulation under
 - (A) section 199 [*property tax rates*], or
 - (B) section 286 (1) (b) [*mandatory binding arbitration*],
 - (ii) a regulation under the *Local Government Grants Act*, or
 - (iii) another enactment prescribed by regulation as being subject to the requirements of this section.
- (2) For the purposes of subsection (1), the minister responsible must
- (a) provide the representatives with sufficient information respecting the proposed change, and
 - (b) allow the representatives sufficient time before the proposed legislation is introduced in the Legislative Assembly, the regulation is made or the estimates are tabled in the Legislative Assembly, as applicable,
- for the representatives to consider the proposed change and provide their comments to that minister.
- (3) The minister responsible must consider any comments provided by the representatives under this section and, if requested by them, must respond to the those comments.
- (4) The minister responsible may require an individual to make an oath or affirmation of confidentiality before the individual may participate in consultations under this section.
- (5) The minister responsible may enter into a memorandum of understanding or other arrangement with the Union of British Columbia Municipalities

Section 277

establishing alternatives to the obligations that would otherwise be applicable under this section.

Consultation agreements

- 277** (1) The minister responsible may enter into a memorandum of understanding or other arrangement with the Union of British Columbia Municipalities respecting consultations on
- (a) Provincial and municipal enactments, policies and programs,
 - (b) interprovincial, national or international issues or agreements, or
 - (c) any other matter that affects local governments or the Province.
- (2) The minister responsible and the Union of British Columbia Municipalities must
- (a) if requested by the other party, engage in negotiations respecting an arrangement under this section, and
 - (b) use all reasonable efforts to reach agreement in negotiating an arrangement under this section.
- (3) Without limiting the issues that may be dealt with by an arrangement under this section, such an arrangement may include provisions respecting one or more of the following:
- (a) who is to be consulted;
 - (b) when and how the consultation is to take place;
 - (c) information that is to be provided for the purposes of consultation;
 - (d) how responses are to be provided and dealt with;
 - (e) confidentiality.

Enforcement of obligations

- 278** The only persons who may enforce an obligation under section 276 [*required consultations*] or 277 [*consultation agreements*] are
- (a) the Provincial government, and
 - (b) the Union of British Columbia Municipalities.

No forced amalgamations

- 279** If a new municipality would include 2 or more existing municipalities, the Lieutenant Governor in Council may not issue letters patent incorporating the new municipality unless
- (a) a vote has been taken in accordance with section 8 of the *Local Government Act* separately in each of the existing municipalities, and
 - (b) for each of those municipalities, more than 50% of the votes counted as valid favour the proposed incorporation.

Division 2 –Provincial Regulations

Regulations providing exemptions from approval requirements

280 (1) In this section:

“approval requirement” means a provision in or under this or any other Act that has the effect of requiring approval or consent of the Lieutenant Governor in Council, a minister, the inspector or another official before a municipal bylaw or other action is adopted, is taken or is effective;

“responsible authority” means

- (a) in relation to approval or consent of the Lieutenant Governor in Council, the Lieutenant Governor in Council,
- (b) in relation to approval or consent of a minister, that minister,
- (c) in relation to approval or consent of the inspector, the minister responsible for this Act, and
- (d) in relation to approval or consent of another official, the minister responsible for the provision establishing the approval requirement.

(2) Despite any other Act, the responsible authority may, by regulation, provide exemptions from an approval requirement.

(3) A regulation under this section may provide that an exemption is or may be made subject to the terms and conditions specified by the minister responsible or by a person designated by name or title in the regulation.

Regulations providing additional powers and exceptions

281 (1) Despite any other Act, the Lieutenant Governor in Council may, by regulation, do one or more of the following in relation to a specified municipality or a described class of municipalities:

- (a) provide a power, including a power to regulate, prohibit or require;
- (b) provide an exception to or a modification of a requirement or condition established by an enactment;
- (c) establish any terms and conditions the Lieutenant Governor in Council considers appropriate regarding a power, modification or exception under this section;
- (d) authorize a minister to establish any terms and conditions the minister considers appropriate regarding a power, modification or exception under this section.

(2) As restrictions, a regulation made under this section may not do any of the following:

- (a) override an absolute prohibition contained in an enactment;
- (b) confer an authority to impose a new tax;
- (c) confer an authority to grant a new tax exemption;

Section 282

- (d) eliminate a requirement for obtaining the assent of the electors, unless that requirement is modified by replacing it with a requirement for obtaining the approval of the electors.

