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## APPENDIX

# Power and Purpose: The Quiet Evolution of Canadian Municipal Law

Second Edition

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The Appendix contains extracts from provincial and territorial legislation. The provinces and territories are ordered from west to east, with the provinces appearing before the territories. Each provincial or territorial profile is divided into several sections:

- The **Overview** section, which briefly describes the general laws and, where they exist, charters by special legislation that authorize local government;
- The **Statement of Purpose and General Welfare Power** section, which highlights the sections of legislation which articulate municipal purposes and establish the general welfare power;
- The **Broad Interpretation Clause** section, which shows – where relevant – the legislative passages that support a broad interpretation of municipal powers and authority;
- The **Natural Person Powers and Creation of Corporations** section, which provides the sections of legislation that convey natural person powers (and notes the cases where these powers do not exist) and highlights the means by which municipalities are legislatively authorized to create corporate entities; and
- Finally, the **Express Powers and Spheres of Jurisdiction** section highlights the areas of jurisdiction accorded to municipalities and whether those powers are made available under broad spheres or through narrowly defined express powers.

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\* The complete paper is available online: <https://hdl.handle.net/1807/151251>

# 1. British Columbia

## 1.1 Overview

Three pieces of legislation provide the framework regulating municipal government in the Province of British Columbia: the *Community Charter* (which applies to all municipalities in the province except for the City of Vancouver), the *Local Government Act* (which outlines the powers available to regional districts and provides certain supplementary powers to municipalities beyond what they are afforded under the *Community Charter*), and the *Vancouver Charter*.

## 1.2 Statement of Purpose and General Welfare Power

The *Community Charter* recognizes municipalities as governments with broad authorities and powers:

### Principles of municipal governance

**1**(1) Municipalities and their councils are recognized as an order of government within their jurisdiction that

- (a) is democratically elected, autonomous, responsible and accountable,
- (b) is established and continued by the will of the residents of their communities, and
- (c) provides for the municipal purposes of their communities.

**1**(2) In relation to subsection (1), the Provincial government recognizes that municipalities require:

- (a) adequate powers and discretion to address existing and future community needs,
- (b) authority to determine the public interest of their communities, within a legislative framework that supports balance and certainty in relation to the differing interests of their communities,
- (c) the ability to draw on financial and other resources that are adequate to support community needs,
- (d) authority to determine the levels of municipal expenditures and taxation that are appropriate for their purposes, and
- (e) authority to provide effective management and delivery of services in a manner that is responsive to community needs.

[...]

### Municipalities and their councils

**6**(1) A municipality is a corporation of the residents of its area.

**6**(2) The governing body of a municipality is its council.

### Municipal purposes

**7** The purposes of a municipality include:

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

### Fundamental powers

**8**(2) A municipality may provide any service that the council considers necessary or desirable and may do this directly or through another public authority or another person or organization.

While the *Community Charter* does not provide a general welfare clause in the same explicit form as in some provinces, the principle exists in the combination of elements of the legislation. The above section, in combination with section 3 of the *Local Government Act* and section 4(1) (below) together provide for a general welfare power.

**3.3** The purposes of this Act are to provide municipalities and their councils with

- (a) a legal framework for the powers, duties and functions that are necessary to fulfill their purposes,
- (b) the authority and discretion to address existing and future community needs, and

(c) the flexibility to determine the public interest of their communities and to respond to the different needs and changing circumstances of their communities.

### 1.3 Broad Interpretation Clause

Section 4 of the *Community Charter* affirms the broad intent of the powers afforded to municipal governments:

**4(1)** The powers conferred on municipalities and their councils under this Act or the Local Government Act must be interpreted broadly in accordance with the purposes of those Acts and in accordance with municipal purposes.

**4(2)** If

(a) an enactment confers a specific power on a municipality or council in relation to a matter, and  
 (b) the specific power can be read as coming within a general power conferred under this Act or the Local Government Act, the general power must not be interpreted as being limited by that specific power, but that aspect of the general power that encompasses the specific power may only be exercised subject to any conditions and restrictions established in relation to the specific power.

The *Vancouver Charter* does not include the same statement of broad interpretation as in the *Community Charter*.

### 1.4 Natural Person Powers and Creation of Corporations

The *Community Charter* confers natural person powers on municipalities under s. 8(1):

#### Fundamental Powers

**8(1)** A municipality has the capacity, rights, powers and privileges of a natural person of full capacity.

**8(10)** Powers provided to municipalities under this section (a) are subject to any specific conditions and restrictions established under this or another Act and (b) must be exercised in accordance with this Act unless otherwise provided.

**11(2)** The natural person powers of a municipality may be exercised outside the boundaries of the municipality.

**12(2)** A council may, in exercising its powers under section 8 (1) [natural person powers], establish any terms and conditions it considers appropriate.

It also gives municipalities the authority to establish corporations, with the approval of the Inspector of Municipalities:

#### Ownership of corporations

**185(1)** A municipality may only

- (a) incorporate a corporation other than a society, or
- (b) acquire shares in a corporation

with the approval of the inspector or as authorized by regulation.

(2) An incorporation or acquisition under subsection (1) applies as an exception to the restriction under section 183 [*investment of municipal funds*].

The *Local Government Act* does not confer natural person powers, but it does contain a similar provision allowing municipalities to establish corporations:

#### Inspector approval required for incorporation or acquisition of corporations

**265(1)** A regional district may only

- (a) incorporate a corporation other than a society, or
- (b) acquire shares in a corporation

with the approval of the inspector or as authorized by regulation.

(2) An incorporation or acquisition under subsection (1) applies as an exception to the restriction under section 183 [*investment of municipal funds*] of the *Community Charter* as that section applies under section 377 [*financial management*] of this Act.

The *Vancouver Charter* does not confer natural person powers for the City of Vancouver, nor does it provide the authority to establish corporations.

## 1.5 Express Powers and Spheres of Jurisdiction

Section 8(3) of the *Community Charter* outlines 13 areas of jurisdiction in which municipal governments may enact bylaws:

- 8(3) A council may, by bylaw, regulate, prohibit and impose requirements in relation to the following:
  - (a) municipal services;
  - (b) public places;
  - (c) trees;
  - (d) firecrackers, fireworks and explosives;
  - (e) bows and arrows, knives and other weapons not referred to in subsection (5);
  - (f) cemeteries, crematoriums, columbariums and mausoleums and the interment or other disposition of the dead;
  - (g) the health, safety or protection of persons or property in relation to matters referred to in section 63 [*protection of persons and property*];
  - (h) the protection and enhancement of the well-being of its community in relation to the matters referred to in section 64 [*nuisances, disturbances and other objectionable situations*];
  - (i) public health;
  - (j) protection of the natural environment;
  - (k) animals;
  - (l) buildings and other structures;
  - (m) the removal of soil and the deposit of soil or other material.
- (4) A council may, by bylaw, regulate and impose requirements in relation to matters referred to in section 65 [*signs and other advertising*].
- (5) A council may, by bylaw, regulate and prohibit in relation to the discharge of firearms.
- (6) A council may, by bylaw, regulate in relation to business.

The authorities outlined in the *Community Charter* are further supplemented by other legislation, such as British Columbia's *Police Act*, RSBC 1996 and *Library Act*, RSBC 1996, which provide the authority for municipal delivery of particular services and outline the means by which these services are to be delivered.

The *Vancouver Charter* varies from its more general counterpart in that rather than spheres of jurisdiction, it instead outlines express powers for the municipal government, in Parts V to XXX.

In addition to these specific powers, the *Vancouver Charter* further adds:

### Added powers of Council

- 199 The Council, in addition to the powers specifically allotted to it, shall have power to do all such things as are incidental or conducive to the exercise of the allotted powers.

## 1.6 References

*Community Charter*, SBC 2003, c 26. <https://canlii.ca/t/562jw>

*Local Government Act*, RSBC 2015, c 1. <https://canlii.ca/t/55gqv>

*Vancouver Charter*, SBC 1953, c 55. <https://canlii.ca/t/5632n>

## 2. Alberta

### 2.1 Overview

The overarching legislation regulating local governments in Alberta is the *Municipal Government Act*, RSA 2000, c M-26. The *City of Calgary Charter* and the *City of Edmonton Charter* regulations amend certain provisions of the general legislation as they apply to these two cities. The Act and regulations are supplemented by a range of subject-specific legislation, including the *Libraries Act*, *Police Act*, and *Emergency Health Services Act*. The City of Lloydminster, which straddles the Saskatchewan-Alberta border, is established and empowered under the *City of Lloydminster Act* and the *Lloydminster Charter* regulation.

### 2.2 Statement of Purpose and General Welfare Power

The *Municipal Government Act* establishes municipalities as corporations with broad purposes and powers as outlined in the legislation:

#### Municipal purposes

**3** The purposes of a municipality are:

- (a) to provide good government,
- (a.1) to foster the well-being of the environment,
- (a.2) to foster the economic development of the municipality,
- (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality,
- (c) to develop and maintain safe and viable communities, and
- (d) to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.

#### Corporation

**4** A municipality is a corporation.

#### Powers, duties and functions

**5** A municipality

- (a) has the powers given to it by this and other enactments,
- (b) has the duties that are imposed on it by this and other enactments and those that the municipality imposes on itself as a matter of policy, and
- (c) has the functions that are described in this and other enactments.

The purposes laid out in section 3, in combination with section 7(1), also represent a general welfare power:

**7** Subject to section 7.1, a council may pass bylaws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property.
- [...]

All powers, rights and responsibilities afforded to municipalities under the *Municipal Government Act* also apply to Calgary and Edmonton, unless otherwise noted, per section 3 of the *City of Calgary Charter* and the *City of Edmonton Charter*.

**3** Except as otherwise provided by this Regulation, all enactments that apply to a municipality continue to apply to the City.

Beyond the powers outlined in the *Municipal Government Act*, the *City of Calgary Charter* and the *City of Edmonton Charter* provide an additional general authority to the named municipalities via section 4(4) of the regulations:

**4(1)** This section modifies the Act as it is to be read for the purposes of being applied to the City [...]

**4(4)** The following is added after section 8 of the Act:

### **Bylaws may be passed for any municipal purpose**

**8.1** Without restricting the generality of sections 7 and 8, the council may pass a bylaw for any municipal purpose set out in section 3.

