

January 31, 2018

Ms. Victoria Woodworth-Lynas
Legislative Renewal Director
Department of Municipal Affairs and Environment

Dear Ms. Woodworth-Lynas

The following is the City of Mount Pearl's initial submission to the Department of Municipal Affairs and Environment in response to your initiative to review municipal legislation.

Please note that the City of Mount Pearl and the City of Corner Brook will also be providing a joint submission within the next two weeks. This submission could not be finalized prior to the deadline for submission on January 31, 2018; however, our two cities will be providing a comprehensive list of proposed changes.

There are a number of appendices included in this submission that demonstrate the significant amount of work that has previously been conducted, dating back to the 1990's. These letters illustrate the challenges faced by the City and the relevant sections of the legislation. Some of these issues may have their wording varied slightly over the years but the majority of the requested changes have not been addressed.

Given this background the City of Mount Pearl has endeavoured to compile an updated list of changes to the legislation as follows:

Section	Comments
18	Remuneration should not be by regulation; Council resolution is satisfactory.
24	Conflict of interest – too prescriptive - could be covered more generally by Provincial rules
31	Meetings - too prescriptive – also electronic means should specifically apply to committee meetings.
40	Publications - to be expanded for current means and either/or.
44	Permits – now to be issued by regulation – too prescriptive.
46	Inspection of documents - too prescriptive – ATIPP covers adequately.
54	Private services – too restrictive.
89	Bonding – outdated.
90	Pension – restricted to employees.
93	Group Insurance – too prescriptive.

Chief Administrative Officer

144	Business tax – too prescriptive, is mandatory, is primarily property based taxation. Replace with permissive language, and provide options for commercial realty tax in its place. Income based is best for business, and so a municipal share of corporate income tax should be considered as another alternative. As well as a share of HST generated and paid by businesses for which the City provided a market.
173	Service levy – should be expanded to allow a third-party assessment to be levied for works conducted by a third party.
202	Regulations – too prescriptive – need to generalize or otherwise have a “catch all” section.
241	Water and Sewer permit – approval of an officer of government should not be necessary.
242	Regulations – in this case, the requirement is prescriptive instead of authoritarian.
280.3	Ministerial regulation – too restrictive, needs to be expanded to all city regulations.
Part VIII	Expropriation – onerous process – should be reviewed to update and improve efficiencies, while protecting due process, if possible.

In general, the following suggestions identify areas of our Act we believe are unnecessarily restrictive, and areas where the sections should provide more flexibility.

- Remove mandatory requirements for Ministerial approval throughout – replace with permissive if there is reluctance to relinquish Ministerial control in its entirety (e.g., The Minister may ...).
- Remove requirements that some administrative actions be effected by regulation (e.g., Council remuneration sections 17 and 18).
- Remove legislative exemptions for taxation (Crown, church, etc.) in Section 141.
- Replace mandatory requirements (shall) with authoritarian language (may).
- Remove or relax mandatory prescriptive time lines and publication requirements, such as public processes, notices of motions, forms of communication, etc.
- Expand and generalize authority to issue violation notices to any regulations within Council authority.

The City of Mount Pearl welcomes the opportunity to work with the Department of Municipal Affairs and Environment to take a fresh look at renewing the legislation. We also look forward to working with the City of Corner Brook on our joint submission in the coming days.

Sincerely



STEVE KENT
Chief Administrative Officer

Copy Melissa Wiklund, City Manager
City of Corner Brook

Chief Administrative Officer

Appendices

CITIES ACT 2000-Jan-11.doc

2002-Apr-04 Letter - Mayor to Municipal Provincial Affairs re Cities Act.doc

2002-Jun-18 Joint Presentation Mount Pearl Corner Brook re City Act.ppt

2010-Jan-27 Letter - CAO Municipal Affairs Why City Act Not Working.docx

2010-Feb-03 Letter - Minister of Municipal Affairs re Cities Act.docx

2015-Apr-30 Letter - Municipal Legislation Review.docx

2015-Nov-02 Letter - Amendments to Act.docx

CHAPTER C- 15

CONFIDENTIAL
DRAFT
as at January 11, 2000

CITIES ACT

Analysis

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PREAMBLE

WHEREAS cities are major public agents for providing services, programs and facilities to maintain and enhance the quality of life for all their residents;

AND WHEREAS cities require the powers to provide good government and services to local residents now and in the future;

AND WHEREAS the province recognizes that every city

- (1) is an order of government,
- (2) is autonomous,
- (3) must have adequate powers and financial and legal resources
 - (a) to ensure good government and services locally,
 - (b) to meet existing and future community needs,
 - (c) to apply creative, innovative and entrepreneurial solutions,
 - (d) which ought not to be altered unilaterally, without consultation with other orders of government, and
- (4) must be accessible, democratic and accountable.

Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short Title

1. This Act may be cited as the *Cities Act*.

Definitions

2. In this Act and in a regulation or resolution passed by a council
 - (a) "adopt" includes an amendment or repeal,
 - (b) "assessed value" means assessed value determined under the *Assessment Act*,
 - (c) "assessment review commission" means the assessment review commission appointed under the *Assessment Act*,
 - (d) "assessor" means an assessor appointed under the *Assessment Act*,

- (e) "building" means a structure, erection, excavation, alteration or improvement placed on, over or under land, or attached, anchored or moored to land, and includes mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other similar use, and a part of a building as so defined and fixtures that form part of a building,
- (f) "business" means
 - (i) a commercial, merchandising or industrial activity or undertaking,
 - (ii) a profession, trade, occupation, calling or employment, or
 - (iii) an activity providing goods or services, whether or not for profit, and, however organized or formed, including without limitation a credit union; cooperative; computer accessed banking service or bank machine in, on or from premises in the city, whether or not located in a building used for a bank, trust corporation, credit union, or other savings institution; self-storage facility; school; non-profit or charitable organization; and, with the consent of the province, an agency of or corporation owned or statutory authority created by the province,
- (g) "charge" means an interest in land registered under the *Registry of Deeds Act*,
- (h) "chief administrative officer" means the individual appointed to that position under section 43,
- (i) "chief returning officer" means the election official appointed by a council under the *Municipal Election Act*,
- (j) "city", for this Act, but not for any other Act unless expressly made applicable by that Act, means the corporation into which the residents of an area have been incorporated or continued as a city under this Act,
- (k) "clerk" means the chief administrative officer, his or her delegate or a person appointed as clerk, who carries out the clerk's functions set out in this Act, including, without limitation, the functions set out in section 43(m) and (n),
- (l) "council" means the governing body of a city,
- (m) "councillor" means a member other than the mayor,
- (n) "election" means an election for the number of persons required to fill a council office,
- (o) "elector" means a person entitled under any Act to vote in an election or plebiscite of the city,
- (p) "general local election" means the election referred to in section 78,
- (q) "highway" means a street, road, lane, bridge, viaduct, walkway, a vehicular parking area open to public use, except a public right of way on private land,

- (r) "improvement" means improvement as defined in the *Assessment Act*,
- (s) "land" includes the surface of water but does not include improvements, mines or minerals belonging to the Crown, or mines or minerals for which title in fee simple has been registered in the registry of deeds but for the purposes of assessment and taxation, 'land' has the same meaning as in the *Assessment Act*,
- (t) "mayor" means a member who is the chief presiding officer of the council and who is elected as mayor under the *Municipal Election Act*,
- (u) "member" means a person holding elective office under this Act in respect of the time he or she holds office,
- (v) "minister" means the Minister designated by the Lieutenant-Governor in Council as having responsibility for this Act,
- (w) "municipality" for this Act, but not for any other Act, unless expressly made applicable by that Act, means the corporation into which the residents of an area have been incorporated or continued as a municipality under any Act, and a reference to a municipality includes a city,
- (x) "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, and is distributed at least weekly in a city affected by the matter in respect of which a provision of this Act requires publication in a newspaper,
- (y) "occupier" means a person
 - (i) who is qualified to maintain an action for trespass,
 - (ii) in possession of Crown land or land owned by a city under a lease, licence, agreement for sale, accepted offer to purchase, easement, or other record from the Crown or city, or who simply occupies the land,
- (z) "owner" in respect of real property means the registered owner of an estate in fee simple, and includes
 - (i) the tenant for life under a registered life estate,
 - (ii) the registered holder of the last registered agreement for sale,
- (aa) "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,
- (bb) "printing" includes any means of reproducing the written word,
- (cc) "property" includes a chattel, land, improvements affixed to the land or an interest in a chattel or

land,

- (dd) "public authority" means any of the following:
- (i) an agent of or corporation owned or controlled by the province or a statutory authority created by the province,
 - (ii) another municipality,
 - (iii) a school district board,
 - (iv) any other local government body, educational body or health care body,
 - (v) a public library,
- (ee) "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,
- (ff) "registered owner" means the person registered in the registry of deeds as entitled to the fee simple, and "registered" and "registration", when used in connection with any lease interest, refer to registration of a charge,
- (gg) "Registry of Deeds" means the registry of deeds for the district in which the city or the land is situate,
- (hh) "regulate" includes authorize, control, inspect, limit, restrict and prohibit,
- (ii) "regulation" means a resolution of council that regulates,
- (jj) "resolution" means a motion that is passed by council,
- (kk) "service" means a municipal work or service,
- (ll) "service area" means the area within which the service is provided,
- (mm) "soil" includes sand, gravel, rock and other substances of which land is composed,
- (nn) "spouse" means a person who
- (i) is married to another person and is not living separate and apart, within the meaning of the *Divorce Act* (Canada), from the other person, or
 - (ii) is living with another person in a marriage-like relationship
- and the marriage or marriage-like relationship may be between members of the same sex,
- (oo) "treasurer" means the chief administrative officer, his or her delegate or a person appointed as

treasurer who carries out the treasurer's functions set out in this Act, including, without limitation, the functions set out in section 43(m) and (n),

(pp) "utility" means a person who owns or operates equipment or facilities for

(i) ^production, generation, storage, transmission, sale, delivery or provision of an agent, such as electricity or natural gas, for the production of light, heat, cold or power to or for another person for compensation, ^

(ii) ^conveyance or transmission of information, messages or communications by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radio communications if that service is offered to a person for compensation, or

(iii) conveyance, storage, sale, delivery, provision or treatment of water or liquid or solid waste for compensation,

but does not include a person

(iv) who provides the service or commodity only to the person or the person's employees or tenants, if the service or commodity is not resold to or used by other persons,

(v) not otherwise a utility who is engaged only in the wellhead production of oil, natural gas or other natural petroleum substances.

Interpretation

3. (1) If there is an inconsistency between this Act and any Act, this Act prevails.

(2) Unless otherwise expressly provided to the contrary in this Act, the *Interpretation Act* applies to the interpretation of this Act.

(3) Words in an enactment directing or empowering an officer to do something, or otherwise applying to the office, include his or her successors in office, lawful deputy and any other person the council designates to act in his or her place.

(4) Words in an enactment that apply to an officer or employee of a council may, pursuant to a council resolution, apply to an officer or employee of another government with the approval of that government.

PART I

INCORPORATION OR CONTINUATION OF CITIES

Continuation of municipalities

4. (1) The cities referred to in Schedule A are continued under this Act and vested with the powers conferred on

them by this Act.

(2) All regulations, resolutions and orders validly passed and every permit and licence issued by a council before this Act came into force continue in force.

(3) The boundaries of a city are the boundaries in force immediately before [June 30, 2000](#).

(4) A city continues to have the same area, property, assets, powers, rights, obligations and liabilities it had immediately before [June 30, 2000](#).

(5) All docks, quays, wharves, ships and structures touching the boundaries of a city and all ships attached either permanently or temporarily to a dock, quay, wharf, ship or structure are considered to be [in](#) and part of the city.

Coat of arms

5. (1) The Coat of Arms of a city is that Coat of Arms described in a regulation of the council.

(2) An order made under subsection (1) must be published by the council under section 89 and by public notice posted in the city.

(3) Except with express permission granted by the council, no person other than a city may assume or use the city's Coat of Arms or an imitation of it or resemblance to it.

Corporate Seal

6. (1) A city must have a corporate seal, kept in the custody of the clerk.

(2) The clerk must cause the corporate seal to be affixed when required by a procedure regulation under section 22 or as otherwise required by the council or by operation of law.

Flag

7. (1) A council may proclaim an official flag for the city.

(2) An order made under subsection (1) must be published by the council under section 89 and by public notice posted in the city.

(3) The official flag of the city may be flown only at places and on occasions prescribed by a regulation of the council.

Incorporation and boundary alteration

8. (1) Despite section 4(3), the Lieutenant-Governor in Council may, by order, incorporate an area specified in the order into a new municipality, extend the boundaries of an existing municipality to include a specified area, reduce the [specified](#) area of an existing [municipality](#), or reduce the specified area of an existing municipality

and extend the area of an adjacent municipality, if

- (a) every municipality in the proposed area specified in a proposed order consents to or requests the order, then
- (b) the Lieutenant-Governor in Council has considered a feasibility report prepared under subsection (3), then
- (c) the minister has delivered to the Lieutenant-Governor in Council its written comments on the proposed order, and then
- (d) the Lieutenant-Governor in Council has directed that a vote be taken of persons within the proposed area specified in the proposed order to determine the opinion of voters, being voters eligible to vote under the *Municipal Election Act*, as to whether they favour the proposal, and more than 50% of the votes of the persons in

(i) the proposed area specified in the proposed order, and

(ii) each municipality in the area

favour the proposal.

(2) In respect of a vote under paragraph 8(1)(d)

- (a) the question may be in a form in which the voter may indicate a preference for one proposal over another,
- (b) the *Municipal Election Act* applies to the vote,
- (c) the costs of the vote must be paid as follows:
 - (i) if a new or larger municipality is incorporated following the vote, the costs of the vote are to be paid by the new or larger municipality,
 - (ii) if the proposal fails and the vote was requested by an existing municipality, the costs of the vote are to be paid by that municipality,
 - (iii) in other cases, the costs of the vote are to be paid by the province out of the consolidated revenue fund.

(3) The minister must order the preparation of a feasibility report that addresses the matters prescribed by each of the parties referred to in paragraphs 8(1)(a), (b) and (c), before the Lieutenant-Governor in Council makes an order under subsection (1), and

- (a) the minister must appoint a person to prepare the report from a list of names presented by the municipality or municipalities affected by the proposed change,

- (b) the person preparing the report
 - (i) has the powers of a commissioner under the *Public Enquiries Act*,
 - (ii) must hold public hearings in relation to the preparation of the report, and
 - (iii) must not be an employee or agent of the province[△] of an agent or corporation of the province, or of an agent or corporation of a municipality affected by the proposed change.
- (c) before ordering the report, the minister must publish a notice of his or her intent to do so under section 89 and by public notice posted in the area to be specified in the proposed order of the Lieutenant-Governor in Council,
- (d) if a notice of intent is to be published by the minister under paragraph (c) that directly affects a municipality, the minister must give a prior notification of his or her intent to publish it to the council of the municipality, and
- (e) the report must contain
 - (i) a description of the existing circumstances in the specified area, relative to the purpose of the report, and an outline of the potential impact of the proposed change on the specified area,
 - (ii) an evaluation of the effect of the proposed change relative to the following criteria:
 - (A) access of the residents to elected and appointed officials,
 - (B) representation in accordance with the distribution of population,
 - (C) community identity and community of interest,
 - (D) municipal servicing,
 - (E) topographical and other constraints to municipal servicing,
 - (F) administrative capacity of the municipality,
 - (G) coordination of municipal services in the specified area,
 - (H) cost efficiency of the administrative system proposed in relation to the scale of required services,
 - (I) feasibility in respect of revenues and expenditures,
 - (J) relationship between the ratepayer's ability to pay and benefits received,

- (K) response of tax yields to changes in economic activity,
- (L) public acceptance of proposed change at local and regional levels.

(4) Subsection (3) does not apply if the proposed area specified in the proposed area comprises only incorporated municipalities and every municipality affected consents to or requests the order.

(5) If an existing municipality is located in a new or extended municipality incorporated under subsection (1), the Lieutenant-Governor in Council must by order dissolve the existing municipality.

(6) In addition to the requirements for publication in the *Gazette*, an order made under this section must be published by the minister under section 89, and by posted public notice, in the area affected by the order.

(7) An order made under this section is effective from the date of the order or a later date stated in the order.

(8) Despite subsection (7), an order made under this section may have effect on a date stated in the order for the purposes of an election of a council in an area affected by the order.

Taxes, assets and liabilities

9. (1) If new real property is included in a city by order under section 8 all unpaid taxes previously imposed by another municipality on that real property become taxes owing to the city in which the real property is included, and that city may exercise all remedies under this Act for the collection of those taxes.
- (2) The city in which the real property referred to in subsection (1) is included must as of the date of the order made under section 8 assume from the other municipality all assets, rights and liabilities related to the new real property that is included in the city.
- (3) If real property shown on the records of a Registry of Deeds as a single parcel of real property lies partly in and partly out of a city and is, by order, wholly included in a city, the taxes unpaid as of the date of the issue of the order on any part of the real property are a charge as unpaid taxes on the whole land.

Regulations extend to additional area

10. If an area is located in a new or extended city incorporated under section 8, the regulations in effect in the area as of the date of the incorporation continue in force until altered or repealed by the council of the new or extended city.

Existing licences and permits preserved

11. A provincial or municipal licence or permit, issued in any locality that has been incorporated as a municipality or disincorporated, added to or severed from an existing municipality, or united with another municipality in a new municipality and that was in force immediately before the change is valid until its expiration, subject to the provisions of any Act or a regulation of the municipality affected. On expiration the reissue or renewal of a licence or permit is governed by the applicable statute and municipal regulation.

PART II

INTERGOVERNMENTAL RELATIONS

Consultation

12. (1) The minister must consult with the mayor of a city before the province enacts, amends, repeals or makes legislation, regulations, policies, programs or orders that affect the city.
- (2) The minister must afford the mayor of a city the opportunity to review and advise on enactments, agreements or acts of the province that address interprovincial, national or international issues and that impact the jurisdiction of the city.
- (3) The minister and the mayor must make reasonable efforts to
- (a) encourage consultation between the province and city and further encourage the sharing of decision making with the city in respect of any matter that is within the jurisdiction of the province and a city,
- (b) foster communications between the province and cities with respect to the application of revenue or other transfers from the province.

Application of city powers to public authorities

13. Despite any other Act, the exercise of powers by a council under this Act applies to and is binding on public authorities other than Canada, except that it is not binding on an agent of or corporation owned or controlled by the province or a statutory authority created by the province without the prior consent of the province.

PART III

GOVERNMENT AND PROCEDURES

Council a continuing body

14. The council of a city is, and has been since the incorporation of the city, always continuing and existing, despite a change in its membership.

^

Size of council

15. (1) Except as established under subsection (2) the council must consist of a mayor and six councillors.
- (2) A council may, by regulation adopted
- (a) by a 2/3 vote of the members in office at the time of the vote, and

- (b) at least one year before a general election under the *Municipal Election Act* establish the number of members of council as a mayor and six or eight councillors.
- (3) A regulation under subsection (2) must provide for an uninterrupted transition from the previous council.
- (4) The Mayor must be elected at large in accordance with the *Municipal Election Act*.
- (5) The councillors must, subject to section 16, be elected in accordance with the *Municipal Election Act*.

Wards

16. (1) At least one year before a general election under the *Municipal Election Act*, council may by regulation adopted by a 2/3 vote of the members in office at the time of the vote
- (a) divide the city into two or more wards, define the boundaries of the wards and fix the number of councillors to be elected for each ward,
 - (b) eliminate a ward system established under paragraph (a) and provide, instead, that the councillors be elected at large.
- (2) If the council fixes a number of councillors to be elected for each ward, the council must also fix a number of councillors to be elected at large such that the mayor and at large councillors constitute the majority of council.

Quorum

17. (1) The quorum for a council is a majority or more of the number of members of the council provided for under this Act.
- (2) If the number of members holding office is less than a quorum, the clerk must apply to the minister for an order under subsection (3) without notice to any other person.
- (3) On an application under subsection (2), the minister may
- (a) order that all or specified council members may discuss and vote on the matter, despite
 - (i) the absence of a quorum, or
 - (ii) the disqualification or alleged disqualification of one or more council members from office under this Act, and
 - (b) make the authority under paragraph (a) subject to any conditions and directions, the court considers appropriate.
- (4) A vacancy in the membership of the council does not invalidate the constitution of the council or impair

the right of the members in office to act, if the number of members in office is less than a quorum.

Time of meetings

18. (1) If a quorum of members elected at the general local election has not taken office by the third Monday after the general local election, the first meeting of the council must be called by the clerk and held as soon as reasonably possible after a quorum has taken office or after the Supreme Court of Newfoundland has made an order under section 17(3).
- (2) After the first meeting, a council must subject to this Act and its procedure regulation adopted under section 22, set the times and places for its regular meetings.

