

CONSOLIDATION OF CITIES, TOWNS AND VILLAGES ACT
R.S.N.W.T. 1988,c.C-8

(Current to: September 1, 2018)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.8(Supp.)
In force July 19, 1993: SI-008-93
R.S.N.W.T. 1988,c.31(Supp.)
R.S.N.W.T. 1988,c.46(Supp.)
R.S.N.W.T. 1988,c.72(Supp.)
S.N.W.T. 1994,c.4
In force May 1, 1994: SI-006-94
S.N.W.T. 1994,c.22
S.N.W.T. 1995,c.11
S.N.W.T. 1997,c.5
In force March 31, 1997, except s.2(7)
s.2(7) in force April 30, 1997: SI-002-97
S.N.W.T. 1997,c.19
In force December 2, 1997: SI-013-97
S.N.W.T. 1998,c.5
S.N.W.T. 1998,c.30
In force March 30, 1999

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2003,c.2
In force March 28, 2003
S.Nu. 2003,c.13,s.25
s.25 in force February 1, 2004: SI-007-2003
S.Nu. 2007,c.10,s.37
s.37 in force November 8, 2007
S.Nu. 2007,c.15,s.177(Sch.,s.2)
s.177(Sch.,s.2) in force April 1, 2008: SI-003-2008
S.Nu. 2010,c.7,s.2
s.2 in force June 10, 2010
S.Nu. 2011,c.6,s.6
s.6 in force February 25, 2011
S.Nu. 2011,c.11,s.1
s.1 in force March 10, 2011
S.Nu. 2012,c.17,s.5
s.5 in force June 8, 2012
S.Nu. 2013,c.25,s.240
s.240 in force January 1, 2014
S.Nu. 2017,c.6,s.47
s.47 in force September 1, 2018
S.Nu. 2017,c.7,s.11
s.11 NIF (in force six months after section 5 of S.Nu. 2017,c.7 comes into force)
Note: see s.14 of S.Nu. 2017,c.7 for transitional provisions.
S.Nu. 2017,c.20,s.65
s.65 NIF (in force on the earlier of December 31, 2018 and a day on which an order is made)
Note: see s.76 of S.Nu. 2017,c.20 for transitional provisions.

(See following page for more Nunavut amending statutes)

AS AMENDED BY NUNAVUT STATUTES: (continued)

S.Nu. 2017,c.21,s.1

s.1 NIF (in force April 1, 2019)

Note: see s.11 of S.Nu. 2017,c.21 for transitional provisions, coming into force on October 1, 2018.

S.Nu. 2018,c.8,s.1

s.1 NIF (in force October 17, 2018)

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at www.nunavutlegislation.ca but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

Territorial Printer
Legislation Division
Department of Justice
Government of Nunavut
P.O. Box 1000, Station 550
Iqaluit, NU X0A 0H0

Tel.: (867) 975-6305
Fax: (867) 975-6189
Email: Territorial.Printer@gov.nu.ca

GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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CITIES, TOWNS AND VILLAGES 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.2,s.2; S.Nu. 2012,c.17,s.5(7)(a).

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

"city" means a municipal corporation with the status of a city; (*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 hamlet as defined in the *Hamlets Act*; (*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*)

"judge" means a judge of the Nunavut Court of Justice; (*jugé*)

"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 section 188; (*inspecteur municipal*)

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

"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 municipal corporation with the status of a town; (*ville*)

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

"voter" means a person who is eligible to vote at an election. (*électeur*)

S.N.W.T. 1994,c.4,s.2; S.N.W.T. 1997,c.19,s.2(2); S.Nu. 2003,c.2,s.3;
S.Nu. 2011,c.6,s.6(2); S.Nu. 2012,c.17,s.5(2).

Note: On April 1, 2019, section 1 is amended by:

- (a) **striking "the *Local Authorities Elections Act*" in the definition of "election" and substituting "Part VIII.1 of the *Nunavut Elections Act*"; and**
- (b) **adding "under Part VIII.1 of the *Nunavut Elections Act*" after "an election" in the definition of "election day".**

See S.Nu. 2017,c.21,s.1(2).

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.2,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.2,s.4; S.Nu. 2012,c.17,s.5(7)(b).

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.

Note: On April 1, 2019, subsection 2(1) is repealed and the following substituted:

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 persons who, on the date of the request, would be eligible to vote under section 7 of the *Nunavut Elections Act* and are resident in a settlement or an unincorporated community, cause public notice to be given in the settlement or community that the Minister intends to establish it as a municipality.

