

**AN ACT TO AMEND THE
VANCOUVER CHARTER****CHAPTER 52**

Assented to July 16, 1987.

WHEREAS Whereas the City of Vancouver has presented a petition praying that the *Vancouver Charter* be amended;

AND WHEREAS it is expedient to grant the prayer of the said petition;

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

1. Section 7 (a) of the *Vancouver Charter*, S.B.C. 1953, c. 55, is amended
 - (a) by striking out "on the thirty-first day of July in the year in which the list is certified," and substituting "on the date he seeks registration as an elector,"
 - (b) in subparagraph (ii) by adding "in the city" after "suite", and
 - (c) by adding "in the city" at the end of subparagraph (iii).
2. Section 9 (1) is repealed and the following substituted:
 - (1) For the purposes of an election for Mayor or Alderman, the following persons shall be entitled to have their names entered on the list of electors as resident-electors: All persons who are Canadian citizens, on the date of the election will be at least 19 years of age, and have, immediately preceding their application for registration as an elector, resided in Canada for 12 months, in the Province of British Columbia for 6 months and in the City of Vancouver for 3 months.
3. Section 12 is amended by striking out the first sentence and substituting "In order to assist him in ascertaining which persons are entitled to be electors, Council may direct the City Clerk to cause a canvass to be made of buildings and dwellings throughout the city."
4. Section 14 is repealed and the following substituted:
 14. Where an owner-electer resides in the city, his name shall be entered only once on the list of electors, as an owner-electer and in the polling district in which he resides. Where an owner-electer does not reside in the city, his name shall be entered on the list of electors in any one polling district in which he is the owner of real property.
5. Section 16 is repealed and the following substituted:
 16. In order to ascertain what persons are owners, or owners under agreement, of any real property, the City Clerk shall have recourse to the last revised real-property assessment roll, or later records kept by the assessor.
6. Section 17 is amended by striking out "resident-electors," and substituting "electors,"
7. The following section is added:

20A. The City Clerk shall remove from the register of electors the name of any person that he has reason to believe

- (a) has ceased to be a Canadian citizen,
- (b) is no longer a resident of the city as determined by section 9 (2) and is not otherwise eligible to be listed as an owner-elect, or
- (c) is no longer an owner, lessee or occupier of property in the city as set out in section 7, and is not otherwise eligible to be listed as a resident-elect.

8. The following section is added:

20B. An elector whose name or address has changed may apply to the City Clerk for the applicable change in the register and the City Clerk, on evidence satisfactory to him, shall amend the register accordingly.

9. Section 34A is repealed and the following substituted:

34A. For any election or plebiscite held at any time other than the third Saturday of November in an election year, the City Clerk shall, 30 days before the date fixed for the election or plebiscite, cause a register of electors to be prepared. Such register shall consist of the names shown on the last certified list of electors together with the names of all applicants who have applied to be added to the list of electors and who meet the qualifications set out in section 7 or 9, but shall not include the names of persons deleted in accordance with section 20A. Such register shall, for all purposes of this Act, be deemed to be the current list of electors. When the register has been prepared, the City Clerk shall examine it and, if he is satisfied that it is accurate, he shall cause to be printed at least 10 copies of a book containing every name and address in the register. In such book the names of the electors shall be grouped in polling districts in accordance with those established by by-law. At the end of one copy of the book the City Clerk shall verify the same by completing and attaching thereto a statutory declaration to the following effect:

I, _____, of the City of Vancouver, in the Province of British Columbia, solemnly declare:

1. I am the City Clerk of the City of Vancouver and as such have caused the annexed book to be prepared.

2. To the best of my knowledge, information and belief, the annexed book contains the name and address of every person entitled under the *Vancouver Charter* to have his name entered on the list of electors.

3. To the best of my knowledge, information and belief, the names contained in the said book are properly designated as electors and are properly grouped in polling districts as established by by-law.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the *Evidence Act* (Canada).

Declared before me at)
 in the Province of)
 British Columbia, this)
 day of , 19)

_____)
 A Commissioner for Taking)
 Affidavits within British)
 Columbia.)

Sections 10, 19, 22 to 33, inclusive, and 35, 36 and 36A shall not apply to a register prepared in accordance with this section.