Notice of special meeting

19. (1) The mayor may call a special meeting or two or more members of the council may, in writing, request the mayor to call a special meeting.
- (2) A notice of the day, hour and place of and agenda for a special meeting of council, being a meeting other than a regular meeting, must be given at least 24 hours before the time of a council meeting, by posting a copy of the notice at the regular meeting place and by delivering one copy for each council member to the place to which he or she has directed notices to be sent.
- (3) Notice may be waived by unanimous consent of all the members.
- (4) Subject to subsection (5), each copy of the notice must be signed by the mayor or clerk.
- (5) If the mayor, within 24 hours after receiving the request, refuses or neglects to call the meeting to be held within seven days after he or she receives the request, or if the mayor is absent, two or more members of the council may call a meeting and they must sign the notice.

Act of council

20. (1) An action or proceeding of a council is not valid unless it is authorized or adopted by regulation or resolution at a meeting of the council.
- (2) If an enactment provides that a council is required or empowered to exercise the power by regulation, that power may only be exercised by regulation.
- (3) An order of a council under this Act is made by resolution.

Regulations

21. (1) A council may adopt a regulation by passing a resolution.
- (2) Once adopted, a regulation must be

- (a) signed by the mayor or chair or other presiding member of the council meeting at which it was adopted,
 - (b) signed by the clerk, and
 - (c) sealed by the clerk with the corporate seal of the city.
- (3) Subject to the requirement for notice under section 88, a regulation comes into force on the date of the adoption or on a later date fixed by the regulation.
- (4) Prior to adopting a regulation, council must
- (a) receive at a prior council meeting that is open to the public a notice of motion respecting the proposed regulation, and
 - (b) publish a notice under section 88.

Procedure regulation

22. A council must by regulation adopt rules of procedure for council meetings.

Voting

- 23.** (1) Every action authorized or required by this Act to be done by the council, and all other questions, including adjournment, that may come before the council must, except where otherwise provided, be decided by a majority of the members of the council present at a meeting.[△]
- (2) If the votes of the members of the council present at the meeting at the time of the vote are equal for and against a motion, the motion is defeated and the presiding member must so declare.
- (3) A member of the council present at the meeting at the time of the vote, including the presiding member
- (a) must vote on all motions, unless he or she discloses an interest and leaves the meeting under section 39,
 - (b) despite paragraph (a), who abstains from voting is deemed to have voted in the affirmative, and
 - (c) despite paragraphs (a) and (b), may abstain from voting and is not deemed to have voted in the affirmative if
 - (i) he or she orally discloses the grounds for not voting, and
 - (ii) council by resolution consents to the abstention.
- (4) A council may

- (a) at any time in a meeting during which a vote takes place, return for reconsideration the question that was the subject of the vote,
- (b) further to a notice of motion presented at a prior council meeting that is open to the public, return for reconsideration at a subsequent meeting a question that was the subject of a vote, except that the requirement for the notice of motion may be waived by the unanimous consent of all councillors in attendance at the meeting.

(5) After council has voted on a reconsideration motion under subsection (4), council must not reconsider the same substantive question

(a) until at least 90 days after the date of the reconsideration,

(b) more than twice in a year,

except by the unanimous consent of all councillors in attendance at a meeting.

(6) In subsections (4) and (5), "question" includes the defeat of a motion, resolution or regulation.

Role of members

24. Members must

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(a) participate in council meetings, and council committee meetings and meetings of other bodies to which they are appointed by the council or the mayor,

(b) keep in confidence matters discussed in private at a council or council committee meeting until discussed at a meeting held in public,

(c) perform any other function imposed on the members by this or any other Act or by the council.

Presiding officer[^]

25. (1) The mayor, if present, must preside at meetings of the council.

(2) Council must, by secret ballot conducted by the clerk, elect a deputy mayor by the third Monday after the general local election, or as required to replace a deputy mayor whose office becomes vacant under this Act or who resigns from the position of deputy mayor.

(3) The deputy mayor has, during the absence, illness or other disability of the mayor, all the powers and is subject to the same rules as the mayor.

(4) If the office of mayor becomes vacant, council must within 30 days of the vacancy resolve to

(a) designate the deputy mayor as mayor for the remainder of the mayor's term,

- (b) designate the deputy mayor as mayor until a by-election is held to fill the office of mayor, and call a by-election under the *Municipal Election Act*, or
 - (c) elect a mayor by secret ballot of all the members, conducted by the chief returning officer.
- (5) If a by-election is called to fill the office of mayor, every councillor who stands for the office of mayor in a by-election must resign his or her councillor position so that the chief returning officer may also hold a by-election under the *Municipal Election Act* to fill the councillor vacancy.
- (6) If the mayor and deputy mayor, if any, are absent from a meeting of the council, the members then present must choose a member to preside and that member has, for that purpose, all the powers and is subject to the same rules as the mayor.
- (7) The member presiding at a meeting of the council must preserve order and decide points of order which may arise, subject to an appeal to the other members of the council then present.
- (8) The mayor is the chief elected officer of the city and the member presiding over all council meetings.
- (9) In addition to his or her powers and duties as a member of the council, the mayor must
- (a) preside when in attendance at a council meeting,[△]
 - (b) perform any other duty imposed on a mayor by this or any other Act or bylaw.
- (10) The mayor is a member of all committees and all bodies to which the council has the right to appoint members under this Act, unless the council resolves otherwise.

Committees and commissions

26. (1) The mayor may establish

- (a) a standing committee to advise and make recommendations to the council, or
- (b) a special committee to advise and make recommendations to the council respecting a special matter.

(2) A council, subject to a procedure regulation under section 22, may establish

- (a) a committee of inquiry to consider or enquire into any matter and to report its findings and opinion to the council, after which report the committee is dissolved,
- (b) by regulation, a commission to advise and make recommendations to the council.

(3) The committee of inquiry referred to in section 2(a) has the powers of a commissioner under the *Public Enquiries Act*.

(4) Without limiting subsection (3), every witness summoned by the committee may be examined, cross examined, and re-examined according to the rules and practice of the Supreme Court of Newfoundland in civil cases.

(5) The mayor or council, as the case may be, may appoint to a committee or commission persons who are not members of the council.

(6) A decision of a committee or commission, other than an executive or administrative decision of a committee or commission to which an administrative power has been delegated under subsection 45(4), is not valid unless ratified by council.

Term of office for mayor and councillors

27. Subject to section 30 and 31,

(a) the term of office for a mayor, whether elected or appointed, ends when the mayor's successor is sworn or affirmed into office,

(b) the term of office of all councillors, whether elected or appointed, ends when the number of newly elected councillors sufficient to constitute a quorum are sworn or affirmed into office.

Oath of office

28. (1) A person elected or appointed to office on a council must make the oath or affirmation of office prescribed in subsection (2), by oath or solemn affirmation, by the third Monday after the general local election.

(2) The oath or affirmation of office is to the following effect:

I, ...[name of person elected] ..., do [swear] [solemnly affirm] that

- I am qualified to hold the office of ...[office]... for the ...[jurisdiction]... to which I have been [elected],
- I have not, by myself or any other person, knowingly contravened the *Municipal Election Act* respecting any matter in relation to my election to the office,
- I will faithfully perform the duties of my office, and will not allow any direct or indirect personal monetary and other personal or private interests to influence my conduct or affect my public duties in public matters,
- I will disclose any personal direct or indirect monetary interest I have in a matter and will not participate in the discussion of the matter and will not vote in respect of the matter.

(3) The oath must be made before a judge of the Supreme Court of Newfoundland, justice of the peace, commissioner for oaths, or the clerk or chief returning officer, and the person making the oath must obtain the

completed oath or affirmation or a certificate of it, from the person administering it.

(4) A person takes office as a member of the council at the time the person produces the completed oath or affirmation, or certificate, to the clerk.

(5) If a person elected or appointed to office on a council does not make the required oath within the time limit set by this section, or contravenes the oath or is found to have made a false oath, the office is deemed to be vacant and the person is disqualified from taking and holding office on a council until the next general local election.

Vacancies

29. The office of a member becomes vacant

- (a) if he or she resigns in writing, from the date specified in the resignation, or if no date is specified, from the date the clerk receives the written resignation, or, if the member resigns at a meeting of the council, from the time he or she so resigns,
- (b) if the council declares the office vacant under section 30, or
- (c) if the court declares and orders the office vacant under section 31.

Disqualification by resolution

30. (1) The council may, by resolution passed by 2/3 of the members in office at the time of the vote, declare vacant the office of a member if he or she

- (a) contravenes section 38 or 39(1),
- (b) has been absent from the city for more than one year,
- (c) becomes indebted to the council for arrears of taxes for a prior year,
- (d) without leave of the council
 - (i) neglects to be sworn or affirmed into office by the third Monday after the general local election, continues the oath or is bound to have made a false oath contrary to section 28, or
 - (ii) does not attend meetings of the council for three successive months,
- (e) accepts, without the prior approval of the council, an office or employment with the city to which a salary or remuneration, not including an honorarium, payable out of the funds of the city is attached,
- (f) is convicted of an indictable offence under the *Criminal Code* while holding office,
- (g) fails to make a disclosure, or makes a false disclosure, under section 42.

- (2) Before taking action under subsection (1), the council must
- (a) establish a committee of inquiry under section 26(4) to (6) to consider and enquire into the grounds giving rise to the council deliberations under subsection (1) and to present to council a written report containing the inquiry findings of fact and recommendations,
 - (b) give the member affected
 - (i) not less than 15 days' written notice of the time and place of the action proposed under subsection (1), and include in the notice a copy of the proposed resolution and the names and addresses of witnesses who may be heard by the council,
 - (ii) material information to be considered by the council before determining whether to pass the resolution, including a copy of the report referred to in paragraph (a),
 - (iii) an opportunity to make submissions and present evidence to the council, orally or in writing, with or without legal counsel, before the council determines whether to pass the resolution.
- (3) Unless an application to the Supreme Court of Newfoundland is made under subsection (5), an office declared vacant under subsection (1) becomes vacant eight days after the resolution is adopted.
- (4) A member whose disqualification is being or has been considered under subsection (1) may apply to the Supreme Court of Newfoundland for a determination of whether he or she is qualified to hold the office, but the application must be commenced within seven days after the resolution is adopted.
- (5) Within seven days after the application under subsection (4) is filed, it must be served on the city.
- (6) On the hearing of an application under subsection (4), the court may declare and order that the member is
- (a) qualified to hold office, or
 - (b) not qualified to hold office and that the office is vacant.
- (7) A member affected by [a council resolution under subsection \(1\) is not](#) entitled to vote [or](#) otherwise act in the office unless and until the court [makes a declaration](#).
- (8) A member who is declared disqualified to hold office by the Supreme Court of Newfoundland and who appeals the decision remains disqualified until the final determination of the appeal.
- (9) A member who is declared qualified to hold office on the final determination of an appeal is entitled,
- (a) if the term of office for which the member was elected has not ended, to take office for any unexpired part of the term and, for this purpose, any member elected or appointed to the office since the declaration of disqualification ceases to hold office at the time the member declared qualified takes office, and

- (b) if the term of office for which the member was elected is expired, to be elected at any following election if otherwise qualified.

(10) A member in respect of whom a resolution is considered under subsection (1) may not vote on that resolution.

Disqualification by court

- 31.** (1) An application to the Supreme Court of Newfoundland for a declaration that a member of council is disqualified from holding office and that the office is vacant may be made in accordance with this section.
- (2) The court application may only be made by 10 or more electors of the city on any ground set out in section 28(5) or 30(1).
- (3) An application may be made at any time during the challenged member's term of office, but must be made within 30 days after the alleged ground of the disqualification comes to the attention of any of the persons making the application.
- (4) Within 15 days after the petition commencing an application is filed, it must be served on the member whose right to hold office is being challenged and on the clerk.
- (5) On the hearing of an application, the court may declare and order that the member is
- (a) qualified to hold office, or
 - (b) not qualified to hold office and that the office is vacant.
- (6) Section 30(7) to (9) applies in relation to an application under subsection (1).

Conflict of interest

- 32.** (1) In sections 32 to 40
- (a) "associate", when indicating a relationship with a member or former member, as applicable, means
 - (i) a corporation of which the member or an associate of the member beneficially owns more than 30% of voting rights attached to all securities of the corporation,
 - (ii) a trust or estate in which the member or an associate of a member has a beneficial interest or is a trustee, unless the interest is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member,
 - (iii) a spouse, child or in-law of the member,
 - (iv) a relative of the member, or of his or her spouse, who resides with the member,

- (b) "child" means a person of whom the member is a parent,
- (c) "committee" means a group of persons established or appointed in whole or part by the mayor or a council to make recommendations to or advise the council,
- (d) "matter" means any contract, benefit or right taken under consideration, proposed, offered, approved, granted or revoked by the applicable body referred to in subsection (2),
- (e) "meeting" includes any authorized meeting of a council or committee,
- (f) "pecuniary interest" means an interest or benefit
 - (i) consisting of money, exacted in money, relating to money or of which money is the object,
 - (ii) capable of being measured in terms of financial value, cost, benefit, advantage or disadvantage, or
 - (iii) affecting, or having the potential to affect, a person's financial position or worth, or a person's assets or the value of the assets,

but does not include any remuneration or benefit to which a member is expressly entitled under this Act,
- (g) "senior officer" means a chair or vice-chair of a board of directors, a president, vice-president, secretary, treasurer or general manager of a corporation and any other person who performs executive or management functions for the corporation.

(2) Sections 32 to 40 apply to a member in respect of a meeting of a council, committee, commission or a board of a company incorporated by a council or in which the city holds more than 50% of the voting shares.

Gifts

- 33.** (1) A member must not accept a gift as a consequence of the performance of the member's duties of office.
- (2) Subsection (1) does not apply to
- (a) a gift having a value of less than \$500.00 that is received as an incident of the protocol or social obligations that accompany the functions of a member under this Act,
 - (b) a contribution authorized under this Act to be made to a member who is a candidate for election under this Act, or
 - (c) compensation authorized by law.

Benefits and lobbying

- 34.** (1) A council must not award a contract or grant a benefit to
- (a) a member or associate of the member,
 - (b) a former member or associate of the former member until at least 12 months after the former member ceased to hold office,
 - (c) a former member or associate of the former member who has made submissions to the council or officials of the city respecting the contract or benefit during the 12 months after he or she ceased to hold office, or
 - (d) a person on whose behalf
 - (i) a member or associate of the member has made representations respecting the contract or benefit, or
 - (ii) a former member or associate of the former member has made representations respecting the contract or benefit during the 12 months after the former member ceased to hold office.
- (2) A member or associate of the member, during the time the member holds office, and a former member or associate of the former member, until at least 12 months after the former member ceased to hold office, is prohibited from
- (a) entering into a contract with or accepting a benefit from the council,
 - (b) making representations on his or her behalf with respect to a contract or benefit, or
 - (c) making representations on behalf of another person with respect to a contract or benefit.

Exceptions

35. Section 34 does not apply if

- (a) the council before entering into a contract for the supply of goods or service resolves at a public council meeting
 - (i) ^that there is no person other than the member, associate of the member, former member or associate of the former member, as applicable, reasonably capable of performing the contract,
 - (ii) ^to accept the bid or proposal of the member, associate of the member, former member or associate of the former member, as applicable, because the bid or proposal is the best price offered by all qualified bidders or proponents,
- (b) the contract is a contract of employment of an associate of the member, former member or associate of the former member,

- (c) in the case of a former member or associate of the former member, 12 months have expired from the date the former member ceased to hold office.

Repayment

36. (1) Subject to section 35, a member, associate of the member, former member or associate of the former member who contravenes section 33 or 34 must

- (a) account for and pay to the city the amount of any benefit he or she receives or return the benefit to the city, and
- (b) compensate the city for any damages arising from the contravention.

(2) If the person referred to in subsection (1) refuses to pay or compensate the city

(a) the city further to a resolution of the council passed by 2/3 of the members in office at the time of the vote, or

(b) an elector of the city, may apply to the Supreme Court of Newfoundland for a declaration.

Pecuniary interest

37. For the purposes of sections 38 and 39, a member is deemed to have a pecuniary interest in a matter if the member or an associate of the member

- (a) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,
- (b) is a director or officer of a corporation that offers its securities to the public, or beneficially owns more than 30% of the shares which entitle him or her to vote on the election of directors to the corporation's board,
- (c) is a partner or agent of a person,
- (d) is a director or officer of another body,
- (e) is an employee of a person, or
- (f) supplies goods, services or credit to a person,

having a pecuniary interest in the matter.

Influence and insider information

38. (1) A member must not use the member's office to influence or attempt to influence a decision,

recommendation or other action to be made by a council, a committee, an officer or an employee of the city if the member or an associate of the member has a pecuniary interest in the decision, recommendation or other action.

- (2) A member must not use information or a record that is
- (a) obtained in the performance of the member's office,
 - (b) not available to the general public,

to derive a pecuniary interest, or for any purpose other than for the performance of the duties of the member.

Disclosure

- 39.** (1) A member who has a pecuniary interest in a matter and is present at a meeting at which the matter is to be considered must
- (a) before any consideration of the matter at the meeting, orally disclose the existence of the interest and its general nature and request that the disclosure be recorded in the minutes of the meeting,
 - (b) immediately leave the meeting and remain absent from it until the matter is no longer under consideration,
 - (c) not, at any time, take part in the discussion of, or vote on, or attempt, personally or by or through another person, to influence the voting on the matter.
- (2) A member need not disclose the interest of an associate of the member.
- (3) If a disclosure omits reference to the member's associate, the interest must be stated as being that of the member.

Disqualification

- 40.** (1) A member who contravenes subsection 38 or 39(1) is disqualified from office.
- (2) Sections 38 and 39 do not apply to a pecuniary interest in any matter that a member or the member's associate may have
- (a) as a user or recipient of any service, commodity, right or benefit supplied to the member by the city under similar conditions as other users or offered by the city on terms common to other persons,
 - (b) as an owner of a debenture or other security of or issued by the city,
 - (c) as a depositor of money with the city if the whole or part of the deposit is or may be returnable to the member in like manner as a deposit is or may be returnable to other persons under similar conditions,

- (d) as a director or senior officer of a corporation incorporated by or for the city or as a person nominated by the council to be a director or officer of such a corporation,
- (e) as a director or senior officer of another body who holds office as required by law or by virtue of office or resulting from an appointment by a council,
- (f) as a recipient of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which the member may be entitled as a member,
- (g) in common with persons generally within the area of jurisdiction or, if the matter under consideration affects only part of the area, in common with persons generally within that part,
- (h) as a member or volunteer for a charitable organization or a not-for-profit organization if the member receives no remuneration or other financial benefit from the organization and the pecuniary interest is in common with other persons in the organization,
- (i) as a volunteer, not an officer or employee of the city, who receives remuneration, consideration or an honorarium,
- (j) as a member, who is not an officer or director, of a credit union or co-operative,
- (k) that is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member,
- (l) if section 35(a), (b) or (c) applies.

Remuneration and expenses

41. (1) The council may
- (a) pay to the mayor, deputy mayor, and other members the annual or other remuneration that the council may determine by a 2/3 vote of the total number of members, and
 - (b) by a vote of the majority of the members reimburse the mayor, deputy mayor and other members for expenses incurred by them in the conduct of city business.
- (2) The council must by regulation set out rules as to the
- (a) remuneration for the mayor, deputy mayor and councillors, and
 - (b) reimbursement for expenses.

Financial disclosure

42. (1) [The council may provide that its members and those of its employees that it may designate complete a](#)

disclosure statement in a form prescribed by the council setting out, in the manner that the council prescribes, the interest of a member.

(2) The council may provide that disclosure statements filed under subsection (1) by the members be made available for public access.

Chief administrative officer

43. A council must appoint a chief administrative officer of the city who

- (a) must carry out functions and perform duties specified in resolutions and regulations of the council,
- (b) may carry out the executive and administrative powers of the council, and administer the decisions of the council,
- (c) may hire employees and define their duties and determine their remuneration,
- (d) may, subject to the establishment by council of an officer position and the duties of the officer, recommend to council an individual for appointment as an officer,
- (e) may discipline, suspend or dismiss an employee,
- (f) may suspend an officer, subject to council reviewing the suspension, or recommend to council the discipline, suspension or dismissal of an officer,
- (g) may, subject to the approval of council, delegate any of his or her duties or functions to other employees, officers or independent contractors,
- (h) may, subject to a regulation of council setting out rules respecting procurement, make on behalf of the city contracts with independent contractors necessary to carry on the business and operation of the city,
- (i) has custody of all regulations and minutes, and is responsible for their proper completion and for the preservation and safekeeping of the original regulations,
- (j) must keep on hand at least one certified copy of each regulation, and must make the copy available for perusal by any person during regular office hours,
- (k) must provide to the public copies of regulations and council minutes, other than minutes of a meeting from which persons have been excluded under section 86(2), and may charge to a person requesting a copy the fee set under section 49(1)(p),
- (l) is empowered to administer oaths and take and receive affidavits, declarations and affirmations, in the city, required to be taken under this Act or any other Act relating to communities,
- (m) may invest revenue funds, until required, in authorized investments,

- (n) may inspect the records of and direct [an](#) officer or employee of the city or of an administrative body handling municipal funds, in matters governed by this Act.