## **2.3 Broad Interpretation Clause**

The *Municipal Government Act* includes provisions stating that the powers assigned to municipal governments (which includes those of the City of Calgary and City of Edmonton) to act within their spheres of jurisdiction (see section 2.6) are to be interpreted broadly:

### **Guides to interpreting power to pass bylaws**

**9** The power to pass bylaws under this Division is stated in general terms to

- (a) give broad authority to councils and to respect their right to govern municipalities in whatever way the councils consider appropriate, within the jurisdiction given to them under this or any other enactment, and
- (b) enhance the ability of councils to respond to present and future issues in their municipalities.

## **2.4 Natural Person Powers and Creation of Corporations**

Section 6 of the *Municipal Government Act* confers natural person powers on municipalities (including the City of Calgary and City of Edmonton):

**6** A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.

The authority to create corporations is provided for under 75.1 of the *Municipal Government Act*:

**75.1(2)** A municipality, by itself or with other municipalities, may establish and control, or obtain control of, a corporation only if the council of the municipality

- (a) passes a resolution authorizing the municipality to control the corporation by itself or with other municipalities, as the case may be, and
- (b) is satisfied that
  - (i) the controlled corporation will carry on business solely for one or more of the purposes described in section 3,
  - (ii) the controlled corporation will provide a service or benefit to residents of the municipality or group of municipalities that controls it, and
  - (iii) the profits and dividends of the controlled corporation will provide a direct benefit to the residents of the municipality or group of municipalities that controls it.

## **2.5 Express Powers and Spheres of Jurisdiction**

The *Municipal Government Act* establishes municipal authority to pass bylaws within broadly defined spheres of authority, outlined in section 7 of the Act:

**7** Subject to section 7.1, a council may pass bylaws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public;
- (c) nuisances, including unsightly property;
- (d) transport and transportation systems;
- (e) businesses, business activities and persons engaged in business;
- (f) services provided by or on behalf of the municipality;
- (g) public utilities;
- (h) wild and domestic animals and activities in relation to them;
- (i) the enforcement of bylaws made under this or any other enactment, including any or all of the following:

- (i) the creation of offences;
- (ii) for each offence, imposing a fine not exceeding \$10 000 or imprisonment for not more than one year, or both;
- (iii) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment so long as the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence;
- (iv) providing that a specified penalty prescribed under section 44 of the *Provincial Offences Procedure Act* is reduced by a specified amount if the penalty is paid within a specified time;
- (v) providing for imprisonment for not more than one year for non-payment of a fine or penalty;
- (vi) providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the person will not be prosecuted for the contravention;
- (vii) providing for inspections to determine if bylaws are being complied with;
- (viii) remedying contraventions of bylaws.

## 2.6 References

*City of Calgary Charter, 2018 Regulation*, Alta Reg 40/2018. <https://canlii.ca/t/55pcw>

*City of Edmonton Charter, 2018 Regulation*, Alta Reg 39/2018. <https://canlii.ca/t/55pcv>

*Municipal Government Act*, RSA 2000, c M-26. <https://canlii.ca/t/560z7>

## 3. Saskatchewan

### 3.1 Overview

Saskatchewan has different general laws pertaining to different classes of municipalities:

- The 16 cities are regulated under the *Cities Act*;
- The 725 urban and rural municipalities are regulated under the *Municipalities Act*;
- The 25 incorporated northern municipalities are regulated under the *Northern Municipalities Act*.

The three pieces of legislation are broadly similar in structure and in most cases contain the same key elements. In addition, the City of Lloydminster, which straddles the Saskatchewan-Alberta border, is established and empowered under the *City of Lloydminster Act* and the *Lloydminster Charter* order-in-council.

### 3.2 Statement of Purpose and General Welfare Power

The *Cities Act*, the *Municipalities Act*, the *Northern Municipalities Act* recognize municipalities as local governments, and lay out the purposes and powers of these governments:

#### Principles and purpose of Act

**3(1)** This Act recognizes that [cities/municipalities] as local governments:

- (a) are a responsible and accountable level of government within their jurisdiction, being created and empowered by the Province of Saskatchewan; and
- (b) are subject to provincial laws and to certain limits and restrictions in the provincial interest as set out in this and other Acts.

#### Legal status and capacity

**4(1)** A [city/municipality] is a municipal corporation.

**(2)** The purposes of [cities/municipalities] are the following:

- (a) to provide good government;
- (b) to provide services, facilities and other things that, in the opinion of council, are necessary and desirable for all or a part of the city;

- (c) to develop and maintain a safe and viable community;
- (d) to foster economic, social and environmental well-being;
- (e) to provide wise stewardship of public assets.

[...]

### 3.3 Broad Interpretation Clause

The three Acts provide for broad interpretation of municipal powers:

**6(1)** The power of a [city/municipality] to pass bylaws is to be interpreted broadly for the purposes of:

- (a) providing a broad authority to its council and respecting the council's right to govern the [city/municipality] in whatever manner the council considers appropriate, within the jurisdiction provided to the council by law; and
- (b) enhancing the council's ability to respond to present and future issues in the [city/municipality].

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

### 3.4 Natural Person Powers and Creation of Corporations

Section 4 of each of the three Acts confers onto the respective governmental bodies the powers of a natural person:

**4(3)** For the purpose of carrying out its powers, duties and functions, a [city/municipality] has the capacity and, subject to any limitations that may be contained in this or any other Act, the rights, powers and privileges of a natural person.

(4) Notwithstanding subsection 10(1), a [city/municipality] may exercise its capacity, rights, powers and privileges as a natural person outside its boundaries if the exercise of those powers is in pursuit of a municipal purpose as set out in subsection (2).

The *Cities Act* outlines the authorization to provide services through a controlled corporation and outlines audit requirements for controlled corporations. These provisions are echoed in the *Municipalities Act* and *Northern Municipalities Act*; the *Cities Act* versions are reproduced below:

#### Method of providing a public utility

**17(1)** A city may provide a public utility service either directly or through a controlled corporation or by agreement with any person.

#### Financial statements for controlled corporations

**158** A controlled corporation shall prepare annual financial statements in accordance with:

- (a) the requirements of the legislation pursuant to which the corporation was formed; and
- (b) if there are no requirements as described in clause (a), the generally accepted accounting principles recommended from time to time by Chartered Professional Accountants of Canada.

**159(2)** A council shall appoint an auditor for each of its controlled corporations if there is no statutory requirement for an audit of the accounts of the controlled corporation.

**160(2)** An auditor appointed pursuant to subsection 159(2) shall report to the council on the annual financial statements of a controlled corporation in accordance with the form and the reporting standards recommended from time to time by Chartered Professional Accountants of Canada.

### 3.5 Express Powers and Spheres of Jurisdiction

The *Cities Act*, the *Municipalities Act*, and the *Northern Municipalities Act* outline spheres of municipal jurisdiction under section 8 of each Act:

**8(1)** A [city/municipality] has a general power to pass any bylaws for [city/municipality] purposes that it considers expedient in relation to the following matters respecting the city:

- (a) the peace, order and good government of the [city/municipality];
- (b) the safety, health and welfare of people and the protection of people and property;
- (c) people, activities and things in, on or near a public place or place that is open to the public;
- (d) nuisances, including property, activities or things that affect the amenity of a neighbourhood;
- (e) transport and transportation systems, including carriers of persons or goods;
- (f) subject to The Traffic Safety Act, the use of vehicles and the regulation of pedestrians;
- (g) streets, including temporary and permanent openings and closings;
- (h) businesses, business activities and persons engaged in business;
- (i) services provided by or on behalf of the [city/municipality], including establishing fees for providing those services;
- (j) public utilities;
- (k) wild and domestic animals and activities in relation to them;
- (l) the abandonment, discontinuance, dismantling, removal or decommissioning of any use, building, or other structure, including former railway lines, and the reclamation of the land on which the use, building or other structure is located.

### 3.6 References

*The Cities Act*, SS 2002, c C-11.1. <https://canlii.ca/t/55xxf>

*The City of Lloydminster Act*, SS 2004, c C-11.2. <https://canlii.ca/t/h636>

*The Municipalities Act*, SS 2005, c M-36.1. <https://canlii.ca/t/55xxb>

*The Northern Municipalities Act*, 2010, SS 2010, c N-5.2. <https://canlii.ca/t/56172>

## 4. Manitoba

### 4.1 Overview

Two pieces of legislation authorize municipal governments in the Province of Manitoba. The *Municipal Act* outlines the responsibilities and powers of all municipalities except for the City of Winnipeg. The City of Winnipeg is instead governed by the *City of Winnipeg Charter*.

### 4.2 Statement of Purpose and General Welfare Power

The *Municipal Act* establishes broad purposes and authorities for municipal governments, which, in combination with section 232(1)(a), establish a general welfare power:

#### Municipal purposes

**3** The purposes of a municipality are

- (a) to provide good government;
- (b) to provide services, facilities or other things that, in the opinion of the council of the municipality, are necessary or desirable for all or a part of the municipality; and
- (c) to develop and maintain safe and viable communities.

#### Spheres of jurisdiction

**232(1)** A council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property.
- [...]

The *City of Winnipeg Charter* articulates similar measures with respect to Winnipeg:

#### **Purposes of city**

**5(1)** The purposes of the city are

- (a) to provide good government for the city;
- (b) to provide services, facilities or other things that council considers to be necessary or desirable for all or part of the city;
- (c) to develop and maintain safe, orderly, viable and sustainable communities; and
- (d) to promote and maintain the health, safety, and welfare of the inhabitants.

#### **City is responsible and accountable**

**5(2)** The city is created to be a responsible and accountable government with respect to matters within its jurisdiction.

### **4.3 Broad Interpretation Clause**

The *Municipal Act* gives broad authority to municipal governments in s. 231.

#### **Guide to interpreting power to pass by-laws**

**231** The power given to a council under this Division to pass by-laws is stated in general terms

- (a) to give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this and other Acts; and
- (b) to enhance the ability of the council to respond to present and future issues in the municipality.

The *Winnipeg Charter* similarly articulates a broad interpretation of municipal powers and authorities:

#### **Broad authority**

**6(1)** The powers given to council under this Act are stated in general terms

- (a) to give broad authority to council to govern the city in whatever way council considers appropriate within the jurisdiction given to it under this or any other Act; and
- (b) to enhance the ability of council to respond to present and future issues in the city.

#### **General powers not limited by specific**

**6(2)** If this Act confers a specific power on the city in relation to a matter that can be read as coming within a general power also conferred by this Act, the general power is not to be interpreted as being limited by the specific power.