See S.Nu. 2017,c.21,s.1(3).

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 city, town or village.

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*.

Criteria for status

(3) The assessed value of all assessable land in the municipality must exceed

- (a) \$10,000,000 for the municipal corporation to be established as a village,
- (b) \$50,000,000 for the municipal corporation to be established as a town, and
- (c) \$200,000,000 for the municipal corporation to be established as a city,

unless the Executive Council recommends to the Minister that an exception be made.

Note: On April 1, 2019, subsection 4(2) is repealed and the following substituted:

Content of order

(2) When establishing a municipal corporation, the Minister must

- (a) fix the name and status of the municipal corporation in the order;
- (b) determine the boundaries of the municipality in the order; and
- (c) request the Chief Electoral Officer to conduct the first election of the council in accordance with Part VIII.1 of the *Nunavut Elections Act*.

Consultation with Chief Electoral Officer

(2.1) Before making an order under this section, the Minister must consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

See S.Nu. 2017,c.21,s.1(4).

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.31(Supp.),s.2.

Definition of "municipal corporation"

5. (1) In this section, "municipal corporation" includes a hamlet.

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 city, town or village; and
- (b) provide for any transitional matters that may be necessary.

Criteria for status change

(3) Subsection 4(3) applies where the status of a municipal corporation is being changed.

Public notice

(4) 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.

(5) Repealed, S.Nu. 2011,c.6,s.6(4).

Commencement of order and new election for council members

- (6) Where the status of a hamlet is being changed,
- (a) the order takes effect on the third Monday in October following the date the order is made; and
 - (b) the term of office for all council members ends at 12 noon on the first Monday in November following the date the order is made. S.Nu. 2011,c.6,s.6(3),(4),(5).

Note: On April 1, 2019, subsection 5(6) is repealed and the following substituted:

Consultation with Chief Electoral Officer

(6) Before making an order under this section, the Minister must consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

See S.Nu. 2017,c.21,s.1(5).

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

- 8.** 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 7(2) takes effect.

PART II

ADMINISTRATION

COUNCILS

Role of council

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

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; and
 - (c) carrying out the powers, duties and functions expressly given to it under this or any enactment.
- S.Nu. 2003,c.2,s.5; S.Nu. 2012,c.17,s.5(9).

Exercise of powers and duties

10. (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.

Elected council members

11. (1) 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.

Note: On April 1, 2019, section 11 is repealed and the following substituted:

Elected council members

11. (1) Every municipal corporation has a council composed of elected council members.

Application of *Nunavut Elections Act*

(2) Part VIII.1 of the *Nunavut Elections Act* applies to all matters respecting the election of council members.

See S.Nu. 2017,c.21,s.1(6).

Composition of council

12. (1) Subject to section 13, the council of a municipal corporation is composed of a mayor and eight councillors.

Use of term "alderperson"

(2) For the purposes of a city, the council may call council members "alderpersons" or "council members". S.Nu. 2003,c.2,s.6.

Variation of number of council members

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

Effect of order

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

14. (1) Subject to this Act, the council members hold office for three years.

Duration of term of office

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

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 two years.

Effect of variation

(4) A by-law made under subsection (3) applies to the 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.2,s.7.

Note: On April 1, 2019, section 14 is repealed and the following substituted:

Term of office

14. (1) Subject to this Act, all council members hold office for four years.

Dates for term of office

(2) The term of office of a council member

- (a) commences at 12 noon on the day after election day or when the member is sworn in, whichever is later; and
- (b) ends at 12 noon on the day after the next election day.

See S.Nu. 2017,c.21,s.1(7).

Variation in term of office

15. (1) Subject to subsection (1.1), the council may, by by-law, reduce the term of office of members of the council to two years.

Staggered terms of office

(1.1) A by-law made under subsection (1) may also provide that those councillors who are elected at the general election following the making of the by-law and who receive less votes than the councillor receiving the fourth highest number of votes shall hold office for a term of one year.

Effect of variation

(2) A by-law made under this section applies to the 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

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

Repeal of by-laws

(4) The council may, when repealing a by-law that staggered the terms of office of the councillors in the manner provided for in subsection (1.1), provide that the terms of office of all council members expire at the general election following the repeal of the by-law. S.N.W.T. 1997,c.5,s.2(2).