Other officers

44. (1) Subject to section 43, a council may by regulation

- (a) establish officer positions for the city [in addition to the positions of chief administrative officer, clerk, or treasurer](#), and
- (b) assign duties and functions to those positions.

(2) Subject to a contract of employment and despite a regulation, council may terminate the engagement of an officer

- (a) for just cause, without severance or notice, and
- (b) without cause,
 - (i) subject to reasonable notice as [prescribed](#) by the common law, and
 - (ii) by approval of at least 2/3 of the members of the council.

(3) Before taking action under subsection [\(2\)](#), the council must give the officer affected

- (a) not less than 15 days' written notice of the time and place of the proposed action, and include in the notice a copy of the proposed resolution and the names and addresses of witnesses who may be heard,
- (b) [^](#) information to be considered by the council before determining whether to pass the resolution, and
- (c) an opportunity to make submissions and present evidence, orally or in writing, with or without legal counsel before the council determines whether to pass the resolution.

PART IV

POWERS

Corporation and natural person powers

45. (1) A city is a corporation.

(2) A city has the power and capacity, rights, powers and privileges of a natural person of full capacity, except to the extent expressly limited under this Act.

- (3) The powers of a city must be exercised by its council, except as otherwise provided under this Act.
- (4) A council may by regulation delegate any of its executive or administrative powers to an employee, committee or commission of the city.

Interpretation

- 46.** (1) The power of a city under this Part is stated in broad terms to give the city adequate power to provide good government and services, as the council considers appropriate, in response to existing and future local issues and needs, and to give the council
- (a) full discretion in the exercise of its powers to meet local conditions,
 - (b) the right to determine the local public interest.
- (2) Subsection (1) does not limit the powers of a city.
- (3) Without limiting subsection (1), this Part must be interpreted broadly so as to include powers the city had on the day before the coming into force of this Act.

Regulation and resolution validity

- 47.** Despite section 46, a provision of a regulation or resolution that is
- (a) inconsistent with an enactment of the province or Canada,
 - (b) not within the legislative competence of the province, or
 - (c) expressly excluded from the city's competence by an Act,

is of no force and effect and is deemed to be repealed.

Spheres of power

- 48.** (1) A council, subject to this Act and other Acts, may act or exercise power in respect of
- (a) waste management, water supply, utility services,
 - (b) parks, recreation, culture,
 - (c) transportation,
 - (d) highways, including traffic and parking on highways, except provincial highways or private roads,
 - (e) drainage,

- (f) natural environment,
- (g) economic development,
- (h) business, business activities and persons engaged in business,
- (i) safety and protection of people and protection of property, including fire and police services,
- (j) noise, odour, vibration, dust, emissions, nuisance, unsightly property,
- (k) animals, and activities in relation to them,
- (l) structures, including buildings, fences and signs,
- (m) land use, except in respect of lands held by Canada or the province,
- (n) heritage conservation, except in respect of lands held by Canada or the province,
- (o) other municipal services.

(2) The Lieutenant-Governor in Council may by regulation establish provincial standards for services referred to in subsection (f), (i) or (l).

Services and regulations

49. (1) A council, subject to this Act and other Acts, may by regulation
- (a) make rules for the provision, operation, and administration of a service, and for the management and maintenance of property under its control with the right to set conditions respecting access to and use of that property, and to impose fees, tolls, and charges for the use of that property,
 - (b) regulate in respect of persons, property or things in the city,
 - (c) direct that a matter or thing [required by the Council to be done must](#) be done \triangle by a person at the person's sole cost,
 - (d) provide for the enforcement of regulations, including:
 - (i) the creation of an offence,
 - (ii) for each offence, the imposition of a fine, imprisonment for not more than two years, or both,
 - (iii) the imposition of a penalty for an offence that is in addition to a fine or imprisonment, if the penalty relates to a fee, cost, rate, toll or charge associated with the conduct that gives rise to the offence,

- (iv) providing that a person who contravenes a regulation may pay an amount established by regulation and if the amount is paid, the person will not be prosecuted for the contravention,
- (v) providing that an enforcement officer has the powers of the Royal Newfoundland Constabulary with respect to the enforcement of this Act, regulations made under this Act with respect to the city, and provisions of other Acts or regulations made under those Acts prescribed by the Lieutenant-Governor in Council,
- (vi) providing for a method of collecting fines and penalties that are validly imposed by the city,
- (e) authorize officers, employees, and agents of the city to enter at all reasonable times on all property that is subject to a regulation or resolution to carry out the directions in the regulation or resolution or to ascertain whether a council requirement is being met or the regulation or resolution is being observed,
- (f) direct that, if a person fails to take the action required under a regulation, the matter or thing may be done by the city or its agent at the expense of the person in default,
- (g) if action in default is taken under paragraph (f), recover the expense from the person, together with costs and interest at the rate prescribed by regulation in the same manner as taxes may be recovered,
- (h) seize and provide for or regulate the sale or other disposition by the city, without compensation to the owner, of a chattel that is used by a person in the contravention of a regulation.
- (i) expropriate property or an interest in real property in the manner provided in this Part,
- (j) in relation to a service of the city, or provided by an agent on behalf of the city, authorize its employees or agents at reasonable times, and subject to reasonable notice to the owner of the affected property, to enter on, break up, take, or enter into possession of and use real and personal property without the consent of the owner of the property, to do all things necessary in relation to the service,
- (k) if it is believed that real property may be injuriously affected by the exercise of a council power, authorize its employees or agents to execute works of construction, maintenance, or repair in mitigation of injury done or apprehended, or in reduction of compensation,
- (l) declare a curfew, and, if an emergency arises with respect to a service provided by the city, declare that the emergency exists and provide for the necessary powers to deal with the emergency,
- (m) deal with any activity, industry, business, [property use](#), or thing in the city in different ways, divide each of them into classes, and deal with each class in different ways,
- (n) without limiting paragraph (m), set different [taxes, charges, levies](#), rates or fees for different classes of persons, activities, services, or city property, as specified in the regulation,
- (o) provide for an exception or exemption in respect of any class,

- (p) provide for a system of licences, permits, approvals, rates or fees, including
 - (i) imposing fees for licences, permits, approvals and provision of information, minutes or regulations including fees for licences, permits, and approvals that may be in the nature of a tax for the activity authorized or for the purpose of raising revenue,
 - (ii) imposing fees for licences, permits, approvals, and the use of services,
 - (iii) without limiting subparagraph (ii), imposing rates or fees for removal or deposit of a substance of which land is composed, or deposit of any other material, from or on land in the city that may vary according to the quantity of substance removed or the quantity of substance or other material deposited, and the rates or levels of fees may be different for different areas of the city,
 - (iv) prohibiting any development, activity, industry, business, or thing until a licence, permit, or approval has been granted,
 - (v) providing that terms and conditions may be imposed on any licence, permit, or approval, the nature of the terms and conditions, and who may impose them,
 - (vi) setting out the conditions that must be met before a licence, permit, or approval is granted or renewed, the nature of the conditions, and who may impose them,
 - (vii) providing for the duration of licences, permits, and approvals, and their suspension or cancellation for failure to comply with a term or condition of the regulation or for any other reason specified in the regulation,
- (q) impose
 - (i) connection charges on owners of land on which are situate buildings or structures, to defray the cost of laying connecting pipes, wires, lines or conduits to the land, and fix the terms and conditions of payment,
 - (ii) service connection fees on the owners or occupiers of real property served by city services, and fix the terms of payment,
 - (iii) subject to sections 156 to 159, impose a charge, fee, tax or levy in a specified service area,
 - (iv) a fee on owners and occupiers of land in an area designated by regulation as a business improvement area, for the purpose of improving, beautifying or maintaining the area,
- (r) provide that the city may recover a fee, rate or charge, if not paid when due under a regulation, together with costs and interest prescribed by regulation in the same manner as taxes may be recovered,

- (s) require an owner or occupier of real property to install, maintain and repair a meter prescribed by the council.

(2) A council may do anything incidental or conducive to the exercise of any power given to a council under or by virtue of this Act or any other Act.

City code

50. Subject to express statutory conditions affecting the enactment of each regulation, a council may, subject to this Act, exercise its regulatory powers by the adoption of one or more city codes, each containing more than one regulation.

Services outside area

51. (1) Subject to the *Department of Environment and Lands Act*, a city may by regulation provide a city service, including a city utility, outside the area of the city.

(2) If the area outside of the city is contained within the boundaries of another municipality, the council of the latter municipality must approve the inclusion of a portion of its municipality in the area to be served by the city service.

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(3) Unless an approval has been obtained under subsection (2), before proceeding to construct, operate, and maintain any works, equipment, or facility in some other municipality, a council must obtain the approval of the council of the other municipality, which must not be unreasonably withheld.

(4) If services are operated and maintained for inhabitants of areas outside of the city, the rates, charges, taxes, levies and fees are a separate charge on the land or land and improvements to or on which services are supplied or used, having preference over any claim, lien, privilege or encumbrance of every person except the province, and do not require registration to preserve it.

(5) Those taxes, levies, rates, charges and fees which remain unpaid after December 31 in any year are deemed to be taxes in arrears on the property concerned, with costs and interest on those taxes in arrears at the rate prescribed by regulation and the treasurer must promptly, after March 1, forward to the province, or treasurer in whose jurisdiction the real property lies, as applicable, a statement showing the amount of the arrears. The province or treasurer in whose jurisdiction the real property lies must then add the amount to the taxes payable on the property, and after that the amount subsequently added according to this subsection must be deemed to be provincial taxes or taxes of the municipality if the services are provided as the case may be, and must be dealt with in the same manner as taxes against the property would be under this Act.

(6) Despite subsections (4) and (5), the city may bring action in the Supreme Court of Newfoundland to recover an amount due and owing by a person to the city arising out of the supplying of a service referred to in subsection (4).

Highways

52. (1) This section does not apply in respect of

- (a) provincial highways classified and designated by the minister responsible for the Department of Works, Services and Transportation, [△]
- (b) private roads,
- (c) public rights of way or private property.

(2) The ownership, management and control of every highway are vested in the city and its council.

(3) No title adverse to the title of the city, as applicable, may be acquired merely by length of possession.

(4) Before transferring title to a portion of highway, a council must publish notice of its intention under section 89 once each week for two consecutive weeks.

(5) Despite sections 55 to 77, the council may without compensation to the owner take title to a highway that is constructed

- (a) by and at the cost of a person other than the city on the understanding the highway is to be used by the general public,
- (b) with the consent of the city, and
- (c) maintained or upgraded according to standards stipulated by the council,

by serving a notice of the taking on the owner of the real property on which the highway is located and filing a copy of the notice, and a plan acceptable to the Registrar of Deeds, in the Registry of Deeds.

Land disposal

53. (1) If a council proposes to grant an option on real property owned by the city or transfer or grant an estate or interest in real property, other than real property that is reserved or dedicated,

- (a) for less than its market value, or
- (b) held for pleasure, recreation, or city uses of the public, including a public library, art gallery, museum, arena, or exhibition buildings,

the proposal must be advertised in two consecutive issues of a newspaper prior to the transfer or grant.

(2) The proposal does not have to be advertised if the option, estate or interest is a transfer or grant to the Government of Canada, the province or a public authority.

Option

54. If a council proposes to grant an option on real property owned by the city or transfer or grant an estate or interest in real property, other than real property that is reserved or dedicated, the proposal must be conducted under rules made by a regulation approved by at least 2/3 of the members of the council.

Expropriation

55. The council may expropriate property in accordance with this Act for the use of the council for the purposes of the powers given to it under this Act or incidental to this Act if

- (a) the person who owns the property refuses to accept the sum offered in writing by the council,
- (b) the person who owns the property is incapable of conveying the property or his or her interest, or cannot be found in the province or is not known,
- (c) for other reasons, agreement cannot or may not be reached with the person, or
- (d) for other reasons the council considers it advisable to do so.

Right of entry

56. The council may, by a person authorized for the purpose, determine the property to be expropriated and for that purpose the authorized person has the right to enter on or otherwise investigate the property to ascertain, measure and obtain a plan and description of it.

Method of expropriation

57. (1) A city that intends to expropriate real property must
- (a) serve an expropriation notice on each owner of the real property,
 - (b) serve on each owner referred to in paragraph (a) a copy of sections 2 and 55 to 77 of this Act,
 - (c) post or erect, on the real property to be expropriated, a sign containing a copy of the expropriation notice or a summary of its content, and
 - (d) file a copy of the expropriation notice in the Registry of Deeds.
- (2) If the owner is an individual, the expropriation notice must be served personally or by registered mail.
- (3) The expropriation notice must contain
- (a) the name and address of the city,

- (b) a legal description and civic address of the real property,
- (c) the purpose for which the expropriation is required,
- (d) if applicable,
 - (i) the nature of a limited estate, right, title or interest that is being taken, or
 - (ii) the period of time for which the land is being expropriated, if required only for a limited time.

(4) The city must serve a copy of the expropriation notice on all persons who have, at the time the expropriation notice is filed under subsection (1)(d), registered in the Registry of Deeds an interest or claim with respect to the real property.

(5) Subject to section 73, the property vests in the council and the council may immediately enter on or seize the property and take possession of it

- (a) ten days after the service of the notice of expropriation on the owner, or
- (b) if the owner is incapable of conveying the property or his or her interest, or cannot be found in the province or is not known, or if for other reasons personal service cannot be conveniently effected 10 days after the posting of notice of expropriation in a conspicuous place upon the property.

Compensation

58. (1) The council must pay compensation to the owner of property or an interest in the property expropriated under this Act or to the owner of property injuriously affected by an expropriation or other council action under this Act.

(2) An advantage which the owner of the expropriated or injuriously affected property may derive or is likely to derive directly or indirectly from the contemplated work and operation for which the expropriation has taken place is deducted from the compensation payable under subsection (1).

Expropriation board

59. (1) If the council and the owner of the expropriated or injuriously affected property cannot agree on compensation, the amount of compensation to be paid under section 58 is to be ascertained by an expropriation board consisting of a chairperson and two other members.

(2) The council must appoint one member.

(3) The council must by written notice require the owner of property or an interest in the property that has been expropriated or injuriously affected to appoint a member and

- (a) the owner must, within 30 days after the date of the notice, appoint one member,

- (b) if the owner cannot be found or the council does not know who the owner is, the council may appoint a member in addition to the member appointed by it under subsection (2),
- (c) if the owner refuses or neglects to appoint a member within 30 days, or is incapable of appointing a member, the council may apply to a judge of the Supreme Court of Newfoundland who, after the notice to the owner that appears appropriate, or without notice to the owner if it appears to the judge to be desirable to dispense with the notice, must appoint the owner's member.

(4) The members appointed under this section must appoint a third member to be chairperson of the expropriation board.

(5) If a member resigns or dies, his or her successor is appointed in the same manner as he or she was appointed.

(6) If the two members fail to appoint the chairperson of the expropriation board after seven clear days' notice in writing from the council or the owner to make the appointment, a judge of the Supreme Court of Newfoundland must on the application either of the council or the owner, appoint the chairperson.

More than one owner

60. The compensation to be paid every owner with whom agreement cannot be reached is to be ascertained by an expropriation board appointed under section 59.

Oath or affirmation

61. Each member of an expropriation board must, before taking up the duties of his or her office, take and sign the following oath or affirmation of office before a person authorized to administer oaths or affirmations:

"I, A.B., swear (or affirm) that I will to the best of my ability faithfully perform the duties of a member of an expropriation board appointed under the *Cities Act* in connection with the expropriation of property by the council. "(If an oath is taken, add "So help me God".)

Award of board

62. The expropriation board is considered to be a body of assessors and not arbitrators and its award is final and binding on the parties.

Powers of board

63. The expropriation board may

- (a) administer oaths to the parties and the witnesses appearing before them and take their affirmations, and
- (b) correct in an award a clerical mistake or error.

Appeal

64. (1) The council or an owner of property that has been expropriated under this Act may, within 30 days after the date of an award of an expropriation board, give to the other party notice of an appeal to the Newfoundland Court of Appeal against the findings of the expropriation board on a question of law or fact in connection with the expropriation.
- (2) Costs of an appeal under subsection (1) may be awarded by the Newfoundland Court of Appeal.

Technical objection

65. (1) An award of the expropriation board is not invalid because of a want of form or other technical objection if this Act has been substantially complied with and if the award states clearly the compensation awarded and clearly indicates the property in respect of which the compensation has been awarded.
- (2) The expropriation board may name in the award the person to whom the compensation is to be paid but the property in respect of which the award has been made must be clearly indicated.

Time of award

66. The award of the expropriation board must be in writing and made within 60 days of the appointment of the board, unless that period is extended by the council, and immediately upon being made, must be delivered to the council.

Payment of compensation

67. (1) The council must pay the amount of compensation awarded by the expropriation board within six months of the date of the award.
- (2) If the compensation is not paid within 30 days of the date of the award, it bears interest at the rate prescribed by a regulation under section 115.

Leasehold interest

68. (1) If property expropriated under this Act is subject to a lease or sublease for a term of not less than one year, the expropriation board must apportion the compensation fixed in respect of the property between the lessor, lessee and sublessee or the assigns of either of them in the manner that the expropriation board may decide.
- (2) If part only of property subject to a lease described in subsection (1) is expropriated, the expropriation board must apportion the rent payable in respect of the property between the property so expropriated and the residue of the property, and after the apportionment, the lessee and sublessee or their assigns are liable, as to all future accruing rent, only for so much of the rent as is so apportioned in respect of the property not expropriated.
- (3) With respect to the property not expropriated as set out in subsection (2), the lessor must have the same rights and remedies against the lessee, sublessee, or their assigns for the recovery of the portion of the rent, as

the lessor had previously to the apportionment for the recovery of the whole rent reserved by the lease, and the covenants, conditions and agreements of the lease, except as to the amount of rent to be paid, remain in force with regard to that part of the property that is not expropriated in the same manner as they would have done, as if that part of the property had been included in the lease or sublease.

Transfer of property

- 69.** (1) If property is expropriated, and the expropriation board is of the opinion that the owner of the property can be properly indemnified by having a portion of property assigned to him or her from property of the council, the expropriation board may, with the consent of the council, mark off as much of the property of the council that appears sufficient to the expropriation board to replace the property taken by expropriation.
- (2) The property marked off under subsection (1), and consented to by the council, is considered to be an award by the expropriation board, and on transfer of the property by the council to the person whose property has been expropriated, is considered to be full compensation under this Act.
- (3) The expropriation board may award compensation based on a combination of land under subsections (1) and (2) and money.

Costs

- 70.** (1) The expropriation board may award costs in respect of a hearing before it under this Act, but the costs may be taxed by a taxing officer of the Supreme Court of Newfoundland in accordance with the scale of costs in the most recent Rules of the Supreme Court of Newfoundland.
- (2) Without limiting subsection (1), if
- (a) the compensation awarded by the expropriation board is greater than the sum the council offered in writing in respect of the property that was expropriated or injuriously affected, the council must pay the costs and expenses of the hearing before the expropriation board and the fees of that board provided for in this Act,
 - (b) the compensation awarded by the expropriation board does not exceed the sum so offered, the person who refused the offer must pay the costs and expenses of the hearing and fees of the expropriation board, and
 - (c) in respect of property expropriated or injuriously affected, no sum was offered before expropriation, the costs and expenses of the hearing and fees of the expropriation board must be paid by the person designated by the expropriation board.

Fees

- 71.** (1) The council must fix the fees to be paid to the members of the expropriation board and may enter into an agreement with the members for the payment to them of a fixed amount for their fees and expenses.
- (2) The execution of an agreement under subsection (1) is a full discharge of all claims by the members of the

expropriation board for remuneration and expenses.

Register

72. Every council must keep a register containing the particulars of all expropriations under this Act and of the notices and awards served, posted or made in connection with the expropriations.

Owner not found or known

73. (1) If a person on whom a notice is required to be served cannot be located, the city may apply to the Supreme Court of Newfoundland for an order for substituted service.

(2) If a person to whom compensation is required to be paid cannot be located, the city may apply to the Supreme Court of Newfoundland for an order as to the disposition of the compensation.

(3) If property is expropriated under subsection (1), no reference must be made to the expropriation board if the apparent owner establishes his or her title, and if it is found that the apparent owner is not the true owner, compensation is to be assessed and paid to the true owner in accordance with this Act.

Registration of notice

74. (1) A copy of the notice of expropriation on which is endorsed or to which is attached an affidavit or a certificate of oath or affirmation in proof of service of the notice upon the owner or of the posting of the notice in accordance with this Act, may be registered in accordance with the *Registration of Deeds Act* without proof for registration and with payment of fees.

(2) The provisions of the *Registration of Deeds Act* relating to proof for registration of an instrument apply to proof of service or of posting up of the notice as if the person serving or posting it were the signing witness to the execution of the instrument.

(3) The registration of the copy of the notice with the affidavit or certificate attached has the same effect as the registration of an instrument under the *Registration of Deeds Act* and, for the purposes of section 10 of that Act, the council is considered to be a purchaser for valuable consideration.

