

CONSOLIDATION OF HAMLETS ACT

R.S.N.W.T. 1988,c.H-1

AS AMENDED BY

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HAMLETS ACT

INTERPRETATION

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. S.Nu. 2003,c.3,s.2.

Definitions

1. In this Act,

"budget" means the budget of a municipal corporation adopted by the council under section 136; (*budget*)

"by-law" means a by-law made by a council under this or any other Act; (*règlement municipal*)

"by-law officer" means a person appointed under section 171; (*agent d'exécution des règlements*)

"charter community" means a charter community as defined in the *Charter Communities Act*; (*communauté à charte*)

"city" means a city as defined in the *Cities, Towns and Villages Act*; (*cité*)

"council" means the council of a municipal corporation; (*conseil*)

"council member" means a member of a council; (*membre du conseil*)

"councillor" means a council member other than the mayor; (*conseiller*)

"election" means an election of a council member under the *Local Authorities Elections Act*; (*élection*)

"election day" means the day fixed for an election; (*jour du scrutin*)

"employee" means an employee of a municipal corporation including an officer; (*employé*)

"hamlet" means a municipal corporation with the status of a hamlet; (*hameau*)

"Inuit organization" means an entity established or recognized under the *Nunavut Land Claims Agreement*, or any other entity in Nunavut, that exists primarily to govern or represent Inuit people; (*organisation inuit*)

"local improvement" means a work that, in the opinion of a council, mostly benefits property in a particular area of the community; (*amélioration locale*)

"local improvement by-law" means a by-law made under section 157 that authorizes a local improvement; (*règlement d'amélioration locale*)

"long-term borrowing by-law" means a long-term borrowing by-law made under section 150; (*règlement d'emprunt à long terme*)

"long-term debt security" means a debenture, mortgage, bond, term loan, unsecured note series or other long-term financing arrangement; (*titre d'emprunt à long terme*)

"mayor" means the presiding council member; (*maire*)

"municipal administrator" means a municipal administrator appointed under section 192; (*administrateur municipal*)

"municipal corporation" means a corporation established by or continued under this Act as a city, town, village or hamlet; (*municipalité*)

"municipal inspector" means a municipal inspector appointed under the *Cities, Towns and Villages Act*; (*inspecteur municipal*)

"municipal road" means a road in respect of which a council may make by-laws under section 69; (*chemin municipal*)

"municipal taxing authority" means a municipal corporation with the authority to levy property taxes under the *Property Assessment and Taxation Act*; (*administration fiscale municipale*)

"municipality" means the geographic area of jurisdiction of a municipal corporation; (*municipalité*)

"officer" means the senior administrative officer or an employee of a municipal corporation appointed as an officer under section 44; (*agent administratif*)

"personal property" includes an interest in personal property; (*bien mobilier*)

"property tax" means tax on property levied under the *Property Assessment and Taxation Act*; (*impôt foncier*)

"public notice" means the giving of a notice to the general public in accordance with section 211; (*avis public*)

"ratepayer" means a person who must pay property taxes to a municipal corporation; (*contribuable*)

"real property" includes an interest in real property; (*bien immobilier*)

"resolution" means a resolution of a council; (*résolution*)

"senior administrative officer" means the senior administrative officer of a municipal corporation appointed under subsection 43(1); (*directeur administratif*)

"settlement" means the geographic area designated as a settlement under the *Settlements Act*; (*localité*)

"town" means a town as defined in the *Cities, Towns and Villages Act*; (*ville*)

"village" means a village as defined in the *Cities, Towns and Villages Act*; (*village*)

"voter" means a person who is eligible to vote at an election. (*électeur*)
S.N.W.T. 1997,c.19,s.3(2); S.Nu. 2003,c.3,s.3.

Public notice

1.1. When public notice is required under this Act, the notice must be given to the general public in one or more of the following ways:

- (a) by inserting the notice at least once in a newspaper of general circulation in the municipality;
- (b) by mailing or delivering a copy of the notice to each voter in the municipality;
- (c) by causing announcements to be made on a radio or television station received in the municipality on at least three days;
- (d) by posting a notice in at least five widely separated and conspicuous places in the municipality. S.Nu. 2003,c.3,s.4.

Ministerial approval

1.2. (1) Where Ministerial approval is required under this Act, the Minister shall give a decision within 60 days from the earliest of the day the request for approval was received

- (a) in the office of the government department responsible; or
- (b) in the office of the Minister.

Extension of time

(2) In considering a request for approval under subsection (1), the Minister may, by giving notice in writing to the municipal corporation that made the request, extend the period for making a decision by 30 days. S.Nu. 2003,c.3,s.4.

PART I
INCORPORATION

Public notice of establishment of municipality

2. (1) The Minister may, on the Minister's own initiative or at the request of at least 25 residents who, on the date of the request, would be eligible to vote under section 17 of the *Local Authorities Elections Act* in a settlement, cause public notice to be given in the settlement that the Minister intends to establish it as a municipality.

Content of public notice

- (2) The public notice shall state the proposed
- (a) name and status of the municipal corporation;
 - (b) boundaries of the municipality; and
 - (c) date of incorporation.

Time of notice

(3) The public notice shall be given at least 90 days before the date of incorporation.

Objection to incorporation

3. (1) Any resident of the proposed municipality may, by writing to the Minister, object to the establishment of a municipal corporation.

Time of objection

(2) In order to be considered, an objection referred to in subsection (1) must be received by the Minister within 90 days after the giving of public notice of intention to establish a municipality.

Establishment of municipal corporation

4. (1) The Minister, after causing public notice to be given of the intention of the Minister and after considering any objection made under section 3, may, by order, establish a hamlet.

Content of order

- (2) The order establishing a municipal corporation must
- (a) fix the name and status of the municipal corporation;
 - (b) determine the boundaries of the municipality; and
 - (c) provide for the first election of the members of the council in accordance with the *Local Authorities Elections Act*.

Request to change name

4.1. (1) A council may request the Minister to change the name of the municipal corporation.

Change of name

(2) Where the Minister considers it to be in the public interest, the Minister, on the recommendation of the Executive Council, may, by order, change the name of a municipal corporation and provide for any transitional matters that may be necessary.

Effect of change of name

(3) The change of name of a municipal corporation does not affect any officer, employee, by-law, resolution, asset, liability, right, duty, obligation or function of the municipal corporation. R.S.N.W.T. 1988,c.36(Supp.),s.2.

Definition of "municipal corporation"

5. (1) In this section, "municipal corporation" includes a charter community, village, town or city.

Change in status of municipal corporation

(2) The Minister may, on the Minister's own initiative or at the request of the council, by order,

- (a) change the status of a municipal corporation to a hamlet; and
- (b) provide for any transitional matters that may be necessary.

Public notice

(3) At least 180 days before making an order under subsection (2), the Minister shall cause public notice to be given of the intention of the Minister to change the status of the municipal corporation.

Change in status of charter community

(4) Where the status of a charter community is being changed and the community charter is being revoked, the order is subject to the same conditions as an order establishing a charter community under section 4 of the *Charter Communities Act*.

Commencement of order and new election for council members

(5) Where the status of a city, town or village is being changed,

- (a) the order takes effect on the second Monday in December following the date the order is made; and
- (b) the term of office for council members ends at 12 noon on the first Monday in January following the date the order is made.

Saving provision for change in status

6. (1) The change in status of a municipal corporation does not affect

- (a) any officer or employee of the municipal corporation;
- (b) any by-law or resolution of the municipal corporation; or
- (c) any asset, liability, right, duty, obligation or function of the municipal corporation.

Status of mayor and councillors

(2) Where a municipal corporation changes its status, the mayor and councillors of the municipal council continue in office until their successors take office.

Request to vary boundaries

7. (1) A council may request the Minister to vary the boundaries of the municipality.

Variation of boundaries

(2) Where the Minister considers it to be in the public interest, the Minister, on the recommendation of the Executive Council, may, by order, vary the boundaries of a municipality and provide for any transitional matters that may be necessary.

Effect of variation of boundaries

(3) Where the boundaries of a municipality have been varied, all by-laws apply to the municipality as varied from the date the order made under subsection (2) takes effect.

PART II

ADMINISTRATION

COUNCILS

Role of council

8. Except as otherwise provided by this Act, the powers and duties of a municipal corporation shall be exercised and performed by the council.

Exercise of powers and duties

9. (1) Every council shall exercise its powers and perform its duties by resolution or by by-law.

Limitation

(2) Where this Act or any other enactment requires it, a council shall exercise its powers and perform its duties only by by-law.

Responsibilities of council

9.1. A council is responsible for:

- (a) developing and evaluating the plans, policies and programs of the municipal corporation;
- (b) making sure that the powers, duties and functions of the municipal corporation are appropriately carried out;
- (c) carrying out the powers, duties and functions expressly given to it under this or any enactment. S.Nu. 2003,c.3,s.5.

Elected council members

10. (1) Subject to section 11, every municipal corporation has a council composed of council members elected in accordance with the *Local Authorities Elections Act*.

Application of *Local Authorities Elections Act*

(2) The *Local Authorities Elections Act* applies to all matters respecting the election of members of a council.

Appointed council members

11. (1) The Minister may appoint persons, either by their name or office, to be council members in addition to those council members elected in accordance with the *Local Authorities Elections Act*.