Note: On April 1, 2019, section 15 is repealed.

See S.Nu. 2017,c.21,s.1(8).

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.2,s.8.

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 the 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.2,s.9; S.Nu. 2012,c.17,s.5(7)(c),(d).

Note: On April 1, 2019, subsection 17(3) is amended by **striking "An elector" and "elector" wherever they appear and substituting "A voter" and "voter" respectively.**

See S.Nu. 2017,c.21,s.1(9).

18. Repealed, S.Nu. 2003,c.2,s.10.

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.2,s.11.

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 *Emergency Measures Act*, and may only transact business relating to the emergency.
S.Nu. 2007,c.10,s.37(2).

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.31(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.31(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*; or
 - (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.2,s.12; S.Nu. 2012,c.17,s.5(8)(a),(9).

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; or
- (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.2,s.12; S.Nu. 2012,c.17,s.5(7)(e),(9).

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.31(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;
- (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.2,s.13; S.Nu. 2012,c.17,s.5(9).

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 this Act, 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. Repealed, S.Nu. 2003,c.2,s.14.**

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.2,s.15.

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) An officer who acquires an interest in a contract with the municipal corporation may be dismissed without notice and without compensation.

Exceptions

- (4) This section does not apply to
- (a) contracts for the purchase of a residence or land on which to build a residence to be occupied by the officer or the dependants of the officer;
 - (b) contracts for the supply, to an officer, of a utility or other service generally available at common rates to members of the public; or
 - (c) contracts of employment or for benefits related to employment.

Bonding

- 46.** (1) The following persons must be bonded in the amount, for the risks and with the surety that the council directs:
- (a) the senior administrative officer;
 - (b) an officer performing the duties under paragraphs 48(1)(f) to (l);
 - (c) any other officers or employees that the council may require.

Costs of bonding

(2) The costs of the bonding required by subsection (1) must be paid by the municipal corporation.

Delegation by council

47. (1) The senior administrative officer shall perform the duties and exercise the powers of the council that the council may, by by-law, delegate, other than

- (a) the power to make by-laws or resolutions; and
- (b) a duty that shall be performed or a power that is exercisable only by by-law.

Mandatory duties

(2) The senior administrative officer, subject to the direction of the mayor, shall

- (a) supervise and direct the affairs of the municipal corporation, its other officers and its other employees;
- (b) implement the policies of the council;
- (c) provide advice to the council;
- (d) inspect and report on all municipal works as required by the council;
- (e) ensure that estimates of revenues and expenditures are prepared in accordance with this Act;
- (f) ensure that all contracts of the municipal corporation are prepared and executed as required by the council; and
- (g) perform other duties that the council may require.

Other duties

48. (1) The senior administrative officer or other officers that the council may appoint under section 44 shall

- (a) have custody of the seal of the municipal corporation and cause it to be affixed to documents where required;
- (b) attend all meetings of the council and record accurately all its resolutions, decisions and proceedings;
- (c) prepare and have custody of the minutes and other records of the council and its committees;
- (d) have custody of the original of every by-law of the municipal corporation;
- (e) provide copies of by-laws, minutes and other public documents of the municipal corporation in accordance with this Act;
- (f) ensure the safekeeping of all funds and securities of the municipal corporation;
- (g) collect and receive all moneys belonging to or owing to the municipal corporation;
- (h) ensure that all disbursements of the funds of the municipal corporation comply with this Act and any applicable by-law;

- (i) ensure that complete and accurate accounts are kept of all moneys received and disbursed on behalf of the municipal corporation;
- (j) ensure that complete and accurate accounts are kept of all assets and liabilities of the municipal corporation and all transactions affecting the financial position of the municipal corporation;
- (k) ensure that the financial statements of the municipal corporation are prepared annually in accordance with this Act and at further times that the council may direct; and
- (l) provide the financial information respecting the municipal corporation that the Minister may require.

Powers related to financial control

- (2) An officer performing the duties specified in paragraphs (1)(f) to (l) may
 - (a) inspect any financial record of the municipal corporation; and
 - (b) give directions to any employee of the municipal corporation in order to perform those duties.

EMPLOYEES

Employees

49. (1) A council may employ the persons that the council considers necessary to carry out the business of the municipal corporation.

Holding multiple offices or positions

(2) A council may, by by-law, allow one person to hold two or more offices or positions.