General regulation authority

- 282** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) prescribing a body as a public authority or a local authority for the purposes of one or more provisions of this Act or the *Local Government Act*;
 - (b) without affecting any assignment under sections 9 to 11 of the *Constitution Act*, designating a minister as the minister responsible in relation to a matter for the purposes of section 9 [*spheres of concurrent authority*], 276 [*required consultations*] or 277 [*consultation agreements*];
 - (c) in relation to section 93 [*application of open meeting rules to other bodies*] or 145 [*application of procedure rules to other bodies*], or both,
 - (i) prescribing a body or class of body for the purposes of the section,
 - (ii) excluding a specified body from the application of the section, or
 - (iii) modifying any of the provisions of the section in relation to a specified body;
 - (d) establishing requirements respecting the form and content of elector response forms for the purposes of section 86 [*alternative approval process*];
 - (e) providing exceptions to provisions of Division 6 [*Conflict of Interest*] of Part 4 [*Public Participation and Council Accountability*];
 - (f) defining words and expressions used in Parts 6 [*Financial Management*] and 7 [*Municipal Revenue*];
 - (g) prescribing matters for the purposes of section 286 [*mandatory binding arbitration*];
 - (h) respecting any other matter for which regulations are contemplated by this Act.

Variation authority

- 283** In addition to any other variation authority that is specifically provided, a regulation that may be made by the Lieutenant Governor in Council or a minister under any provision of this Act may
- (a) establish different classes of bylaws, municipalities, persons, property, circumstances and other matters,

- (b) make different provisions, including exceptions, for different classes of bylaws, municipalities, persons, property, circumstances and other matters, and
- (c) make different provisions, including exceptions, for different bylaws, different municipalities, different parts of municipalities and different circumstances and other matters.

Division 3 –Dispute Resolution

Request for assistance in relation to intergovernmental dispute

- 284** (1) If a dispute arises between a municipality and
- (a) another local government, or
 - (b) the Provincial government or a Provincial government corporation,
- and the parties cannot resolve the dispute, one or more of the parties may apply to a dispute resolution officer for help in resolving the dispute.
- (2) If an application is made under subsection (1), the dispute resolution officer
- (a) must review the matter,
 - (b) may attempt to help the parties to resolve the dispute by any process the officer considers appropriate, including by using or referring the matter to mediation or another non-binding resolution process, and
 - (c) may assist the parties in determining how costs of the process are to be apportioned.
- (3) This Division applies to the City of Vancouver.

Voluntary binding arbitration

- 285** If the parties to a dispute agree, a dispute resolution officer must direct the dispute to resolution by binding arbitration under section 287 [*final proposal arbitration*] or 288 [*full arbitration*].

Mandatory binding arbitration

- 286** (1) This section applies to disputes between local governments respecting
- (a) an intermunicipal boundary highway, an intermunicipal transecting highway, an intermunicipal bridge or an intermunicipal watercourse, or
 - (b) a prescribed matter.
- (2) If a party to the dispute applies to a dispute resolution officer then, subject to subsection (3), the officer must direct the dispute to binding arbitration under section 287 [*final proposal arbitration*] or 288 [*full arbitration*].
- (3) Before directing a dispute to binding arbitration under this section, the dispute resolution officer may direct the dispute to mediation or another non-binding resolution process.

Section 287

- (4) The choice of arbitration process under this section is to be determined by agreement between the parties but, if the dispute resolution officer considers that the parties will not be able to reach agreement, the officer may direct which process is to be used.
- (5) If more than one local government is involved in a matter that has been directed to binding arbitration under this section, the arbitrator may direct that the matter is to be settled for all local governments in the same arbitration.
- (6) If a local government does not adopt the bylaws required under section 290 *[implementation of arbitrator's decision]* in relation to an arbitration under this section, the Lieutenant Governor in Council may, on the recommendation of the minister, implement the terms and conditions of the arbitrator's decision.
- (7) An order under subsection (6) is deemed to be a bylaw of the local government.

Final proposal arbitration

287 The following apply to a dispute referred to in section 285 or 286 that is to be resolved by final proposal arbitration:

- (a) the dispute is to be resolved by a single arbitrator;
- (b) the arbitrator is to be selected, from the list prepared under section 289 (1) *[arbitrator list]*, by agreement among the parties to the dispute or, if the dispute resolution officer considers that these parties will not be able to reach agreement, by the officer;
- (c) subject to any applicable regulations, the arbitrator must conduct the proceedings on the basis of a review of written documents and written submissions only, and must determine each disputed issue by selecting one of the final written proposals for resolving that issue submitted by one of the participating parties;
- (d) the matter in dispute will be as settled by the arbitrator after incorporation of the final proposals selected by the arbitrator under paragraph (c);
- (e) no written reasons are to be provided by the arbitrator.