### **4.4 Natural Person Powers and Creation of Corporations**

The *Winnipeg Charter* gives the City of Winnipeg natural person powers under s. 7:

#### **Natural person powers**

**7(1)** The city has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act.

The *Municipal Act*, in contrast, does not confer natural person powers to other Manitoba municipalities.

The power to create corporations is not explicitly articulated, but is implicit under the *Municipal Act* through reference throughout the Act to “municipal participation corporations,” as in s. 261(1)(d)):

**261(1)** A council may make a grant to or otherwise assist

- (a) a charitable or non-profit organization, association or corporation;
- (b) another municipality;
- (c) a local authority; or
- (d) a municipal participation corporation

if in its opinion the purpose for which the grant is made is in the interest of or to advantage of the municipality or its residents.

Under s. 1(1), a municipal participation corporation is defined as follows:

“municipal participation corporation” means a corporation or entity in which all the members or shareholders are municipalities and which is controlled by the municipalities.

## 4.5 Express Powers and Spheres of Jurisdiction

The *Municipal Act* establishes specific spheres of municipal jurisdiction in section 232:

### Spheres of jurisdiction

**232(1)** A council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
- (c) subject to section 233, activities or things in or on private property; *[s. 233: bylaws may only ensure safe and clean condition, parking, soil removal, nuisance]*
- (c.1) subject to section 233.1, the condition and maintenance of vacant dwellings and non-residential buildings;
- (c.2) subject to section 233.2, the conversion of rental units into units under *The Condominium Act*;
- (d) municipal roads, including naming the roads, posting the names on public or private property, and numbering lots and buildings along the roads;
- (e) private works on, over, along or under municipal roads;
- (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;
- (g) the operation of off-road vehicles on public or private property;
- (h) drains and drainage on private or public property;
- (i) preventing and fighting fires;
- (j) the sale and use of firecrackers and other fireworks, the use of rifles, guns, and other firearms, and the use of bows and arrows and other devices;
- (k) wild and domestic animals and activities in relation to them, including by-laws differentiating on the basis of sex, breed, size or weight;
- (l) public utilities;
- (m) local transportation systems;
- (n) businesses, business activities and persons engaged in business;
- (n.1) the establishment of a program of property tax credits to encourage and assist in the renovation of buildings that have been designated as municipal heritage sites under *The Heritage Resources Act*;
- (n.2) the days and hours businesses may operate;
- (o) the enforcement of by-laws.

The *Municipal Act* also outlines additional specific municipal responsibilities and powers:

### Fire protection services

**264** Every municipality must provide fire protection services within its boundaries to reduce the danger of fire, which may include education programs, inspections of property, the installation of alarms, instructions on fighting fires, the provision of fire fighting equipment and a fire protection force.

### Special service

**312** If approved by by-law, a municipality may provide, as a special service to all or part of a municipality, one or more of the following:

- (a) highway construction and maintenance;
- (b) snow removal and dust control;
- (c) tree planting or control of a plant or tree disease;
- (d) grass and weed cutting and control;

- (e) the collection and transportation of waste or recyclable materials;
- (f) incentives to health care professionals to practise their professions in the municipality;
- (g) recreation support services;
- (h) street lighting;
- (i) fire and police protection services;
- (i.1) emergency management services;
- (j) business improvement area services;
- (k) drainage construction and maintenance;
- (l) maintenance or operation of a local improvement.

The *City of Winnipeg Charter Act* similarly outlines spheres of jurisdiction for the city in Part 5 “Powers of the City,” Division 1 “Spheres of Jurisdiction” of the Act (ss. 128–223), which due to length is not reproduced here. These largely mirror the items in the *Municipal Act* but with additional detail, by section:

- 129–133: Public convenience – Activities and things on private property; property adjacent to streets; animals and birds; litter from businesses
- 134: Health hazards; health, safety, and well-being of people; protection and safety of property
- 135: Activities in public places
- 136–147: Streets
- 148–149: Activities of businesses
- 150–157: Buildings, equipment, and materials
- 158: Construction in floodway and floodway fringe areas
- 159: Waterways
- 160: Water
- 161: Solid waste; drainage and wastewater
- 162–163: Public transportation
- 164: Ambulance services
- 165: Fire protection
- 166–173: Police.

Division 2 “Exercising By-Law Making Authority” (s. 174) and Division 3 “Enforcement and By-Laws Respecting Enforcement” (ss. 175–189) sets out the city’s bylaw enforcement authority. Division 4 “Derelict Property” (ss. 190–201) assigns special powers in relation to vacant property. Division 5 “Corporate Powers” (ss. 202–223) establishes powers in relation to public property, expropriation, the charging of fees for public services and facilities, the establishment of controlled corporations, the establishment and financing of services and grants and tax credits to external entities, and the City’s powers and duties with respect to emergency preparedness. Relevant selections are reproduced as follows:

### **General authority**

**134(1)** Council may pass by-laws respecting

- (a) health hazards;
- (b) the protection, safety, health and well-being of people; and
- (c) the protection and safety of property.

### **Health and safety**

**134(2)** Without limiting the generality of subsection (1), a by-law authorized under that subsection may include provisions respecting

- (a) the sale, use, consumption, possession or disposal of substances that may constitute a health hazard;
- (b) the source, use, treatment and quality of water intended for drinking or domestic purposes;
- (c) the occupation, use, condemnation or demolition of any building or land that is reported to be a health hazard by the medical officer of health; and
- (d) the control of insects, plant diseases and pests.

**135(1)** Council may pass by-laws respecting people, activities and things in, on or near public places or places open to the public.

**148** Council may, in the interest of the health, safety, welfare and protection of persons, or in the interest of preventing or minimizing nuisances, pass by-laws in respect of the following matters:

- (a) businesses;
- (b) the carrying on of businesses;
- (c) persons carrying on businesses;
- (d) premises in which businesses are carried on.

**165(1)** Council may pass by-laws respecting

- (a) the prevention and suppression of fires; and
- (b) the protection of persons and property endangered by fires.

## 4.6 References

*Municipal Act*, CCSM c M225. <https://canlii.ca/t/5626s>

*The City of Winnipeg Charter*, SM 2002, c 39. <https://canlii.ca/t/563dc>

## 5. Ontario

### 5.1 Overview

Two pieces of legislation authorize municipal government in the Province of Ontario. The *Municipal Act* outlines the responsibilities and powers that apply to all municipalities except the City of Toronto. The City of Toronto is governed by the *City of Toronto Act* and is exempt from the *Municipal Act*.

### 5.2 Statement of Purpose and General Welfare Power

The *Municipal Act* establishes municipalities as democratic governments with the following purposes:

#### Purposes

**2** Municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters.

The *Municipal Act* also establishes a general welfare power, principally through subsections 10(1), 10(2)(5), and 10(2)(6) of the Act (note that these clauses are mirrored in section 11 for the purposes of upper- and lower-tier municipalities).

**10(1)** A single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public.

(2) A single-tier municipality may pass by-laws respecting the following matters:

- 5. Economic, social and environmental well-being of the municipality, including respecting climate change.
- 6. Health, safety and well-being of persons.

The *City of Toronto Act* provides a broader statement of purpose:

#### Governing principles

**1(1)** The City of Toronto exists for the purpose of providing good government with respect to matters within its jurisdiction, and the city council is a democratically elected government which is responsible and accountable.

#### Purposes of this Act

**2** The purpose of this Act is to create a framework of broad powers for the City which balances the interests of the Province and the City and which recognizes that the City must be able to do the following things in order to provide good government:

1. Determine what is in the public interest for the City.
2. Respond to the needs of the City.
3. Determine the appropriate structure for governing the City other than with respect to the composition of city council and the division of the City into wards.
4. Ensure that the City is accountable to the public and that the process for making decisions is transparent.
5. Determine the appropriate mechanisms for delivering municipal services in the City.
6. Determine the appropriate levels of municipal spending and municipal taxation for the City.
7. Use fiscal tools to support the activities of the City.

### **5.3 Broad Interpretation Clause**

The *Municipal Act* establishes broad authority and powers for municipal governments:

#### **Scope of powers**

**8(1)** The powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues.

#### **Ambiguity**

**(2)** In the event of ambiguity in whether or not a municipality has the authority under this or any other Act to pass a by-law or to take any other action, the ambiguity shall be resolved so as to include, rather than exclude, powers the municipality had on the day before this Act came into force.

#### **Scope of bylaw making power**

**(3)** Without limiting the generality of subsections (1) and (2), a by-law under sections 10 and 11 respecting a matter may,

- (a) regulate or prohibit respecting the matter;
- (b) require persons to do things respecting the matter;
- (c) provide for a system of licences respecting the matter.

#### **Scope of by-laws generally**

**(4)** Without limiting the generality of subsections (1), (2) and (3) and except as otherwise provided, a by-law under this Act may be general or specific in its application and may differentiate in any way and on any basis a municipality considers appropriate.

#### **Broad authority, single-tier municipalities**

**10(1)** A single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public.

#### **Broad authority, lower-tier and upper-tier municipalities**

**11(1)** A lower-tier municipality and an upper-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4).

The *City of Toronto Act* similarly states:

#### **Scope of powers**

**6(1)** The powers of the City under this or any other Act shall be interpreted broadly so as to confer broad authority on the City to enable the City to govern its affairs as it considers appropriate and to enhance the City's ability to respond to municipal issues.

#### **Ambiguity**

**(2)** In the event of ambiguity in whether or not the City has the authority under this or any other Act to pass a by-law or to take any other action, the ambiguity shall be resolved so as to include, rather than exclude, powers the City had on the day before this section came into force.

#### **Broad authority**

**8(1)** The City may provide any service or thing that the City considers necessary or desirable for the public.

## 5.4 Natural Person Powers and Creation of Corporations

Natural person powers are conferred upon municipalities under the *Municipal Act*:

**9** A municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act.

**17(1)** Sections 9, 10 and 11 do not authorize a municipality to,

- (a) impose taxes;
- (b) borrow or invest money or sell debt;
- (c) incur debt without borrowing money for the purpose of obtaining long-term financing of any capital undertaking;
- (d) enter into agreements for the purpose of minimizing costs or financial risk associated with the incurring of debt;
- (e) make a grant or a loan;
- (f) take any other prescribed financial action;
- (g) become a bankrupt under the *Bankruptcy and Insolvency Act* (Canada); or
- (h) as an insolvent person, make an assignment for the general benefit of creditors under section 49 of the *Bankruptcy and Insolvency Act* (Canada) or make a proposal under section 50 of that Act.