Prohibited employees

50. No council shall appoint a council member to a salaried office or employment in the municipal corporation.

Terms of employment

51. A council may, by by-law,

- (a) establish the remuneration and benefits of employees;
- (b) establish hours of work and terms of employment;
- (c) provide for the manner of appointment, promotion, discipline and dismissal of employees and officers;
- (d) provide retirement, death or disability benefits to employees; and
- (e) on behalf of the municipal corporation, enter into collective or other agreements with employees.

S.N.W.T. 1997,c.5,s.2(4); S.N.W.T. 1998,c.30,Sch.,s.1.

Indemnification of employees

52. A council may, by by-law,

- (a) provide for the indemnification of employees who are sued in connection with the performance of their duties or the conduct of municipal business;

- (b) establish the terms and conditions of the indemnity; and
- (c) establish the risks and positions that will be covered.

Prohibition on paying fine of employee

53. No municipal corporation shall pay a fine imposed on an employee found guilty of an offence under the law of Nunavut or Canada. S.Nu. 2012,c.17,s.5(9).

Note: On April 1, 2019, the following is added after section 53:

Employees seeking election

53.01. (1) An employee who wishes to be a candidate for election to a council shall apply in writing for a leave of absence from his or her employment.

Applications

- (2) The application for leave shall be made to
 - (a) the senior administrative officer, in the case of applications by employees other than the senior administrative officer; and
 - (b) the council, in the case of an application by the senior administrative officer.

Granting a leave of absence

- (3) If an employee applies for a leave of absence under this section, a leave of absence without pay shall be granted to the employee for a period
 - (a) beginning on the day the employee signs his or her declaration of candidacy; and
 - (b) ending on the earlier of the day on which the results of the election are declared or the day he or she has ceased to be a candidate.

Ceasing employment

- (4) An employee who is elected as a council member ceases to be an employee.

See S.Nu. 2017,c.21,s.1(10).

PART II.1

CORPORATE POWERS

GENERAL

Corporate status

53.1. A municipal government is a corporation and, subject to this Act, has the rights and is subject to the liabilities of a corporation and may exercise its powers for municipal purposes. S.Nu. 2003,c.2,s.16.

Corporate seal

53.2. Every municipal corporation shall have a corporate seal. S.Nu. 2003,c.2,s.16.

Power to contract

53.3. (1) A municipal corporation has the power to contract for municipal purposes.

By-laws regarding contracts

(2) A council may, by by-law, provide for the making of

- (a) contracts for and on behalf of the municipal corporation; and
- (b) contracts for the provision of municipal services by other persons on behalf of the municipal corporation.

S.Nu. 2003,c.2,s.16.

Powers related to real property

53.4. (1) A municipal corporation may, for a municipal purpose,

- (a) purchase, lease or otherwise acquire real property;
- (b) use, hold or develop real property belonging to the municipal corporation; or
- (c) subdivide real property belonging to the municipal corporation in accordance with the *Planning Act*.

Disposition of real property

(2) A municipal corporation may sell, lease or otherwise dispose of real property belonging to the municipal corporation if

- (a) the real property is not required for a municipal purpose; or
- (b) the disposition of the real property is necessary for or promotes a municipal purpose.

Municipal purpose

(3) The development or subdivision of real property belonging to the municipal corporation is deemed, for the purposes of this Act, to be a municipal purpose if the development or subdivision is

- (a) for subsequent sale, lease or other disposition; or
- (b) for residential, commercial, industrial, institutional or other use.

S.Nu. 2003,c.2,s.16; S.Nu. 2012,c.17,s.5(7)(f).

Definition of "land administration by-law"

53.5. (1) In this section, "land administration by-law" means a by-law made under subsection (2).

Scope of land administration by-law

(2) Subject to subsection (3), a council may, by by-law, approved by the Minister, provide:

- (a) for the purchase, lease or other acquisition of real property by the municipal corporation;

- (b) for the use, holding or development of real property belonging to the municipal corporation; or
- (c) for the sale, lease or other disposition of real property belonging to the municipal corporation, including the management and use of the proceeds of the disposition of the property.

Public notice

(3) Before a council gives third reading to a land administration by-law, the council shall

- (a) give public notice of the proposed by-law at least two weeks in advance; and
- (b) hear any person, or representative of the person, who claims to be affected by the by-law and who wishes to be heard.