(4) Entry by the Registrar of Deeds in the index to the books of the Registry of Deeds of

- (a) the name of the person on whom the notice is served or upon whose property the notice is posted and of the council as the parties,
- (b) the place where the property to which the notice relates is situated,
- (c) a description of the document as a notice of expropriation,
- (d) the date of the service or posting of the notice, and
- (e) the place of registration,

constitutes compliance with section 29 of the *Registration of Deeds Act*.

(5) If the name of the owner of the property is not known an entry to that effect is to be made in the index of the Registry of Deeds.

Duty to provide title

75. (1) Nothing contained in this Act requires the council to make compensation or transfer another matter provided by way of compensation under this Act, until the time that the owner has established his or her title to the reasonable satisfaction of the council.

(2) If a notice of expropriation is served under this Act, it is the duty of the person on whom it is served to submit to the council the title deeds and plans of the person's property that are available to him or her and to provide the council with information that it may reasonably require in connection with the title to the property.

(3) If the owner delays in providing the title deeds or plans or in providing necessary information to the council, the period stated in this Act within which the compensation or matter is required to be paid or transferred or the finding of the expropriation board is otherwise required to be carried out, is considered to be extended by the period of delay caused by the owner.

Payment into court

76. (1) If the owner of property expropriated under this Act

- (a) refuses to accept the compensation awarded in respect of the property,
- (b) neglects or fails to make out a title to the property or to the interest claimed by him or her to the satisfaction of the council,
- (c) refuses to execute a document or receipt of indemnity in respect of the property as required by the council,
- (d) is absent from the province or cannot after inquiry be found, or
- (e) refuses to respond in writing to a written offer of the council within 180 days of the written offer of the council,

the council may pay the [agreed compensation](#) [or the compensation awarded to the expropriation board](#) in respect of the property or an interest in the property into the Supreme Court of Newfoundland, subject to the control and disposition of that court in accordance with this Act.

(2) If the person to whom compensation is payable under this Act

- (a) is under a disability,

- (b) is a partial or qualified owner of the property or interest in the property expropriated under this Act, or
- (c) is not entitled to sell or convey it,

the council may pay the compensation payable in respect of the property into the Supreme Court of Newfoundland under subsection (1).

- (3) Following payment into court under subsection (1) or (2)
 - (a) the Registrar of the Supreme Court of Newfoundland must give the council a receipt for the compensation money, which constitutes a full and valid discharge to the council in respect of liability to make further compensation for the property or interest in the property, and
 - (b) the council does not incur liability to pay interest on the compensation paid into court.

Payment out of court

- 77. (1) If compensation is paid into the Supreme Court of Newfoundland under this Act, the Registrar of the Supreme Court of Newfoundland must pay it to a person establishing his or her claim to it or a portion of it according to law, who fulfils all the terms and conditions applying it to him or her under this Act.
- (2) If a claim to the compensation referred to in subsection (1) is not established in accordance with this Act before the expiration of three years from the date on which it was paid into court, the Registrar of the Supreme Court of Newfoundland must, on the expiration of that period, return the amount of the compensation to the council together with all interest accrued on the amount.
- (3) Following the return of the compensation under subsection (1), the claim of every person against the council or a person acting under it in respect of the property or interest in it, on account of which the compensation was paid into court, is extinguished.

PART V

RECEIVERSHIP

Receivership

78. If the auditor general certifies, following an audit of the accounts of the city by the auditor general or an auditor appointed by the auditor general, that the city is insolvent or is in imminent danger of insolvency and that it is in the best interests of the city and its creditors that the city be disbanded and its affairs wound up, the Lieutenant-Governor in Council, may by order, subject to sections 79 to 82, dissolve the city and appoint a receiver.

Dissolution study

79. (1) The Lieutenant-Governor in Council must undertake a dissolution study in respect of a city before a city is

dissolved if

(a) section 78 applies, or

(b) the Lieutenant-Governor in Council receives a request for the study from the council of the city.

(2) The Lieutenant-Governor in Council, before completing a dissolution study,

(a) must contact all municipalities that the Lieutenant-Governor in Council considers would be affected by the dissolution of the city and invite them to comment on the proposed dissolution,

(b) must consider the effect that the dissolution will have on all municipalities that the Lieutenant-Governor in Council considers would be affected by the dissolution, and

(c) may conduct a public meeting, which if conducted must be advertised in accordance with section 91, to discuss the implications of the dissolution.

Vote on dissolution

80. (1) After completing a dissolution study, the Lieutenant-Governor in Council may hold a vote on the proposed dissolution.

(2) If the Lieutenant-Governor in Council holds a vote, the vote must be conducted in accordance with the *Municipal Election Act* as modified by directions given by the Lieutenant-Governor in Council.

Dissolution order

81. (1) Subject to sections 79 and 80, the Lieutenant-Governor in Council, on the recommendation of the minister, may by order dissolve a city.

(2) A dissolution order

(a) must direct that all or part of the land in the dissolved city becomes part of a new or another municipality,

(b) if it appoints a receiver, must specify the receiver's powers, duties and functions.

Tax

82. If the liabilities of the dissolved city exceed its assets, the minister may authorize the successor of the dissolved city to impose an additional tax on property located in the area of the dissolved city to pay for those excess liabilities.

PART VI**PUBLIC PARTICIPATION****General local election**

83. An election for the mayor and all councillors, to be known as a general local election, must be held under the *Municipal Election Act*.

By-election

84. (1) Except as permitted under subsections (2) and (3), a by-election must be held under the *Municipal Election Act* to fill a vacancy in an elected council office that occurs in any of the following circumstances:

- (a) the person holding the office dies before taking office or the person holding the office dies,
- (b) the person holding the office resigns under section 29(a),
- (c) the office becomes vacant under section 30,
- (d) the office is declared vacant under section 31,
- (e) the office is declared vacant on an application under the *Municipal Election Act*, or a candidate affected by such an application renounces claim to the office under the *Municipal Election Act*.

(2) As an exception to subsection (1) in relation to a vacancy on a council, the council may decide that a by-election is not to be held if the vacancy occurs [within twelve months of this expiration of the member's term](#).

(3) A person elected under this section holds office until the end of the Δ term of office [in respect of which the by-election is held](#).

Plebiscite

85. (1) A council may provide for a plebiscite to obtain the electors' opinion on a question that the council believes affects the city.

(2) The result of a plebiscite is not binding on the council.

(3) Except as otherwise provided, the *Municipal Election Act* applies to voting referred to in subsection (1) as if the [plebiscite](#) voting for the area for which the [plebiscite](#) is to be conducted were an election for a jurisdiction.

Public attendance

86. (1) A meeting of a council is open to the public, except [as provided in this section](#).
- (2) The council may exclude from a council meeting persons other than members and
- (a) officers, or
 - (b) the clerk or an individual appointed by council to act in the place of the clerk,
- if the subject matter being considered is, or relates to,
- (c) the security of the property of the city,
 - (d) personal information about an identifiable individual, including employees,
 - (e) a proposed or pending acquisition of land for city purposes,
 - (f) labour relations or employee negotiations,
 - (g) litigation or potential litigation, including matters before authorities, boards or tribunals created by statute, affecting the city,
 - (h) the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose,
 - (i) the consideration of a request by a person to [make a submission at or](#) attend a council meeting or obtain a document under section 90.
- (3) 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 or by notice posted in a public place in the building where council meetings are usually held
- (a) the fact of the holding of the closed meeting, and
 - (b) the designation from subsection (2)(c) to (i) of the matter to be considered at the closed meeting.
- (4) Subject to subsection (5), a meeting must not be closed to the public during the taking of a vote.
- (5) Despite subsection (4), a meeting may be closed to the public during a vote on a resolution if
- (a) subsection (2) permits or requires a meeting to be closed to the public, and
 - (b) the vote is for a procedural matter or for giving directions or instructions to employees or agents of the city or persons retained by or under contract with the city.

(6) A council may adopt a regulation only in a meeting that is open to the public.

Expulsion

87. The person presiding may expel and exclude from a meeting of a council a person he or she considers guilty of improper conduct, as that term is defined in a bylaw adopted under section 22.

Notice required for regulations

- 88.** (1) A council must not adopt, amend or repeal a regulation until it has
- (a) given notice as provided in subsection (2), and
 - (b) received at a prior council meeting that is open to the public a notice of motion respecting the proposed regulation.
- (2) The notice and notice of motion referred to in subsection (1) must state
- (a) in general terms, the intent of the regulation,
 - (b) the area that is the subject of the regulation, and
 - (c) the place where and the times and dates when copies of the regulation may be inspected or copied for a fee prescribed by regulation.
- (3) The notice referred to in subsection (1) must be published under section 89 not less than three days before the regulation is adopted, amended or repealed.

Notice

- 89.** (1) If notice is required by this Act to be given, the notice must be published in accordance with this section.
- (2) The notice may be published in a newspaper that is distributed at least weekly in the area affected by the subject matter of the notice.
- (3) The council may give the notice within the area referred to in subsection (2) by means other than a newspaper, including by individual distribution to persons who are owners or occupiers of real property in the area or by the internet or other electronic 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, in the view of the council, is better than or reasonably equivalent to that which would be provided by newspaper publication.

Inspection of documents

90. (1) The following documents must be retained by the clerk and made available for public inspection during the normal business hours of the city:
- (a) minutes of the council, other than minutes of privileged meetings from which the public has been excluded,
 - (b) assessment roll,
 - (c) regulations and public notices and notices of motion for proposed regulations,
 - (d) municipal plans, development plans or other plans under the *Urban and Rural Planning Act*,
 - (e) open public tenders,
 - (f) financial statements,
 - (g) auditors' reports,
 - (h) budgets,
 - (i) contracts, other than contracts of employment of city officers and other employees,
 - (j) orders,
 - (k) permits and licences,
 - (l) other documents adopted at a public meeting by minutes of council,
 - (m) a disclosure by a councillor under section 42,
 - (n) the annual report referred to in section 92.
- (2) A person making an inspection under subsection (1)
- (a) must not remove the document from the place where it is located, or interfere with an employee of the city in the performance of his or her duties, and
 - (b) may make extracts from the document, and may have a copy made of the document on payment of the fee prescribed by council.
- (3) If in respect of a court action the clerk is satisfied or the court has ordered that an extract from a document under the control of the clerk is required in evidence, the clerk must provide to a person requiring the extract, on payment of the fee prescribed by council, a certified copy of the extract impressed with the corporate seal.

- (4) An extract provided under subsection (3) certified by the clerk and impressed with the corporate seal must be received in evidence as, in the absence of evidence to the contrary, proof of the extract.
- (5) Unless otherwise provided in this Act, a document referred to in subsection (1) must be made available to the public for a period of six years from the later of the date the document is filed with the clerk or the date the clerk first has custody of the document.

Public hearing

91. A council may by regulation provide for the procedures and requirements for giving notice for and holding public hearings.

Annual report

92. Prior to June 30 of the year following the year for which the report described in this section has been prepared, every council must prepare and deliver to the clerk for the purposes of section 90 and to the minister a public report of the city on its operations, services and other matters included by the council for the most recently complete financial year, and the report must also include

- (a) details of any contraventions by any council members of sections 32 to 40,
- (b) disclosures made under section 42, and
- (c) the annual financial statements and audit referred to in section 108.

PART VII

FINANCE

Financial year

93. The financial year of the council ends December 31.

Operating budget

- 94.** (1) The council must adopt an operating budget for the next financial year by December 31.
- (2) Council must publish a copy of the budget or revised budget, or a summary of them, in a newspaper circulating in the city.
- (3) Council must forward a copy of the adopted budget or revised budget to the minister.
- (4) The annual operating budget must include the estimated amount of each of the following expenditures and transfers:

- (a) the amount needed to provide for council's policies and programs,
 - (b) the amount needed to pay the debt obligations in respect of borrowing made to acquire, construct, remove or improve capital property,
 - (c) if necessary, the amount needed to provide for a depreciation or depletion allowance, or both,
 - (d) the amount to be transferred to reserves,
 - (e) the amount to be transferred to the capital budget,
 - (f) the amount needed to recover any deficiency as required under section 96.
- (5) The annual operating budget must include the estimated amounts of taxes, grants and other revenues, and transfers from the city's accumulated surplus funds or reserves.
- (6) The estimated revenue and transfers under subsection (5) must be at least sufficient to pay the estimated expenditures and transfers under subsection (4).

Balanced budget

95. The anticipated revenues and proposed expenditures of the city must balance.

Deficiency

96. (1) The unappropriated accumulated surplus, or accumulated deficit, appearing in an audited financial statement as at the end of the previous financial year, must be credited as items of revenue or expenditure in the budget of the next financial year.
- (2) If a council considers the amounts of unappropriated accumulated surplus or accumulated deficit referred to in subsection (1) to be substantial, the council may credit or debit these amounts in future budgets over the period of years that may be determined by the council.

Revised budget

97. A council may prepare and adopt a revised budget if
- (a) during a financial year it appears the actual revenue and expenditure is likely to be substantially greater or less than estimated, or
 - (b) subject to section 96, council considers it necessary to amend a reference in the budget to an anticipated revenue or a proposed expenditure.

Capital budget

98. (1) The council must adopt a capital budget for each calendar year.
- (2) The capital budget must include the estimated amount of the following:
- (a) the amount needed to acquire, construct, remove or improve capital property,
 - (b) the anticipated sources and amounts of money to pay the costs referred to in the previous clause,
 - (c) the amounts to be transferred from the operating budget.

Expenditure of money

99. (1) The city may only make an expenditure that is
- (a) included in an operating budget or capital budget or otherwise authorized by council,
 - (b) for an emergency, or
 - (c) required to be paid by a court, arbitrator or by operation of law.
- (2) The council must establish procedures to authorize and verify expenditures that are not included in a budget.

Civil liability of councillors

100. (1) A councillor who [votes to](#)
- (a) [or](#) makes an expenditure that is not authorized under section [99](#),
 - (b) [△](#)spend money that has been obtained under a borrowing on something that is not within the purpose for which the money was borrowed, or
 - (c) [△](#)spend money that has been obtained under a grant on something that is not within the purpose for which the grant was given,

is liable to the city for the expenditure or amount spent.

- (2) A councillor is not liable under subsection (1)(b) if spending money is allowed under section 102(4).
- (3) If more than one councillor is liable to the city under this section in respect of a particular expenditure or vote, the councillors are jointly and severally liable to the city for the expenditure or amount spent.
- (4) The liability may be enforced by action by
- (a) the city,

- (b) an elector or taxpayer of the city, or
- (c) a person who holds a security under a borrowing made by the city.

Investments

- 101.** (1) In this section "securities" includes bonds, debentures, trust certificates, guaranteed investment certificates or receipts, certificates of deposits, deposit receipts, bills, notes and mortgages of real estate or leaseholds and right or interests in respect of a security.
- (2) The city may only invest its money in the following:
- (a) securities issued or guaranteed by the government of Canada or an agent of Canada or the province or an agent of the province,
 - (b) securities that are issued or guaranteed by a bank, treasury branch, credit union or trust corporation,
 - (c) units in pooled funds of all or any of the investments described in the above clauses.
- (3) Nothing in this section prevents a city from acquiring a share or membership in a non-profit organization.

Borrowing

- 102.** (1) The city may borrow money for capital purposes and issue securities for the repayment of money borrowed.
- (2) The term of the borrowing must not exceed the probable life of the capital property for which the borrowing is made.
- (3) Money obtained by the city through borrowing must be used for the purpose for which it is borrowed.
- (4) Money obtained by the city through borrowing for the purpose of financing a capital property may be used for an operating purpose if the amount spent is available when it is needed for the capital property.
- (5) If a city borrows for the purpose of financing operating expenditures,
- (a) the amount to be borrowed, together with the unpaid principal of other borrowing made for the purpose of financing operating expenditures, must not exceed the amount the city estimates will be raised in taxes in the year the borrowing is made, and
 - (b) such borrowing may be in the form of a line of credit from a lending institute.

Interim financing

- 103.** (1) A council may borrow money for the purpose of temporarily financing an approved item of its capital budget.

- (2) The amount borrowed must not exceed the:
- (a) amount of the expenditures in the budget for that and previous calendar years to acquire, construct or improve the capital property, minus
 - (b) any amount received for the capital property from any other source, including previous borrowings under this part.

Refinancing

104. A council may borrow to refinance, redeem or restructure the unpaid principal of one or more existing borrowings.

Loans and guarantees

105. The city may only lend money to guarantee the repayment of a loan if the loan or guarantee is made to

- (a) a corporation owned or controlled by the city,
- (b) a non-profit organization for a use that the council believes will benefit the city, or
- (c) a public authority.

Certificate

106. (1) A debenture issued by the council must have on it the following certificate:

"This debenture is valid and binding according to its terms and its validity and is not open to question in a court in the province, and this certificate is given under the *Cities Act*.

Dated at St. John's, Newfoundland, this _____ day of _____, 199____.

Treasurer of (insert name of city) and Deputy Minister of Municipal and Provincial Affairs."

- (2) The certificate as set out in subsection (1) on a debenture when signed by the deputy minister of Municipal and Provincial Affairs is conclusive that
- (a) the council had full power and authority in law and in fact to make and issue the debenture,
 - (b) the debenture has been lawfully and validly made and issued,
 - (c) the debenture is valid and binding on the council according to its terms, and
 - (d) its validity is not open to question in a court in the province.

(3) The deputy minister of Municipal and Provincial Affairs may impress his or her signature by machinery on debentures, and a certificate on which the deputy minister's signature has been so impressed is good and valid for all purposes as if it had been signed in the handwriting of the deputy minister.

(4) The mayor, the clerk or chief administrative officer may impress their signatures by machinery on debentures issued by the council, and debentures that have been so impressed are good and valid for all purposes as if they had been signed in the handwriting of the mayor, clerk or chief administrative officer.

Revenue under a regulation

107. All taxes, licence fees, fines and penalties assessed, levied and collected in the city under a regulation must be paid to the city as part of the revenue of the city.

Guaranteed loan expenditure

108. If the council has borrowed money advanced or guaranteed by the Government of Canada or the province, or under bonds or debentures issued by the council with the repayment guaranteed by the Government of Canada or the province, no person may, except with the consent of the Lieutenant-Governor in Council, attach, hold or otherwise take the money under operation of law to satisfy an obligation of the council arising out of a contract, court decision or arbitration award.

Annual financial statements and audit

- 109.** (1) The city must prepare annual financial statements for the immediate preceding year in accordance with
- (a) the generally accepted accounting principles for local governments recommended from time to time by the Canadian Institute of Chartered Accountants, and
 - (b) any modification of the principles, or any supplementary standards or principles, established by order of the minister.
- (2) Prior to June 30 of the year following the year for which the financial statements have been prepared, the council must file its financial statements and the auditor's report of the financial statements with the clerk for the purposes of section 90.
- (3) The council must appoint an auditor to audit the financial statements referred to in subsection (1).
- (4) An auditor appointed under subsection (3) must be a public accountant licensed by the Public Accountants Licensing Board and an appointment remains in effect until revoked by the council.
- (5) An auditor appointed by the council is, for any purpose related to the audit, entitled to access the records of the city and a member, councillor or employee of the city must give the auditor any information, reports, or explanations the auditor considers necessary to carry out the audit.
- (6) The report of the auditor must be provided at the next regular meeting of council and the auditor may attend at that meeting and respond to questions asked at that meeting in respect of the report.

PART VIII**TAXES****Imposition of taxes**

110. (1) The council may impose or vary taxes, except as otherwise required, by resolution.

(2) The council may, in the resolution imposing or varying the tax, set out the date when that tax is due.

(3) If a tax is imposed or varied by the council within three months of the beginning of the financial year the tax is due from the beginning of that financial year, unless a later date is set out under subsection (2).

(4) If a tax is imposed or varied after three months of the beginning of the financial year, it does not take effect until the beginning of the next succeeding financial year unless a later date is set out under subsection (2).

(5) This part is subject to the *Taxation of Utilities and Cable Television Companies Act*.

Municipal tax

111. (1) Despite this or another Act, the council may issue to a person one invoice for, and collect from the person, the "municipal tax", comprising as one consolidated amount

(a) the real property tax,

(b) water rates and assessments and sewage rates and assessments, including a fire protection assessment referred to in *The Water and Sewerage Corporation of Greater Corner Brook Act, 1951*, and

(c) the water tax, sewage tax, sewage treatment tax or any combination of them referred to in section 138,

and any other taxes, rates and assessments that are applicable to that person.

(2) Unless a person paying an instalment of the municipal tax has in writing directed how the amount is to be applied or apportioned during the tax year, the council must by regulation provide for the apportionment of the money received by it for the municipal tax to those of the taxes, rates and assessments that are applicable in the amounts and in the manner that the council determines.

(3) The council may by regulation provide for the minimum period of time a person referred to in subsection (1) must reside in the city before becoming liable for a tax under this Part.

Instalment payments

112. The council may provide for the payment of a tax imposed under this Act at monthly, bi-monthly or other

intervals, and may charge a rate of interest on the payments.