The power to establish corporations is articulated under 203(1):

**203(1)** Without limiting sections 9, 10 and 11, those sections authorize a municipality to do the following things in accordance with such conditions and restrictions as may be prescribed:

1. To establish corporations.
2. To nominate or authorize a person to act as an incorporator, director, officer or member of a corporation.
3. To exercise any power as a member of a corporation.
4. To acquire an interest in or to guarantee such securities issued by a corporation as may be prescribed.
5. To exercise any power as the holder of such securities issued by a corporation as may be prescribed.

The City of Toronto is also given natural person powers under the *City of Toronto Act*:

**7** The City has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act.

**13** Sections 7 and 8 do not authorize the City to do any of the following:

1. Impose any type of tax, including taxes under any Part of this Act.
2. Make a grant or loan.
3. Become a bankrupt under the *Bankruptcy and Insolvency Act* (Canada).
4. As an insolvent person, make an assignment for the general benefit of creditors under section 49 of the *Bankruptcy and Insolvency Act* (Canada) or make a proposal under section 50 of that Act.

Likewise, the *City of Toronto Act* also contains a provision for the establishment of corporations:

**148(1)** Without limiting sections 7 and 8, those sections authorize the City to do the following things in accordance with such conditions and restrictions as may be prescribed:

1. To establish corporations.
2. To nominate or authorize a person to act as an incorporator, director, officer or member of a corporation.
3. To exercise any power as a member of a corporation.
4. To acquire an interest in or to guarantee such securities issued by a corporation as may be prescribed.
5. To exercise any power as the holder of such securities issued by a corporation as may be prescribed.

## 5.5 Express Powers and Spheres of Jurisdiction

Beyond the general grant of authority, the *Municipal Act* assigns specific areas of authority to single, upper, and lower-tier municipalities:

**10(2)** A single-tier municipality may pass by-laws respecting the following matters:

1. Governance structure of the municipality and its local boards.
2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
3. Financial management of the municipality and its local boards.
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the municipality, including respecting climate change.
6. Health, safety and well-being of persons.
7. Services and things that the municipality is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection.
9. Animals.
10. Structures, including fences and signs.
11. Business licensing.

**11(2)** A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters:

1. Governance structure of the municipality and its local boards.
2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
3. Financial management of the municipality and its local boards.
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the municipality, including respecting climate change.
6. Health, safety and well-being of persons.
7. Services and things that the municipality is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection.

**11(3)** A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting matters within the following spheres of jurisdiction:

1. Highways, including parking and traffic on highways.
2. Transportation systems, other than highways.
3. Waste management.
4. Public utilities.
5. Culture, parks, recreation and heritage.
6. Drainage and flood control, except storm sewers.
7. Structures, including fences and signs.
8. Parking, except on highways.
9. Animals.
10. Economic development services.
11. Business licensing.

Subsections 11(4–11) set out the division of powers between upper- and lower-tier municipalities, including exceptions made for specific municipalities.

Part III “Specific Municipal Powers” (ss. 24–149) enumerates numerous specific powers, including in relation to public health, safety, and nuisance. For example, with regard to nuisance:

### Public nuisances

**128(1)** Without limiting sections 9, 10 and 11, a local municipality may prohibit and regulate with respect

to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances.

The *City of Toronto Act* also specifies specific matters for which the City of Toronto may exercise bylaw making power:

#### **City by-laws**

**8(2)** The City may pass by-laws respecting the following matters:

1. Governance structure of the City and its local boards (restricted definition) other than with respect to the composition of city council and the division of the City into wards.
2. Accountability and transparency of the City and its operations and of its local boards (restricted definition) and their operations.
3. Financial management of the City and its local boards (restricted definition).
4. Public assets of the City acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the City, including respecting climate change.
6. Health, safety and well-being of persons.
7. Services and things that the City is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection.
9. Animals.
10. Structures, including fences and signs.
11. Business licensing.

Part III, “General Powers: Limits and Additions” (ss. 29–123) of the *City of Toronto Act* assigns a number of other specific powers, including regarding roads and highways, property, waste management, public utilities, vehicle parking, and licencing.

## **5.6 References**

*City of Toronto Act*, SO 2006, c 11 Sch A. <https://canlii.ca/t/561nt>

*Municipal Act*, SO 2001 c 25. <https://canlii.ca/t/561rj>

## **6. Québec**

### **6.1 Overview**

Four pieces of legislation provide the framework regulating municipal governments in the Province of Québec. The *Cities and Towns Act* defines the basic framework regarding what constitutes a municipality and how a municipality should function. The *Municipal Code of Québec* applies to all municipalities not under the jurisdiction of the *Cities and Towns Act*. The *Municipal Powers Act* outlines areas of jurisdiction in which local municipalities are empowered to operate. Finally, while both the *Cities and Towns Act* and *Municipal Powers Act* apply to all cities across the province, “charter” laws for Gatineau, Lévis, Longueuil, Montréal, and Québec City grant additional specific powers to those municipalities.

### **6.2 Statement of Purpose and General Welfare Clause**

The *Municipal Powers Act* recognizes local governments and articulates broad authorities. Section 85 provides a textbook example of a general welfare power:

**85** In addition to the regulatory powers under this Act, a local municipality may adopt a by-law to ensure peace, order, good government, and the general welfare of its citizens.

### **6.3 Broad Interpretation Clause**

Section 2 of the *Municipal Powers Act* establishes the principle of broad interpretation of powers:

**2** Under this Act, municipalities are granted powers enabling them to respond to various changing municipal

needs in the interest of their citizens. The provisions of the Act are not to be interpreted in a literal or restrictive manner.

## 6.4 Natural Person Powers and Creation of Corporations

The *Cities and Towns Act*, *Municipal Code*, and *Municipal Powers Act* do not confer natural person powers. The Charters for Longueuil, Ville de Québec, Montréal, and Gatineau, however, name their respective Cities as legal persons in section 2 of each Act.

### Constitution of the Municipality

**2** The city is a legal person.

The *Municipal Powers Act* allows for the establishment of corporations for specific purposes:

**17.1** A local municipality may operate, alone or with another person, an enterprise that produces electricity from a source of renewable energy. The enterprise may carry on any storage activity that is incidental to its production activities.

[...]

**111** A regional county municipality may operate, alone or with another person, an enterprise that produces electricity from a source of renewable energy. The enterprise may carry on any storage activity that is incidental to its production activities.

## 6.5 Express Powers and Spheres of Jurisdiction

The *Municipal Powers Act* outlines spheres of municipal jurisdiction:

### Powers of a Local Municipality General Provisions

**4.** In addition to the areas of jurisdiction conferred on it by other Acts, a local municipality has jurisdiction in the following fields:

- (1) culture, recreation, community activities and parks;
- (2) local economic development, to the extent set out in Chapter III;
- (3) power development and community telecommunications systems;
- (4) the environment;
- (5) sanitation;
- (6) nuisances;
- (7) safety; and
- (8) transportation.

City charter legislation outlines further jurisdiction for the respective Cities, at the level of both city and borough councils (where applicable).

Charter of the Ville de Gatineau

**40.** The city has jurisdiction in all matters within the jurisdiction of a local municipality, and shall exercise its powers and fulfil its obligations in respect thereof, subject to a provision of this Act or any order of the Government made under section 9.

**41.** In addition, the city has, to the extent provided by this Act or by the order of the Government made under section 9, special jurisdiction, obligations and powers in the following fields:

- (1) land use planning and development;
- (2) economic, community, cultural and social development;
- (3) residual materials disposal, recovery and recycling;
- (4) recreation and parks;
- (5) water purification and drinking water supply;
- (6) social housing;
- (7) tourist promotion and hospitality; and
- (8) the municipal court.

### Charter of the Ville de Lévis

**67** The city has jurisdiction in all matters within the jurisdiction of a local municipality, and shall exercise its powers and fulfil its obligations in respect thereof, subject to any provision of this Act or of any order made by the Government under section 9.

**71** In addition to what is provided in section 67, the city has, to the extent provided by this Act or by the order of the Government made under section 9, special jurisdiction, obligations and powers in the following fields:

- (1) land use planning and development;
- (2) community, economic, cultural and social development;
- (3) culture, recreation and parks;
- (4) social housing;
- (5) the arterial system;
- (6) tourist promotion and hospitality; and
- (7) the municipal court.

**85** The borough council has, for the borough and to the extent provided by this Act or by the order of the Government made under section 9, jurisdiction, powers and obligations in the following fields:

- (1) urban planning;
- (2) fire safety and civil protection;
- (3) removal of residual materials;
- (4) local economic, community, cultural and social development;
- (5) culture, recreation and borough parks; and
- (6) local roads.

### Charter of the Ville de Longueuil

**55** The city has jurisdiction in all matters within the jurisdiction of a local municipality, and shall exercise its powers and fulfil its obligations in respect thereof, subject to any provision of this Act or of any order made by the Government under section 9.

The city shall act through its council if the apportionment of jurisdiction provided by this Act does not implicitly or explicitly enable a determination to be made as to whether the power to act lies with the city council or with the borough council.

**58** In addition to what is provided in section 55, the city has, to the extent provided by this Act or by the order of the Government made under section 9, special jurisdiction, obligations and powers in the following fields:

- (1) land use planning and development;
- (2) community, economic, cultural and social development;
- (3) culture, recreation and parks;
- (4) social housing;
- (5) the arterial system; and
- (6) the municipal court.

**71** The borough council has, for the borough and to the extent provided by this Act or by the order of the Government made under section 9, jurisdiction, powers and obligations in the following fields:

- (1) urban planning;
- (2) fire safety and civil protection;
- (3) removal of residual materials;
- (4) local economic, community, cultural and social development;
- (5) culture, recreation and borough parks; and
- (6) local roads.

### Charter of Ville de Montréal

**84** The city has jurisdiction in all matters within the jurisdiction of a local municipality, and shall exercise its powers and fulfil its obligations in respect thereof, subject to any provision of this Act or of any order made by the Government under section 9.

The city shall act through its council if the apportionment of jurisdiction provided by this Act does not implicitly or explicitly enable a determination to be made as to whether the power to act lies with the city council or with the borough council.