Restrictions on acquisition

(4) A municipal corporation shall not purchase, lease or otherwise acquire real property unless the purchase, lease or other acquisition

- (a) is authorized or approved by a by-law; and
- (b) is made in accordance with a land administration by-law, if such a by-law has been made and if that by-law provides for the acquisition of real property.

Restrictions on disposition

(5) Subject to an exemption order made under subsection (6), a municipal corporation shall not sell, lease or otherwise dispose of real property belonging to the municipal corporation unless

- (a) a land administration by-law has been made for the municipal corporation that provides for the matters referred to in paragraph (2)(c); and
- (b) the sale, lease or other disposition
 - (i) is made in accordance with the land administration by-law,
 - (ii) is authorized or approved by a by-law.

Exemption

(6) The Minister may, by order, exempt a municipal corporation from compliance with either paragraph (5)(a) or subparagraph 5(b)(i) or both, for the period of time and subject to the conditions that the Minister considers appropriate. S.Nu. 2003,c.2,s.16; S.Nu. 2012,c.17,s.5(7)(g),(h),(8)(b).

Long-term leases of real property

53.6. (1) For the purposes of this Act, the following are deemed to be forms of long-term borrowing:

- (a) a lease of real property with a fixed term beyond 10 years or a fixed term of 10 years or less but with a right of renewal that would, if exercised, extend the original term beyond five years;

- (b) an agreement to purchase real property that creates an interest in the real property to secure payment of the real property's purchase price if payment of the purchase price under the agreement exceeds 10 years.

Exception

(2) Subsection (1) does not apply where the payments made are nominal or where the general revenues of the municipal corporation are to bear no part of the cost of leasing or paying the purchase price of the real property. S.Nu. 2003,c.2,s.16; S.Nu. 2012,c.17,s.5(7)(i),(9).

Personal property

53.7. (1) A municipal corporation may, for a municipal purpose,

- (a) purchase, lease or otherwise acquire personal property; or
- (b) hold or use personal property belonging to the municipal corporation.

Limitation on lease of personal property

(2) A lease of personal property may not have a term exceeding 10 years unless

- (a) the lease is authorized by by-law made under paragraph (4)(a); and
- (b) the ratepayers have approved the by-law.

Disposition of personal property

(3) A municipal corporation may sell, lease or otherwise dispose of personal property belonging to the municipal corporation if

- (a) the personal property is not required for a municipal purpose; or
- (b) the disposition of the personal property is necessary for or promotes a municipal purpose.

By-laws regarding personal property

(4) A council may, by by-law, provide

- (a) for the purchase, lease or other acquisition of personal property;
- (b) for the use or holding of personal property belonging to the municipal corporation; and
- (c) for the sale, lease or other disposition of personal property belonging to the municipal corporation.

Application of by-law

(5) If a by-law has been made under subsection (4), a municipal corporation or any other person shall not sell, lease or otherwise dispose of personal property belonging to the municipal corporation except in accordance with the by-law. S.Nu. 2003,c.2,s.16; S.Nu. 2012,c.17,s.5(7)(j),(k),(l).

Definitions

53.8. (1) In this section,

"Commissioner's land" means lands to which the *Commissioner's Land Act* applies; (*terres domaniales*)

"granular materials" include limestone, granite, slate, marble, gypsum, loam, marl, gravel, sand, clay, volcanic ash or stone, but do not include minerals; (*matière granuleuse*)

"public quarry" means a quarry on real property

- (a) that is Commissioner's land, or
- (b) that is not Commissioner's land and that belongs to the municipal corporation; (*carrière publique*)

"quarry" means any work or undertaking in which granular materials are removed from the ground or the land by any method, and includes all ways, works, machinery, plant, buildings and premises belonging to or used in connection with the quarry. (*carrière*)

Powers of municipal corporation

- (2) A municipal corporation may, and has always been able to,
 - (a) establish, operate and restore a public quarry, subject to subsection (3); and
 - (b) enter into and implement an agreement that delegates responsibility to the municipal corporation for the administration of Commissioner's land.

Public quarry on Commissioner's land

(3) No municipal corporation shall establish, operate or restore a public quarry on Commissioner's land after July 1, 1997, unless authorized to do so under a lease or an agreement referred to in paragraph (2)(b).

Municipal purpose

(4) The establishment and operation of a public quarry by a municipal corporation in order to provide for the sale or supply of granular materials to another municipal corporation or a settlement, the Government of Nunavut, the Government of Canada, or any other person, and the restoration of a public quarry by a municipal corporation, are and have always been municipal purposes. S.Nu. 2003,c.2,s.16; S.Nu. 2012,c.17,s.5(7)(m).