Limit on number of appointees

(2) The number of council members appointed under subsection (1) must not exceed 1/3 of the total number of council members who comprise the council.

Eligibility of appointees

(3) The persons appointed under subsection (1) must be eligible to be candidates.

Term of appointees

(4) The term of a council member appointed under subsection (1)

- (a) where the person is appointed by office, is for the duration of the other term of office of that person; and
- (b) where the person is appointed by name, must not exceed two years.

Status of appointees

(5) A council member who is appointed under subsection (1) shall be deemed to be duly elected.

Composition of council

12. (1) Subject to this section, the council of a municipal corporation is composed of a mayor and eight elected councillors.

Variation of number of council members

(2) The Minister may, by order, vary the number of elected council members who comprise a council, if the council requests the variation.

Effect of order

(3) An order made under subsection (2)

- (a) shall not affect the term of office of any council member in office at the time the order is made; and
- (b) shall apply to the next general election in respect of elected council members.

Term of office

13. (1) Subject to this Act, council members hold office for two years.

Duration of term of office

(2) The term for council members

- (a) commences at 12 noon on the first Monday in January following their election or when they are sworn in, whichever is later; and
- (b) ends at 12 noon on the first Monday in January.

Variation in term of office

(3) The council may, by by-law, provide that the four council members who are elected at the first general election following the making of the by-law who receive the fewest votes shall hold office for a term of one year.

Application of by-law

(4) A by-law made under subsection (3) applies to the first general election following the making of the by-law, if it is made at least 270 days before the date of that general election.

Restriction on repeal of by-law

(5) A by-law made under subsection (3) cannot be repealed until after two general elections have occurred since it was made, unless repealed sooner with the prior approval of the Minister.

Expiration of terms

(6) The council may, when repealing a by-law that staggered the terms of office of the council members in the manner provided for in subsection (3), provide that the terms of office of all council members expire at the general election following the repeal of the by-law. S.Nu. 2003,c.3,s.6.

Variation in term of mayor

13.1. (1) The council may, by by-law, increase the term of office of the mayor to three years.

Application of by-law

(2) A by-law made under subsection (1) applies to the first election of the mayor following the making of the by-law, if it is made at least 270 days before the date of that election.

Restriction on repeal of by-law

(3) A by-law made under subsection (1) cannot be repealed until after two elections of the mayor have occurred since it was made, unless repealed sooner with the prior approval of the Minister. S.Nu. 2003,c.3,s.7.

Extension of terms of office

14. (1) Subject to subsection (2), the council may, by by-law, extend the term of office for all council members from two to three years.

Staggered terms of office

(2) A by-law made under subsection (1) may also provide that those council members who are elected at the first general election following the making of the by-law who receive the fewest votes shall hold office for a term of two years.

Effect of variation

(3) A by-law under this section applies to the first general election following the making of the by-law, if it is made at least 270 days before the date of that general election.

Restriction on repeal of by-law

(4) A by-law made under this section cannot be repealed until after two general elections have occurred since it was made, unless repealed sooner with the prior approval of the Minister.

Expiration of terms

(5) The council may, when repealing a by-law that staggered the terms of office of the council members in the manner provided for in subsection (2), provide that the terms of office of all council members expire at the general election following repeal of the by-law. S.N.W.T. 1997,c.5,s.3(2); S.Nu. 2003,c.3,s.8.

Term where hamlet municipal taxing authority

15. Where a hamlet is declared to be a municipal taxing authority, the term of office for council members shall end at 12 noon on the first Monday in November in the year before the year in which the term would otherwise end.

Oath of office

16. Every council member shall, before taking office, take an oath or affirmation as follows:

I,, do solemnly and sincerely promise and (swear *or* affirm) that I will duly, faithfully and to the best of my skill and knowledge, execute the powers and trust reposed in me as a (*name of office*).

Code of ethics

16.1. A council may adopt a code of ethics for council members. S.Nu. 2003,c.3,s.9.

Ineligibility

17. (1) A council member who, at any time after his or her election or appointment, would not be eligible to be a candidate shall immediately vacate his or her seat and cease to be a mayor or council member, as the case may be.

Application by council

(2) If a council member to whom subsection (1) applies does not resign immediately, the council may apply to the Nunavut Court of Justice for

- (a) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a council member, or

- (b) an order declaring the person to be disqualified as a council member.

Application by elector

(3) An elector who has reason to believe that a council member is ineligible under subsection (1) may apply to the Nunavut Court of Justice for an order declaring the council member to be disqualified if the elector

- (a) files with the court an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a council member, and
- (b) pays into court the sum of \$500 as security for costs.

Decision of judge

(4) After hearing an application under this section, the judge may

- (a) declare the person to be disqualified and his or her position on council to be vacant;
- (b) declare the person qualified to remain a council member; or
- (c) dismiss the application with or without costs. S.Nu.2003,c.3,s.10.

18. Repealed. S.Nu. 2003,c.3,s.11.

MEETINGS OF COUNCIL

Place of business

19. Every council shall hold its meetings and transact its business only within the municipality unless the council by resolution provides otherwise.

Meeting by electronic means

19.1. (1) Council may conduct a meeting by means of an electronic or other communication facility if the facility enables the members to hear and speak to each other, and the public to hear the members.

Members deemed present

(2) Members participating in a meeting in the manner referred to in subsection (1) are deemed to be present at the meeting.

Sessions in private

(3) Council shall not hold sessions in private at a meeting under subsection (1). S.Nu. 2003,c.3,s.12.

Quorum

20. A quorum for a council is a majority of the number of council members who comprise the council.

Public meetings

21. Subject to section 22, every council shall hold its regular, special and committee meetings in public.

Exclusion from meetings

22. (1) No person shall be excluded from any meeting of a council or a committee of council except for improper conduct.

Private meetings

(2) A council or a committee of council may, by resolution, authorize its meeting to be closed to the public where

- (a) it is of the opinion that to do so is in the public interest; and
- (b) the resolution is made by at least 2/3 of the council members present.

Limitation on power

(3) A council has no power, at a meeting that is closed to the public, to make a by-law or a resolution other than a resolution to revert to a public meeting.

First meeting of council

23. The first meeting of a council following a general election must be held not later than 28 days after the election day at the time and place that the mayor designates.

Regular meetings

24. Every council shall hold at least one regular meeting each month at the time and place that the council fixes by resolution.

Public notice

25. The council shall ensure that public notice of the time and place of each regular meeting of the council is given at least three days before the meeting.

Special meetings

26. (1) The senior administrative officer shall call a special meeting of the council if requested to do so in writing by

- (a) the mayor; or
- (b) two councillors.

Notice of special meeting

(2) The senior administrative officer shall, at least 48 hours in advance, give notice of the time and place of the special meeting and the nature of the business to be transacted at the special meeting.

Method of notice

(3) The notice referred to in subsection (2) must be given by

- (a) posting a copy of the notice in a conspicuous place in the office of the municipal corporation; and

- (b) delivering a copy of the notice to each council member or to a place designated by a council member for this purpose.

Limit on nature of business

(4) No council shall transact any business at a special meeting other than what was specified in the notice of the special meeting unless all council members are present at the special meeting and they all agree to it.

Emergency meeting

27. (1) A council member may call an emergency meeting of the council where the council member considers that an emergency exists or may exist in the municipality.

Notice of emergency meeting

(2) Notice of the time and place of an emergency meeting must be given to as many council members as possible in the circumstances.

Quorum

(3) Those council members attending an emergency meeting of council constitute a quorum.

Declaration of state of local emergency

(4) The council may, at an emergency meeting, make a declaration of a state of local emergency relating to all or any part of the municipality under the *Civil Emergency Measures Act*, and may only transact business relating to the emergency.

Waiver of notice

28. (1) If all council members are present, they may, by unanimous consent, waive notice of a meeting and hold a meeting at any time.

Restriction

(2) No resolution or by-law shall be passed at a meeting referred to in subsection (1) unless all council members are present at the time that the resolution or by-law is passed.

Rules of procedure for council

29. Every council shall, by by-law, make rules respecting

- (a) the calling of meetings of council and its committees;
- (b) the procedure of the council;
- (b.1) the circumstances in which the mayor or other presiding council member may vote at meetings of council or committees of council;
- (c) the behaviour of council members and other persons present at meetings of council and its committees;
- (d) the establishment, appointment and duties of committees of council; and
- (e) the general transaction of its business.

R.S.N.W.T. 1988,c.36(Supp.),s.3.

Rules for public meetings

- 30.** A council may, by by-law, make rules respecting
- (a) the calling of public meetings by the municipal corporation;
 - (b) the procedure at the public meetings; and
 - (c) the behaviour of persons at the public meetings.

Validity of resolutions and by-laws

- 31.** (1) Subject to this Act, a resolution or by-law is not valid unless a majority of the council members present and voting at a duly constituted meeting of council vote in favour of it.

Factors not invalidating resolution or by-law

- (2) A resolution or by-law is not invalid by reason only that
- (a) the election of a council member is invalid, or
 - (b) a council member is disqualified from serving on a council,
- if the resolution or by-law was validly made by a duly constituted council.

R.S.N.W.T. 1988,c.36(Supp.), s.4.