10. Section 36B is repealed.

11. Section 58 is amended

(a) by adding "if no by-law pursuant to section 137 (3) is in existence, and" at the end of paragraph (b), and

(b) by adding the following paragraph:

(c) once only for as many candidates for the office of Alderman as there are offices to be filled in the area or ward in which the elector is entitled to vote, if a by-law pursuant to section 137 (3) is in existence.

12. Section 73A is repealed and the following substituted:

73A. (1) Where a person is entitled under either section 7 or 9 to be entered on the list of electors but his name does not appear on the current list of electors, he shall be entitled to receive ballot papers and to vote provided he files with the Deputy Returning Officer an application for registration and declares that he is qualified to vote.

(2) The City Clerk shall retain applications filed under this section and incorporate them in the register of electors.

13. Section 78 is repealed and the following substituted:

78. (1) A Deputy Returning Officer upon being satisfied that a voter is unable to read English, or is incapacitated by a physical disability from marking his ballot paper as prescribed, shall cause the ballot paper to be marked in a manner directed by the voter or, at the request of such voter if he is accompanied by some other person, shall permit that person to accompany the voter into a compartment and to there assist the voter with the marking of the ballot paper.

(2) Notwithstanding anything contained in this Act, a Deputy Returning Officer may permit a voter who is incapacitated by a physical disability to mark his ballot paper at a place immediately adjacent to the polling place.

(3) The Deputy Returning Officer shall cause a list to be kept of the names of all voters whose ballot papers have been marked pursuant to this section with the reason for the same in each case.

14. Section 79 is repealed and the following substituted:

79. No person shall assist a voter in marking a ballot paper until he has taken an oath before the Deputy Returning Officer as follows:

I, _____ of _____ in the City of Vancouver, in the Province of British Columbia, make oath and say:

1. I have been requested by _____, who is unable to mark a ballot paper due to _____, for assistance in the marking of the ballot paper; and
2. I will not influence the voter or misrepresent the voter's wishes in marking the ballot paper; and
3. I will keep secret and will not disclose any information which I may receive during such voting.

Sworn before me in the City of)
 Vancouver in the Province of)
 British Columbia this _____)
 day of _____, 19 .)

15. Section 93 is repealed and the following substituted:

93. In the case of an election for Mayor or Alderman, the Deputy Returning Officer shall place in the ballot box used for such election one copy of the statement referred to in section 92, the packages or envelopes referred to in section 90 (a), (b), (c) and (d), and the poll books supplied by the Returning Officer.

16. Section 137 is amended

(a) by repealing subsection (3) and substituting the following:

(3) Notwithstanding subsection (2), the Council may by by-law provide for an increase in the number of Aldermen and may provide that all or some members of Council be elected on the basis of civic constituencies. The by-law shall provide for

- (a) the number of constituencies,
- (b) the boundaries of such constituencies, and
- (c) provisions for the orderly transition to the form of government approved under subsection (4). , and

(b) by repealing subsection (4) and substituting the following:

(4) No by-law to increase the number of Aldermen or to change the form of representation shall be enacted until a question in the form of a plebiscite setting out the number of Council members, the boundaries of constituencies, and the representation per constituency, has been submitted to the electors and the number of votes in favour of the question is at least 3/5 of the total of the votes cast, exclusive of those rejected.

17. Section 180 is repealed and the following substituted:

180. (1) In this section, public service organization shall mean a board or commission established pursuant to this Act, the *Library Act* or the *Police Act*, any society, association or other organization providing a public service within the city at the request of or with the consent of the council, and any member, director, employee or volunteer of such board, commission, society, association or organization.

(2) The council may, by a vote of not less than 2/3 of all members, provide for the payment of a sum required for the protection, defence or indemnification of an

officer or employee of the city, a member of its council or any public service organization together with costs necessarily incurred and damages recovered where an action or prosecution is brought against him in connection with the performance of his duties, or where an inquiry under Part 2 of the *Inquiry Act* or other proceeding involves the administration of a department of the city or the conduct of a part of the civic business. The council shall not pay a fine imposed on an officer or employee on his conviction for a criminal offence.

(3) A resolution under subsection (2) is not invalid by reason only that a member of a council who would be entitled to payment under the resolution voted on it.