Effect of extensions

113. (1) Despite section 110, if the time for completion of the assessment roll is extended, or the time for the closing of the assessment review commission is extended and as a result the council is unable to impose or vary a tax based on assessed value within three months of the beginning of the financial year, the real property tax is considered to become due from the beginning of that financial year.

(2) As an exception to subsection (1), the council may set a later date under section 110.

Duration of tax

114. A tax imposed or varied by the council remains in effect and is due according to the nature of the tax and its method of payment, until the council adopts a subsequent regulation that repeals or amends the regulation imposing the tax.

Interest on arrears

115. (1) The council must adopt a regulation to establish a rate of interest on arrears of taxes and to levy the interest on a simple or compound basis, as prescribed by the regulation.

(2) The council may levy the interest on taxes that are not paid on or before the date on which they become due.

Discount allowed

116. The council may by regulation allow without discrimination a discount, exemption, remission or deferral in respect of a tax imposed under this Act if the tax is

(a) paid within the time the council sets in the regulation,

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(b) payable by a taxpayer who is suffering such financial difficulties as are defined in the regulation.

Publication of taxes

117. (1) If a council imposes or varies a tax, the council must first publish a copy of the tax rates in a newspaper circulated in the city.

(2) Subsection (1) does not apply to a resolution that settles an individual tax.

Proof of valid tax

118. In an action under this Act in which it is necessary to show that a tax was imposed or varied, a copy of the minute of the council signed by the clerk is, in the absence of evidence to the contrary, sufficient proof that the

council validly and effectively imposed or varied the tax.

Real property tax

- 119.** (1) The council may by regulation impose an annual real property tax on the owners of real property in the city.
- (2) The council may, in respect of an annual real property tax, vary the tax by classification established by regulation.
- (3) If there are two or more owners of a parcel of real property, the clerk may designate one of them to be the owner for the purposes of the imposition and collection of the real property tax.

Rate of tax

120. The rate of the real property tax

- (a) subject to paragraph (d), must be uniform throughout the city for each class of real property identified in the real property tax regulation passed under section 119,
- (b) must be fixed as a percentage of the value of real property set out in the latest prepared assessment roll of the city prepared under the *Assessment Act*,
- (c) must be estimated to be sufficient, together with the anticipated revenues from other sources, to cover all expenditures of the council to be made from current funds during the current financial year of the council, and
- (d) may be varied according to the classes of services provided to the real property.

Minimum real property tax

121. In the regulation adopted under section 119, council may establish the minimum real property tax payable, within each classification prescribed under section 119(2), per parcel.

Occupier considered owner

122. If real property is occupied and the owner is not known, the occupier is considered to be the owner for the purposes of the imposition and collection of the real property tax.

Tenant of tax exempt property

123. [A person, other than the owner, who occupies](#) real property not subject to the real property tax must pay a tax equivalent to the tax that would have been payable by the owner if the property were subject to the real property tax, if that [person](#) pays rent or other valuable consideration for the real property.

Representative capacity

- 124.** (1) If real property is under the control of a person in a representative capacity as executor, administrator, trustee, guardian or agent, that person is in that person's representative capacity liable for the payment of the real property tax.
- (2) If the owner of real property is less than eighteen years of age and he or she defaults in the payment, the person whose name has been entered on the assessment roll of the city prepared under the *Assessment Act* as the parent, guardian or other legal representative of the owner is liable for the payment of the real property tax.

Tax exempt property

125. Real property

- (a) belonging to Canada or a province of Canada,
- (b) exempted by an Act of the Legislature,
- (c) exempted by council under section 134,

is exempt from the real property tax.

Supplementary assessment effect

126. The owner of real property that has been made subject to a supplementary assessment under the *Assessment Act* is liable for the payment of real property tax on the basis of the supplementary assessment for the remaining portion of the calendar year, from the earlier of

- (a) the date of substantial completion of construction of an improvement on the real property, as certified by or on behalf of the city, or
- (b) the date of occupancy of the improvement on the real property.

Payment when appeal

- 127.** (1) If real property has been made subject to an assessment, original or supplementary, under the *Assessment Act* and an appeal is being taken under that Act against the assessment, the real property tax is, despite an appeal, payable on the basis of that assessment.
- (2) The difference between the amount of the tax collected under subsection (1) and the amount payable on the basis of the assessment as later determined by the assessment review commission on the appeal must, according to the decision in the appeal, be paid by the owner or refunded by the council.

Business tax

- 128.** (1) The council must by regulation impose an annual business tax on every person, including without limitation every partnership, association, corporation, credit union, cooperative or union that is carrying on

business in the city.

(2) The business tax due and payable under a resolution passed under subsection (1) may be calculated as a percentage of the

- (a) gross revenue of business under section 129, or
- (b) assessed value of real property used by the business under section 130.

Business tax as percentage of revenue

129. (1) A regulation under section 128(1) and (2)(a) is calculated as a percentage of the gross revenue received by a business in the year preceding the city's current financial year.

(2) Every person subject to the business tax must by February 1 each year deliver to the city a statement made under oath or affirmation as to its gross revenue in the preceding year.

(3) If a business does not submit a statement of its gross revenue, the council may estimate the gross revenue of the business for the preceding year and impose the annual business tax based on the estimate.

(4) If a business subject to the business tax as calculated under subsection (1) has not been carrying on business in the preceding year, the council may estimate the gross revenue of business and bill for taxes based on its estimate.

(5) If a business provides records to the council after the council makes an estimate under subsection (3) or (4) that shows to the satisfaction of the council an amount of gross revenue different from that estimated by the council, the council must adjust its tax records at the end of its fiscal year and either rebate excessive taxes paid by crediting the rebate to the next year's business tax or add an additional tax owing to the next year's business tax.

(6) The city may apply to the Supreme Court of Newfoundland if a business

- (a) does not submit a statement of its gross revenue under subsection (2), for an order that the business must submit a statement by a date specified in the order,
- (b) submits a statement under subsection (2) that the city's treasurer believes to be in error, for an order that the city may audit the business,

and if the court ordered audit establishes the statement was misleading or erroneous such that additional taxes are due and owing, the city's legal fees and audit costs must be added to the amount of the business tax owed by the business to the city.

Business tax as percentage of assessed value

130. (1) In a regulation under section 128(1) the council may set the business tax as a percentage of the assessed value of the real property used by the business.

- (2) The business tax set under subsection (1) is due from the same date as the real property tax is due.

Variation of rate and of minimum business tax

131. The council may in the regulation passed under section 128(1)

- (a) set the minimum business tax payable for business, and vary the minimum business tax between different classes of businesses or real property,
- (b) vary the rate of business tax between different classes of businesses or real property.

Commercial realty tax

132. (1) The council may impose an annual commercial realty tax on the owners of real property used for a business that is or could be subject to business tax under section 128.

(2) The commercial realty tax comprises as one consolidated amount

- (a) the amount of the real property tax in respect of the real property, and
- (b) the amount of the business tax imposed or that could be imposed.

(3) An owner of real property that is subject to the imposition of commercial realty tax is exempt from real property tax and business tax.

(4) Council may in the regulation under subsection (1) provide that the owner must pay the commercial realty tax on the basis that

- (a) a prescribed portion of the commercial realty tax must be paid by the date annual real property tax must be paid, and
- (b) the remaining balance of the commercial realty tax must be paid on the first day of each and every month for the remainder of the calendar year.

(5) Any portion of the commercial realty tax not paid on or before the date the tax becomes due is a debt due and owing to the city and attaches to the real property as a lien, and section 144 applies.

(6) The council may by regulation and without discrimination exempt owners of real property from all or part of the commercial realty tax, unless the real property is leased to a person using the real property for a business purpose.

(7) The council may in the regulation passed under subsection (1)

- (a) establish the minimum commercial realty tax payable, and vary the minimum payable between different classes of businesses or real property,

- (b) establish the rate of commercial realty tax, and vary the rate between different classes of businesses or real property.

Home based business tax

- 133.** (1) Council may by regulation impose an annual home based business tax on every person, including without limitation every partnership, association or corporation, carrying on business in the city in or from residential premises.
- (2) The home based business tax due and payable under a regulation passed under subsection (1) may be
- (a) the amount calculated as a percentage of the assessed value of real property where the business is carried on,
 - (b) the amount calculated as a percentage of the assessed value of the portion of real property used by the business,
 - (c) the amount calculated as a percentage of the gross revenue of the business, or
 - (d) an annual flat tax prescribed by the resolution passed under subsection (1).
- (3) The council may in the regulation passed under subsection (1)
- (a) establish the minimum home based business tax payable per business, and vary the minimum between different classes of business or real property,
 - (b) vary the rate of business tax between different classes of businesses or real property.

Exemptions

- 134.** (1) The council may by regulation exempt from taxation, for the year during which the taxation would otherwise be payable, a person commencing a business undertaking.
- (2) The council may in an agreement with a person carrying on business in the city exempt the person or business or both from taxation, for the year during which the taxation would otherwise be payable.
- (3) The regulation under subsection (1) or agreement under subsection (2) must be passed or made before November 1 of the year prior to the year the taxation would otherwise be payable.
- (4) The council may in a resolution under subsection (1) or an agreement under subsection (2) establish
- (a) the period of time during which the business is exempt from taxation,
 - (b) the taxation from which the business is exempt,

- (c) the class of business that may be exempt,
- (d) conditions to which the exemption is subject,

and the council may make different exemptions for different classes of businesses.

(5) The council may by regulation passed before November 1 of a year prior to the year a tax referred to in paragraph (b) would otherwise be payable,

- (a) establish a class of taxpayer, and
- (b) provide, in respect of the class, for an exemption, deferral, remission or discounting of a tax for a period of one year.

Poll tax

135. (1) The council may impose an annual poll tax on all individuals 18 years or older ordinarily resident in the city at the beginning of the financial year or during the financial year or who are employed in the city for a period established by the council.

(2) An individual not resident in the city for the entire current financial year is entitled to a rebate of the poll tax the individual has paid for the full year, the rebate to be in proportion to the duration of time the individual is not resident.

(3) For the purposes of this section the rules for determining persons who are ordinarily resident under the *Municipal Election Act* for election purposes apply.

(4) The poll tax is due by a person when the person becomes liable under subsection (1).

(5) A person employed in the city who applies to the council for an exemption within 30 days of the date the poll tax is due under subsection (4), who delivers to the council his or her Revenue Canada income tax and assessment returns for the previous year and who

- (a) is liable to pay a real property tax in the city equal to or in excess of the poll tax in the same financial year,
- (b) is liable to pay a poll tax or real property tax in the municipality where the person ordinarily lives, or
- (c) received an annual income from all sources that was less than an amount set out in a council regulation,

is exempt from the poll tax imposed by the city in respect of the period for which the exemption applies.

(6) If a husband or a wife, or either member of a common law or same sex relationship, pays real property tax, both the husband and wife, both common law partners or both same sex partners, as the case may be, are exempt from the poll tax imposed by the city.

Employer's duty

136. (1) Every employer in the city must, on demand of the council, deliver to the council within two weeks of the demand the names, civic addresses and telephone numbers of its employees and the dates on which their employment began.
- (2) If a person resident in the city is asked by the council the name of his or her employer, that person must immediately give the information to the council.
- (3) An employer not referred to in subsection (1) must, on demand of the council in relation to an individual the council must name, deliver to the council within two weeks of the demand,
- (a) the fact of whether or not the individual is employed by the employer,
 - (b) if so,
 - (i) the dates on which the employment began,
 - (ii) the telephone number and civic address of the individual.
- (4) If a person has been employed in the city for not less than the period established under section 135(1), or if a person is ordinarily resident in the city and the council so demands, the person's employer, whether in or outside the city, must deduct the poll tax in an amount specified as payable by the treasurer from that person's wages and must forward the tax so collected immediately to the council, unless the employee who is exempt from payment of the poll tax obtains a certificate from the treasurer to that effect.
- (5) The Crown or an agency of the Crown that employs a person subject to the payment of a poll tax must deduct the poll tax in an amount stipulated by the city from that person's wages and must forward the tax so collected to the council within the time limit specified by the council, unless the employee who is exempt from payment of the poll tax obtains a certificate from the treasurer to that effect.
- (6) Every employer in the city must deduct from payroll and remit to the city all poll taxes due and owing to the city under section 135.
- (7) The council may make a regulation to administer and enforce subsection (6).
- (8) If a municipality delivers a written request to the council of a city that the council provide information provided by an employer under this section, and the information relates to the imposition of a poll tax in the municipality, the council must within 30 days of the written request deliver the information to the municipality.
- (9) The city may apply to the Supreme Court of Newfoundland for an order if the employer fails to comply with this section or a regulation under this section.

Water and sewage tax

137. (1) The council may by regulation impose

- (a) a water tax,
- (b) a sewage tax,
- (c) a sewage treatment tax,
- (d) any combination of them

on the owner of real property located inside or outside the city connected to the water system, sewage system, sewage treatment facility or any combination of them.

(2) If real property that is capable of being serviced by a water system, sewage system, sewage treatment facility or any combination of them is not serviced, the owner of the property,

- (a) if there is a building or structure on the real property, must pay the water tax, sewage tax and sewage treatment tax, and
- (b) if there is no building or structure on the real property must, on the request of the council, pay the water tax, sewage tax and sewage treatment tax.

Method of taxation must be set

138. (1) If the real property tax is imposed in the city the water tax, sewage tax and sewage treatment tax must be established on the basis of

- (a) a flat rate,
- (b) a mill rate,
- (c) a metered rate,
- (d) any combination of them.

(2) The council may in a regulation passed under section 137 or this section

- (a) set the minimum tax payable, and vary the minimum between different classes,
- (b) vary the rate of tax between different classes.

(3) If the water tax, sewer tax and sewage treatment tax or any combination of them is set at a metered rate and there is no meter installed or working in relation to a building to which a metered rate applies, the council may for the purpose of imposing the tax estimate the quantity of water used in that building until a meter is installed and working.

- (4) If the council estimates the quantity of water used in a building under subsection (3) and the person who is liable for the water tax, sewage tax and sewage treatment tax or any combination of them calculated on that estimate feels the estimate is incorrect, that person may appeal to the council for an adjustment in the estimate.
- (5) If a person appeals an estimate under subsection (3), that person must pay the water tax, sewage tax, sewage treatment tax or any combination of them as calculated on the estimate of the quantity of water used, and an adjustment on the payment of tax must be made in accordance with the appeal decision.
- (6) The council may in the regulation passed under section 137(1) set the minimum water tax, sewage tax and sewage treatment tax or any combination of them payable per taxpayer.

(7) Despite subsections (1) and (2), an amount or rate charged for land or a building owned by the province, an agent of the province or Canada, a hospital as defined in the *Hospital Act* or a school as defined in the *Schools Act* is the same amount or rate that would be charged in respect of private property.

Special users

139. In addition to the tax to be paid under section 137, the council may impose an additional rate of tax on users, other than residential users of a water system, sewage system, sewage treatment plant or any combination of them, based on the quantity and quality of water used and effluent discharged.

Disconnection of service

140. (1) In addition to other remedies that the council has to enforce payment of the real property tax, commercial realty tax, business tax, home based business tax, water tax, sewage tax, sewage treatment tax and specified service area charges, fees, taxes, levies or rates, the council may disconnect the service provided by a water system, sewage system, sewage treatment facility, or any combination of them, if the tax is in arrears.

(2) If it is necessary for the purposes of subsection (1), an employee or agent of the council may enter upon real property, whether publicly or privately owned, and at reasonable times enter a building or structure on the property.

Collection as civil debt

141. All taxes, fees, rates or charges imposed under this Act, together with interest owing on those taxes, fees, rates or charges may, in addition to all other methods of collection provided in this Part, be sued for and collected by action in the name of the council as a civil debt due to the council.

Garnishment

142. The provisions of the *Income Tax Act* (Canada) in effect on December 31, 1999 in respect of garnishment and the requirement to provide documents or information are deemed to apply to the administration and enforcement of this Part as if the city were Canada.

Lien for taxes

143. (1) The real property tax, [business tax](#), commercial realty tax, water tax, sewage tax, sewage treatment tax and specified service area charges, fees, taxes, levies and rates attach to the real property in respect of which they are imposed, except if the real property is sold for tax arrears by the council.
- (2) If a debtor to the council for taxes holds real property under a building lease and the real property reverts to the Δ landlord by means other than by the expiry of the term of years created by the lease, all taxes payable by the tenant unpaid or accrued due to the council attach upon the real property in the hands of the landlord up to the value of the tenant's interest in the real property.
- (3) The registration of a grant, deed, lease or other conveyance, or of a judgment, mortgage or other lien or encumbrance, whether it was before or after the time the lien attached, in no way affects the priority of the lien.
- (4) It is not necessary to register the lien in the Registry of Deeds.

Tax sale list

144. (1) The clerk may prepare a list of parcels of real property within the city in respect of which taxes imposed under this Act, for one or more of the 12 years immediately preceding the year in which the list is prepared, are then unpaid.
- (2) The list referred to in subsection (1) must contain
- (a) the name of the person, if known, in whose name the real property was assessed,
 - (b) a general description of each parcel to identify and locate it, and
 - (c) the amount of arrears, including the current year if then overdue, in respect of each parcel together with the respective years, if more than one year, for which the arrears are due.
- (3) The list shall be certified and signed by the clerk as correct and entitled "Land To Be Sold For Taxes".
- (4) The list must be filed in the office of the clerk and the list, or a copy certified by his or her signature is conclusive evidence of the facts stated in the list in any court action or proceeding in which the validity of a tax sale process under this Act is in issue.
- (5) In respect of the preparation of the list, the assessors must provide to the clerk the information in their possession or under their control as to the location and description of the real property subject to inclusion on the list.
- (6) Immediately after the preparation of the list the clerk must provide the chief assessor with a copy of the list.

Chief assessor duty

- 145.** (1) The chief assessor appointed under the *Assessment Act* must examine and correct the list referred to in section 144 and
- (a) if there has been a transfer of title of real property within or since the period for which taxes are indicated to be in arrears, he or she must enter on the list in red ink the name of the person to whom the real property was assessed at the time the taxes were incurred and the name of the subsequent and present owner, and
 - (b) if his or her records show a mortgage or other encumbrance, he or she must enter that in red ink on the list.
- (2) The corrected list must be signed by the chief assessor and returned to the clerk.
- (3) The making of incorrect entries by a chief assessor on the list does not
- (a) prevent the sale of real property under this Act, or
 - (b) affect the validity of the tax sale process,

and a sale of real property under this Act in every case shall be as valid and effective as if the title to and encumbrances affecting it had been fully and correctly set out on the list by the chief assessor.

Service of notice on owner and encumbrancer

- 146.** (1) The clerk must on receipt of the report of the chief assessor serve on every owner and encumbrancer of the real property disclosed in the report of the chief assessor a notice signed by the clerk which contains
- (a) a general description of the real property affected,
 - (b) the amount of arrears of taxes owing in respect of the real property, the year in which the arrears of taxes were imposed, and the person in whose name the real property was then assessed, and
 - (c) a statement that the real property is liable to be sold under this Act for the arrears, with interest and with the expenses of and incidental to the arrears unless they are paid within 60 days from the date of the notice.
- (2) On receipt of a corrected list under section 145 or on failure of the chief assessor to deliver a corrected list within 60 days after receiving a request for the list, the clerk must serve a notice in the form described in subsection (1) on the owner and encumbrancers of the real property affected, to the extent he or she has been able to ascertain them, and section 145(3) applies.
- (3) Service of the notice on persons referred to in this section is sufficient for this Act, if it is sent by Canada Post signature mail service to the last known address of that person, or if the address of that person is not known, by leaving the notice with the tenant or occupier of the real property affected or by posting a copy of the notice in a conspicuous place on that real property.

(4) If real property has been assessed "owner unknown", or if the chief assessor has not provided information respecting ownership or encumbrances and the clerk has not been able to obtain information respecting ownership or encumbrances, the notice must be posted in a conspicuous place on the real property affected and it is not necessary to mail the notice to any owner or encumbrancer who is not known to the clerk.

Redemption

147. (1) A mortgagee, judgment creditor or other person having a lien, charge or encumbrance on or against real property liable to be sold for taxes, or in respect of which taxes are due, may after the lien for taxes has attached and before completion of the tax sale process, pay to the clerk the amount of the taxes, together with all interest and expenses incurred in respect of the real property affected.

(2) If a person pays taxes under subsection (1), that person may add the amount paid to his or her mortgage, judgment or other security, despite a clause or condition to the contrary contained in the mortgage, judgment or other security, and has the same rights, remedies and privileges against that real property as he or she has under the security held by him or her, and he or she may sue for and recover in an action for debt the amount paid, together with interest, against the person liable under this Act to pay that amount.

Sale of land

148. (1) After the time limited in the notice required to be given by section 146 the council may, on the application of the clerk, by resolution direct that the real property be sold.

(2) The clerk must immediately upon receipt of a copy of the resolution referred to in subsection (1) advertise the real property referred to in the resolution for sale at public auction at a time and place stated in the advertisement.