Full arbitration

288 The following apply to a dispute referred to in section 285 or 286 that is to be resolved by full arbitration:

- (a) the dispute is to be resolved by a single arbitrator, who is to be selected in accordance with section 287 (b) *[final proposal arbitration]*;
- (b) subject to any applicable regulations, the arbitrator may conduct the proceedings at the times and in the manner he or she determines;
- (c) the matter will be as settled by the arbitrator, who is not restricted in his or her decision to submissions made by the parties on the disputed issues;
- (d) the arbitrator must give written reasons for the decision.

General provisions regarding arbitration process

- 289** (1) The minister must, after consultation with representatives of the Union of British Columbia Municipalities, prepare a list of persons who may be arbitrators under this Division.
- (2) If a dispute between local governments is referred to arbitration under this Division, subject to a direction by the arbitrator or to an agreement between the parties,
- (a) the fees and reasonable and necessary expenses of the arbitrator, and
 - (b) the administrative costs of the process, other than the costs incurred by the parties participating in the process,
- are to be shared proportionately between the parties participating in the process on the basis of the converted value of land and improvements in their jurisdiction.
- (3) The time limit for bringing any judicial review of a decision of an arbitrator under this Division is the end of the period for agreement under section 290 (1).

Implementation of arbitrator's decision

- 290** (1) During the 60 days after a matter is settled under section 287 [*final proposal arbitration*] or 288 [*full arbitration*], the parties may agree on a settlement that differs from the decision of the arbitrator.
- (2) At the end of the period referred to in subsection (1), unless agreement is reached as referred to in that subsection, the decision of the arbitrator becomes binding on the parties.
- (3) If the decision becomes binding under subsection (2), the parties to the arbitration must adopt the bylaws and take the other actions required to implement the terms and conditions of the arbitrator's decision within 90 days after it becomes binding under that subsection.
- (4) Despite any other provision of this Act or any other Act, approval of the electors or assent of the electors is not required for a bylaw referred to in subsection (3).
- (5) A dispute resolution officer may extend the time period under subsection (1) before or after it has expired.

Regulations respecting arbitrations

- 291** The minister may make regulations respecting arbitrations under this Division and, without limiting this, may make regulations respecting one or more of the following:
- (a) matters that an arbitrator must or may consider;
 - (b) the authority of an arbitrator to resolve the terms and conditions for a dispute;
 - (c) the authority of an arbitrator to require the cooperation of the parties to the arbitration and their officials and representatives in relation to the arbitration.

Commencement

292 This Act comes into force by regulation of the Lieutenant Governor in Council.

SCHEDULE**DEFINITIONS AND RULES OF INTERPRETATION****Definitions**

1 In this Act and in a bylaw or resolution under this Act:

“alternative approval process” means the process for obtaining approval of the elections established by section 86 [*alternative approval process*];

“animal” means any member of the animal kingdom, other than a human being;

“annual property tax bylaw” means a bylaw under section 197 [*annual property tax bylaw*];

“approval of the electors” means approval in accordance with section 84 [*approval of the electors*];

“assent of the electors” means assent in accordance with section 85 [*assent of the electors*];

“assessed value” means assessed value determined under the *Assessment Act*;

“assessment commissioner” means the assessment commissioner appointed under the *Assessment Authority Act*;

“assessment roll” means an assessment roll within the meaning of the *Assessment Act*;

“assessor” means an assessor appointed under the *Assessment Authority Act*;

“assistance” means assistance within the meaning of section 25 (1) [*prohibition against assistance to business*];

“building inspector” means an individual designated by the council as a building inspector for the municipality;

“business” means

- (a) carrying on a commercial or industrial activity or undertaking of any kind, and
- (b) providing professional, personal or other services for the purpose of gain or profit, but does not include an activity carried on by the Provincial government, by corporations owned by the Provincial government, by agencies of the Provincial government or by the Greater Vancouver Transportation Authority or any of its subsidiaries.