BOARDS AND COMMISSIONS

Establishment of boards and commissions

- 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.

Scope of by-law

- (2) A by-law made under subsection (1) may provide for:
- (a) the powers and duties of the board or commission;
 - (b) the reporting requirements of the board or commission;
 - (c) the procedures of the board or commission;
 - (d) the payment of
 - (i) a reasonable allowance for expenses necessarily incurred in the performance of a board or commission member's duties;
 - (ii) an indemnity to board or commission members for attending meetings of council or performing any other duties;
 - (e) the appointment of members, including members who are required to serve by virtue of their offices, and persons who are not council members, to the board or commission;
 - (f) whether the board or commission is to be established as a separate body corporate under the *Business Corporations Act*;
 - (g) such other matters as the council considers advisable.

Council member as member

(3) A board or commission must have at least one council member as a member.

Mayor a member

(4) The mayor is, by virtue of his or her office, a member of every board and commission.

Requirements for meetings

(5) The requirements with respect to meetings of council committees apply to meetings of boards and commissions unless otherwise provided for by by-law.
S.Nu. 2003,c.3,s.13.

Delegation to board, commission or committee of council

31.2. (1) Subject to this section, a council may, by by-law, delegate any of its powers, duties or functions under this or any other enactment or a by-law to a committee of council, or to a board or commission, unless this or any other enactment or by-law provides otherwise.

Restriction on delegation

(2) A council may not delegate to a board or commission or to a committee of council:

- (a) a power or duty to pass by-laws,
- (b) its power to make, suspend or revoke the appointment of a person to the position of senior administrative officer,
- (c) its powers under this Act to adopt budgets.

Delegation to committee of council

(3) A council may delegate to a committee of council a duty to hear complaints or decide appeals imposed on it by this or another enactment or by-law.
S.Nu. 2003,c.3,s.13.

COUNCIL MEMBERS

Entitlement to vote

32. (1) Subject to subsection (2), every council member has one vote at a meeting of council or a committee of council.

Vote of presiding member

(2) The right of the mayor or other presiding council member to vote is subject to the rules passed under paragraph 29(b.1). R.S.N.W.T. 1988, c.36(Supp.),s.5.

Responsibilities of council members

32.1. Council members have the following responsibilities:

- (a) to consider the welfare and interests of the municipality as a whole and to bring to council's attention anything that would promote the welfare or interests of the municipality;

- (b) to participate generally in developing and evaluating the policies and programs of the municipal corporation;
- (c) to participate in council meetings and council committee meetings and meetings of other bodies to which they are appointed by the council;
- (d) to keep in confidence matters discussed in private at a council or council committee meeting until they are discussed at a meeting held in public; and
- (e) to perform any duty or function imposed on council members by this or any other enactment or by the council. S.Nu. 2003,c.3,s.14.

Deemed resignation for non-attendance

33. A council may, by by-law, provide that where any council member is absent from regular meetings of council, without the consent of the council, more than a certain number of times specified in the by-law, the council member shall be deemed to have resigned.

Indemnities and allowances to council members

34. Subject to the approval of the Minister, a council may, by by-law, provide for the payment of

- (a) an annual indemnity
 - (i) to the mayor, and
 - (ii) to the councillors;
- (b) an indemnity to council members for attending meetings of council or for performing any other duties; and
- (c) a reasonable allowance for expenses necessarily incurred in the performance of a council member's duties.

35. S.N.W.T. 1997,c.5,s.3(3); **Repealed.** S.Nu. 2003,c.3,s.15.

RECORDS

Record of voting

36. The senior administrative officer shall record in the minutes the name of each council member and how that council member voted where

- (a) a recorded vote is demanded by a council member; or
- (b) the vote requires more than a majority.

Keeping of minutes

37. (1) The senior administrative officer shall record, legibly and in writing, the minutes of the proceedings of all meetings of the council and shall certify them as correct.

Adoption of minutes

(2) Every council shall, after correcting any errors, adopt the certified record of its minutes after which the mayor or other presiding council member shall sign them.

Public inspection of records

38. (1) The by-laws and the minutes of all meetings of every council and its committees must be open for public inspection once the by-laws are made or the minutes adopted by the council.

Copies of records

(2) Any person may receive copies of all or any part of the by-laws or the minutes of a meeting of a council on the payment of a fee to be determined by by-law.

MAYOR

Additional responsibilities of mayor

39. (1) A mayor, in addition to performing the duties of a council member, has the responsibility to:

- (a) preside when in attendance at a council meeting except where the procedures, by-law, or this or any other Act provides otherwise;
- (b) provide leadership and direction to the council; and
- (c) perform any other duty imposed on a mayor by this or any other enactment or by-law.

Senior executive officer

(2) The mayor is the senior executive officer of the municipal corporation.

Maintaining order

(3) The mayor shall maintain order and decorum at all meetings of the council and shall decide all questions of order subject to appeal to the council as a whole.

S.Nu. 2003,c.3,s.16.

Responsibility to council

40. (1) The mayor, as senior executive officer of a municipal corporation, shall communicate to the council information and recommend to it measures, within the authority of the council, that, in the opinion of the mayor, may be necessary in the public interest.

Direction to officers

(2) The mayor shall provide direction to the officers of the municipal corporation.

Membership in all committees

(3) The mayor is, by virtue of his or her office, a member of all committees of the council, and possesses all the rights, privileges, powers and duties of that membership.

Deputy mayor

41. (1) A council, on the recommendation of the mayor, may appoint a councillor to be the deputy mayor.

Powers and duties of deputy mayor

(2) The deputy mayor shall

- (a) perform the duties and may exercise the powers of the mayor when the mayor is absent or unable to act; and
- (b) perform other duties and may exercise other powers, subject to the authority of the mayor, that the council may determine.

Acting mayor

42. (1) Where both the mayor and the deputy mayor are absent or unable to act, the council may appoint a councillor to be the acting mayor.

Powers and duties of acting mayor

(2) The acting mayor has the same powers and duties as the deputy mayor.

OFFICERS

Senior administrative officer

43. (1) Every council shall, by by-law, appoint a senior administrative officer.

Status

(2) The senior administrative officer is an employee.

Change in title

(3) A council may call the senior administrative officer by another name for the purposes of the municipal corporation.

Appointment and duties

44. (1) The council may, by by-law, appoint employees to be officers and authorize them to perform

- (a) any statutory duty assigned to the senior administrative officer by this Act, other than those assigned under section 47; or
- (b) any other duties the council considers necessary.

Acting officers

(2) The council may appoint employees to act on behalf of any officer where the officer is absent or unable to act.

Prohibited officers

45. (1) No council shall appoint as an officer any person who has a direct or indirect interest in a contract with the municipal corporation.

Conflict of interest

(2) No officer shall have any direct or indirect interest in a contract with the municipal corporation.

Dismissal for conflict of interest

(3) Every long term borrowing by-law made under this section must be approved by the ratepayers, unless the by-law is exempted by the Minister under subsection (6) or the regulations, or the borrowing is for a local improvement.

Exemption

(4) The Minister may, by regulation, prescribe that long term borrowing of amounts below a set amount does not require ratepayer approval.

Application of regulation

(5) A regulation made under subsection (4) may apply to one or more municipal corporations.

Exemption by order of Minister

(6) The Minister may, by order, exempt a long term borrowing by-law from the requirement for ratepayer approval under subsection (3) where

- (a) the money to be secured by way of long term debt security is to be used to
 - (i) finance a project other than a local improvement, or
 - (ii) refinance an existing long term debt security; and
- (b) the general revenues of the municipal corporation are to bear no part of the cost of the activities referred to in paragraph (a).

S.N.W.T. 1997,c.5,s.3(16); S.N.W.T. 1997,c.19,s.3(5);
S.Nu. 2003,c.3,s.37.

Long term borrowing, non-tax based

150.1. (1) Where a municipal corporation is not a municipal taxing authority, the council may, by by-law, approved by the Minister on the recommendation of the Executive Council, and in accordance with the regulations, authorize the municipal corporation to borrow on a long term basis for a period exceeding one year, on the condition that the municipal corporation identify in its request for approval the revenues to be used to make the debt payments.

Additional conditions

(2) The Minister may make regulations prescribing additional conditions for borrowing by municipal corporations or a municipal corporation under subsection (1).
S.N.W.T. 1997,c.5,s.3(17); S.N.W.T. 1997,c.19,s.3(6); S.Nu. 2003,c.3,s.37.

Content of long-term borrowing by-law

151. (1) Every long-term borrowing by-law must

- (a) set out
 - (i) the principal amount to be borrowed,
 - (ii) the specific purpose for which the money is being borrowed,
 - (iii) the term of the long-term debt securities to be issued or entered into, and

- (iv) in the case of a municipal taxing authority, the total current assessed value of all property in the municipality on which property taxes are paid or in respect of which grants are made in place of that taxation;
- (b) authorize the issue or entering into of long-term debt securities in an amount not exceeding in total the amount set out in subparagraph (a)(i); and
- (c) be in the form and contain any other provisions that the Minister may require.

Administrative matters

(2) A long-term borrowing by-law may provide for those administrative matters in respect of the borrowing that the council considers necessary or advisable. S.N.W.T. 1997,c.5,s.3(18); S.N.W.T. 1997,c.19,s.3(7)(a).