(4) The council may by by-law provide that the city will, to the extent therein set out, indemnify its officers and employees, members of its council or any public service organization against a claim for damages against an officer or employee, members of its council or public service organizations or any of them arising out of the performance of his or its duties and, in addition, pay legal costs incurred in a court proceeding arising out of the claim.

(5) The council may in a by-law under subsection (4) provide that the city will not seek indemnity against a public service organization in respect of an action that results in a claim for damages against the city by a third party unless the public service organization has been grossly negligent or has failed to comply with terms established governing the provisions of a public service.

(6) The council shall not seek indemnity against an officer, employee or member of council in respect of any action of the officer, employee or member that results in a claim for damages against the city, unless the claim arises out of the gross negligence of the officer, employee or member or where, in relation to the action that give rise to the claim, the officer, employee or member wilfully acted contrary to

- (a) the terms of his employment, or
- (b) an order of a superior.

(7) Nothing in this section restricts the right of council to enter into a contract for the provision of property, goods or services which contains an obligation that council indemnify the provider of the property, goods or services for liability imposed on it arising from the provision of the property, goods or services.

18. Section 182 is repealed.
19. Section 195 is amended by renumbering it as subsection (1) and by adding the following subsection:
 (2) The council shall have power to contract for insurance or provide for the establishment and maintenance of a special fund to meet any obligation undertaken pursuant to section 180 (4).
20. Section 196 (3) is repealed.
21. Section 294 is amended by renumbering subsection (3) as subsection (2) and by adding the following subsections:
 (3) No action for damages lies or shall be instituted against a civic public officer for anything said or done or omitted to be said or done by him in the performance or intended performance of his duty or the exercise of his power or for any alleged neglect or default in the performance or intended performance of his duty or exercise of his power.
 (4) In this section "civic public officer" means
 (a) the members of council,

- (b) the members of the Board of Parks and Recreation,
 - (c) the directors of a regional board,
 - (d) the members of the Library Board,
 - (e) the members of the Board of Variance,
 - (f) the members of the Building Board of Appeal,
 - (g) an officer or employee of the City or the Library Board,
 - (h) a special constable, and
 - (i) any volunteer who participates in the delivery of services by the city, or the bodies referred to in paragraphs (b) to (e) under the supervision of an officer or employee of the city, or of those bodies or an officer or employee of any of those bodies.
- (5) Subsection (3) does not provide a defence where
- (a) the civic public officer has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or wilful misconduct, or
 - (b) the cause of action is libel or slander.
- (6) Subsection (3) does not absolve any of the corporations or bodies referred to in subsection (4) (a) to (h) from vicarious liability arising out of a tort committed by any of the individuals referred to in subsection (4) which the corporation or body would have been liable for had this section not been in force.
- (7) Nothing in this section shall be construed to limit or restrict council's power to indemnify pursuant to section 180 of this Act.

22. Section 294 is further amended by adding the following:

(8) The city, or any officer or employee thereof, in inspecting and approving plans or in inspecting buildings, utilities, structures or other things requiring a permit for their construction, has no legal duty, on which a cause of action can be based, to ensure that plans, buildings, utilities, structures or other things so constructed, comply with the by-laws of the city or any other enactment. The city, or any officer or employee thereof is not liable for damages of any nature, including economic loss, sustained by any person as a result of neglect or failure of the city or officer or employee thereof to discover or detect contraventions of the by-laws of the city or other enactment or from the neglect or failure, for any reason or in any manner, to enforce such a by-law or enactment or for any damage from a failure to recommend, or resolve to file a notice in the land title office pursuant to section 336D.

23. Section 294 is further amended by adding the following:

(9) The city or any officer or employee thereof is not liable in any action based on nuisance or the rule in *Rylands v. Fletcher* or in any claim or action for injurious affection where the damages giving rise to the action or claim arise directly or indirectly out of the breakdown or malfunction of

- (a) a sewer system,
- (b) a water system,
- (c) a drainage facility or system, or
- (d) a dyke or road.

24. Section 306 is amended by repealing paragraph (w) and substituting the following:

(w) for adopting by reference in whole or in part and with any change the Council considers appropriate any codes, standard or rule affecting the construction, alteration or demolition of buildings, either in place of or in addition to any regulations provided for in this Part; .