ECONOMIC DEVELOPMENT

Definition of "local economic development"

53.9. (1) In this section and in section 53.97, "local economic development" means the establishment, expansion or continuation of a business or industry.

Economic development powers of council

(2) Subject to limitations on its powers in this or in any other enactment or by a by-law, a council may encourage local economic development in any manner it considers appropriate and, for that purpose, may enter into an agreement with a person, with an Inuit organization, with an agency of the Government of Nunavut or the Government of Canada, or with another municipal or settlement corporation or government, including a local government outside of Nunavut.

Approval of Minister

(3) Where the plans of a council under subsection (2) to encourage local economic development would result in competition with similar services provided by the private sector, the approval of the Minister is required. S.Nu. 2003,c.2,s.16.

COMMUNITY AGREEMENTS

Community agreements with governments

53.91. (1) A council may, by by-law, authorize the municipal corporation to enter into a community agreement with the Government of Nunavut or the Government of Canada delegating to the municipal corporation the authority and responsibility for the administration and delivery of any service or program specified in the agreement.

Community agreements with other bodies

(2) A council may, by by-law, authorize the municipal corporation to enter into a community agreement with one or more other municipal or settlement corporations or Inuit organizations within Nunavut respecting the administration and delivery of a service or program.

Authority of municipal corporation

(3) A community agreement may provide a municipal corporation with the authority to administer and deliver a service or program within or outside the boundaries of the municipality, or for other communities in Nunavut.

Powers of municipal corporation

(4) A municipal corporation has, subject to the terms and conditions of a community agreement, the power to administer and deliver any service or program delegated to the municipal corporation by the community agreement and, for greater certainty, the administration and delivery of such a service or program in accordance with the community agreement is deemed, for the purposes of this Act, to be a municipal purpose.

Provision for settling disputes

(5) Every community agreement must include a provision describing a process for the settling of disputes.

Approval of Minister

(6) A community agreement is of no effect until it receives the approval of the Minister.

Similar agreement

(7) An agreement similar in nature and purpose to a community agreement that was entered into before the coming into force of this section is deemed to be a community agreement entered into under this section. S.Nu. 2003,c.2,s.16.

Joint boards and commissions

53.92. A community agreement may provide for the establishment of a board or commission to be jointly controlled by two or more parties to the agreement, and any matters with respect to the board or commission that the parties consider advisable. S.Nu. 2003,c.2,s.16.

Public and private partnership agreements

53.93. (1) A council may, by by-law, authorize the municipal corporation to enter into an agreement with any person for the provision of a service or a capital facility that the municipal corporation is authorized to provide.

Terms of agreement

(2) An agreement may allow for the lease, operation and maintenance of the facility or provision of the service by any person, including the sale or disposition to that person of property of the municipal corporation that is still required for the purposes of the municipal corporation.

Assistance for purposes of agreement

(3) A municipal corporation may provide assistance to any person who has entered into an agreement by

- (a) guaranteeing borrowing; and
- (b) providing the services of employees of the municipal corporation.

Limitation on assistance

(4) Assistance provided to a person under subsection (3) shall only be for the performance of the agreement.

Borrowing during agreement

(5) A municipal corporation may borrow from any person who has entered into an agreement for a period not exceeding the length of the agreement. S.Nu. 2003,c.2,s.16; S.Nu. 2012,c.17,s.5(7)(n).

MUNICIPAL SERVICES AND BUSINESSES

Municipal services

53.94. (1) A municipal corporation may, for municipal purposes, do the following:

- (a) construct, operate, repair, improve and maintain works and improvements;

- (b) acquire, establish, maintain and operate services, facilities and utilities, excluding electrical utilities;
- (c) use municipal equipment, materials and labour to carry out private works on private property.

Terms and conditions

(2) A municipal corporation exercising its powers under subsection (1) may, by by-law, subject to the *Utility Rates Review Council Act*, set terms and conditions in respect of users, including

- (a) setting, charging and collecting the rates or amounts of deposits, fees and other charges;
- (b) providing for a right of entry onto private property to determine compliance with other terms and conditions, to determine the amount of deposits, fees or other charges, or to disconnect a service; and
- (c) discontinuing or disconnecting a service and refusing to provide the service to users who fail to comply with the terms and conditions.