(3) **Repealed.** S.N.W.T. 1997,c.19,s.3(7)(b).

Term of debentures

152. The term of every long-term debt security issued or entered into by a municipal corporation must be no greater than the expected life of the asset in respect of which the money is being borrowed. S.N.W.T. 1997,c.19,s.3(8).

Requirements for long-term debt securities

153. (1) Every long-term debt security issued or entered into by a municipal corporation must be

- (a) issued or entered into in accordance with a long-term borrowing by-law approved by the Minister;
- (b) signed by
 - (i) the mayor or a councillor designated by the council, and
 - (ii) the senior administrative officer; and
- (c) under the seal of the municipal corporation.

Where long-term debt security payable

(2) A long-term debt security issued or entered into by a municipal corporation and any interest payable under the long-term debt security may be made payable anywhere in Canada. S.N.W.T. 1997,c.19,s.3(9).

Possible lenders

154. A municipal corporation may borrow, under a long-term borrowing by-law, only from

- (a) a prescribed lender; or
 - (b) a lender who is a member of a prescribed class of lenders.
- S.N.W.T. 1997,c.19,s.3(10).

Forwarding copy of long-term debt security to Minister

155. Where a municipal corporation is a municipal taxing authority, the senior administrative officer shall forward to the Minister a copy of every long-term debt security issued or entered into within 30 days after it is issued or entered into. S.N.W.T. 1997,c.19,s.3(10).

Forwarding long-term debt security to Minister

155.1. (1) Where a municipal corporation is not a municipal taxing authority, the senior administrative officer shall forward to the Minister every long-term debt security before it is issued or entered into.

Minister provides written approval

(2) Where the Minister is satisfied that a long-term debt security is being issued or entered into in compliance with this Act, the Minister shall

- (a) provide his or her written approval to the municipal corporation to issue or enter into the long-term debt security; and
 - (b) return the long-term debt security to the municipal corporation.
- S.N.W.T. 1997,c.19,s.3(10).

Use of borrowed money

156. (1) No person shall expend any money borrowed under a long-term borrowing by-law except for the purposes set out in the by-law.

Repayment of unexpended money

(2) Any money borrowed from the Government of the Northwest Territories under a long-term borrowing by-law that is unexpended after achieving the purposes set out in the by-law must, within 60 days of the date those purposes are achieved, be repaid to the Government of the Northwest Territories.

Repayment of borrowed money

(3) Any money borrowed from the Government of the Northwest Territories under a long-term borrowing by-law must be repaid by the municipal corporation in accordance with the repayment terms established by the Government of the Northwest Territories at the time of the loan. S.N.W.T. 1997,c.19,s.3(11).

Refinancing debentures

156.1. A long-term debt security issued or entered into by a municipal corporation to refinance an existing long-term debt security issued or entered into under a long-term borrowing by-law exempted from ratepayer approval under subsection 150(4), must have

- (a) a principal amount not exceeding the principal amount borrowed under the existing long-term debt security;
- (b) a term not exceeding the term of the existing long-term debt security; and
- (c) a total amount of principal and interest payable in a year under the refinanced long-term debt security not exceeding the amount of principal and interest that was payable in a year under the existing long-term debt security. S.N.W.T. 1997,c.5,s.3(19);

LOCAL IMPROVEMENTS

Undertaking local improvements

157. Where a municipal corporation is a municipal taxing authority, the council may, by by-law, undertake a local improvement where the council is of the opinion that the local improvement principally benefits real property in a particular geographic area of the municipality.

Content of local improvement by-law

158. Every local improvement by-law must set out

- (a) the nature of the local improvement;
- (b) which parcels of real property will, in the opinion of the council, principally benefit from the local improvement;
- (c) the total estimated costs of the local improvement and the nature of those costs;
- (d) the proportion of the costs that would be financed by
 - (i) a local improvement charge levied against the real property principally benefitting from the local improvement, and
 - (ii) general revenues of the municipal corporation;
- (e) the total estimated principal amount of
 - (i) all borrowing under a long-term borrowing by-law, and
 - (ii) any temporary borrowing under section 149;
- (f) the total estimated amount of the local improvement charges to be levied;
- (g) the period over which the local improvement charges would be payable; and
- (h) the conditions on which the local improvement charges, in respect of a parcel of real property, could be paid in a lump sum.

Public hearing and notice

159. (1) Before second reading of a local improvement by-law, every council shall

- (a) hold a public hearing on the local improvement by-law;
- (b) give public notice of the purpose, date, time and place of the hearing 14 days in advance; and
- (c) ensure that a notice of intent to make the local improvement by-law is sent to every ratepayer who would be required to pay any local improvement charges.

Content of notice

(2) The notice of intent referred to in paragraph (1)(c) must include

- (a) a description of the local improvement;
- (b) an estimate of its costs;
- (c) an estimate of the local improvement charges; and

- (d) a description of the options for payment of the local improvement charges.

Consent of affected ratepayers

160. (1) Before third reading of a local improvement by-law, every council must obtain from 60% of the ratepayers, who would be required to pay local improvement charges, their written consent to the making of the local improvement by-law.

Majority consent

(2) The ratepayers who consent must represent at least 1/2 of the assessed value of all real property in respect of which local improvement charges will be levied.

Certification of consent

(3) The senior administrative officer shall certify to the council whether the consent required by this section has been obtained.

Levy of local improvement charges

161. (1) After a local improvement is complete, a council may, by by-law,

- (a) establish the method for assessing the amount of the local improvement charge;
- (b) establish the amount of the local improvement charges and their manner of payment; and
- (c) authorize the levy of a local improvement charge against the real property that, in the opinion of the council, principally benefits from the local improvement.

Use of local improvement charges

(2) A municipal corporation shall use local improvement charges only for the purpose of financing a local improvement.

Other source of financing

(3) A municipal corporation may finance a portion of the costs of a local improvement from the general revenue of the municipal corporation.

Where borrowing by-law exempt from approval of ratepayers

162. A borrowing by-law made for the purpose of a local improvement does not need the approval of the ratepayers where

- (a) the costs of any borrowing under the borrowing by-law for a local improvement are completely financed by local improvement charges; and
- (b) the local improvement by-law has been approved in accordance with section 160.

FORGIVENESS OF DEBTS

Prohibition

163. No municipal corporation shall forgive a debt owed to it except in accordance with section 164.

Procedure

164. (1) A council may, by by-law, approved by the Minister, forgive a debt owed to the municipal corporation in whole or in part, if

- (a) the debt is not in respect of property taxes; and
- (b) the council is satisfied that
 - (i) the debt is not collectable, or
 - (ii) there are other reasons justifying the forgiveness of the debt.

Exception

(1.1) Notwithstanding paragraph (1)(a), a council may, by by-law, approved by the Minister, forgive a debt owed to the municipal corporation, in whole or in part, where

- (a) the debt is in respect of property taxes where no special lien attaches against land for non-payment of the property taxes; and
- (b) the council is satisfied that the requirements of paragraph (1)(b) are met.

Content of by-law

(2) A by-law made under subsection (1) must set out

- (a) the name of the debtor;
- (b) the date the debt was incurred;
- (c) the nature of the debt;
- (d) the amount of the debt; and
- (e) the reason for the forgiveness.

Effect of forgiveness

(3) There is no obligation to pay a debt, owed to the municipal corporation, that is forgiven in accordance with this section. R.S.N.W.T. 1988,c.36(Supp.),s.6.

GRANTS

Grants

165. (1) A council, on behalf of the municipal corporation, may, by resolution, make grants for purposes that, in the opinion of the council, will benefit residents of the municipality

- (a) to persons or groups resident in the municipality; and
- (b) to persons or groups not resident in the municipality, with the prior approval of the Minister.

Maximum amount

(2) The total amount of all grants made by a council under this section in a fiscal year must not exceed 2% of the total expenditures of the municipal corporation as set out in its budget. R.S.N.W.T. 1988,c.36(Supp.),s.7.

LOANS AND GUARANTEES

Prohibition on loans

166. No municipal corporation shall make a loan to any person.

Prohibition on guarantees

167. No municipal corporation shall guarantee the payment of a debt owed by any person.

Loans and guarantees by-laws

167.1. A council may, by by-law, approved by the Minister, lend money or guarantee the repayment of a loan if:

- (a) the loan is authorized by a community agreement and is made to another municipal corporation within Nunavut or a board, commission or corporation jointly controlled by one or more municipal corporations within Nunavut;
- (b) the loan is made to a board, commission or corporation controlled by the municipal corporation;
- (c) the loan is authorized by a community agreement and is made in respect of a loan between a lender and another municipal corporation within Nunavut or a board, commission or corporation jointly controlled by one or more municipal corporations within Nunavut;
- (d) the guarantee is made in respect of a loan between a lender and a board, commission or corporation controlled by the municipal corporation; or
- (e) the loan or guarantee is made in accordance with the provisions on public and private partnership agreements. S.Nu. 2003,c.3,s.38.