“business licence” means a licence required for a business under section 8 (6) [*spheres of authority –business*];

“charge”, in relation to an estate or interest in land, means a charge under the *Land Title Act*;

“collector” means the municipal officer assigned responsibility as collector of taxes for the municipality;

“converted value of land and improvements” means the net taxable value of land and improvements multiplied by the percentage prescribed by regulation for this purpose;

“corporate officer” means the municipal officer assigned responsibility under section 148 [*corporate officer*];

“council” means the council of a municipality;

“council committee” means

- (a) a select committee of a council,
- (b) a standing committee of a council, or
- (c) any other body established by a council that is composed solely of council members;

“councillor” means a member of a council other than the mayor;

“designated municipal officer” means

- (a) the municipal officer assigned responsibility under section 146 [*officer positions*] in relation to the matter, or
- (b) if no assignment referred to in paragraph (a) has been made, the corporate officer;

“dispute resolution officer” means a person designated by the minister to assist in the resolution of disputes for the purposes of Division 3 [*Dispute Resolution*] of Part 9 [*Governmental Relations*];

“domestic animal” means an animal that is tame or kept, or that has been or is being sufficiently tamed or kept, to serve some purpose for people;

“election” means an election for office on a council;

“extraordinary traffic” includes the carriage of goods or persons in vehicles over a highway that, in conjunction with the nature or existing condition of the highway, the council considers is so extraordinary in

- (a) the quality or quantity of the goods or the number of persons carried,
- (b) the mode or time of use of the highway, or
- (c) the speed at which the vehicles are driven or operated,

that it substantially alters or increases the burden imposed on the highway through its proper use by ordinary traffic, and causes damage to the highway or resulting expense to the municipality beyond what is reasonable or ordinary;

“farm land” means land classified as farm land by the assessor;

“fee” includes a fee by any name, including a charge;

“financial officer” means the municipal officer assigned responsibility under section 149 [*financial officer*];

“financial plan” means the current financial plan for a municipality under section 165 [*financial plan*];

“firearms” includes air guns, air rifles, air pistols and spring guns;

“general bylaw” means a bylaw referred to in section 138 (2) [*municipal codes and other general bylaws*];

“general property tax” means a property value tax or a parcel tax that is imposed in the municipality generally;

“greater board” means the corporate body, incorporated by an Act, with responsibility for the provision of water or sewage and drainage services;

“highway” includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right of way on private property;

“impose”, in relation to a tax, includes levy;

“improvements” means improvements as defined in the *Assessment Act*;

“inspector” means the Inspector of Municipalities under section 1019 of the *Local Government Act*;

“intermunicipal boundary highway” means a highway that forms all or part of the boundary between 2 or more municipalities, including any part of such a highway that deviates so that it is wholly or partly inside one or more of the municipalities, but does not include all or part of an intermunicipal transecting highway;

“intermunicipal bridge” means a bridge that crosses a river, stream or other body of water that forms all or part of the boundary between 2 or more municipalities;

“intermunicipal transecting highway” means a highway that transects 2 or more municipalities and serves those municipalities;

“intermunicipal watercourse” means

- (a) a natural stream or watercourse that forms the boundary between, or runs through, more than one municipality, or
- (b) a stream or watercourse referred to in section 548 (1) [*regional district equivalent*] of the *Local Government Act*;

“justice” means a justice as defined in the *Offence Act*;

“land”

- (a) for the purposes of assessment and taxation, means land as defined in the *Assessment Act*, and
- (b) for other purposes, includes the surface of water, but does not include
 - (i) improvements,
 - (ii) mines or minerals belonging to the Crown, or
 - (iii) mines or minerals for which title in fee simple has been registered in the land title office;

“land title office” means the applicable land title office under the *Land Title Act*;

“loan authorization bylaw” means a bylaw under section 179 [*loan authorization bylaws for long term borrowing*];

“local area service” means a service referred to in section 210 (1) [*authority for local area services*];

“local authority” means

- (a) a municipality, including the City of Vancouver,
- (b) a regional district,
- (c) the trust council, a local trust committee and the trust fund board within the meaning of the *Islands Trust Act*,
- (d) a greater board,
- (e) an improvement district, and
- (f) any other local body prescribed by regulation as a local authority for the purposes of one or more provisions of this Act;

“local service area” means the area in which a local service tax is imposed;

“local service tax” means a tax imposed under section 216 [*local service taxes*];

“minister responsible” means the minister responsible in relation to the applicable matter;

“municipality” means, as applicable,

(a) the corporation into which the residents of an area are incorporated as a municipality under Part 2 [*Incorporation of Municipalities*] of the *Local Government Act* or under any other Act, or

(b) the geographic area of the municipal corporation,
but does not include the City of Vancouver unless otherwise provided;

“net taxable value”, in relation to land or improvements or both, means net taxable value of land or improvements or both, as applicable, for regional hospital district purposes;

“newspaper” means, in relation to a requirement or authorization for publication in a newspaper, a publication or local periodical that contains items of news and advertising;

“occupier”

(a) for the purposes of Division 8 [*Tax Liability of Occupiers*] of Part 7 [*Municipal Revenue*], means occupier as defined in the *Assessment Act*, and

(b) for other purposes, means a person

(i) who is qualified to maintain an action for trespass,

(ii) who is in possession of Crown land under a homestead entry or preemption record,