Approval of Minister

(3) Where the exercise of the powers of the municipal corporation under subsection (1) would result in competition with similar services provided by the private sector, the approval of the Minister is required. S.Nu. 2003,c.2,s.16.

Corporations

53.95. (1) A municipal corporation may, with the approval of the Minister, establish or acquire shares in a corporation for the purposes of carrying on a municipal business, program or service, solely or jointly with one or more parties to a community agreement or a public or private partnership agreement where provided for in the agreement.

Approval of Minister

(2) The Minister may approve the establishment of, or acquisition of shares in, a corporation where the Minister considers it to be in the public interest. S.Nu. 2003,c.2,s.16.

Municipal businesses for-profit

53.96. (1) A municipal corporation may carry on a for-profit business to provide a service that the municipal corporation is not otherwise authorized to carry on under this Act where the Minister considers it to be in the public interest.

Municipal purpose

(2) Where the Minister considers the carrying on of a for profit business by the municipal corporation to be in the public interest, the carrying on of that business is deemed, for the purposes of this Act, to be a municipal purpose. S.Nu. 2003,c.2,s.16.

Criteria for consideration

53.97. (1) In deciding whether to grant his or her approval of a proposal by a council or municipal corporation under sections 53.9, 53.91, and 53.93 to 53.96, the Minister shall consider all relevant factors.

Specific considerations

(2) Without restricting the general application of subsection (1), the Minister shall consider the possible effect of the carrying out of the proposal on

- (a) local economic development; and
- (b) existing and anticipated private sector business activity in the municipality.

S.Nu. 2003,c.2,s.16; S.Nu. 2012,c.17,s.5(7)(o).

PART III

BY-LAWS

GENERAL

Limit on power to make by-laws

54. (1) The power of a council to make by-laws is subject to all Acts and regulations of Nunavut and Canada unless an Act or regulation expressly states otherwise.

Effect of inconsistency

(2) Where a by-law is inconsistent with an Act or regulation, the by-law is of no effect to the extent of the inconsistency. S.Nu. 2003,c.2,s.17.

Interpretation

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

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

S.Nu. 2003,c.2,s.18.

Spheres of jurisdiction

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

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public;
- (c) nuisances, including unsightly property;
- (d) local transportation systems;

- (e) businesses, business activities and persons engaged in business;
 - (f) programs, services, utilities and facilities provided by or on behalf of the municipality;
 - (g) wild and domestic animals and activities in relation to them;
 - (h) the enforcement of by-laws.
- S.Nu. 2003,c.2,s.18; S.Nu. 2012,c.17,s.5(9).

Exercising by-law making powers

54.3. Without restricting the general application of section 54.2, a council may in a by-law passed under this Part:

- (a) regulate or prohibit;
- (b) create offences;
- (c) provide that a person who is guilty of an offence under a by-law is liable on summary conviction to a fine in an amount specified in the by-law not exceeding
 - (i) \$2,000 for an individual, or
 - (ii) \$10,000 for a corporation,
 or to imprisonment in default of payment of a fine for a term not exceeding six months;
- (d) adopt by reference, in whole or in part, as of a set time or as amended from time to time, with any changes the council considers necessary or advisable, a code or standard made or recommended by the Government of Canada or a province or territory, or a recognized technical or professional organization, and require compliance with the code or standard;
- (e) deal with any development, activity, industry, business or thing in different ways, including dividing each of them into classes and dealing with each class in different ways;
- (f) establish fees or other charges for services, activities or things provided or done by the community or for the use of property under the ownership, direction, management or control of the municipal corporation;
- (g) provide for a system of licences, permits and approvals, including any or all of the following:
 - (i) establishing fees that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue,
 - (ii) establishing higher fees for non-residents,
 - (iii) prohibiting any development, activity, business or thing until a licence, permit or approval has been granted,
 - (iv) providing that terms and conditions may be imposed on any licence, permit or approval, the nature of the terms and conditions and who may impose them,
 - (v) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure to comply with a term or condition, or the by-law, or for any other reason specified in the by-law; or

- (h) provide for an appeal, the body that is to decide the appeal and related matters, except where a right of appeal is already provided in this or any other Act.

S.Nu. 2003,c.2,s.18; S.Nu. 2012,c.17,s.5(8)(c),(9).