Contents of loan by-laws

167.2. A by-law authorizing a loan must set out

- (a) the amount of money to be loaned;
 - (b) in general terms, the purpose for which the money that is loaned is to be used;
 - (c) the minimum rate of interest, the term of the loan, and the terms of repayment of the loan; and
 - (d) the source or sources of the money to be loaned.
- S.Nu. 2003,c.3,s.38.

Contents of guarantee by-laws

167.3. A by-law authorizing a guarantee must set out

- (a) the amount of money to be borrowed under the loan to be guaranteed;
- (b) in general terms, the purpose for which the money is to be borrowed;

- (c) the rate of interest under the loan, or how the rate of interest is to be calculated;
- (d) the term of the loan and the terms of repayment of the loan; and
- (e) the source or sources of money to be used to pay the principal and interest owing under the loan if the municipal corporation is required to do so under the guarantee. S.Nu. 2003,c.3,s.38.

Definition of "securities"

167.4. In section 168, "securities" includes bonds, debentures, treasury bills, trust certificates, guaranteed investment certificates or receipts, certificates of deposit, deposit receipts, bills, notes and mortgages of real estate and leaseholds and rights or interests in respect of a security. S.Nu. 2003,c.3,s.38.

INVESTMENTS

Authorized investments

168. A council may, by resolution, authorize the senior administrative officer to invest surplus money belonging to the municipal corporation in any of or any combination of the following:

- (a) securities issued or guaranteed by
 - (i) the Government of Canada or an agency of the Government of Canada, or
 - (ii) the government of a province or territory or the agency of the government of a province or territory;
- (b) securities, the payment of which is a charge on the Consolidated Revenue Fund of the Government of Canada or a province or territory of Canada;
- (c) securities of a municipal corporation in Canada;
- (d) securities of a Canadian municipal participation corporation;
- (e) securities issued or guaranteed by a bank, credit union or trust corporation;
- (f) securities that are insured by the *Canada Deposit Insurance Corporation Act*;
- (g) investments authorized by the Minister by regulation; and
- (h) units in pooled funds of all or any of the investments described in paragraphs (a) to (g). S.Nu. 2003,c.3,s.39.

Pooled funds

168.1. (1) A municipal corporation may, where authorized by a community agreement, form a pooled investment fund with another municipal corporation or with any entity approved by the Minister by regulation.

Use of pooled funds

(2) The money in a pooled investment fund may be used only to make investments authorized under section 168. S.Nu. 2003,c.3,s.40.

Regulations

168.2 The Minister may make regulations for the purpose of prescribing standards and guidelines for investments to be made by one or more municipal corporations.

S.Nu. 2003,c.3,s.40.

REVENUE

Charges for municipal services

169. (1) A council may, by by-law, provide for the establishment, levy and collection of charges for services provided by the municipal corporation.

S.N.W.T. 1997,c.5,s.3(20).

(2) **Repealed.** S.N.W.T. 1996,c.9,Sch.E,s.2.

Reduction in rates

170. A council may, by by-law, provide for the reduction or waiver of a charge for the use of a sewage, drainage or water distribution system, where any past or present owner or occupier of the real property has paid for any portion of the sewage, drainage or water distribution system.

PART V

LIABILITY AND ENFORCEMENT

LIABILITY

Definitions

170.1. In this Part,

"board member" means a member of a board or other body established by a municipal corporation under this Act; (*membre de la régie*)

"municipal officer" means any of the senior administrative officer and designated officers and employees of the municipal corporation; (*fonctionnaire municipal*)

"public utility" means a system of works used to provide one or more of the following for public consumption, benefit, convenience or use:

- (a) water or steam;
- (b) sewage disposal;
- (c) public transportation operated by or on behalf of the municipality;
- (d) drainage;
- (e) waste management;

and includes the thing that is provided for public consumption, benefit, convenience or use; (*entreprise de service public*)

"volunteer worker" means a volunteer member of a fire or ambulance service or emergency measures organization established by a municipal corporation, or any other volunteer performing duties under the direction of a municipal corporation. (*travailleur bénévole*)

S.Nu. 2003,c.3,s.41.

Limit on liability

170.2. (1) Subject to the *Conflict of Interest Act*, no council member is liable to any civil action, prosecution, arrest, imprisonment or damages by reason of

- (a) anything said by the council member in a meeting of council or a committee of council, or
- (b) anything brought before council or a committee of council by the council member.

Liability

(2) A council member is liable for anything said or brought before council or a committee of council by the council member that is said or brought with malicious intent.

Where loss or damage occurs in performance of function

(3) Subject to the *Conflict of Interest Act*, no council member, council committee member, board member, municipal officer or volunteer worker is liable for loss or damage by reason of anything said or done or omitted to be done in the performance or intended performance of his or her functions, duties or powers under this Act.

Limitation on defence

(4) Subsection (3) is not a defence where

- (a) the cause of action is defamation; or
- (b) the council member, council committee member, board member, municipal officer or volunteer worker was dishonest, grossly negligent or guilty of wilful misconduct.

Liability of municipal corporation

(5) Subsection (3) does not affect the legal liability of the municipal corporation.
S.Nu. 2003,c.3,s.41.

Non-negligence actions

170.3. A municipal corporation is not liable in an action based on nuisance, or on any other tort that does not require a finding of intention or negligence, if the damage arises, directly or indirectly, from roads or from the operation or non-operation of a public utility. S.Nu. 2003,c.3,s.41.

Exercise of discretion

170.4. A municipal corporation that has the discretion to do something is not liable for deciding in good faith not to do that thing or for not doing that thing.

S.Nu. 2003,c.3,s.41.

Inspections and maintenance

170.5. A municipal corporation is not liable for damage caused by

- (a) a system of inspection, or the manner in which inspections are to be performed, or the frequency, infrequency or absence of inspections, and
- (b) a system of maintenance, or the manner in which maintenance is to be performed, or the frequency, infrequency or absence of maintenance. S.Nu. 2003,c.3,s.41.

Public facilities

170.6. (1) In this section, "public facility" means a place that is subject to the direction, control and management of the municipal corporation.

Limitation on liability

(2) A municipal corporation is not liable for failing to maintain a public facility in a reasonable state of repair unless the municipal corporation knew or ought to have known of the state of disrepair and failed to take steps to rectify the state of disrepair within a reasonable period of time. S.Nu. 2003,c.3,s.41.

Public utilities and municipal services

170.7. A municipal corporation that operates a public utility or provides a service is not liable for loss or damage as a result of the breaking of a pipe, conduit, pole, wire, cable or other part of the utility or service, or the discontinuance or interruption of a service or connection that occurs by reason of:

- (a) accident;
- (b) disconnection for non-payment or non-compliance with a term or condition of service; or
- (c) necessity for repair or replacement of part of the utility or service. S.Nu. 2003,c.3,s.41.

Water overflow

170.8. A municipal corporation is not liable for loss as a result of an overflow of water from a sewer, drain, ditch or watercourse that is a consequence of excessive snow, ice or rain. S.Nu. 2003,c.3,s.41.

Fire protection

170.9. For the purpose of determining the standard of care required of a municipal corporation in an action or proceeding relating to the provision by the municipal corporation of a protective fire service, the court shall consider all relevant factors that might reasonably have affected the ability of the municipal corporation to provide the fire protection service, including, but not limited to,

- (a) the population of the municipality;
- (b) geographic limitations to the provision of the service;
- (c) whether the service provided is volunteer or partly volunteer;
- (d) the revenues of the municipal corporation; and

- (e) any other criteria that may be specified by the Minister by regulation. S.Nu. 2003,c.3,s.41.

Remedying contraventions of by-laws

170.91. A municipal corporation is not liable for loss or damage caused by it in remedying, or attempting to remedy, a contravention of a by-law, unless the municipal corporation is grossly negligent. S.Nu. 2003,c.3,s.41.

Negligent supervision by others

170.92. Where a municipal corporation entrusts the construction of a public work or a public facility to the supervision of an engineer, architect, surveyor or other person with relevant expertise to supervise the construction, the municipal corporation is not liable for loss or damage arising from any negligence on the part of the supervisor unless the supervisor is exempt from liability under section 170.2. S.Nu. 2003,c.3,s.41.

Limitation of actions respecting roads

170.93. An action for damages caused by negligent maintenance or repair of a municipal road may not be commenced unless:

- (a) notice in writing is given to the senior administrative officer within 30 days after the damage was sustained, or within such longer period of time as a council may, by by-law, designate; and
- (b) the action is commenced not later than two years after the damage was sustained. S.Nu. 2003,c.3,s.41.

Repair of roads

170.94. (1) Every road that is subject to the direction, control and management of the municipal corporation must be kept in a state of reasonable repair by the municipal corporation, having regard to

- (a) the character of the road, and
- (b) the area of the municipality in which it is located.

Liability of municipal corporation

(2) The municipal corporation is liable for damage caused by the municipal corporation failing to perform its duty under subsection (1) only if the municipal corporation knew or should have known of the state of disrepair.

Application

(3) This section does not apply to any road made or laid out by a private person until the road is subject to the direction, control and management of the municipal corporation.

Liability for particular loss or damage

(4) A municipal corporation is not liable under this section unless the claimant has suffered a particular loss or damage by reason of the default of the municipal corporation beyond what is suffered by the claimant in common with all other persons affected by the state of disrepair.