25. The following section is added:

308A. The council may by by-law regulate

- (a) the removal of soil, sand, gravel, rock or other substance of which land is composed from any land in the city or in any area in the city, and different regulations and prohibitions may be made for different areas, and
- (b) the deposit of soil, sand, gravel, rock or other material on land in the municipality or in any area in the municipality, and require the holding of a permit for the purpose and fix a fee for the permit, and different regulations and prohibitions may be made for different areas.

26. Section 320 (a) is repealed.

27. Section 324 is amended by adding the following as paragraph (j):

- (j) for the seizure, impounding and detention for a period of up to 21 days of any dog alleged to have bitten a person.

28. The following section is added:

336D. (1) Where, during the course of carrying out his duties, the City Building Inspector observes a condition, with respect to land or a building or structure, that he considers

- (a) to be a contravention of a by-law or regulation relating to the construction or safety of buildings or structures, or
- (b) as a result of that condition, a building or structure is unsafe or is unlikely to be usable for its expected purpose during its normal lifetime, or
- (c) the contravention is of a nature that a purchaser, unaware of the contravention, would suffer a significant loss or expense if the by-law were enforced against him

he may, in addition to any other action that he is authorized or permitted to take, recommend to Council that a resolution under subsection (2) be considered.

(2) A recommendation under subsection (1) shall be given to the City Clerk in writing and the City Clerk shall, after notifying the registered owner of the land with respect to which the recommendation relates, place the matter before the Council. After hearing the City Building Inspector and the owner, if he elects to be heard, the Council may confirm the recommendation of the City Building Inspector and may pass a resolution directing the City Clerk 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 respecting it may be inspected at the offices of the City Clerk

and the City Clerk shall ensure that all records are available for that purpose.

(3) Where the Registrar of Land Titles receives a notice under subsection (2) he shall, on payment of the prescribed fee, make a note of the filing against the title to the land that is affected by the notice.

(4) The City Clerk shall, on receiving a report from a building inspector that the condition that gave rise to the filing of the notice under subsection (2) has been rectified, file a cancellation notice in the land title office, and the Registrar shall, on receiving the notice, cancel the note against the title to which it is related.

(5) In the event of any omission, mistake or misfeasance by the Registrar or his employees in relation to the making of a note of the filing under subsection (3) after the notice is received by the land title office

- (a) the Registrar is not liable nor is the Crown 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*.

(6) An owner of land with respect to which a notice has been filed under this section may apply to the Council for a resolution that the note be cancelled, and the Council may, after considering the application, pass a resolution directing the City Clerk to file a cancellation notice.

(7) Where a resolution has been passed under subsection (6), the City Clerk shall file a cancellation notice in the land title office and the Registrar shall, on receiving the notice, cancel the note against the title to which it is related.

(8) Where the Council does not pass a resolution under subsection (6), the owner may apply to the Supreme Court and notify the city to attend before the Court to show cause why the note should not be cancelled, and the Court may, after reviewing any evidence that the owner and city may adduce, make an order directing the Registrar to cancel the note made under subsection (3) and the Registrar shall, on receiving the order, cancel the note accordingly.

(9) The note of a filing of a notice under this section is extinguished when a new title to the land issues in consequence of the deposit of a plan of subdivision or a strata plan.

29. Section 396 (b) is amended by adding "and Crown lands leased by the city for park purposes" at the end.

30. Section 396 is further amended

(a) by repealing paragraph (c) (v), and

(b) by adding the following paragraph:

- (g) Notwithstanding paragraph (c) (i), real property of an incorporated charitable institution which is used for senior citizens' housing or a community care facility, and which receives or has received grants or assistance pursuant to any Provincial or federal legislation, shall only be exempt if it is so provided by by-law.

31. Section 489B (1) is amended by striking out "not exceeding \$2,000".

32. Section 559 is amended in the definition of "development" by striking out "including" and substituting "or".

33. Section 568 (2) is amended by adding the following:

For the purposes of this subsection, a building shall be deemed to be lawfully under construction if a development permit has been issued and such permit remains valid.

34. Section 571A is amended

(a) by renumbering the present subsections (1) and (2) as (2) and (3) respectively, and

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

(1) The Council may make by-laws for regulating the number, size, type, form, appearance and location of signs, whether projecting into a street or not, and

the by-law may contain different provisions for different zones and for different uses within a zone.

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