(3) Notice of the sale must be published under section 89 for at least 30 days immediately before the sale in a newspaper by one insertion each week during the 30 days, and it must contain

- (a) the street and number of real property advertised, or other short reference by which the real property may be identified,
- (b) a statement that a full description may be seen at the office of the clerk, and
- (c) the dates and times the full description may be seen at the office of the clerk.

(4) At the time and place mentioned in the notice of sale the clerk must, unless the arrears of taxes and interest and the expenses incidental to those proceedings and sale are then, or have been previously, paid to him or her, sell at public auction the real property or portions of the real property as in his or her judgment are sufficient to pay those taxes and the interest and expenses.

(5) If the real property described or referred to in the notice of sale is only a portion of real property, and the portion does not sell for a sufficient sum to satisfy the taxes, interest and expenses due with respect to the real property of which it forms a part, the clerk may immediately, and without further notice, sell by auction the

whole or a portion of the remainder of the real property of which the portion sold formed a part to satisfy the taxes, interest and expenses.

(6) The city may at the auction bid for and purchase real property being sold to satisfy taxes, interest and other expenses due.

(7) If at the time appointed for the sale of real property no bidder appears, or if the clerk fails at the sale to sell that real property for the full amount of the arrears of taxes, interest and expenses due, he or she must adjourn the sale until a date then to be publicly named by him or her, not earlier than one week and not later than two weeks later.

(8) The clerk must publish notice under section 89 of the time and place to which the sale is adjourned and he or she must again offer the real property at public auction and may sell the real property for the highest sum that can be realized, and subsections (2) to (9) apply.

(9) If the purchaser of real property at a sale under this section or section 149 fails to immediately, after the sale,

(a) pay the clerk the amount of the purchase money, or

(b) deposit with the clerk an amount equal to the amount of the taxes, interest and expenses of sale for which the real property has been sold,

the clerk must immediately offer the real property for sale again, and subsections (2) to (9) apply.

Tax sale set aside

149. If real property is sold for taxes and the sale is set aside for an error, irregularity or other cause, the lien on the real property is not as a result discharged, the clerk may again sell the real property, and section 148(2) to (9) applies.

Purchase money

150. (1) The clerk must out of the purchase money received on the sale of real property deduct the amount of taxes, interest and expenses owing to the city, and taxes that are due at the time of the sale.

(2) If there is a balance of the purchase price remaining after making the deductions in subsection (1), the city must pay it to the person entitled or, if there is a dispute as to who is entitled, to a person ordered by the Supreme Court of Newfoundland on application by the city.

Conveyance of tax sale property

151. (1) If real property has been sold under this Act for arrears of taxes, it must be assessed to the purchaser, his or her executors, administrators or assigns.

(2) If the city is the purchaser, the real property must be assessed to the city.

- (3) If real property has been sold under this Act for arrears of taxes, the council must give to the purchaser a valid conveyance in the name of the city signed by the mayor and clerk, or other person appointed by council, and sealed with the seal of the city.
- (4) The conveyance referred to in subsection (3)
- (a) is conclusive evidence that the provisions of this Act with reference to the sale of the real property described in that conveyance have been satisfied and everything necessary for the legal perfection of that sale has been performed, and
 - (b) has the effect of vesting the real property in the purchaser, his or her executors, administrators or assigns, in fee simple, free from encumbrances.

Tax certificate

152. The clerk must, on payment of a fee set by the council, give a tax certificate to the owner or mortgagee of real property or his or her solicitor certifying the tax position of the property and other charges imposed by the council on the real property and the tax certificate is binding on the council as to all taxes and other charges then imposed with respect to the real property.

Right of mortgagee

153. It is a condition of all mortgages of real property within the city that the mortgagee may pay money owing to the city and unpaid in respect of the mortgaged property and add the money to the mortgagee's security, notwithstanding a clause or condition to the contrary contained in the mortgage.

Seizure of rentals

- 154.** (1) In this section, "tax" includes the real property tax, [business tax](#), commercial realty tax, water tax, sewage tax, sewage treatment tax, and specified service area charges, fees, taxes, levies or rates.
- (2) In addition to all other powers of enforcing payment of taxes that the council possesses, it may seize so much of the rentals payable by tenants of real property that is subject to the real property tax, business tax or water and sewage tax as may be needed to discharge the liability of the owners of that real property for the tax due by the owners to the council whether or not the taxes are in respect of the real property occupied by the tenants.
- (3) The clerk must serve, on a tenant referred to in subsection (2), a written notice signed by the clerk requiring the tenant to pay his or her rent to the council instead of to the tenant's landlord.
- (4) The clerk must deliver or mail to the landlord a duplicate copy of the notice served under subsection (3), on or before the date of service of the notice on the tenants.
- (5) The tenant must, from the date on which the tenant receives the notice under subsections (3) and (4), until the clerk cancels the written notice, pay his or her rent to the council, or so much of it as the clerk specifies in

the notice, and a receipt signed by the clerk is to the extent of the payment a good discharge to the tenant as against a claim by the landlord for rent.

(6) The clerk must deliver or mail to the landlord a duplicate copy of a receipt given to a tenant under subsection (5).

(7) The clerk must credit, against the indebtedness of the landlord to the council, payments made by tenants under subsection (5), and the council is not obliged to release the tenant from liability to continue making payments to the council under that subsection until the landlord's liability has been completely discharged.

(8) The council may, but is not obliged to, distrain on a tenant's chattel for rent in arrears, and if the council refuses to distrain the landlord may do so, on giving security to the satisfaction of the council for payment to it of the proceeds of the distress or so much as is required to discharge the liability of the landlord to the council for the taxes referred to in subsections (1) and (2).

Penalty

155. (1) A person who fails to

- (a) pay a tax that he or she is liable to pay in accordance with this Part, or
- (b) collect and pay to the council a tax that he or she is directed to collect and pay over by this Part,

is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and each day's continuance of that failure constitutes a separate offence.

(2) If a person has been convicted under subsection (1)(a) for failing to pay a tax, the court must, when imposing sentence, also order that person to pay the amount of the tax.

Specified service areas

156. (1) The council may by regulation undertake a service for the special benefit of a specified service area of the city.

(2) The council must, in a [regulation](#) adopted under this section,

- (a) describe the service being established,
- (b) define the boundaries of the specified service area,
- (c) identify all areas outside the city,
- (d) identify the charge, fee, tax or levy that will be imposed in the specified service area,
- (e) if applicable, identify the method of apportionment of costs among the areas within the city, outside the city that are within a municipality and outside the city that are in a rural area, within the

specified service area, and

- (f) identify the cost of the service to be borne by owners of real property in the specified service area or the users of the service, or both.

(3) The cost of the service determined by the council and specified in the [regulation](#) under paragraph 2(f), must be borne by the owners of real property within the specified service area or the users of the work or service, or both, and for that purpose the council may levy, impose within the area any charge, fee, tax or levy provided in this Act, or any combination of these methods.

(4) The council may, by bylaw,

- (a) provide that the charge, fee, tax or levy imposed under subsection (3) may be commuted for payment in cash,
- (b) set terms and conditions for a commutation under paragraph (a), and
- (c) specify circumstances in which a commutation under paragraph (a) may be refused.

(5) The council may, in addition to borrowing under section 157, advance sums required pending the collection of a charge, fee, tax or levy under this section and recoup the general funds of the city when they are collected.

(6) For the purpose of ascertaining the capital cost portion, if applicable, of a service under paragraph 2(f), the council may include

- (a) construction costs,
- (b) planning, engineering and legal costs,
- (c) cost of advertising and mailing of notices,
- (d) interest on loans, and discount and expenses relating to security issuing bylaws,
- (e) costs related to compensation for land taken or injuriously affected.

(7) On completion of the execution and financing of a capital work portion of a service, the treasurer must submit to the council a certified statement setting out the cost of the capital work portion, and the cost must be as certified.

Borrowing

157.[△] The council may, by regulation, provide for the borrowing of money necessary to meet the capital cost portion of a service for an area established under section 156.

[△]

Alteration of specified service area

- 158.** (1) The council may, by bylaw, enlarge or reduce the size of a specified service area.
- (2) If a specified 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.
- (3) The council may by bylaw
- (a) merge two or more specified service areas defined under section 156 into one specified service area for the purposes specified in the bylaws establishing them, or
 - (b) if the two or more specified areas are not contiguous, merge them for the purpose of deeming them to be one specified service area for the purposes specified in the bylaws establishing them.
- (4) If a council has, with respect to each of any two or more areas specified in bylaws adopted under section 156, provided that the area may be merged with another specified service area, whether contiguous or not, for the purpose of providing, consolidating or completing necessary works or services for the merged areas, the council may by bylaw merge the areas, provide, consolidate or complete the necessary works or services and borrow money under section 156, as required.

Frontage and acreage

- 159.** (1) Specified services under section 156 may be assessed according to the
- (a) frontage of the real property abutting the streets directly benefited by the service, or
 - (b) acreage of the real property serviced.
- (2) The amount of the assessment against each portion of real property must bear the same ratio to the total cost of the service, together with financing charges, as the frontage or acreage of that portion bears to the aggregate of the frontages or acreages to be assessed.
- (3) In the case of frontage tax, if the portion of real property to be assessed is a corner lot or an irregularly shaped lot, the council may consider the length of frontage for specified service area assessment purposes to be more or less than the actual frontage directly benefited by the service.

Payment

- 160.** (1) Subject to subsection (2), a specified service area charge, fee, tax, levy or rate must be paid to the council over the period of time not to exceed a term prescribed by council by regulation, in the instalments prescribed in the regulation, and at the rate of interest prescribed under section 115.
- (2) At the time of a conveyance of real property, the remaining specified service area charges, fees, taxes or

levies become payable to the city as a debt due and owing to the city.

Lien

161. (1) Arrears in instalments of a specified service area charge, fee, tax, levy or rate attach to the real property assessed, unless the real property is sold for taxes or arrears in an assessment or service levy.

(2) The lien described in subsection (1) is considered to be a first mortgage on the real property ranking in priority to all other encumbrances on the real property, and the council may discharge the lien by foreclosure or by sale, and sections 143 to 151 apply to the sale.

PART IX

ACTIONS AND PROCEEDINGS

Enforcement of regulation

162. (1) A regulation adopted under this Act may be enforced, and the breach of this Act or a regulation, resolution or order of the council enforced or restrained, by a proceeding or action in the Supreme Court of Newfoundland, whether or not a penalty has been imposed for the breach.

(2) A civil proceeding or action to enforce, or to prevent or restrain the breach of, a regulation, resolution or order of the council or a provision of this Act, or relating to any damage to or interference with a highway or property of the city, may be brought in the name of the city.

(3) The province, the Attorney General or another officer of the province need not be a plaintiff to a proceeding or action under subsection (1) or (2).

Information and summons by ticket

163. (1) A council may, by regulation,

- (a) designate for the purpose of this section a regulation that the council seeks to enforce by means of a ticket under this Part,
- (b) designate an enforcement officer,
- (c) authorize the use of any word or expression on a ticket issued under subsection (2) to designate an offence against a regulation,
- (d) prescribe the form and content of tickets issued under this Part, and
- (e) prescribe the form of a certificate under section 169(5).

(2) If a council has designated a regulation under subsection (1), an enforcement officer or a member of the

Royal Canadian Mounted Police or Royal Newfoundland Constabulary may

- (a) lay an information, and
- (b) issue a summons,

by means of a ticket for contravention of the regulation.

(3) An information laid by means of a ticket is valid whether or not it is taken under oath.

(4) When laying an information by means of a ticket, a city enforcement officer must indicate on the ticket the offence charged and must sign the ticket.

(5) The use on a ticket of

- (a) any word or expression authorized by regulation under subsection (1)(c) to designate an offence against a regulation, or
- (b) a general description of an offence against a regulation,

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

(6) If a fine set in accordance with subsection (10) is indicated on a ticket for an offence charged, the person on whom the ticket is served may, within 30 days after the date of service,

- (a) pay the fine indicated on the ticket in accordance with the instructions appearing on the ticket, or
- (b) in accordance with the instructions appearing on the ticket,
 - (i) indicate on it that the person wishes to dispute the charge, and
 - (ii) deliver it to the council at the address indicated on the ticket.

(7) A person who pays a fine in accordance with subsection (6) is deemed to have pleaded guilty to the offence with which the person was charged and to have paid the fine imposed.

(8) If an information laid by means of a ticket is filed with a Provincial Court registry by a city, the clerk of the court must

- (a) deliver to the person who was served with the ticket a notice specifying a time and place for the appearance of the person before a justice, and
- (b) provide the report or a copy of the report of [an](#) enforcement officer to the court for the purposes of sentencing but for no other purpose.

- (9) If a person who is served with a ticket
- (a) has paid the fine in accordance with subsection (6), or
 - (b) has
 - (i) appeared before a justice at the time and place specified in the notice referred to in subsection (8), and
 - (ii) 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 by the person convicted or by a prosecutor or under the regulation contravened.

(10) For the purpose of subsection (6), the council may by regulation set a fine, not exceeding \$10,000, for contravention of a regulation.

(11) The council may by regulation establish a minimum or maximum fine, or both.

(12) If a minimum or maximum fine is established by a regulation, the fine set under subsection (10) must be not less than the minimum or more than the maximum fine established by the regulation.

Failure to respond to ticket

164. (1) If a person served with a ticket under section 168 does not, as provided for in that section, pay the fine or indicate a wish to dispute the charge, and if not less than 30 days have elapsed after the ticket was served on the person, the person must be deemed to wish not to dispute the charge.

(2) If a person is deemed under subsection (1) to wish not to dispute the charge, a justice must examine the ticket and must,

- (a) if the ticket is complete and regular on its face,
 - (i) enter a conviction in the person's absence and without a hearing, and
 - (ii) impose the fine set under section 168 for the offence charged, or
- (b) if the ticket is not complete and regular on its face, quash the proceeding.

(3) If a person who is served with a ticket has, through no fault of that person, not had an opportunity to appear before a justice and enter a plea in respect of the offence charged, and if not more than 30 days have elapsed since the conviction first came to the person's attention, the person may appear before a justice.

(4) If a person appears before a justice under subsection (3), the justice, on being satisfied of the facts by affidavit in the prescribed form, must strike out the conviction, if any, and set a date for a trial of the matter and

inform the person of the date or, if the person pleads guilty to the offence, dispose of the matter as provided in subsection (2).

(5) If a conviction is struck out under subsection (4), the justice must give the defendant a certificate of the fact in the prescribed form.

(6) Nothing in subsection (1) affects the right of a person to appeal the conviction.

Limitation period for actions against city

165. (1) All actions against a city for the unlawful doing of anything purporting to have been done by the city under the powers conferred by an Act of the Legislature, and which might have been lawfully done by the city if acting in the manner prescribed by law, must be commenced within six months after the cause of action first arose, or within a further period designated by the council in a particular case.

(2) The city is in no case liable for damages unless notice in writing, setting forth the time, place and manner in which the damage has been sustained, is delivered to the clerk within two months from the date on which the damage was sustained. \triangle Failure to give the notice or its insufficiency is not a bar to the maintenance of an action if the court before whom it is tried, or, in case of appeal, the Court of Appeal, believes there was reasonable excuse and that the defendant has not been prejudiced by it in its defence.

Indemnification against proceedings

166. (1) The council must pay a sum required for the protection, defence or indemnification of an officer or employee of the city or a member of its council if an action or prosecution is brought against him or her in connection with the performance of his or her duties, or if an inquiry under the *Inquiry Act* or other proceeding involves the administration of a department of the city or the conduct of a part of the city business, and costs necessarily incurred and damages recovered.

(2) The council must also pay a fine imposed on an officer, employee or member of the council on his or her conviction for an offence, other than under the *Criminal Code* (Canada), committed in connection with the performance of his or her duties.

(3) The council must not seek indemnity against an officer, employee or member of the council in respect of any action of the officer, employee or member that results in a claim for damages against the city, but the council may seek indemnity against an officer, employee or member if the claim arises out of the gross negligence of the officer, employee or member, or if, in relation to the action that gave rise to the claim against an officer or employee, the officer or employee wilfully acted contrary to

(a) the terms of his or her employment, or

(b) an order of a superior.

(4) This section applies to the persons referred to in section 172 as if those persons were officers or employees.

Personal liability of a city public officer

167. (1) No action for damages lies or may be instituted against a city officer or former city officer for anything said or done or omitted to be said or done by him or her in the performance or intended performance of his or her duty or the exercise of his or her power or for any alleged neglect or default in the performance or intended performance of his or her duty or exercise of his or her power.

(2) In this section "city officer" means

- (a) a member of a council,
- (b) an officer or employee of a city,
- (c) an election official under the *Municipal Election Act*,
- (d) an assessor,
- (e) a volunteer fire fighter or a special constable,
- (f) any volunteer who participates in the delivery of services by a city under the supervision of an officer or employee of the city,
- (g) a member of a city committee, commission or board.

(3) Subsection (1) does not provide a defence if the city officer has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence, ^ malicious or wilful misconduct, or liable or slander.

^

unless the conduct that is the subject matter of the action relates to a statement made by a member at a meeting of a council or committee.

(4) Subsection (1) does not absolve the city from vicarious liability arising out of a tort committed by any of the individuals referred to in subsection (2) which the corporation would have been liable for had this section not been in force.

City not liable

168. A city, a member of its council or any officer or employee of the city is not liable for damages or other loss, including economic loss, sustained by a person, or to the property of a person, as a result of

- (a) neglect or failure, for any reason, to enforce, by the institution of a civil proceeding or a prosecution, a regulation, resolution or order,
- (b) nuisance or the rule in *Rylands v. Fletcher*. ^

Leasehold interests

169. The Leaseholder in St. John's Act applies in respect of every city.

TRANSITION**In force**

1. This Act comes into force and effect July 1, 2000.

Elections

2. Prior to the enactment of a *Municipal Election Act* governing city elections or other voting,

- (a) Part X of the *City of Corner Brook Act* and Part X of the *City of Mount Pearl Act*, in force immediately before July 1, 2000, apply, and
- (b) voting procedures under sections 8(2)(b), 78, 79 and 80 must be conducted under the *City of Corner Brook Act* or *City of Mount Pearl Act*, as the case may be, in force immediately before July 1, 2000.

Repeal

3. Subject to section 2 of these transition provisions, the *City of Corner Brook Act* and *City of Mount Pearl Act*, both as amended, are repealed.

Local improvements

4. Local improvement assessments and service levies under the *City of Corner Brook Act* and *City of Mount Pearl Act* are deemed to be specified service area charges, fees, taxes, levies or rates under this Act.

SCHEDULE A

Cities

[To be inserted]



City of Mount Pearl
3 Centennial Street
Mount Pearl, NF
A1N 1G4
(Tel) 709-748-1025



City of Corner Brook
P.O. Box 1080
Corner Brook, NF
A2H 6E3
(Tel) 709-637-1532

April 4, 2002

Department of Municipal & Provincial Affairs
P.O. Box 8700
St. John's, Newfoundland
A1C 5J6

Attention: Mr. Robert Smart
Deputy Minister

Dear Sir:

On April 28th, 1997, representatives of the City of Mount Pearl met with officials of the Department of Municipal & Provincial Affairs including the Minister of the day, the Honourable Arthur D. Reid, to discuss a new *Cities Act* for the Cities of Corner Brook and Mount Pearl. On July 31st, 1997, a letter was forwarded to the Minister by the Mayor (Denine) of Mount Pearl outlining the process to be followed in the drafting of this Act and the hiring of Mr. Donald Lidstone for this work.

For your information, Mr. Lidstone heads up a law firm in Vancouver consisting of 16 lawyers who are involved exclusively in municipal law for municipalities across Canada. He is also a faculty member in the Banff School of Management where he teaches the municipal law segment of the Local Government Leadership program. He formed the Municipal Governance Institute, an international, non-profit autonomous society incorporated to provide independent, non-partisan advice and recommendations respecting the *governance* of communities that wish to provide for their residents' needs for local association. In addition, he has extensive involvement in drafting legislation in British Columbia including portions of the British Columbia Municipal Act as well as a draft Municipal Government Act that has been proposed to the B.C. Government. Mr. Lidstone has also been involved extensively with the FCM/CAMA (Federation of Canadian Municipalities/Canadian Association of Municipal Administrators) Task Force on the Future Role of Local Government. This task force has drafted new *Terms of*

Reference for municipal government as it relates to new municipalities acts. These *Terms of Reference* reflect the basic principles as outlined in the new and proposed Alberta, Manitoba and Ontario legislation.

For your information, I have enclosed a copy of the Honourable Arthur Reid's response to our July 31st, 1997 letter outlining his support for this initiative. I have also enclosed a copy of Minister Reid's letter to municipalities regarding the proposed new *Municipalities Act* wherein he notes that there is a new *Cities Act* being developed for Corner Brook and Mount Pearl. He goes on to say, "This new legislation will enable those cities to assume a more pronounced role in the administration of their local affairs."

We are pleased to enclose two copies of the latest version of the proposed new *Cities Act*. You will note in this draft that it is proposed to take effect on January 1st, 2003. It would be appreciated if you could have your staff review this *Act* and make any recommendations deemed appropriate.