Liability where municipal corporation not a party

(5) A municipal corporation is not liable under this section in respect of acts done or omitted to be done by persons exercising powers or authorities conferred on them by law, and over which the municipal corporation has no control, if the municipal corporation is not a party to those acts or omissions.

Defense

(6) A municipal corporation is not liable under this section if it proves that it took reasonable steps to prevent the disrepair from arising.

Traffic control device

(7) When a traffic control device has been defaced, removed or destroyed by someone other than a designated officer, employee or agent of the municipal corporation, the municipal corporation is liable under this section only if the municipal corporation

- (a) had actual notice of the defacement, removal or destruction, and
- (b) failed to restore, repair or replace the traffic control device in a reasonable period of time. S.Nu. 2003,c.3,s.41.

Things on or adjacent to roads

170.95. A municipal corporation is not liable for damage caused

- (a) by the presence, absence or type of any wall, fence, guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or on a road, or
- (b) by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or on a road that is not on the traveled portion of a road. S.Nu. 2003,c.3,s.41.

Snow on roads

170.96. (1) A municipal corporation is only liable for an injury to a person or damage to property caused by snow, ice or slush on roads or sidewalks in the municipality if the municipal corporation is grossly negligent. S.Nu. 2003,c.3,s.41.

Notice

(2) A person who brings an action claiming gross negligence as described in subsection (1) must notify in writing the senior administrative officer of the municipal corporation of the event that gives rise to the action within 30 days of the occurrence of the event, or such longer time as the council may establish by by-law. S.Nu. 2003,c.3,s.41.

PART V.1

ENFORCEMENT

PROCEDURES

By-law officers

171. A council may, by by-law, appoint by-law officers to enforce any or all of its by-laws and establish their specific duties. S.N.W.T. 1997,c.5,s.3(21).

Municipal prosecutions

172. (1) A by-law officer may represent the municipal corporation before a justice of the peace in the prosecution of a person charged with an offence under a by-law.

Duty to enforce by-laws appointed to enforce

(2) A by-law officer shall enforce those by-laws of the municipal corporation that he or she is appointed to enforce under section 171.

Duty to enforce other Acts

(3) Every by-law officer is an officer as defined in the *Motor Vehicles Act* and shall enforce that Act and the *All-terrain Vehicles Act*. S.N.W.T. 1997,c.5,s.3(22).

Power to issue orders

173. (1) A council may, by by-law, ensure compliance with its by-laws by providing for the issuance of orders by the council, a by-law officer or other employee directing a person to do any act or refrain from doing any act.

Failure to obey order

(2) A council may, by by-law, provide that failure to obey an order issued under subsection (1) is an offence.

Entry by designated officer

174. (1) If this or any other enactment or by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipal corporation, a designated officer of the municipal corporation may, after giving reasonable notice to the owner or occupier of the land or structure to be entered to carry out the inspection, remedy, enforcement or action,

- (a) enter the land or structure at any reasonable time and carry out the inspection, remedy, enforcement or action authorized or required by the enactment or by-law;
- (b) request that anything be produced to assist in the inspection, remedy, enforcement or action; and
- (c) make copies of anything related to the inspection, remedy, enforcement or action.

Identification

(2) The designated officer must display or produce on request identification showing that the officer is authorized to enter the land or structure.

Entry without notice

(3) Where the council or the designated officer authorized to do a thing under subsection (1) has reasonable grounds to believe that there is imminent danger to public health and safety, or where other extraordinary circumstances warrant, the designated officer need not give reasonable notice or enter at a reasonable hour and may do the things in subsection (1) without the consent of the owner or occupier.
S.Nu. 2003,c.3,s.42.

Notice of certain by-laws

175. No council shall give third reading to a by-law that authorizes the entry or use of real property without the consent of the owner or occupier of it, unless it first gives public notice of a summary of the by-law or, where the real property of a specific person is affected, actual notice to that person.

Application to court

175.1. (1) The municipal corporation may apply to the Nunavut Court of Justice for an order under subsection (2) if a person

- (a) refuses to allow or interferes with the entry, inspection, enforcement or action referred to in paragraph 174(1)(a), or
- (b) refuses to produce anything to assist in the inspection, remedy, enforcement or action referred to in paragraph 174(1)(b).

Order of court

(2) The court may issue an order

- (a) restraining a person from preventing or interfering with the entry, inspection, enforcement or action, or
- (b) requiring the production of anything to assist in the inspection, remedy, enforcement or action.

Hearing without notice

(3) Where in the opinion of the court there is imminent danger to public health or safety, or extraordinary circumstances warrant, the court may hear the application without notice to any person. S.Nu. 2003,c.3,s.43.

Order to remedy contravention

175.2. (1) If a designated officer finds that a person is contravening this or any other enactment that the municipal corporation is authorized to enforce, or a by-law, the designated officer may, by written order, require the person responsible for the contravention to remedy it as the circumstances require.

Terms of order

(2) The order may:

- (a) direct a person to stop doing something, or to change the way in which the person is doing it;
- (b) direct a person to take any action or measures necessary to remedy the contravention of the enactment or by-law, including the removal or demolition of a structure that has been erected or

- placed in contravention of a by-law, and, if necessary, to prevent a recurrence of the contravention;
- (c) state a time within which the person must comply with the directions; and
 - (d) state that if the person does not comply with the directions within a specified time, the municipal corporation will take the action or measure at the expense of the person.

Service of order

(3) The order must be served personally or, if personal service is not possible because the address of the person is not known, notice of the order must be published twice in a newspaper having general circulation in the municipality or in Nunavut. S.Nu. 2003,c.3,s.43.

Order to remedy dangers and unsightly property

175.3. (1) If a designated officer has reason to believe that a structure, excavation or hole is dangerous to public safety or to property, or, because of its unsightly condition, is detrimental to the surrounding area, the designated officer may, by written order,

- (a) require the owner of the structure to
 - (i) eliminate the danger to public safety in the manner specified, or
 - (ii) remove or demolish the structure and level the site;
- (b) require the owner of the land that contains the excavation or hole to
 - (i) eliminate the danger to public safety in the manner specified, or
 - (ii) fill in the excavation or hole and level the site; or
- (c) require the owner of the property that is in unsightly condition to
 - (i) improve the appearance of the property in the manner specified, or
 - (ii) if the property is a structure, remove or demolish the structure and level the site.

Terms of order

(2) An order made under subsection (1) must

- (a) state a time within which the person must comply with the directions; and
- (b) state that if the person does not comply with the directions within the specified time, the municipal corporation will take the action or measure at the expense of the person.

Service of order

(3) The order must be served personally or, if personal service is not possible because the address of the person is not known, notice of the order must be published twice in a newspaper having general circulation in the municipality or in Nunavut. S.Nu. 2003,c.3,s.43.

Request for hearing by council

175.4. (1) A person who receives a written order under section 175.2 or 175.3 may request council to review the order by giving notice in writing to the council within 21 days of the date the order was issued or such longer period as specified by by-law.

Powers of council on review

(2) After reviewing the order, the council may confirm, vary, substitute its own order, or cancel the order. S.Nu. 2003,c.3,s.43.

Appeal from decision of council

175.5. (1) A person affected by a decision of a council under section 175.4 may appeal to the Nunavut Court of Justice within 30 days of the date the decision is served on the person on the grounds that

- (a) the procedure required to be followed under this Act was not followed; or
- (b) the decision is patently unreasonable.

Contents of application

(2) The application for the appeal must state the reasons for the appeal.

Decision of court

(3) The court may

- (a) confirm the decision of the council; or
- (b) declare the decision invalid and send the matter back to the council with directions. S.Nu. 2003,c.3,s.43.

Municipal corporation remedying contraventions

175.6. (1) A municipal corporation may take whatever action or measures are necessary to remedy a contravention of this Act, or a by-law, or any other enactment that the municipal corporation is authorized to enforce, or to prevent a recurrence of the contravention, if

- (a) the municipal corporation has given a written order under section 175.2 or 175.3;
- (b) the order contains a statement referred to in paragraph 175.2(2)(d) or 175.3(2)(b);
- (c) the person to whom the order is directed has not complied with the order within the time specified in the order; and either
- (d) the appeal periods respecting the order have passed and no appeal has been made; or
- (e) any appeal that has been made has been decided, and the decision allows the municipality to take the action or measures.

Closure of premises

(2) If the order directed that premises be put and maintained in a sanitary condition, the municipal corporation may, under this section, close the premises and use reasonable force to remove the occupants.

Expenses and costs of action

(3) The expenses and costs of an action or measure taken by a municipal corporation under this section are a debt owing to the municipal corporation by the person who contravened the enactment or by-law, and may be recovered from the person in default by civil action for debt, or by charging it against real property of which the person is the assessed owner in the same manner as arrears of property taxes under the *Property Assessment and Taxation Act*.

Proceeds of sale of structure

(4) If the municipal corporation sells all or a part of a structure that has been removed in accordance with an order issued under paragraph 175.2(2)(b) or subparagraph 175.3(1)(a)(ii), the proceeds of the sale must be used to pay the expenses and costs of the removal and any excess proceeds must be paid to the person entitled to them.
S.Nu. 2003,c.3,s.43.