(iii) who is in possession of

(A) Crown land, or

(B) land owned by a municipality or regional district

under a lease, licence, agreement for sale, accepted application to purchase, easement or other record from the Crown, municipality or regional district, or

(iv) who simply occupies the land;

“owner” means, in respect of real property,

(a) the registered owner of an estate in fee simple,

(b) the tenant for life under a registered life estate,

(c) the registered holder of the last registered agreement for sale,

(d) the holder or occupier of land held in the manner referred to in section 228 [*taxation of Crown land used by others*] or section 229 [*taxation of municipal land used by others*], and

(e) an Indian who is an owner under the letters patent of a municipality incorporated under section 12 [*incorporation of reserve residents as a village*] of the *Local Government Act*;

“parcel” means any lot, block or other area in which land is held or into which it is subdivided, but does not include a highway;

“parcel tax” means a tax imposed on the basis of a single amount for each parcel, the taxable area of a parcel or the taxable frontage of a parcel;

“parcel tax roll review panel” means the parcel tax roll review panel under section 204;

“partnering agreement” means an agreement between a municipality and a person or public authority under which the person or public authority agrees to provide a service on behalf of the municipality, other than a service that is part of the general administration of the municipality;

“population” means, in relation to an area,

- (a) population for the area as determined by the most recent population census, or
- (b) if the population has not been established for the area by census, population determined by the minister;

“procedure bylaw” means a bylaw under section 124 [*procedure bylaws*];

“property class” means a property class under the *Assessment Act*;

“property taxes” means taxes under Division 3 [*Property Value Taxes*], 4 [*Parcel Taxes*] or 5 [*Local Service Taxes*] of Part 7 [*Municipal Revenue*];

“property value tax” means a tax imposed on the basis of the value of land or improvements or both;

“Provincial arterial highway” means a highway that is classified as an arterial highway under the *Highway Act*;

“Provincial building code” means the Provincial building code under section 692 (1) of the *Local Government Act*;

“Provincial building regulations” means the Provincial building code and other regulations under section 692 (1) of the *Local Government Act*;

“public authority” means any of the following:

- (a) the government of Canada, the government of British Columbia or the government of another province, or an agent of any of them;
- (b) a local government body, educational body or health care body, as those terms are defined in the *Freedom of Information and Protection of Privacy Act*;
- (c) a first nation;
- (d) a body in another province or country that provides local government services;
- (e) any other body prescribed by regulation as a public authority for the purposes of one or more provisions of this Act or the *Local Government Act*;

“public notice posting places” means the places identified as such in a procedure bylaw;

“real property” means land, with or without improvements so affixed to the land as to make them in fact and law a part of it;

“registered”, in relation to an interest in land less than the fee simple, means registered as a charge;

“registered mail” includes any method of mail delivery provided by the Canada Post Office for which confirmation of delivery to a named person is provided;

“registered owner” means the person registered in the land title office as entitled to the fee simple;

“registrar of land titles” means the applicable registrar of a land title district under the *Land Title Act*;

“regulate” includes authorize, control, inspect, limit and restrict, including by establishing rules respecting what must or must not be done, in relation to the persons, properties, activities, things or other matters being regulated;

“remedial action requirement” means a requirement imposed under section 72 [*council may impose remedial action requirements*];

“reserve fund” means a reserve fund under Division 4 [*Reserve Funds*] of Part 6 [*Financial Management*];

“**seize**” includes impound and detain;

“**service**” means, in relation to a municipality, an activity, work or facility undertaken or provided by or on behalf of the municipality;

“**soil**” includes sand, gravel, rock and other substances of which land is composed;

“**stream**” means a stream within the meaning of the *Water Act*;

“**tax sale**” means a tax sale under Part 11 [*Municipal Tax Collection*] of the *Local Government Act*;

“**trees**” includes shrubs;

“**wildlife**” means animals prescribed by regulation as wildlife.

Application of *Local Government Act* definitions

- 2 Subject to the definitions established by section 1 of this Schedule, section 5 [*definitions*] of the *Local Government Act* applies to this Act.

Special rule for Mountain Time Zone

- 3 In those municipalities in which Mountain Standard Time or Mountain Daylight Time is customarily used, section 25 (7) [*calculation of time*] of the *Interpretation Act* does not apply and instead a reference to a specified time of the day is a reference to Mountain Standard Time or Mountain Daylight Time, as applicable.

References to municipal officers

- 4 Words in an enactment referring to a municipal officer, by name of office or otherwise, also apply to
- (a) the officer’s deputy, and
 - (b) any person designated by the council to act in the officer’s place.