It should also be noted that both the Cities of Corner Brook and Mount Pearl are undertaking a final review of this document and there is the possibility that further recommended changes may be forwarded to you for consideration.

The mayors of both cities will be discussing this matter in the near future and no doubt will be making arrangements for consultations with your Minister, the Honourable Oliver Langdon, and other colleagues within the House of Assembly to have this *Act* adopted in the fall session of the House of Assembly.

It should be noted that with the passing of the new *Municipalities Act* the current *City of Mount Pearl Act* and the *City of Corner Brook Act* no longer measure up to the provisions of the new *Municipalities Act* nor meets the current and future needs of both cities.

If you wish to discuss this matter further, we would be pleased to meet with you at your convenience.

Yours truly,

Gerard Lewis, CMC
City Clerk

James Kennedy, P. Eng.
Chief Administrative Officer



Proposed New Cities' Act

Presented By:

Jim Kennedy, City Manager, City of Corner Brook

Gerard Lewis, City Clerk, City of Mount Pearl

June 18, 2002

AGENDA

- ❑ **Overview of New Cities Act Development**
- ❑ **Guiding Principles of New Cities Act**
- ❑ **Components of New Cities' Act**
- ❑ **Differences Between Proposed Cities' Act and the Municipalities Act & an Overview**
- ❑ **Transition**
- ❑ **Conclusion**

OVERVIEW OF NEW CITIES' ACT DEVELOPMENT

- Meeting of April 28, 1997 with Minister of Municipal and Provincial Affairs.**
- Commitment by Minister to accept new act if prepared by City.**
- Cities of Mount Pearl and Corner Brook agreed to prepare a joint Act for both Cities.**
- Both Cities agreed to share the cost of having Donald Lidstone draft the Cities Act.**

OVERVIEW OF NEW CITIES' ACT DEVELOPMENT (cont'd)

- Donald Lidstone's Qualifications**
 - Partner in a 16-member law firm dealing exclusively in municipal law.**
 - Faculty member of the Banff School of Management teaching municipal law for the Local Government Leadership Program.**
 - Founded Municipal Governance Institute to provide advice and recommendations respecting governance of communities in Canada.**

OVERVIEW OF NEW CITIES' ACT DEVELOPMENT

(cont'd)

- **Donald Lidstone's Qualifications (cont'd)**
 - **Member of FCM/CAMA Task Force on the Future Role of Local Government.**
 - **Extensive involvement in drafting legislation for British Columbia including portions of the B.C. Municipal Act and the draft of the Municipal Government Act proposed by the B.C. Government.**
- **Value of Don Lidstone's contribution.**

GUIDING PRINCIPLES OF NEW CITIES' ACT

- Incorporates the guiding principles as adopted by the FCM/CAMA Task Force on the Future Role of Local Government in Canada.**
- Provides “Enabling” authority to Cities.**
- “Enabling” means Cities are able to do anything under their prescribed spheres of powers unless they are prohibited from doing so within the New Cities’ Act or it is in contravention of Provincial or Federal laws.**

COMPONENTS OF NEW CITIES' ACT

- ❑ Preamble
- ❑ Part I - Incorporation or Continuation of Cities
- ❑ Part II - Intergovernmental Relations
- ❑ Part III - Government and Procedures
- ❑ Part IV - Powers
- ❑ Part V - Receivership
- ❑ Part VI – Public Participation
- ❑ Part VII - Finance
- ❑ Part VIII - Taxes
- ❑ Part IX - Actions and Proceedings
- ❑ Transition

DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT & an OVERVIEW

- 1. Enabling vs. Prescriptive**
- 2. Natural Person Powers**
- 3. Recognizes the Autonomy of the Cities**
- 4. Boundary Alteration**
 - Subject to City request or consent**
 - Preparation of a feasibility report in accordance with the prescribed terms and conditions**
 - Holding of a vote in favour of the proposed boundary alteration that is in excess of 50% in the proposed area and in each municipality within the area**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

5. Intergovernmental Relations

- Consultation by Minister with Cities prior to Province enacting, amending, repealing or making legislation, regulations, policies, or orders that affect the City.**
- Provision of an opportunity to the Mayors for comment on any Provincial Act(s) that addresses interprovincial, national or international issues that impact the jurisdiction of the City.**
- Consultation between Minister & Mayors on revenue sharing with Cities.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

6. Council Matters

- **Councillors must participate in council & committee meetings.**
- **Keep all matters discussed at private meetings in confidence until discussed at a public meeting.**
- **In the event of the Office of the Mayor becoming vacant, Council must, within 30 days of the vacancy, resolve to:**
 - 1. Designate the Deputy Mayor as Mayor for the remainder of the Mayor's term.**
 - 2. Designate the Deputy Mayor as Mayor until a by-election is held to fill the office of Mayor, and call a by-election under the Municipal Election Act.**
 - 3. Elect a mayor by secret ballot from all the members, conducted by the Chief Returning Officer.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

6. Council Matters (continued)

- The Mayor must perform any duty imposed by the Cities' Act or any other Act or regulation and support and promote all decisions made by Council.**
- New Oath of Office (Section 28)**
- Prior to Council declaring the office of a councillor vacant as outlined under Section 30, a Committee of Inquiry must be established and provide a written report to Council. All information pertaining to this matter is provided to the councillor 15 days prior to the meeting of this Committee and the councillor is provided an opportunity to make submissions and/or present evidence with or without legal counsel.**
- Conflict of interest including the issue of a councillor receiving gifts, lobbying and the use of influence and insider information (Sections 33, 34 and 38).**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

7. Administrative Structure

- The mandatory appointment of a Chief Administrative Officer who is charged with the performance of all administrative functions of the City.**
- Council may, by resolution, establish other officer positions and assign duties and functions to those positions.**
- Officers may be terminated subject to the approval of 2/3 of the members of the Council and the provision of all information to be considered by Council in the making of such a decision and the opportunity for the officer to present evidence with or without legal counsel.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

8. Council

- Establishes natural person powers**
- Provides Council with the right to delegate its administrative powers by regulation**
- Retains previously held power plus discretion to exercise powers to meet local conditions and determine local public interest**
- Power restricted when in conflict with Canada or Province or expressly excluded from Cities' Act**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Spheres of power**
 - Waste management, water supply, utility services.**
 - Parks, recreation, culture.**
 - Transportation**
 - Highways, including traffic and parking on highways, except provincial highways or private roads.**
 - Drainage**
 - Natural environment**
 - Economic development**
 - Business, business activities and persons engaged in business**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Safety and protection of people and protection of property, including fire & police services.**
- Noise, odour, vibration, dust, emissions, nuisance, unsightly property.**
- Animals and activities in relation to them**
- Structures, including buildings, fences and signs**
- Land use, except in respect of lands held by Canada or the province.**
- Heritage conservation, except in respect of lands held by Canada or the Province.**
- Other municipal services.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Expanded jurisdiction to pass regulations to exercise authority in all spheres of power and enforce regulations**
- Expanded authority for a system of licences, permits, approvals, rates or fees and the ability to enforce such a system including their cancellation**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Authority to regulate persons, property or things within the boundaries of the city**
- Authority to have actions carried out at the person's sole cost**
- Authority to draft regulations to require a person to carry out certain actions and failure to do so to have the city carry out the required action and collect the money in the same manner as taxes are collected**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Authority to require owner or occupier of real property to install, maintain and repair a water meter prescribed by the Council**
- Authority to close down a business if the business has commenced operation without an approved occupancy or other required permits**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Authority to levy fees for residential and commercial property owners commencing renovations and/or alterations without appropriate permits being in place.**
- Ownership of all highways is vested with Council. The transfer of title to a portion of highway is subject to a publication process.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Transfer of city land subject to publication process and may be sold by regulations as approved by at least 2/3 of the members of Council.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

9 - Receivership

- Major change from current act requiring a dissolution study before a city can be dissolved due to insolvency. This study may be requested by the City or by the Lieutenant-Governor in Council following an audit by the Auditor General or an auditor appointed by Auditor General.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Before completing such a study, Cabinet must contact all municipalities that would be affected by the dissolution and invite them for their comments; may conduct a public meeting; and consider the effect of the dissolution on all municipalities; a vote may be held following the completion of the dissolution study on the proposed dissolution.**
- On the recommendation of the Minister, Cabinet may by order dissolve the City and direct that all or part of the land in the dissolved City become part of a new or another municipal authority.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

10 - Public Participation

- Provision for holding a non-binding plebiscite to obtain electors' opinion on issues**
- All Council and Committee meetings are public except matters involving**
 - The security of the property of the City.**
 - Personal information about an identifiable individual, including employees**
 - A proposed or pending acquisition of land for City purposes.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- ☐ Labour relations or employee negotiations.**
- ☐ Litigation or potential litigation, including matters before authorities, boards or tribunals created by statute, affecting the City.**
- ☐ The receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose.**
- ☐ The consideration of a request by a person to make a submission at or attend a council meeting or obtain a document under Section 90.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

Before holding a meeting closed to the public, a Council must, at least 24 hours prior to the closed meeting, state by resolution passed in a public meeting or by notice posted in a public place in the building where Council meetings are usually held, the fact of the holding of the closed meeting and reason for meeting as identified in Section 86.

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Regulations cannot be adopted, amended or repealed without notice subject to publication process.**
- Publication required by Cities' Act must be in a newspaper that is distributed weekly in the City or by means other than a newspaper, including individual distribution, internet or other electronic means.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Annual report required for the Minister.**
- Annual report must include**
 - Audited financial statement**
 - Details of any contravention by council members of sections 32 to 40 (conflict of interest, receipt of gifts, benefits & lobbying, influence, and insider information).**
 - Disclosures made under section 42 (disclosure statements).**
 - The annual financial statements and audit referred to in section 10B (Guaranteed – Loan Expenditure).**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

11 - Finance

- Accumulated surpluses or deficits may be spread over a period of years as determined by Council if surplus or deficit is considered substantial**
- Council may only make an expenditure that is:**
 - 1. Included in an operating or capital budget or otherwise authorized by Council.**
 - 2. For an emergency.**
 - 3. Required to be paid by a court, arbitrator or by operation of law.**
- Procedures must be established to authorize and verify expenditures that are not included in a budget. (Section 99)**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- A Councillor who makes an expenditure that is not authorized under Section 99; votes to spend money on something that was not within the purpose for which it was borrowed or votes to spend grant money on something that is not within the purposes for which the grant was given is liable to the City for the amount spent. This liability may be enforced by the City, or an elector or a taxpayer or the person who holds security for the borrowing.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- The City may borrow money for capital purposes without the approval of the Minister and the term must not exceed the probable life of the capital property.**
- The City may use borrowed funds for operating purposes if the amount spent is available when needed for capital purposes.**
- The City may also borrow for operating purposes without the approval of the Minister and may utilize a line of credit.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Council also has the authority for interim financing and refinancing without Ministerial approval.**
- Council may only loan money or guarantee loans for a corporation owned or controlled by the City, a non-profit organization for a use that the Council believes will benefit the City or a public authority.**
- Council has the authority to make and issue debentures which must be signed by the Deputy Minister of Municipal and Provincial Affairs.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

12 - Taxes

- Provision to issue one invoice for a “municipal tax” which includes all taxes authorized under the Cities’ Act.**
- Provision to have taxes paid monthly or bi-monthly or any other intervals.**
- Provision for the levying of interest on a simple or compound basis as prescribed by regulation.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Provision for discount if the tax is:**
 - Paid within the time the Council sets in the regulation.**
 - Payable by a taxpayer who is suffering such financial difficulties as defined in the regulation.**
 - Property taxes may be established by classes of real property as identified in regulations and a minimum property tax may be established within each classification.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Real property is exempt from taxes only if it belongs to Canada or a province, exempted by provincial legislature or by vote of Council for one or more years.**
- Taxes resulting from supplementary assessment may be applicable from the date of substantial completion as certified by the City or the date of occupancy.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Business tax may be imposed as a percentage of gross revenue or as a percentage of assessed value.**
- The City would have the authority to apply to the Supreme Court of Newfoundland for an order that the business must submit a statement by a date specified in the order or for an audit, if the Treasurer believes the statement to be in error and all legal and audit costs are added to the business tax owed by the business to the City if additional taxes are found to be due.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Council may set the minimum tax payable by a business and vary the minimum business tax between different classes of businesses or real property.**
- Council may establish a new Commercial Realty Tax which would combine business and property tax on owners of real property and exempt them from business and property taxes. A portion of the tax must be paid on the normal due date with the balance being collected on a monthly basis by the property owner and remitted to council.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

All taxes not paid becomes a lien. Council may exempt the property owner from all or part of this tax unless the real property is leased to a person using the real property for a business purpose. A minimum commercial realty tax may be established and may be varied between different classes of businesses or real property. The rate of Commercial Realty tax may also be varied between different classes of businesses or real property.

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Council may establish a home-based business tax and this tax may be:**
 - percentage of the assessed value of the property where the business is carried on.**
 - percentage of the assessed value of the portion of real property where the business is carried on**
 - Annual flat tax.**
 - A percentage of gross revenue of the business.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- The Home-Based Business tax rate may be varied between different classes of businesses and a minimum tax may be established and varied between different classes of businesses.**
- Council may exempt businesses from tax, for periods of time deemed appropriate by Council and under conditions it may establish.**
- Provision to establish annual income levels for poll tax exemption.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Exemption from poll tax for both husband and wife, member of a common law or same sex relationship who pays property tax.**
- Council may impose a water tax, a sewage tax, a sewage treatment tax or any combination.**
- The method of taxation may be a flat rate, a mill rate, a metered rate or any combination.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- This tax may be varied between different classes and the minimum tax payable may be set and varied between different classes.**
- Services may be disconnected to enforce payment of real property tax, commercial realty tax, business tax, home-based business tax, water tax, sewage tax, sewage treatment tax and specified service area charges, fees, taxes, levies or rates.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- The provisions of the Income Tax Act (Canada) in respect of garnishment and the requirement to provide documents or information are deemed to apply to the administration and enforcement.**
- Real property tax, business tax, commercial realty tax, water tax, sewage tax, sewage treatment tax and specified service area charges, fees, taxes, levies and rates constitute a lien against the real property.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- ❑ Failure to pay tax or collect and pay a tax that he or she is directed to collect and pay is subject to a fine of not less than \$50 per day on summary conviction and the court must, when imposing sentence, also order that the person pay the amount of the tax.**
- ❑ Local Improvement Assessment and Service Levies are changed to specified service areas with improved flexibility in the levying of this charge, its administration and repayment timeframes.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

□ Part 13 - Actions and Proceedings

- All regulations may be enforced by tickets and a person who does not pay the ticket or indicate a wish to dispute the charge may be levied a fine after a period of 30 days by the court.**
- All actions against the city must be commenced within 6 months after the cause of action first arises unless Council designates a longer period.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Notice must be provided to the city of any action within 2 months from the date on which the damage occurred.**
- Officers are protected from personal liability unless they are guilty of dishonesty, gross negligence or malicious or willful misconduct or the cause of action is libel or slander.**
- The city or its offices are not liable for failure to enforce regulations.**

THE DIFFERENCE BETWEEN THE PROPOSED CITIES' ACT AND THE MUNICIPALITIES ACT

- Council is required to pay for the liability of its Councillors and officers and any fines imposed upon them for offences committed in the performance of their duties.**
- The leaseholder in St. John's Act applies in respect of every City.**

TRANSITION

- **Cities' Act is suggested to take effect on January 1, 2003.**

CONCLUSION

- **Proposed Cities' Act in line with other municipal acts, in particular, Alberta, Ontario and the proposed British Columbia Act.**
- **Concerns may be raised over the drafting of the Act by external sources & not through the traditional legislative provincial drafting personnel. The Act was drafted by Don Lidstone who has significant experience in drafting legislation and was recently tasked by the B.C. Government to draft its proposed new municipalities act.**

CONCLUSION

- **St. John's was approached early in the process for the proposed Cities' Act via the Urban Municipalities Committee (UMC) and Councillor Peter Miller. No response or input was received. It was indicated that they were looking at a revision to their own Act.**
- **Don Lidstone can be made available for a presentation to Government and respond to any concerns that may arise.**
- **New Cities' Act is an initiative of Mount Pearl and Corner Brook based on their requirements and their current Acts.**

THANK YOU!

January 27, 2010

Ms. Lori Anne Companion
Assistant Deputy Minister
Department of Municipal Affairs
P. O. Box 8700
St. John's, NL A1B 4J6

Dear Ms. Companion:

With reference to the Committee formed to oversee the process of reviewing the current legislation governing the Cities of Mount Pearl, Corner Brook and St. John's and the consensus reached at our meeting of November 16, 2009 to outline in writing the shortcomings of the existing City of Mount Pearl Act, the following represents some of these shortcomings present in random order and without prioritization:

1. An expansion to the definition of business to include an activity providing goods or service, whether or not for profit, and, however organized or formed, and self-storage facilities.
2. A definition of "monetary or pecuniary interest" as per that currently contained within the Municipalities Act.
3. A definition of "place of entertainment" as per that currently contained within the Municipalities Act.
4. A definition of "utility" to mean a person who owns or operates equipment or facilities for the conveyance or transmission of information, messages or communications by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radio communications if that service is offered to a person for compensation and to also include this definition in the Taxation of Utilities and Cable Television Companies Act to capture the taxation of the providers of satellite television service.

5. A definition of “regulate” to include authorize, control, inspect, limit, restrict and prohibit.
6. A definition of nuisance similar to that currently contained in the City of St. John’s Act and the ability to be able to regulate those expanded provisions.
7. The authority of the City to proclaim its Coat of Arms without the requirement to be approved by the Province.
8. The authority of the City to proclaim its official flag without the requirement to be approved by the Province.
9. Provision that where wards are created that the number of Councillors elected at large be not less than the total number of Councillors elected for the wards plus one Councillor similar to that currently contained in the Municipalities Act.
10. Provision that stipulates that a Councillor is subject to the direction and control of the Council and shall abide by the decisions of the Council.
11. Provision for the choice for the filling of a vacancy in the office of the mayor to be that as is currently contained within the Municipalities Act.
12. Provision for declaring the office of a Councillor vacant for arrears of taxes for a prior year to be changed to that currently contained within the Municipalities Act wherein it is applicable to Councillors for outstanding taxes 31 days after the end of the financial year.
13. Provision for declaring a Councillor’s seat being vacant to be extended to those situations where a Councillor discusses or votes on a matter in which they have a conflict of interest similar to that contained within the Municipalities Act.
14. Provision for the prohibition of receipt of gifts by Councillors as a consequence of the performance of their duties of office wherein the gift has a value of less than \$500 that is received as an incident of the protocol or social obligations that accompany the functions of a Councillor.
15. Provision for the prohibition from awarding a contract or benefit to former Councillors until at least twelve months after they ceased to hold office.

16. Provision for the prohibition of the use of a Councillor's office to influence or attempt to influence a decision, recommendation or other action to be made by a Council, a Committee, an officer or an employee of the City if the Councillor or an associate of the Councillor has a pecuniary interest in the decision, recommendation or other action including a prohibition from the use of information that is obtained in the performance of the Councillor's office or the information or record is not available to the general public.
17. Provision for the requirement for all Councillors to vote on all motions unless approved by Council to abstain to be provided similar to that currently contained in the Municipalities Act.
18. Provision for a shorter more ceremonial oath than the current required version and the provision for the City to modify such a ceremonial oath and any other required provisions currently in the specified oath can be still maintained by having individual Councillors sign those documents with the Clerk prior to assuming the duties of the office of Councillor.
19. Provision for the office of Councillor to be declared vacant when a Councillor is convicted of an indictable offence under the Criminal Code.
20. Provision dealing with conflict of interest to be based on the recommendations as contained in the attached report (Appendix A) and that they be expanded to include conduct of Councillors as also outlined in this report.
21. Provision for a requirement for Councillors to leave the Public Council Chambers to be provided for issues of conflict of interest.
22. Provision for points of order should be included in the Rules of Procedure not in the Act.
23. Provision for the requirement for Councillors to participate on committees to which they have been appointed, to keep in confidence matters discussed in private or council committee meetings until discussed at a meeting held in public and to perform any other functions imposed on the members by this or any other Act or by Council.
24. Authority for the Minister to appoint a Councillor to provide a quorum should be removed and the only authority should be for the remaining Councillors to continue conducting council business until an election is held.

25. Provision regarding a tie vote being raised at the next meeting should be changed to that as currently contained in the Municipalities Act, which is a tie vote being a defeated vote.
26. Provision for the Mayor to establish and appoint members to Committees subject to Council ratification.
27. Provision for the Mayor to declare a state of emergency without the prior approval of Council.
28. Provision for Council to delegate an employee the authority to issue orders under those sections of the Act where the authority currently exists (Sections 209, 238, 241, 245, 249, 253, 257, and 265). The same authority to delegate to be extended for the issuance of permits and licenses.
29. Provision for Council to build and operate non-profit housing.
30. Clarification that under Section 46 (e) that there is no obligation to provide any details that may be of a confidential nature or would reveal private financial matters of a bidder as the Act specifies “opened public tenders” and some individuals are of the opinion that the wording in the Act provides them with the right of access to all details provided in a tender.
31. The same clarification is required under Section 46 (i) as some contracts may contain personal and financial matters.
32. Provision for the holding of a plebiscite by majority vote not two-thirds of the Councillors in office.
33. Provision of Section 54 (Private Services) not being applicable where Council has always provided such a service and this would eliminate the potential for Council to cease the provision of such services when a private enterprise commences operation providing similar service after the Council has spent some considerable expense in the provision of infrastructure and the hiring of employees.
34. Provision for the hiring of a Chief Administrative Officer (CAO) or City Manager by a majority vote not two-thirds of the Councillors in office.