Exception for imminent danger

175.7. (1) Despite sections 175.4 and 175.5, where the council or designated officer is of the opinion that there is imminent danger to public health and safety, the municipal corporation may take whatever actions or measures are necessary to eliminate the danger.

Application

(2) This section applies whether or not the danger involves a contravention of this Act, or an enactment or by-law that the municipal corporation is authorized to enforce.

Compliance

(3) A person who receives an oral or written order under this section requiring the person to provide labour, services, equipment or materials must comply with the order.
S.Nu. 2003,c.3,s.43.

Use of ticket procedure

176. (1) A municipal corporation may use the *Summary Conviction Procedures Act* to enforce its by-laws.

Record keeping

(2) Every senior administrative officer shall ensure that complete and accurate records are kept in respect of

- (a) all tickets issued under the *Summary Conviction Procedures Act* for offences under the by-laws;
- (b) all payments of fines in respect of those tickets; and
- (c) the disposition of those tickets.

Destruction of records

(3) A council may, by by-law, provide for the destruction of records kept under subsection (2) when they are no longer useful or required by law.

Injunction

177. (1) In addition to any other remedy available to it, a municipal corporation may enforce a by-law by applying to the Nunavut Court of Justice for an injunction or other order in accordance with the Rules of the Nunavut Court of Justice.

Decision of court

(2) The court may grant or refuse the injunction or other order or may make any other order that in its opinion is required by the principles of justice. S.Nu. 2003,c.3,s.44.

Application

178. (1) This section applies to

- (a) the enforcement of by-laws made under subsection 98(2) and sections 108 and 125; and
- (b) the suspension and cancellation of building permits, business licences and taxi licences issued under by-laws made under sections 107, 110 and 113.

Hearing

(2) Before any action referred to in subsection (1) is taken, the council shall allow any person affected, or the representative of that person, an opportunity to be heard.

Who holds hearing

(3) The hearing must be conducted by the council.

Notice

(4) Notice must be served on any person affected at least three days before the date of the hearing.

Content of notice

(5) The notice must

- (a) set out the time and place of the hearing; and
- (b) advise the person of the purpose of the hearing and the right of the person to attend and make representations.

Service of notice

(6) The notice must be served personally or, where personal service cannot be effected because the address of the person is not known, the notice may be published twice in a newspaper having general circulation in the municipality or the Territories.

Exception for imminent danger

179. Where the council, or a person who may be authorized to take the action referred to in subsection 178(1), is of the opinion that there is imminent danger to public health and safety,

- (a) the period of notice required by subsection 178(4) may be shortened; or

- (b) the action may be taken without the notice and hearing required by section 178.

Appeal

180. (1) An appeal may be taken from a decision made under section 178 or 179 to a judge of the Supreme Court by way of originating notice under the Rules of the Supreme Court.

Time for appeal

- (2) The appeal must be made not later than 30 days after the decision.

Time for enforcement

(3) Subject to section 179, no person shall take any action referred to in subsection 178(1) until after

- (a) the period for taking an appeal has expired and no appeal has been taken; or
- (b) any appeal taken has been dismissed by a judge of the Supreme Court.

Action at expense of person in default

181. (1) Where a person does not do any act lawfully required under a by-law made under section 72, 74 or 125, or subsection 175.7(3), the council may direct that the act be done by the municipal corporation at the expense of the person in default.

Collection of expenses

(2) The expenses incurred by a municipal corporation under subsection (1) are a debt owed to the municipal corporation and, where the municipal corporation is a municipal taxing authority, may be recovered from the person in default by charging it against the real property in respect of which the expenses were incurred in the same manner as arrears of property taxes under the *Property Assessment and Taxation Act*.

Collection of charges for service to property

(3) Where the municipal corporation is a municipal taxing authority, any charges levied under section 169 for a service that relates to real property that have not been paid by the end of the fiscal year may be recovered by the municipal corporation from the person in default by charging it against the real property in respect of which the charges were levied in the same manner as arrears of property taxes under the *Property Assessment and Taxation Act*. S.N.W.T. 1997,c.5,s.3(23); S.Nu. 2003,c.3,s.46.

OFFENCES AND PUNISHMENT

Punishment for by-law offences

182. (1) A council may, by by-law, provide that a person who is guilty of an offence under a by-law is liable on summary conviction

- (a) to a fine in an amount specified in the by-law; or

- (b) to imprisonment for a term not exceeding six months in default of payment of a fine.

Maximum amount of fine

- (2) A fine specified under paragraph (1)(a) must not exceed
 - (a) \$1,000 for an individual; and
 - (b) \$5,000 for a corporation.

Order respecting other matters

183. In addition to any fine that may be levied, a court, subject to its jurisdiction, may order a person convicted of an offence under a by-law

- (a) to pay any fee or charge that may otherwise be payable by the person to the municipal corporation in respect of any licence or permit that should have been obtained by the person; and
- (b) to do or refrain from doing any activity that the court may specify.

Ownership of fines collected

184. Subject to any other enactment, a fine or penalty collected in respect of an offence under a by-law belongs to the municipal corporation.

Offence

185. Every person who contravenes this Act or the regulations is guilty of an offence.

Penalties

186. Every person who is guilty of an offence under this Act, the regulations or a by-law for which no specific penalty is provided by this Act, the regulations or a by-law is liable on summary conviction

- (a) to a fine not exceeding \$2000 for an individual, and \$10,000 for a corporation; or
- (b) to imprisonment for a term not exceeding six months in default of payment of a fine. S.Nu. 2003,c.3,s.45.

Obstruction or interference

187. Every person is guilty of an offence who wilfully obstructs or interferes with any of the following persons in the performance of his or her duties under this Act or a by-law:

- (a) a by-law officer;
- (b) another officer of the municipal corporation;
- (c) a municipal inspector;
- (d) a municipal administrator; or
- (e) a municipal supervisor. S.Nu. 2003,c.3,s.47.

MUNICIPAL INSPECTORS

Appointment

188. Municipal inspectors appointed under the *Cities, Towns and Villages Act* are municipal inspectors for the purposes of this Act.

Municipal inspections

189. Upon request by the Minister or by the council, a municipal inspector shall review or examine the following documents and other matters of the municipal corporation:

- (a) the records, books and accounts;
- (b) management and administration;
- (c) operations; and
- (d) financial affairs. S.Nu. 2003,c.3,s.48.

Report

190. (1) Every municipal inspector shall prepare a report on the examinations and reviews made under section 189 and submit it to the Minister.

Content of report

(2) The report of a municipal inspector may include

- (a) a statement describing any contravention of this Act or the by-laws of the municipal corporation that, in the opinion of the municipal inspector, has occurred; and
- (b) recommendations on action to be taken by the municipal corporation or the Minister.

Forwarding copy of report

(3) Every municipal inspector shall forward a copy of the report to the mayor unless the Minister otherwise directs.

Powers of municipal inspector

191. A municipal inspector may, for the purpose of section 189,

- (a) inspect or require the production of any record, book, account or document of the municipal corporation and make copies of it;
- (b) require any council member or employee of the municipal corporation or any person managing or administering money belonging to the municipal corporation to provide the information and explanations that are necessary;
- (c) examine any council member or employee of the municipal corporation or any person managing or administering money belonging to the municipal corporation under oath or require that person to provide a statement under oath;
- (d) enter municipal premises at any reasonable time;
- (e) obtain from a bank or other financial institution any financial information it may have respecting the municipal corporation; and
- (f) exercise the powers of a commissioner for oaths.

MUNICIPAL SUPERVISORS

Order of supervision

191.1. (1) The Minister may, by order, place the affairs of the municipal corporation under supervision, and appoint a supervisor of the affairs of the municipal corporation, if the Minister has reason to believe that

- (a) a municipal corporation is in financial or operational difficulty,
- (b) the council has failed to perform a duty required of it by this Act or any other Act, or
- (c) it is in the best interests of the municipal corporation that its affairs be supervised.

Term of appointment

(2) The initial appointment of a supervisor under subsection (1) shall be for a maximum term of up to one year, but may be ended before the expiry of the term if, in the opinion of the Minister, the conditions referred to in paragraphs (1)(a) to (c) that justified the initial appointment no longer exist.

Extension

(3) The appointment of a supervisor under subsection (1) may be extended if, in the opinion of the Minister, the conditions in paragraphs (1)(a) to (c) that justified the initial appointment still exist.

Renewal

(4) An extension under subsection (3) may be renewed if, in the opinion of the Minister, the conditions referred to in paragraphs (1)(a) to (c) that justified the initial appointment still exist.

Term of renewal

(5) An extension under subsection (3) or a renewal of an extension under subsection (4) shall be for a maximum term of up to six months, but may be ended before the expiry of the term if, in the opinion of the Minister, the conditions referred to in paragraphs (1)(a) to (c) that justified the initial appointment and renewal no longer exist.

Written reasons

(6) Where the Minister decides to extend the appointment of a supervisor under subsection (3), or to renew an extension under subsection (4), he or she shall provide written reasons for doing so. S.Nu. 2003,c.3,s.49.

Submission of program by municipal corporation

191.2. If a supervisor is appointed by the Minister under section 191.1, the municipal corporation must submit to the supervisor for approval the particulars of the following matters which constitute the program of the municipal corporation:

- (a) the budget of the municipal corporation;
- (b) any other matter affecting the administration of the affairs of the municipal corporation. S.Nu. 2003,c.3,s.49.