**87** In addition to what is provided in section 84, the city has, to the extent provided by this Act or by the order of the Government made under section 9, special jurisdiction, obligations and powers in the following fields:

- (1) land use planning and development;
- (2) economic promotion and community, cultural, economic, social, environmental and transportation development;
- (3) recovery and recycling of residual materials;
- (4) culture, recreation and parks;
- (5) social housing;
- (6) the arterial system;
- (7) water purification;
- (8) police services;
- (9) road service and vehicle towing; and
- (10) the municipal court.

**130** The borough council has, for the borough and to the extent provided by this Act or by the order of the Government made under section 9, jurisdiction, powers and obligations in the following fields:

- (1) urban planning;
- (2) exceptions to the prohibition from converting immovables to divided co-ownership;
- (3) fire safety and civil protection;
- (4) the environment;
- (5) local economic, community, cultural and social development;
- (6) culture, recreation and borough parks; and
- (7) local roads.

#### Charter of Ville de Québec

**69** The city has jurisdiction in all matters within the jurisdiction of a local municipality, and shall exercise its powers and fulfil its obligations in respect thereof, subject to any provision of this Act or of any order made by the Government under section 9.

**72** In addition to what is provided in section 69, the city has, to the extent provided by this Act or by the order of the Government made under section 9, special jurisdiction, obligations and powers in the following fields:

- (1) land use planning and development;
- (2) community, economic, cultural and social development;
- (3) disposal and upgrading of residual materials;
- (4) culture, recreation and parks;
- (5) social housing;
- (6) the arterial system;
- (7) air purification;
- (8) water purification and drinking water supply;
- (9) tourist promotion and hospitality;
- (10) the municipal court.

**114** The borough council has, for the borough and to the extent provided by this Act or by the order of the Government made under section 9, jurisdiction, powers and obligations in the following fields:

- (1) urban planning;
- (2) fire safety and civil protection;
- (3) removal of residual materials;
- (4) local economic, community, cultural and social development;
- (5) culture, recreation and borough parks; and
- (6) local roads.

## 6.6 References

*Charter of Ville de Gatineau*, CQLR c C-11.1. <https://canlii.ca/t/55dl7>

*Charter of Ville de Lévis*, CQLR c C-11.2. <https://canlii.ca/t/55dl6>

*Charter of Ville de Longueuil*, CQLR c C-11.3. <https://canlii.ca/t/562s0>

*Charter of Ville de Montréal, metropolis of Québec*, CQLR c C-11.4. <https://canlii.ca/t/562rz>

*Charter of Ville de Québec, national capital of Québec*, CQLR c C-11.5. <https://canlii.ca/t/562rx>

*Cities and Towns Act*, CQLR c C-19. <https://canlii.ca/t/56kwl>

*Municipal Code of Québec*, CQLR c C-27.1. <https://canlii.ca/t/56kwn>

*Municipal Powers Act*, CQLR c C-47.1. <https://canlii.ca/t/562rp>

## 7. New Brunswick

### 7.1 Overview

The *Local Governance Act* authorizes municipal government in New Brunswick (replacing the previous *Municipalities Act* on January 1, 2018).

### 7.2 Statement of Purpose and General Welfare Power

The *Local Governance Act* establishes municipalities as democratic governments with the following purposes:

#### Municipal purposes

**5** The purposes of a local government are

- (a) to provide good government,
- (b) to provide services, facilities or things the council considers necessary or desirable for all or part of the local government,
- (c) to develop and maintain safe and viable communities, and
- (d) to foster the economic, social and environmental well-being of its community.

These municipal purposes, together with section 10(1)(a), also provide for a general welfare power:

#### By-laws – general

**10(1)** Subject to this Act, without limiting the generality of section 6, a local government may make by-laws for municipal purposes respecting

- (a) the safety, health and welfare of people and the protection of people and property.
- [...]

### 7.3 Broad Interpretation Clause

Section 7 of the *Local Governance Act* grants municipal governments broad authority:

#### Broad interpretation of powers of a local government

**7** Recognizing that a local government is a responsible and accountable level of government, the powers of a local government under this or any other Act shall be interpreted broadly in order to provide broad authority to the council to enable it to govern the affairs of the local government as it considers appropriate and to enhance the council's ability to respond to issues in the local government.

### 7.4 Natural Person Powers and Creation of Corporations

The *Local Governance Act* grants municipalities in the province natural person powers:

**6(1)** Subject to this Act or any other Act, a local government has the capacity, rights, powers and privileges of a natural person.

**6(2)** A local government only has the capacity, rights, powers and privileges of a natural person in respect of municipal purposes.

The *Local Government Act* also provides for the creation of corporations, within limits:

**8(1)** Subject to subsection (2), a local government may, for a municipal purpose, establish a corporation or acquire or hold securities of a corporation for any one or more of the following purposes:

- (a) the provision of a service;
- (b) the operation of a utility;
- (c) the undertaking of economic development activities under section 104; and
- (d) the management of properties of the local government.

**8(2)** A local government shall not establish a corporation that operates for the purpose of making a profit or acquire or hold securities of a corporation that operates for that purpose.

## 7.5 Express Powers and Spheres of Jurisdiction

The *Local Governance Act* assigns powers to municipal governments within several spheres of jurisdiction, laid out in section 10 of the Act.

### By-laws – general

**10(1)** Subject to this Act, without limiting the generality of section 6, a local government may make by-laws for municipal purposes respecting

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public;
- (c) nuisances, including noise, pollution and waste in or on public or private property;
- (d) dangerous or unsightly premises and property;
- (e) maintenance and occupancy standards for buildings and premises;
- (f) blasting operations;
- (g) transport and transportation systems, including carriers of persons or goods, taxis and other forms of public transportation;
- (h) businesses, business activities and persons engaged in business;
- (i) programs and services provided by or on behalf of the local government;
- (j) utilities, facilities, infrastructure and improvements on public or private property;
- (k) wild, domestic and exotic animals and activities in relation to them, including animal control activities;
- (l) the acquisition of real property and improvements by expropriation, with the exception of real property owned by the Crown;
- (m) the acquisition, sale, management, construction, leasing, renting of or any other dealings in any real property, or any interest in real property including land, buildings or easements;
- (m.1) a tourism accommodation levy;
- (n) the acquisition, sale, management, leasing, renting of or any other dealings in personal property, or any interest in personal property;
- (o) subject to the *Motor Vehicle Act*, the use of motor vehicles or other vehicles on or off roads, streets and highways, and the regulation of traffic, parking and pedestrians;
- (p) subject to the *Highway Act*,
  - (i) the management and control of roads, streets and highways, sidewalks and boulevards and all property adjacent to roads, streets and highways, whether publicly or privately owned,
  - (ii) the temporary and permanent opening and closing of roads, streets and highways, and
  - (iii) the naming and lighting of roads, streets and highways;
- (q) vegetation and activities in relation to it;
- (r) the enforcement of by-laws made under this or any other Act.
- [...]

**10(3)** A municipality shall make by-laws respecting the provision of the service of police protection.

**10(4)** A rural community or a regional municipality may make by-laws respecting the provision of the service of police protection.

## 7.6 References

*Local Governance Act*, SNB 2017, c 18. <https://canlii.ca/t/55w2s>

# 8. Nova Scotia

## 8.1 Overview

Two pieces of legislation authorize municipal government in the Province of Nova Scotia: the *Municipal Government Act* and the *Halifax Regional Municipality Charter*. The former applies to all municipalities except Halifax Regional Municipality, which is instead governed by the *Halifax Regional Municipality Charter*.

## 8.2 Statement of Purpose and General Welfare Power

The *Municipal Government Act* outlines broad purposes and powers for municipal governments (except Halifax) within the province. Its preamble states that “municipalities are a responsible order of government accountable to the people.” The purposes set out in section 9A, in combination with the first sphere of jurisdiction (s. 172(1) (a)) also serve as a general welfare clause.

### Purpose of Act

**2** The purpose of this Act is to

- (a) give broad authority to councils, including broad authority to pass by-laws, and to respect their right to govern municipalities in whatever ways the councils consider appropriate within the jurisdiction given to them;
- (b) enhance the ability of councils to respond to present and future issues in their municipalities; and
- (c) recognize the purposes of a municipality set out in Section 9A.

### Purposes of a municipality

**9A** The purposes of a municipality are to

- (a) provide good government;
- (b) provide services, facilities and other things that, in the opinion of the council, are necessary or desirable for all or part of the municipality; and
- (c) develop and maintain safe and viable communities.

[...]

**172(1)** A council may make by-laws, for municipal purposes, respecting

- (a) the health, well being, safety and protection of persons.

[...]

The statements of municipal purposes and powers are broadly mirrored in the *Halifax Regional Municipality Charter*:

### Purpose of Act

**2** The purpose of this Act is to

- (a) give broad authority to the Council, including broad authority to pass by-laws, and respect its right to govern the Municipality in whatever ways the Council considers appropriate within the jurisdiction given to it;
- (b) enhance the ability of the Council to respond to present and future issues in the Municipality; and
- (c) recognize the purposes of the Municipality set out in Section 7A.

### Purposes of Municipality

**7A** The purposes of the Municipality are to

- (a) provide good government;
- (b) provide services, facilities, and other things that, in the opinion of the Council, are necessary or desirable for all or part of the Municipality; and
- (c) develop and maintain safe and viable communities.

**188(1)** The Council may make by-laws, for municipal purposes, respecting

- (a) the health, well being, safety and protection of persons.
- [...]

### 8.3 Broad Interpretation

Section 14A of the *Municipal Government Act* affirms that the powers it confers are to be interpreted broadly:

#### Interpretation of powers

**14A** The powers conferred on a municipality and its council by this Act must be interpreted broadly in accordance with the purpose of this Act as set out in Section 2 and in accordance with the purposes of a municipality as set out in Section 9A.

This principle of broad interpretation also exists in the *Halifax Regional Municipality Charter*:

#### Interpretation of powers

**11A** The powers conferred on the Municipality and its Council by this Act must be interpreted broadly in accordance with the purpose of this Act as set out in Section 2 and in accordance with the purposes of the Municipality as set out in Section 7A.

### 8.4 Natural Person Powers and Creation of Corporations

Neither the *Municipal Government Act* nor the *Halifax Regional Municipality Charter* confer natural person powers.

Section 60 of the *Municipal Government Act* allows for the creation of corporations for certain intermunicipal purposes:

#### Municipality and village service agreements

**60(1)** A municipality or a village may agree with one or more municipalities, villages, service commissions, the Government of the Province or of Canada or a department or agency of either of them or a band council pursuant to the Indian Act (Canada) to provide or administer municipal or village services.