35. Deletion of all reference to other staff with all duties being assigned to the CAO or City Manager and the provision that the CAO or City Manager can utilize other staff to assign any and all duties with the exception of those not approved by Council.
36. The Returning Officer to be the election official appointed by Council to carry out the election as specified under the Municipal Election Act.
37. The Clerk to be the CAO, his or her designate, or a person appointed as Clerk, to carry out those duties as assigned by Council and/or the CAO.
38. Provision for Council to establish any number of departments and Department Heads or Directors and provision for the CAO or City Manager to create other positions required for the administration of the City and their job descriptions.
39. Provision for the CAO or the City Manager to employ, discipline, suspend or dismiss an employee below that of a Department Head or Director level - those which will reside with the authority of Council.
40. Elimination of the provision for Council to examine the bonds for employees of Council as this should be under the authority of the CAO or City Manager.
41. Provision for Council to approve regulations for Councillors to participate in a pension plan and a group benefit plan and to establish conditions for retired Councillors to access the group benefit plan.
42. Provision for the requirement to implement PSAB standards within the City and the associated implications of having a balanced budget.
43. Provision for Council authority to expend capital funding for items that are funded with 100% City funding without the necessity for ministerial approval provided such funding is contained in the annual approved budget.
44. Provision for the City to proceed to tender without the necessity for the Department of Municipal Affairs to approve tender specifications as well as the approval to call tenders for all capital projects. This approval slows down the process resulting in the construction of most projects being carried out in late summer or in the fall. This is problematic from a public perspective particularly when streets are being upgraded in close proximity to schools at a time when schools are scheduled to reopen in September.

45. Provision for the City to publish a summary of their annual budget and the Auditors Report with a provision that copies are available at City Hall.
46. Provision for the City to borrow current account funding in excess of 20% without ministerial approval.
47. Provision for long term borrowing without ministerial approval subject to the term of such borrowing not exceeding the probable life of the item for which borrowing is required.
48. Provision for the City to levy business tax as a percentage of gross revenue or the assessed value of the property.
49. Provision for the City to levy a home-based business tax as a percentage of the portion of the assessed value used by the business, a percentage of the whole value of the property when a home-based business is operating from the property, a percentage of gross revenue derived by the business operating from the property or by a flat tax established by Council and the flexibility to vary the rate of tax by classes of property.
50. Provision for the City to levy water, sewer, wastewater taxes by a flat rate, a mil rate, a metered rate or any combination thereof and to vary rates between classes or classification of property and establish minimums within such classes or classifications.
51. Provision for the City to utilize water cut-off for the collection of all taxes levied by the authority of the Act where the tax is due from the property owner.
52. Provision for a person who is convicted for failure to pay taxes to have the court order the payment of the amount of outstanding taxes in addition to the payment of any fine imposed by the court.
53. Provision for the City to exceed the threshold of 10% discount with a majority vote of Council.
54. Provision for the City to publish their annual tax schedules not the resolution of Council where a tax is imposed or varied.
55. Provision for the City to establish, vary property taxes and establish minimum taxes by classification of property, i.e. residential, commercial, condominium, apartment buildings, etc.

56. Provision for the City to establish a Commercial Realty Tax or other similar tax (the combination of both property and business occupancy taxes) and to vary the rate by classification of property, establish minimum taxes within each classification and the flexibility to exempt some or all taxes when property is vacant or not leased.
57. Provision for the City to establish threshold amounts for the exemption from poll tax, to require employers to submit addresses and telephone numbers for those employees the City may request, and to specify the amount that employers must deduct from their employees for poll taxes.
58. Provision for the City to establish the method for the establishment of water and sewer taxes and to eliminate the provision for ministerial approval for water and sewer taxes for schools, hospitals or buildings owned by the Crown.
59. Elimination for the prohibition on the sale of residential properties for tax arrears.
60. Provision for the City to establish the method for the assessment of Local Improvement Assessments and Service Levies.
61. Provision for the City to have the authority to place snow and/or ice on individual's property (lawns), the use of salt or other alternatives, to eliminate any liability from the placement of snow on private property (unless property damage by City equipment) and also the use of salt or other alternatives.
62. Provision for Municipal Enforcement Officers to enforce mobility impaired, fire lane and other posted signs on private property upon written authorization of the property owner.
63. Elimination of the requirement to establish charges for admission to and from recreation facilities by regulations.
64. Provision for an expanded authority for services and regulations as per attached document (Appendix B).
65. Provision for the collection, disposal and the establishment of a fee structure for recyclables, fibre and compost in addition to solid waste.
66. Provision for the City to regulate or prohibit the use of open fire, other fire apparatus for use outside, and the use of wood stoves within garages or sheds.

67. Provision for the City to specify the number of persons appointed to a Transportation Commission.
68. Provision for the City to determine the period for a transportation franchise.
69. Provision for the City to include the placement of structures, its repairs or alterations within the Act and the Building Regulations.
70. Provision for the City to exempt or vary requirements of the National Building Code.
71. Provision for the City to order demolition or destruction of buildings where it is in the opinion of the City's Engineer to do so (not in the opinion of Council).
72. Elimination of the provision for a fine of \$25 per day for the refusal of compliance with orders issued by Council and the ability to establish such fees in an amount as deemed appropriate by Council.
73. Provision for the broadening of the regulatory authority over the use of vehicles or stands to include other areas or structures.
74. Provision for the City to license and regulate all types of animals, to limit the number of such animals that can be kept on private property, to prohibit animals that may be kept by individuals, to authorize Animal Control Officers to enter upon private property when in pursuit of animals, to confiscate animals when they are not being humanely looked after and to establish regulations to euthanize such animals.
75. Specific provision for the requirement for the wearing of bicycle helmets and the ages for such equipment to be worn.
76. Provision for the City to expropriate under its own authority similar to the provisions currently provided under the City of St. John's Act.
77. Provisions for the City to establish minimum and maximum fines and to provide for additional fines for second and subsequent offences.
78. Provision for the City to create an evaluation methodology for public tenders including unsatisfactory performance and to eliminate such contractors from subsequent tender

awards within specific time frames and complying with the terms and conditions specified by Council.

79. Provision for the City to have additional regulations added to the current list for the issuance of violation notices including Water Conservation Regulations.
80. Provision regarding the meetings of Council that are open to the public as per attached document (Appendix C).
81. Provision regarding the personal liability of a City Public Officer and the City as per attached document (Appendix D) and the inclusion of wording to the effect that such officers when carrying out a policy or Act that has been directed by Council and that policy or Act contravenes this Act or another Act, an action shall not lie against that officer for a matter arising from their carrying out that policy or Act.
82. Provision for the consolidation of order authority and an expansion of such authority similar to that as currently contained in the Municipalities Act.
83. Provision for the consolidation of regulation authority and an expansion of such authority similar to that as currently contained in the Municipalities Act and the City of St. John's Act.
84. Provision regarding the purchase of land for stated purposes similar to that currently contained in the City of St. John's Act.
85. Provision for the use and misuse of water including the regulatory authority to restrict or prohibit the use of water similar to that currently provided in the City of St. John's Act.
86. Provision for the City to install water meters on any property within the City.
87. Provision for the care, planting, trimming of trees and overhanging trees similar to that currently provided under the City of St. John's Act.
88. Provision for the City to establish accommodation taxes, entertainment taxes, and a wider array of user fees.
89. Consideration for the Province and its Crown Corporations to comply with approved zoning and development regulations and approved building permit fees within the City.

90. Consideration for the inclusion of a requirement for the Province to consult with the City prior to any changes being made to the adopted and approved Cities Act as well as before any transfer of existing provincial government responsibilities to the City.

There may be other provisions requested as this process unfolds and when there is further opportunity to consult with other senior management personnel within the City.

It should be noted that the City of Mount Pearl Act was enacted in 1988 and in the subsequent twenty-two year period between 1988 and 2009 there have been amendments made in sixteen years over the duration of this timeframe. This illustrates the problems associated with the current system wherein municipal legislation is drafted under the concept of express, detailed, limited and prescribed powers versus our proposal for “natural person” powers and spheres of jurisdiction.

An emerging problem for all Cities is the fact that they are providing, or are expected to provide new services and facilities to fulfill local citizens’ expectations and it is impossible to predict what such services or expectations may confront Cities now or in the future. With the current prescribed method of legislation when confronted with demands for new services and expectations, Cities are unable to timely and adequately respond to those citizen’s demands and when they desire to do so, there is a significant time delay from a requested legislated change and its approval.

The City of Mount Pearl believes that the time is right for this Province’s Cities to be afforded the same legislative authority that is now becoming common throughout the rest of Canada that is the provision of natural person power and spheres of jurisdiction as previously outlined in our letter of April 10, 2008, copy attached (Appendix E).

Yours truly,

Gerard Lewis, MMC
Chief Administrative Officer

Enclosure

February 3, 2010

Honourable Tom Hedderson
Minister of Municipal Affairs (Acting)
Government of Newfoundland and Labrador
P. O. Box 8700
St. John's, NL A1B 4J6

Dear Minister Hedderson:

Re: Proposed Cities Act

The City of Mount Pearl, in conjunction with the Cities of St. John's and Corner Brook, are working in cooperation with officials of your Department in terms of the approach to be taken towards the updating and amending of the three statutes currently governing the three Cities by their individual statutes.

We have been actively promoting a new Cities Act since the mid-1990's and have held discussions and made periodic presentations to various Ministers and officials of your Department since that time. We have always advocated a move away from the traditional detailed, prescriptive legislative approach to a more enabling legislative approach with "natural person" powers and spheres of jurisdiction.

Most municipal legislation for the past thirty or forty years contained a number of corporate powers authorizing municipalities to buy or sell property, sue or be sued, enter into contracts, etc. These provisions were often accompanied by detailed rules governing the exercise of those corporate powers. As a result of this approach, there has been a need for a continual updating of such legislation to meet the ongoing needs and challenges confronting municipal governments. Many of these rules seem outdated today in the context of larger municipalities such as this province's three cities and other larger municipalities throughout Canada.

The City of Mount Pearl Act was enacted in 1988 and in the subsequent twenty-two year period between 1988 and 2009, there have been numerous amendments made in sixteen of these twenty-two years. This illustrates the problems associated with the current system wherein municipal legislation is drafted under the concept of express,

detailed, limited and prescribed powers versus the proposal for “natural person” powers and spheres of jurisdiction. Such a proposal will enable the three provincial cities to pursue unique and sometimes different approaches to addressing the variety of challenges and expectations facing individual municipalities under the same legislative framework due to broad scope of discretion permitted under the specific spheres of jurisdiction provided to them.

“Natural person” powers are the grant of corporate powers which enable the municipality and their council to act as if they have the capacity, rights and powers of a natural person of full capacity. This enables the courts to interpret municipal corporate powers on the basis of the numerous court precedents respecting natural person powers. In other words, there is a large body of common law that governs the exercise of natural person powers in relation to buying, selling, owning, or using property; suing or being sued; entering in to contract, etc.

Spheres of jurisdiction are broad areas of authority within which local governments may regulate, require or prohibit activities. An example of a sphere is the “safety, health and welfare of people and the protection of people and property”. In all jurisdictions utilizing such spheres of jurisdiction, the powers must be used for “municipal purposes” which are defined, for example, in Alberta, as providing good government, providing necessary or desirable services and other things, and developing and maintaining safe and viable communities.

Alberta was the first provincial jurisdiction to move in this direction for larger urban municipalities with its new Municipal Government Act which took effect on January 1, 1995. Since that time most provincial governments have moved in this direction including the provinces of Ontario, Manitoba, Saskatchewan, British Columbia, the Northwest Territories and the Yukon Territory. In Quebec, the municipalities have already had some omnibus powers mixed with detailed, prescribed powers. In fact, it could be stated that a move to the enabling approach is only providing this province’s cities with the type of modern proactive legislative approach that is now common place throughout most of Canada.

Existing and future trends indicate that additional powers, responsibilities and duties will be required for this province’s cities to meet new and emerging challenges and expectations that were never contemplated when the existing individual City Acts were enacted. The onset of oil and gas exploration and production has resulted in tremendous growth within the Northeast Avalon Region that has brought about new challenges and service expectations that were not previously contemplated or provided for in the current statutes. Additional responsibilities have also been thrust upon cities that have previously not been contemplated or provided for in the current

Honourable Tom Hedderson
Minister of Municipal Affairs (Acting)
February 3, 2010
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statutes. Some of these include the cities' involvement with airports, harbour cleanup, affordable housing, environmental protection, significant growth in residential, commercial and industrial structures, to name only a few.

A recent Supreme Court of Canada decision stated that laws are often most appropriately made by the Order of Government that is "closest to the citizens affected and thus most responsive to their needs, to local distinctiveness and to population diversity". We believe that the only way of appropriately addressing the needs of our residents is through a new Cities Act under the enabling approach to legislation with "natural person" powers and spheres of jurisdiction as opposed to the traditional prescriptive legislation approach.

In most of the jurisdictions that provided broader powers under the spheres of jurisdiction approach and the "natural person" powers, the legislation was accompanied by greater requirements for accountability, transparency, notice and public participation.

In summary, the City of Mount Pearl officially supports the concept of consolidating the three statutes currently governing the three cities by their individual statutes into a single statute or Act provided such an Act provides "natural person" powers and spheres of jurisdiction.

Yours truly,

RANDY SIMMS
Mayor

Copy Honourable Dave Denine, MHA
Steve Kent, MHA
Dennis O'Keefe, Mayor, City of St. John's
Neville Greeley, Mayor, City of Corner Brook

April 30, 2015

Department of Municipal & Intergovernmental Affairs
Government of Newfoundland & Labrador
P.O. Box 8700
St. John's, NL A1B 4J6

Attention: Mr. Andy Morgans
Director of Local Governance

Dear Mr. Morgans:

Further to your email of April 1, 2015 wherein you requested the City of Mount Pearl to identify sections of our Act which we believe to be unnecessarily restrictive and areas where we could benefit from more flexibility, I am pleased to provide you with some items for consideration in your review of municipal legislation. I understand that our comments are due by May 1, 2015, but there will be opportunity for further consideration beyond this deadline as you intend to meet with the City at a later date to discuss in more detail.

Some general suggestions for your consideration include:

- Remove mandatory requirements for Ministerial approval throughout – replace with permissive if there is reluctance to relinquish Ministerial control in its entirety (e.g. The Minister may.....)
- Remove requirements that some administrative actions be effected by regulation (e.g. Council remuneration)
- Remove prescriptive requirements for staffing and administrative actions and generalize (e.g. Council to approve organizational structure vs specified positions and job descriptions)
- Remove legislative exemptions for taxation (Crown, church, etc.)
- Replace mandatory requirements (shall) with authoritarian language (may)
- Remove or relax mandatory prescriptive time lines and publication requirements (public processes, notices of motions, forms of communication)
- Expand and generalize authority to issue violation notices to any regulations within Council authority

The primary thinking reflected in the above is that City Council and staff are held to a high standard by the public already and to generally accepted practices of accountability and transparency at a minimum, especially as it relates to budgeting and financial management. As a result, the value added in requiring Ministerial approvals for such things as borrowing, requiring auditor appointments to be reported to the Department, requiring identical public

processes for matters significantly different in magnitude (like a simple text amendment to correct errors in written plan information) and other such examples, is questionable for a City of our size. As well, many of the mandatory requirements simply add an additional level of bureaucracy that is not conducive to effective, efficient and economical operations which Mount Pearl strives to achieve. Finally, the restrictions highlighted, namely in our taxation authority and selective enforcement authority of our own regulations, obviously take away our ability to truly govern locally.

In addition to the general suggestions made above, some specific sections of our legislation have been highlighted for your consideration:

<u>Section</u>	<u>Comments</u>
18	Remuneration should not be by regulation, Council resolution is satisfactory.
24	Conflict of interest – too prescriptive - could be covered more generally by Provincial rules?
31	Meetings - too prescriptive – also electronic means should specifically apply to committee meetings.
40	Publications - to be expanded for current means and either/or.
44	Permits – now to be issued by regulation – too prescriptive.
46	Inspection of documents - too prescriptive – ATIPP covers adequately.
54	Private services – too restrictive.
Part III	Staff – too prescriptive – more general adoption of “organizational structure” would be adequate.
89	Bonding – outdated.
90	Pension – restricted to employees.
93	Group Insurance – too prescriptive.
98/99	Bank accounts - signing – too outdated and restrictive.
100 -125	Budgets et al – too prescriptive, outdated, too regulated by Ministerial approval requirements. Generally accepted practices should govern.
Part V	Taxes – local government being funded by primarily a property tax system, all property should be taxed, with no legislative exemptions.

<u>Section</u>	<u>Comments</u>
144	Business tax – too prescriptive, is mandatory, is primarily property based taxation. Replace with permissive language, and provide options for commercial realty tax in its place. Income based is best for business, and so a municipal share of corporate income tax should be considered as another alternative. As well as a share of HST generated and paid by businesses for which the City provided a market.
159	Lien period - too restrictive.
173	Service levy – should be expanded to allow a third party assessment to be levied for works conducted by a third party.
202	Regulations – too prescriptive – need to generalize or otherwise have a “catch all” section.
241	Water and Sewer permit – approval of an officer of government should not be necessary.
242	Regulations – in this case, the requirement is prescriptive instead of authoritarian.
280.3	Ministerial regulation – too restrictive, needs to be expanded to all city regulations.
Part VIII	Expropriation – onerous process – should be reviewed to update and improve efficiencies, while protecting due process, if possible.

Mr. Morgan, I understand that with the timeframe given, this submission is meant to give you some idea of how our legislation is impacting our operations and not meant to be a definitive or exhaustive list of all the required changes we would like to see to our Act. As well, as we discussed by telephone, many other pieces of legislation govern municipal operations – it is presumed that a review of these will be conducted sometime in the future by the Department. These include the Taxation of Utilities and Cable Television Companies Act, the Municipal Elections Act, the Highway Traffic Act, and the Urban and Rural Planning Act.

I thank you for the opportunity for input into your review of municipal legislation and Council and I look forward to discussing this with you further.

Yours truly,

Michele Peach, CA
Chief Administrative Officer

November 2, 2015

Mr. Andy Morgans
Director of Local Governance
Department of Municipal and Intergovernmental Affairs
P.O. Box 8700
St. John's, NL A1B 4J6

Dear Mr. Morgans:

Thank you for your correspondence of September 23, 2015 regarding potential amendments to the City of Mount Pearl Act.

With respect to the various changes in the Municipalities Act that you reference, comparable changes to the City of Mount Pearl Act are requested in the instances noted below. The applicable section of the City of Mount Pearl Act is noted and the applicable sections with some notes are attached for your reference.

1. **Pension and Group Benefits (90, 92, 93, 95)**

The City would also like to have discretionary authority to establish pension and group benefit plans for councillors. The City **does not** wish to restrict municipal pension plans to defined-contribution.

2. **Grants for Charitable Causes (123)**

The City would also like similar express authority to provide grants to charitable or philanthropic causes.

3. **Minimum Property Tax (137)**

The City would like similar changes made to our Act.

4. **Tax Sales (159)**

The only change needed is to add "together with interest owing on those taxes".

5. **Adverse Possession**

No changes to our Act requested.

6. **Disposal of Municipal Property**

No similar change to our Act requested.

7. **Municipal Budgets (102, 103)**

The City would also like similar changes made to our Act.

8. **Audited Financial Statements (108)**

The City would also like similar changes made to our Act.

9. **Municipal Departments (74 – 78)**

The City would also like similar changes made to our Act.

10. **Appointment of Auditor (109)**

The City would also like to request removal of the requirement to advise the Minister of the appointment of an auditor.

11. **Report on Insurance Coverage**

No change to our Act requested in this regard.

12. **Approval to Borrow**

No change to our Act requested.

13. **Supplementary Assessment (142)**

The City would like a similar change to our Act.

14. **Definition of Real Property**

No change to our Act requested.

15. **Debt Collection Mechanisms**

No change to our Act requested.

16. **Interest Charges (159)**

The City would like a similar change to our Act.

17. **Written Permits**

No changes to our Act requested.

Mr. Andy Morgans
November 2, 2015
Page 3

18. **Poll Tax**

No changes to our Act requested.

I trust this will help facilitate the requested changes. Should you have any questions or require further clarification, please do not hesitate to ask.

Yours truly,

Michele Peach, C.A.
Chief Administrative Officer

Enclosure