Directions and approval by supervisor

191.3. The municipal corporation and its officers and employees must comply with the directions of the supervisor, and the council of the municipal corporation must not finalize its program or pass any by-law respecting it until the program has been approved, or revised and approved, by the supervisor. S.Nu. 2003,c.3,s.49.

Minister may prescribe program

191.4. If a municipal corporation fails to obtain the approval of the supervisor or fails in whole or in part to conduct its affairs in accordance with the program, the Minister may prescribe a program for the municipal corporation, which becomes effective and is binding upon the municipal corporation, its council, the senior administrative officer, and all persons interested in or affected by it. S.Nu. 2003,c.3,s.49.

Amendment of program

191.5. The Minister may amend, in whole or in part, a program approved by the supervisor or prescribed by the Minister and the amendment is effective and binding immediately upon notice in writing being given to the municipal corporation. S.Nu. 2003,c.3,s.49.

Current borrowings

191.6. The Minister may direct that every borrowing by the municipality is subject to the Minister's approval and that no money may be borrowed for purposes other than, or in amounts greater than, those approved from time to time, and the municipal corporation must comply with the direction. S.Nu. 2003,c.3,s.49.

Ministerial directions

191.7. In appointing a supervisor the Minister may

- (a) give directions respecting approval of the program set out in section 191.2;
- (b) give directions for the deposit and disbursement of all money of, or received on account of, the municipal corporation;
- (c) give directions regarding the approval and execution of all by-laws, security documents, and other documents; and
- (d) impose such terms or conditions or give such other directions as the Minister considers advisable. S.Nu. 2003,c.3,s.49.

Application of Act

191.8. Subject to sections 191.1 to 191.7, the members of the council and the senior administrative officer of a municipal corporation the affairs of which are under supervision remain subject to this and any other Act. S.Nu. 2003,c.3,s.49.

Payment of expenses

191.9. The Minister may require that the expenses incurred under sections 191.1 to 191.7 be paid wholly or in part by the municipal corporation under supervision and be included in the operating budget of the municipal corporation. S.Nu. 2003,c.3,s.49.

MUNICIPAL ADMINISTRATOR

Order placing municipal corporation under control of municipal administrator

192. (1) The Minister may, by order, declare a municipal corporation to be under the control of a municipal administrator where

- (a) the municipal corporation is incapable of meeting its financial obligations;
- (b) the council has failed to perform a duty required of it by this Act or any other Act; or
- (c) the Minister is of the opinion that for other reasons it is in the best interests of the municipal corporation that it be under the control of a municipal administrator.

Content of order

(2) The order under subsection (1) must

- (a) appoint the municipal administrator; and
- (b) state the term of the municipal administrator, if any.

Effect of order

193. Where an order has been made under section 192, the council members shall be deemed to have retired from office and the council shall remain vacant until after a new election is held under section 205.

Powers and duties of municipal administrator

194. Subject to this Act, a municipal administrator may exercise the powers and shall perform the duties of a council under this Act.

Limit on powers of municipal administrator

195. No municipal administrator shall incur an expenditure or liability on behalf of the municipal corporation without the approval of the Minister.

Bonding

196. (1) Every municipal administrator must be bonded in the amount that the Minister determines.

Costs of bonding

(2) The municipal corporation shall pay the costs of bonding a municipal administrator.

Directions of Minister

197. The Minister may, by order or otherwise, direct a municipal administrator in the exercise of his or her powers or the performance of his or her duties.

Municipal advisory committee

198. (1) The Minister may, by order, establish a municipal advisory committee composed of at least two members.

Members

(2) The members of the municipal advisory committee must be appointed by the Minister from among the residents of the municipality.

Duty of municipal advisory committee

(3) A municipal advisory committee shall advise a municipal administrator in the exercise of his or her powers and the performance of his or her duties.

Disposal of property

199. Subject to direction from the Minister, a municipal administrator may dispose of any personal or real property belonging to the municipal corporation as may be necessary to satisfy any of its outstanding debts.

Power to establish rate of taxation

200. The Minister shall exercise the power of a council under the *Property Assessment and Taxation Act* to establish the rate of tax where the municipal corporation is a municipal taxing authority and under the control of a municipal administrator.

Books of account

201. (1) A municipal administrator shall ensure that accurate books of account are kept relating to the financial affairs of the municipal corporation.

Inspection of books of account

(2) The books of account referred to in subsection (1) must be open to inspection by the Minister or any person designated by the Minister.

Financial statements

202. (1) Every municipal administrator shall provide to the Minister a report on the financial affairs of the municipal corporation, including

- (a) a balance sheet that presents fairly the financial position of the municipal corporation;
- (b) a statement of income that presents fairly the operating results of the municipal corporation; and
- (c) any other information that the Minister may require.

Time of submission

(2) The report referred to in subsection (1) must be submitted at the end of each calendar month or at other times that the Minister may require.

Approval for by-laws

203. Every by-law made by a municipal administrator must be approved by the Minister.

Expenses of municipal administrator

204. (1) The expenses of a municipal administrator must be paid out of the funds of the municipal corporation, including

- (a) remuneration at the prescribed rate; and
- (b) all reasonable living and travelling expenses.

Other expenses

(2) Section 191.9 applies with necessary modifications to the expenses incurred under sections 191.1 to 191.7 by or on behalf of a municipal corporation under the direction of a municipal administrator. S.Nu. 2003,c.3,s.50.

Return of control to council

205. Where the Minister is of the opinion that a municipal corporation under the control of an administrator should be returned to the control of a council, the Minister may

- (a) revoke the order issued under section 192; and
- (b) by order, establish an election date for new council members and provide for their election in the same manner as the first election of a council.

PART VI

DISSOLUTION

Order of dissolution

206. The Minister may, by order, dissolve a municipal corporation where the Minister is satisfied that

- (a) the municipal corporation is unable to continue in operation for financial or other reasons; and
- (b) due provision has been made for winding up the affairs of the municipal corporation, the payment of all its debts and the satisfaction of all its obligations.

Liquidator

207. The Minister may appoint a liquidator

- (a) to wind up the affairs,
- (b) to pay all the debts,
- (c) to satisfy all the obligations, and
- (d) to transfer all the assets,

of a municipal corporation that is to be dissolved.

Transfer of assets

208. All the assets of a dissolved municipal corporation must be transferred to the Government of the Northwest Territories on the terms and conditions that the Minister may require.

Ownership of receivables

209. All revenues of a dissolved municipal corporation not yet received by it belong to the Government of the Northwest Territories and may be collected accordingly.

PART VII

GENERAL AND TRANSITIONAL

Order varying time

210. The Minister may, by order, vary the time required by this Act for the doing of any thing, whether the time has passed or not, where the thing cannot or has not been done.

211. Repealed. S.Nu. 2003,c.3,s.51.

Regulations

212. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing the forms that are necessary or advisable in carrying out the provisions of this Act; and
- (b) prescribing any matter or thing that by this Act may or is to be prescribed.

Minister may make regulations

212.1 (1) The Minister may make regulations providing criteria that must be considered by the Minister before exercising any power under this Act concerning borrowing, lending, or other economic activity.

Application of regulation

(2) A regulation made under subsection (1) may be general or specific in its application. S.Nu. 2003,c.3,s.52.

Continuation of municipal corporations

213. Every hamlet, existing under the *Municipal Act*, R.S.N.W.T. 1974,c.M-15, immediately before January 1, 1988, shall continue under this Act.

Continuation of by-laws, resolutions, rights and obligations

214. (1) Every by-law, resolution, contract, licence, right or obligation of a municipal corporation that existed immediately before January 1, 1988, shall continue in effect, to the extent it is not inconsistent with this Act, until it expires or is terminated or repealed.

Employees

(2) Every person employed by a municipal corporation immediately before January 1, 1988, shall continue as an employee under this Act, until the employment is terminated.

Secretary-treasurers and constables

(3) Every secretary-treasurer and constable of a municipal corporation immediately before January 1, 1988, shall continue to act as if appointed as a senior administrative officer and by-law officer, respectively, until the appointment is revoked.

**HAMLET OF CHESTERFIELD INLET
BY-LAW #113**

A by-law of the Municipal Corporation of the Hamlet of Chesterfield Inlet in the Nunavut Territory to increase the term of office for the Mayor to three years, pursuant to the provisions of the Hamlets Act, R.S.N.W.T., 1988, c.H-1, s.13. as amended by S. Nu. 2003, c.3 s13.1. (1)

AS the Hamlet of Chesterfield Inlet deems it to be in the public interest to increase the term of office of the Mayor;

NOW THEREFORE, THE COUNCIL OF THE HAMLET OF CHESTERFIELD INLET, at a duly assembled meeting, enacts as follows:

1. That the term of office of the Mayor of the Hamlet of Chesterfield Inlet be increased to three years.

Read a first time this 24th day of January 2013.

Read a second time this 24th day of January 2013.

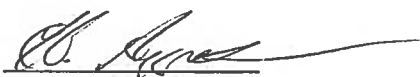


Mayor



Senior Administrative Officer

Read a third time and finally passed this 21st day of February 2013.



Mayor



Senior Administrative Officer