[...]

(3) An agreement made by a municipality or village pursuant to subsection (1) may include

[...]

(e) where the power to provide the service is delegated to a committee, whether the committee to which responsibility for the service is delegated is a separate body corporate, and the corporate powers that it may exercise.

(4) Where an agreement made by a municipality or village pursuant to subsection (1) creates a body corporate:

- (a) a copy of the agreement shall be filed with the Registrar of Joint Stock Companies; and
- (b) the participating municipalities and villages may guarantee its borrowings.

### 8.5 Express Powers and Spheres of Jurisdiction

In addition to express powers, the *Municipal Government Act* outlines spheres of jurisdiction:

**172(1)** A council may make by-laws, for municipal purposes, respecting

- (a) the health, well being, safety and protection of persons;
- (b) the safety and protection of property;

- (c) persons, activities and things in, on or near a public place or place that is open to the public;
- (d) nuisances, activities and things that, in the opinion of the Council, may be or may cause nuisances, including noise, weeds, burning, odours, fumes and vibrations and, without limiting the generality of the foregoing, by-laws
  - (i) prescribing a distance beyond which noise must not be audible,
  - (ii) distinguishing between one type of noise and
  - (iii) providing that any noise or sound greater than a specific decibel level or other measurement of noise or sound is prohibited,
  - (iv) prescribing the hours during which certain noises, or all noise above a certain level, specified in the bylaw is prohibited,
  - (v) authorizing the granting of exemptions in such cases as the by-law provides,
  - (vi) providing that it is an offence to engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood;
- (e) transport and transport systems;
- (f) businesses, business activities and persons engaged in business
- (g) automatic machines;
- (h) the appointment of a day to be a civic holiday;
- (i) a requirement that pawnbrokers report all transactions by pawn or purchase;
- (j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor plants and turf on the part of a property used for residential purposes and on property of the Municipality and, without restricting the generality of the foregoing,
  - (i) requiring the posting of notices when pesticides, herbicides or insecticides are to be so used and regulate the form, manner and time of the notice and the area in which the notice must be posted,
  - (ii) establishing a registration scheme, that is open to the public, in which a resident may file with the clerk an objection to pesticides, herbicides and insecticides being so used in the vicinity of the property on which the person resides,
  - (iii) requiring that notices be served on the residents of properties registered pursuant to the registration scheme within the distance specified in the by-law when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the notice,
  - (iv) providing that pesticides, herbicides and insecticides may not be so used within the distance of a registered property established by the by-law, the requirements respecting notices to residents or owners of properties within the distance of a registered property established by the by-law and the effective date of the prohibition,
  - (v) specifying the circumstances in which posting or serving of notices is not required or the prohibition does not apply,
  - (vi) providing for all other matters necessary or incidental to the establishment of the registration scheme, but, for greater certainty, not applying to property used for agricultural or forestry purposes;
- (ja) the condition or maintenance of vacant buildings, structures and properties and, without restricting the generality of the foregoing, may
  - (i) adopt property maintenance and performance standards,
  - (ii) prescribe the manner in which buildings or structures must be secured by owners or the municipality, and
  - (iii) limit the length of time that buildings or structures may remain boarded up;
- (jb) the maintenance and sightliness of property including grounds, lawns, buildings and structures;
- (k) services provided by, or on behalf of, the municipality;
- (l) the enforcement of by-laws made under the authority of a statute, including
  - (i) procedures to determine if by-laws are being complied with, including entering upon or into private property for the purposes of inspection, maintenance and enforcement,
  - (ii) remedies for the contravention of by-laws, including undertaking or directing the

remedying of a contravention, apprehending, removing, impounding or disposing, including the sale or destruction, of plants, animals, vehicles, improvements or other things and charging and collecting the costs thereof as a first lien on the property affected,

- (iii) the creation of offences,
- (iv) for each offence, imposing a fine not exceeding ten thousand dollars or imprisonment for not more than one year or both, including the imposition of a minimum fine,
- (v) providing for 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 that is associated with the conduct that gives rise to the offence,
- (vi) providing for imprisonment, for not more than one year, for non-payment of a fine or penalty,
- (vii) providing that a person who contravenes a bylaw may pay an amount established by by-law and where the amount is paid the person will not be prosecuted for the contravention,
- (viii) providing, with respect to a by-law, that in a prosecution for violation of the by-law, evidence that one person is disturbed or offended is *prima facie* evidence that the public, or the neighbourhood, is disturbed or offended.

The *Halifax Regional Municipality Charter* outlines general spheres of jurisdiction that are similar, but not identical, to those in the *Municipal Government Act*:

**188(1)** The Council may make by-laws, for municipal purposes, respecting

- (a) the health, well being, safety and protection of persons;
- (b) the safety and protection of property;
- (c) persons, activities and things in, on or near a public place or place that is open to the public;
- (d) nuisances, activities and things that, in the opinion of the Council, may be or may cause nuisances, including noise, weeds, burning, odours, fumes and vibrations and, without limiting the generality of the foregoing, by-laws
  - (i) prescribing a distance beyond which noise must not be audible,
  - (ii) distinguishing between one type of noise and
  - (iii) providing that any noise or sound greater than a specific decibel level or other measurement of noise or sound is prohibited,
  - (iv) prescribing the hours during which certain noises, or all noise above a certain level, specified in the bylaw is prohibited,
  - (v) authorizing the granting of exemptions in such cases as the by-law provides,
  - (vi) providing that it is an offence to engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood;
- (e) transport and transport systems;
- (f) businesses, business activities and persons engaged in business
- (g) automatic machines;
- (h) the appointment of a day to be a civic holiday;
- (i) a requirement that pawnbrokers report all transactions by pawn or purchase;
- (j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor plants and turf on the part of a property used for residential purposes and on property of the Municipality and, without restricting the generality of the foregoing,
  - (i) requiring the posting of notices when pesticides, herbicides or insecticides are to be so used and regulate the form, manner and time of the notice and the area in which the notice must be posted,
  - (ii) establishing a registration scheme, that is open to the public, in which a resident may file with the clerk an objection to pesticides, herbicides and insecticides being so used in the vicinity of the property on which the person resides,
  - (iii) requiring that notices be served on the residents of properties registered pursuant to the registration scheme within the distance specified in the by-law when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the notice,
  - (iv) providing that pesticides, herbicides and insecticides may not be so used within the

distance of a registered property established by the by-law, the requirements respecting notices to residents or owners of properties within the distance of a registered property established by the by-law and the effective date of the prohibition,

- (v) specifying the circumstances in which posting or serving of notices is not required or the prohibition does not apply,
- (vi) providing for all other matters necessary or incidental to the establishment of the registration scheme, but, for greater certainty, not applying to property used for agricultural or forestry purposes;

(k) the condition or maintenance of vacant buildings, structures and properties and, without restricting the generality of the foregoing, may

- (i) adopt property maintenance and performance standards
- (ii) prescribe the manner in which buildings or structures must be secured by owners or the Municipality, and
- (iii) limit the length of time that buildings or structures may remain boarded up;

(ka) the maintenance and sightliness of property including grounds, lawns, buildings and structures;

(l) services provided by, or on behalf of, the Municipality;

(la) subject to the regulation of the Board, the establishment and operation of a district energy system within the Cogswell District Energy Boundary;

(lb) the authorization of the General Manager of the Halifax Regional Water Commission to exercise the powers and authorities of the General Manager set out in Sections 9 and 10 of the Halifax Regional Water Commission Act in respect of the district energy system;

(lc) the authorization of the Council to require, where the Council considers it necessary or advisable, that a building or other structure, built within the Cogswell District Energy Boundary after the coming into force of the by-law, be connected to the district energy system;

(m) the enforcement of by-laws made under the authority of a statute, including

- (i) procedures to determine if by-laws are being complied with, including entering upon or into private property for the purposes of inspection, maintenance and enforcement,
- (ii) remedies for the contravention of by-laws, including undertaking or directing the remedying of a contravention, apprehending, removing, impounding or disposing, including the sale or destruction, of plants, animals, vehicles, improvements or other things and charging and collecting the costs thereof as a first lien on the property affected,
- (iii) the creation of offences,
- (iv) for each offence, imposing a fine not exceeding ten thousand dollars or imprisonment for not more than one year or both, including the imposition of a minimum fine,
- (v) providing for 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 that is associated with the conduct that gives rise to the offence,
- (vi) providing for imprisonment, for not more than one year, for non-payment of a fine or penalty,
- (vii) providing that a person who contravenes a bylaw may pay an amount established by by-law and where the amount is paid the person will not be prosecuted for the contravention,
- (viii) providing, with respect to a by-law, that in a prosecution for violation of the by-law, evidence that one person is disturbed or offended is *prima facie* evidence that the public, or the neighbourhood, is disturbed or offended.

## 8.6 References

*Halifax Regional Municipality Charter*, SNS 2008, c 39. <https://canlii.ca/t/5608p>

*Municipal Government Act*, SNS 1998, c 18. <https://canlii.ca/t/560tq>

## 9. Prince Edward Island

### 9.1 Overview

Municipal governments in Prince Edward Island are authorized under the *Municipal Government Act*.

### 9.2 Statement of Purpose and General Welfare Power

The *Municipal Government Act* establishes the purposes and powers of municipal governments. These purposes, in combination with section 180(a), also establish a general welfare power:

**3** The purposes of a council include, among other things,

- (a) providing good government in its municipality;
- (b) providing services, facilities or other things that the council considers necessary or desirable for all or part of its municipality;
- (c) providing for stewardship of the municipality's public assets;
- (d) developing and maintaining its municipality as a safe and viable community; and
- (e) encouraging and enabling public participation in matters affecting the municipality.

#### **180 General jurisdiction to pass bylaws and provide services**

A council may pass bylaws and provide services for municipal purposes respecting

- (a) the safety, health and welfare of people and the protection of persons and property.

### 9.3 Broad Interpretation Clause

Section 10 of the Act also asserts that municipal powers should be broadly interpreted:

**10** The powers conferred on municipalities and their councils by this Act shall be interpreted broadly in accordance with the purposes of this Act as set out in section 2 and in accordance with the purposes of councils as set out in section 3.

### 9.4 Natural Person Powers and Creation of Corporations

The *Municipal Government Act* confers natural person powers on municipalities under section 4:

#### **Powers**

**4** A municipality is a corporation and has, for the exercise of its powers under this and any other Act, all the rights and liabilities of a corporation as set out in the Interpretation Act.

In addition to the rights and liabilities referred to in subsection (1), a municipality has, for the exercise of its powers under this Act, the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

The Act also provides the power to create corporations:

#### **Controlled corporation**

**181.1(1)** Subject to section 183, a council may in a bylaw passed pursuant to this Act (a) create a controlled corporation for any purpose for which it has jurisdiction to make a bylaw; and (b) appoint the directors and officers of the controlled corporation.

### 9.5 Express Powers and Spheres of Jurisdiction

The *Municipal Government Act* outlines spheres of municipal jurisdiction in section 180 of the Act:

#### **General jurisdiction to pass bylaws and provide services**

**180** A council may pass bylaws and provide services for municipal purposes respecting

- (a) the safety, health and welfare of people and the protection of persons and property;
- (b) municipal utilities, public utilities, facilities, works and improvements on private and public land;

- (c) businesses, business activities and persons engaged in business, including but not limited to the regulation and prohibition of business and business activities;
- (d) with the exception of land owned by the Government of Prince Edward Island or the Government of Canada or land reserved for the use of a Prince Edward Island First Nation Band, the acquisition of land and improvements by expropriation for municipal purposes, subject to Division 4 of this Part;
- (e) the municipality's acquisition, sale, management, mortgaging, construction, leasing or renting or any other dealings with real property or any interest in real property including land, buildings, easements or other interests;
- (f) people, activities and things in, on or near a public place or place that is open to the public;
- (g) the construction, demolition, removal or alteration of any building or other structure, including signage, subject to the Planning Act R.S.P.E.I. 1988, Cap. P-8, the Building Codes Act R.S.P.E.I. 1988, Cap. B-5.1, the Highway Signage Act R.S.P.E.I. 1988, Cap. H-4.1, and any other building standards, codes and regulations adopted or established by the Government;
- (h) subject to the Highway Traffic Act R.S.P.E.I. 1988, Cap. H-5, transport and transportation systems, carriers of persons or personal property, including taxi drivers, taxi vehicles and taxi businesses, and other forms of public transport;
- (i) nuisances, loitering, dangerous or unsightly property, noise, pollution and waste in or on public or private property;
- (j) subject to the Cemeteries Act R.S.P.E.I. 1988, Cap. C-2, the establishment, operation and decommissioning of cemeteries;
- (k) subject to the Environmental Protection Act R.S.P.E.I. 1988, Cap. E-9, the Pesticides Control Act R.S.P.E.I. 1988, Cap. P-4, and any other applicable enactment, vegetation and activities in relation to vegetation, including but not limited to tree preservation and protection and the development and implementation of maintenance standards for trees and other vegetation;
- (l) subject to the Pesticides Control Act, the control, health and safety of, and protection from, wild and domestic animals, including insects and birds;
- (m) subject to the Environmental Protection Act, protection of the natural environment;
- (n) the regulation of the discharge of firearms;
- (o) parks and recreation;
- (p) pension and benefit plans;
- (q) community and, in co-operation with neighbouring municipalities or provincial organizations, regional development;
- (r) libraries;
- (s) the regulation of real property maintenance and the protection of heritage property;
- (t) the enforcement of bylaws; and
- (u) subject to the Police Act, and with the approval of the Attorney General, police services.

## 9.6 References

*Municipal Government Act*, RSPEI 1988, c M-12.1. <https://canlii.ca/t/562x7>

# 10. Newfoundland and Labrador

## 10.1 Overview

Municipal government in the Province of Newfoundland and Labrador is authorized under the *Towns and Local Service Districts Act*, which replaced the *Municipalities Act* and received royal assent on November 16, 2023. The exceptions are the Cities of St. John's, Mount Pearl, and Corner Brook, which operate under separate acts. The new Act introduces a general grant of authority in line with that found in other provinces.

## 10.2 Statement of Purpose and General Welfare Power

The *Towns and Local Service Districts Act* establishes the purposes of a town:

### Purposes of town

**3** The purposes of a town are

- (a) to provide good government;
- (b) to provide services, facilities or other things necessary or desirable for all or part of the town;
- (c) to develop and maintain a healthy, safe and viable town; and
- (d) to foster the economic, social and environmental well-being of the town.

These purposes provide a general welfare power in combination with section 8(1):

### By-laws – discretionary

**8(1)** A town council may adopt by-laws for town purposes respecting the following matters:

- (a) subject to the *Public Health Protection and Promotion Act*, safety, health and well-being of people and the protection of people and property.
- [...]

The *City of St. John's Act*, the *City of Corner Brook Act*, and the *City of Mount Pearl Act* do not contain a general statement of municipal purposes.

## 10.3 Broad Interpretation Clause

A broad interpretation clause is included in s. 6 of the general municipal legislation:

### Broad interpretation of powers of town

**6** Recognizing that a town is a responsible and accountable level of government, the powers of a town under this or any other Act shall be interpreted broadly in order to provide broad authority to the town council to enable it to govern the affairs of the town as it considers appropriate and to enhance the town council's ability to respond to issues in the town.

The *City of St. John's Act*, the *City of Corner Brook Act*, and the *City of Mount Pearl Act* also do not contain a statement of broad interpretation.

## 10.4 Natural Person Powers

The non-charter municipalities in Newfoundland and Labrador are accorded natural person powers by virtue of s. 4 of the *Towns and Local Service Districts Act*:

### Natural person powers

- 4(1)** A town has the capacity, rights, powers and privileges of a natural person except to the extent they are limited by this Act or any other Act.
- (2) A town only has the capacity, rights, powers and privileges of a natural person in respect of town purposes.
- (3) The powers of a town are vested in and shall be exercised by its town council.

The *Towns and Local Service Districts Act* also allows for the creation of non-profit corporations for limited purposes in section 179(1):

### Municipal service delivery corporation

- 179(1)** A town, city, local service district and an unincorporated area, or a combination of 2 or more of those entities, may incorporate a corporation under the *Corporations Act* for the purpose of delivering water and sewer services or one or more services in this Part.
- (2) Notwithstanding subsection (1), a town shall not establish a corporation that operates for the purpose of making a profit or acquire or hold securities of a corporation that operates for that purpose.

The *City of St. John's Act*, the *City of Corner Brook Act*, and the *City of Mount Pearl Act* do not enumerate natural person powers or the power to create corporations for their respective municipalities.

## 10.5 Express Powers and Spheres of Jurisdiction

The general municipal legislation articulates the following spheres of jurisdiction:

### By-laws - mandatory

7(1) A town council shall adopt by-laws for town purposes respecting the following matters:

- (a) rules of procedure at town council meetings;
- (b) prohibiting and controlling the use of a source of water that the town council considers to be dangerous to public health;
- (c) controlling and respecting the design, construction, alteration, reconstruction, minimum lot size and occupancy of buildings and classes of buildings and the demolition, removal and relocation and maintenance of buildings;
- (d) arrears sales;
- (e) subject to the *Fire Protection Services Act*, the prevention of fire in a town and the inspection of buildings in a town for fire protection services; and
- (f) where the town has a fire department, the control and management of the fire department and the participation of the fire department in emergency activities not related to firefighting or fire prevention.

### By-laws - discretionary

8(1) A town council may adopt by-laws for town purposes respecting the following matters:

- (a) subject to the *Public Health Protection and Promotion Act*, safety, health and well-being of people and the protection of people and property;
- (b) public facilities, public works, utilities and improvements on public and private land;
- (c) services and programs provided by or on behalf of the town, including establishing fees for providing the services and programs;
- (d) people, activities and things in, on or near a public place or a place that is open to the public;
- (e) businesses, business activities and persons engaged in business;
- (f) nuisances, dangerous or unsightly property, pollution and waste in or on public or private property;
- (g) subject to the *Highway Traffic Act*, the management and control of local roadways, sidewalks and property adjacent to local roadways and sidewalks;
- (h) subject to the *Highway Traffic Act* and the *Off-Road Vehicles Act*, the use of off-road vehicles on or off local roadways and the regulation of pedestrians;
- (i) subject to the *Highway Traffic Act* and the *Motor Carrier Act*, local transport and transportation systems including carriers of persons or goods, taxis and other forms of public transportation but not including vehicles used for a ride-sharing service;
- (j) parking lots, parking and other non-moving use of local roadways;
- (k) subject to the *Animal Health and Protection Act*, domestic, feral, exotic and wild animals and activities in relation to them;
- (l) vegetation, including trees, and activities related to vegetation;
- (m) subject to the *Environmental Protection Act* and the *Water Resources Act*, protection of the natural environment;
- (n) parks and recreation;
- (o) designation and protection of heritage property and practices and the commemoration of historic events and people;
- (p) cemeteries and crematoriums;
- (q) the enforcement of by-laws made under this or any other Act; and
- (r) other matters prescribed in this Act.

The *City of St. John's Act*, the *City of Corner Brook Act*, and the *City of Mount Pearl Act* do not contain spheres of jurisdiction. Instead, they enumerate express powers.

## 10.6 References

*City of Corner Brook Act*, RSNL 1990, c C-15. <https://canlii.ca/t/561g5>

*City of St. John's Act*, RSNL 1990, c C-17. <https://canlii.ca/t/55j8c>

*City of Mount Pearl Act*, RSNL 1990, c C-16. <https://canlii.ca/t/56fjm>

*Towns and Local Service Districts Act*, SNL 2023, T-6.2. <https://canlii.ca/t/5644gf>

## 11. Yukon

### 11.1 Overview

The *Municipal Act* authorizes all local governments in the Yukon.

### 11.2 Statement of Purpose and General Welfare Clause

The *Municipal Act* establishes broad purposes and powers for municipal governments in the Yukon:

#### Purposes of this Act

**2** Recognising that local government is an accountable level of government, the purposes of this Act are

- (a) to provide a legal framework and foundation for the establishment and continuation of local governments to represent the interests and respond to the needs of their communities;
- (b) to provide local governments with the powers, duties, and functions necessary for fulfilling their purposes; and
- (c) to provide local governments with the flexibility to respond to the different needs and changing circumstances of their communities.

#### Purposes of local governments

**3** The purposes of a local government include:

- (a) providing within its jurisdiction good government for its community; and
- (b) providing within its jurisdiction municipal services that a local government considers necessary or desirable for all or part of its community.

This statement of municipal purposes, in combination with section 265(a), also serves as a general welfare clause:

#### General jurisdiction to pass bylaws

**265** A council may adopt bylaws for municipal purposes respecting the following matters

- (a) the safety, health, and welfare of people and the protection of persons and property, including fire protection, fireworks, other explosives, firearms, weapons or devices, ambulance services, emergency services and other emergencies.
- [...]

### 11.3 Broad Interpretation Clause

The *Municipal Act* includes a statement of broad interpretation:

#### Guide to interpreting power to pass bylaws

**263** The power given to a council under Division 2 to adopt bylaws is stated in general terms

- (a) to give broad authority to a council and to respect its right to govern a municipality as council considers appropriate, within the jurisdiction given to it under this and other Acts; and
- (b) to enable a council to respond to present and future issues in the municipality.

### 11.4 Natural Person Powers and Creation of Corporations

Section 223.01 of the *Municipal Act* confers natural person powers to municipalities, and the authority to establish or acquire ownership in another corporation:

### **Municipality is corporation**

**223.01(1)** A municipality is a corporation and, subject to this Act, has the rights and is subject to the liabilities of a corporation.

(2) A municipality has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(3) Despite subsections (1) and (2), a municipality may not (a) establish another corporation that does anything that the municipality does not have the right, power or duty to do under this Act; and (b) be a shareholder or member of another corporation that does anything that the municipality does not have the right, power or duty to do under this Act.

## **11.5 Express Powers and Spheres of Jurisdiction**

*The Municipal Act* lays out spheres of municipal jurisdiction in s. 265 of the Act. In some cases, such as 265(a), express powers within these spheres are explicitly articulated:

### **General jurisdiction to pass bylaws**

**265** A council may adopt bylaws for municipal purposes respecting the following matters

- (a) the safety, health, and welfare of people and the protection of persons and property, including fire protection, fireworks, other explosives, firearms, weapons or devices, ambulance services, emergency services and other emergencies;
- (b) municipal services and improvements on private and public land including quarries, and sand and gravel pits;
- (c) businesses, business activities, and persons engaged in business;
- (d) with the exception of land owned by the Government of the Yukon, the acquisition of land and improvements by expropriation for municipal purposes, subject to the Expropriation Act;
- (e) the municipality's acquisition, sale, management, mortgaging, construction, leasing, renting, or any other dealings with real property, or any interest in real property including land, buildings, easements, or other interests;
- (f) activities, including recreation and cultural activities, in, on, or near a public place or a place that is open to the public, including parks, roads, recreation and cultural centres, restaurants, commercial lodging or accommodation establishments, facilities, stores, and malls;
- (g) curfews to be observed by some or all persons;
- (h) subject to the Building Standards Act, building standards or codes, and regulation, the construction, demolition, removal, or alteration of any building or other structure;
- (i) subject to the Motor Vehicles Act, the use of motor vehicles or other vehicles, on or off highways, and the regulation of traffic, parking, and pedestrians;
- (j) subject to the Highways Act, the management and control of municipal highways, including temporary and permanent opening and closing, sidewalks, boulevards, all property adjacent to highways, whether publicly or privately owned, naming of highways, and lighting of highways;
- (k) transport and transportation systems, carriers of persons or personal property including taxi drivers, vehicles and taxi businesses, and other forms of public transport;
- (l) the municipality operating airports and float plane bases;
- (m) nuisances, unsightly property, noise and pollution and waste in or on public or private property;
- (n) subject to the Cemeteries and Burial Sites Act, cemeteries;
- (o) vegetation and activities in relation to it, and the control, health, and safety of, and protection from, wild and domestic animals, including insects and birds; and
- (p) the enforcement of bylaws.

## **11.6 References**

*Municipal Act*, RSY 2002, c 154. <https://canlii.ca/t/55zfv>

## 12. Northwest Territories

### 12.1 Overview

There are several types of communities in the Northwest Territories, including cities, towns, villages, hamlets, charter communities, and communities established under the Tlicho Agreement. The *Cities, Towns, and Villages Act* establishes and empowers municipal governments in parallel with the *Charter Communities Act*, the *Hamlets Act*, and the *Tlicho Community Government Act*, with provisions that largely mirror one another.

### 12.2 Statement of Purpose and General Welfare Power

The *Cities, Towns, and Villages Act* establishes municipal governments as corporations and articulates a clear statement of purpose:

#### Purposes of Municipal Corporations

##### 3 Municipal corporations are established for the following purposes:

- (a) to provide good government to the residents of the municipality;
- (b) to develop and maintain a safe municipality;
- (c) to provide the services, products and facilities required or allowed by this or any other enactment or considered by council to be necessary or desirable for all or part of the municipality.

This clause is mirrored in the *Charter Communities Act* (s. 3), the *Hamlets Act* (s. 3), and, with wording referring to the Tlicho Agreement, the *Tlicho Community Government Act* (s. 3).

These purposes, in combination with 70.(1)(a), also provide for a general welfare power:

**70**(1) In addition to any power to make bylaws in any other enactment, council may make bylaws for municipal purposes respecting

- (a) the safety, health and welfare of people and the protection of people and property.
- [...]

This clause is mirrored in s. 74(1) of the *Charter Communities Act*, s. 72(1) of the *Hamlets Act*, and s. 66(2) of the *Tlicho Community Government Act*.

### 12.3 Broad Interpretation Clause

The *Cities, Towns, and Villages Act* also includes a statement of broad interpretation:

#### General bylaw powers

**4**(1) The general legislative powers of a municipal corporation to make bylaws are to be interpreted as giving broad authority to council to govern the municipality in whatever way council considers appropriate, within the jurisdiction given to a municipal corporation under this or any other enactment, and to address issues not contemplated at the time this Act is enacted.

This clause is mirrored in s. 4(1) of the *Charter Communities Act*, s. 4(1) of the *Hamlets Act*, and s. 6(1) of the *Tlicho Community Government Act*.

### 12.4 Natural Person Powers and Creation of Corporations

The *Cities, Towns, and Villages Act* does not grant natural person powers. It does, however, enable municipalities to enter into contracts and acquire property:

**52**(1) A municipal corporation has the power to contract for a municipal purpose.

**56** A municipal corporation may, for a municipal purpose,

- (a) acquire personal property; or
- (b) hold or use personal property owned by the municipal corporation

The Act also provides for the establishment of corporations:

**60**(1) Council may, by bylaw, establish a board or commission to administer or provide a service, public utility or facility as an agent of the municipal corporation.

(2) The bylaw referred to in subsection (1) may provide for [...]

(g) the board or commission being a corporate entity;

These clauses are mirrored in and after s. 56(1) of the *Charter Communities Act*, s. 54(1) of the *Hamlets Act*, and s. 49(1) of the *Tlicho Community Government Act*.

## 12.5 Express Powers and Spheres of Jurisdiction

The *Cities, Towns, and Villages Act* enumerates several spheres of jurisdiction:

**70**(1) In addition to any power to make bylaws in any other enactment, council may make bylaws for municipal purposes respecting

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or a place that is open to the public;
- (c) public nuisances, including unsightly property;
- (d) transport, motor vehicles, pedestrians and local transportation systems;
- (e) the management, use and protection of lands;
- (f) businesses, business activities and persons engaged in business;
- (g) public utilities;
- (h) programs, services, infrastructure and facilities provided or operated by or on behalf of the municipal corporation;
- (i) domestic and feral animals and activities in relation to them;
- (j) the operation and internal management of the municipal corporation; and
- (k) the enforcement of bylaws.

This clause is mirrored in s. 74(1) of the *Charter Communities Act*, s. 72(1) of the *Hamlets Act*, and s. 66(2) of the *Tlicho Community Government Act*.

## 12.6 References

*Charter Communities Act*, SNWT 2003, c 22 Sch A. <https://canlii.ca/t/564r4>

*Cities, Towns, and Villages Act*, SNWT 2003, c 22 Sch B. <https://canlii.ca/t/560wt>

*Hamlets Act*, SNWT 2003, c 22 Sch C. <https://canlii.ca/t/5631d>

*Tlicho Community Government Act*, SNWT 2004, c 7. <https://canlii.ca/t/560wj>

# 13. Nunavut

## 13.1 Overview

Municipal governments in cities, towns, and villages within Nunavut are authorized under the *Cities, Towns, and Villages Act (Nu)* and hamlets under the *Hamlets Act*.

## 13.2 Statement of Purpose and General Welfare Power

The *Cities, Towns, and Villages Act (Nu)* and *Hamlets Act* define the following purposes of municipal governments:

**.01** The purposes of municipal governments are

- (a) to provide good government;
- (b) to provide services, facilities or other things that, in the opinion of a council, are necessary or desirable for all or part of a municipality; and
- (c) to develop safe and viable municipalities.

These purposes, together with 54.2(a), establish a general welfare power:

**54.2** Subject to limitations on its powers in this or any other enactment, a council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property.
- [...]

### **13.3 Broad Interpretation Clause**

Both Acts contain a “broad authority” clause:

**54.1** The power given to a council under section 54.2 to pass by-laws is stated in general terms:

- (a) to give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this and other Acts; and
- (b) to enhance the ability of the council to respond to present and future issues in the municipality.

### **13.4 Natural Person Powers and Creation of Corporations**

The *Cities, Towns and Villages Act (Nu)* and *Hamlets Act* do not confer natural person powers. They do, however, enable municipalities to establish corporations:

**31.1(1)** A council may, by by-law, establish a board or commission to administer all or part of one or more programs and services within the jurisdiction of the municipal corporation.

(2) A by-law made under subsection (1) may provide for:

[...]

- (f) whether the board or commission is to be established as a separate body corporate under the *Business Corporations Act*.

### **13.5 Express Powers and Spheres of Jurisdiction**

The *Cities, Towns, and Villages Act* and *Hamlets Act* enumerate spheres of municipal jurisdiction:

**54.2** Subject to limitations on its powers in this or any other enactment, a council may pass by-laws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public;
- (c) nuisances, including unsightly property;
- (d) local transportation systems;
- (e) businesses, business activities and persons engaged in business;
- (f) programs, services, utilities and facilities provided by or on behalf of the municipality;
- (g) wild and domestic animals and activities in relation to them; and
- (h) the enforcement of by-laws.

### **13.6 References**

*Cities, Towns, and Villages Act*, RSNWT (Nu) 1988, c C-8. <https://canlii.ca/t/555b0>

*Hamlets Act*, CSNu, c H-10. <https://canlii.ca/t/56kpn>