Compliance provisions

54.4. Without limiting the generality of paragraph 54.2(h), a by-law passed under that paragraph may include provisions

- (a) providing for procedures, including inspections, for determining whether by-laws are being complied with; and
- (b) remedying contraventions of by-laws.

S.Nu. 2003,c.2,s.18.

Definition of "specific by-law passing power"

54.5. (1) In this section, "specific by-law passing power" means a council's power or duty to pass a by-law that is set out in an enactment other than section 54.2.

By-law subject to conditions

(2) If a by-law could be passed under section 54.2 and under a specific by-law passing power, the by-law passed under section 54.2 is subject to any conditions contained in the specific by-law passing power.

Operation of specific by-law passing power

(3) If there is an inconsistency between a by-law passed under section 54.2 and one passed under a specific by-law passing power, the by-law passed under section 54.2 is of no effect to the extent that it is inconsistent with the by-law passed under the specific by-law passing power. S.Nu. 2003,c.2,s.18.

Definitions

54.6. (1) In this section,

"public transit vehicle" includes a school bus and a passenger vehicle used for hire;
(*véhicule de transport public*)

"workplace" includes a public transit vehicle. (*lieu de travail*)

By-law, smoking in public places and workplaces

(2) A council may, by by-law, regulate the smoking of tobacco in public places and workplaces within the municipality and designate public places or workplaces or classes or parts of such places as places in which smoking tobacco or holding lighted tobacco is prohibited.

Scope of by-law

(3) A by-law made under subsection (2) may

- (a) define "public place" and "workplace" for the purposes of the by-law;

- (b) require a person who owns or occupies a place designated in the by-law to post signs referring to the prohibition or to such other information relating to smoking as is required by the by-law;
- (c) prescribe the form and content of signs referred to in paragraph (b) and the place and manner in which the signs shall be posted;
- (d) permit persons who own or occupy a place designated in the by-law to set aside an area that meets criteria prescribed by the by-law for smoking within the place;
- (e) prescribe the criteria applicable to smoking areas in paragraph (d), including the standards for the ventilation of such areas;
- (f) require areas set aside for smoking in places designated by the by-law to be identified as an area where smoking is permitted; and
- (g) require the employer of a workplace or the owner or occupier of a public place to ensure compliance with the by-law.

Public places

(4) Despite any definition of "public place" contained in a by-law made under subsection (2), no by-law made under subsection (2) shall apply to a street, road or highway or a part thereof.

Inspectors

(5) A municipality may appoint inspectors for the purpose of a by-law made by the municipality under subsection (2).

Entrance without warrant

(6) An inspector may, at any reasonable time, enter any public place or workplace designated by a by-law under subsection (2) for the purpose of determining whether there is compliance with the by-law.

Dwelling

(7) Despite subsection (6), an inspector shall not exercise a power to enter a place, or a part of a place, that is used as a dwelling unless,

- (a) the occupier of the dwelling consents to the entry, having first been informed by the inspector of his or her right to refuse consent; or
- (b) if the occupier refuses to consent, the power to enter is exercised under the authority of a warrant issued under this section.

Powers of inspector

(8) An inspector may make such examinations, investigations and inquiries as are necessary to determine whether there is compliance with a by-law made under subsection (2).

Obstruction

(9) No person shall obstruct an inspector carrying out an inspection under this section.

Warrant

(10) A judge or a justice of the peace may issue a warrant authorizing an inspector and such other persons as the judge or the justice of the peace may specify in the warrant to enter a place, including a place used as accommodation, for the purposes of an inspection under a by-law made under this section, subject to any conditions the judge or the justice of the peace may specify in the warrant, where the judge or the justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that a warrant is necessary in order for the inspector to exercise his or her powers under a by-law made under this section.

Notice

(11) An application under subsection (10) may be made without notice to the occupier, owner or any affected person.

Use of force

(12) The inspector may use such force as is reasonably necessary to execute the warrant and call on peace officers to assist in its execution.

Offence

(13) Any person who contravenes subsection (9) is guilty of an offence.

Government bound

(14) This section binds the Government of Nunavut.

Conflict with other legislation

(15) If there is conflict between a provision in a by-law made by a council under this section and a provision of any Act or regulation, the provision that is the most restrictive of smoking prevails. S.Nu. 2003,c.13,s.25; S.Nu. 2012,c.17,s.5(9).

Note: On the same day as section 8 of the *Cannabis Act* (Canada), introduced in the House of Commons as Bill C-45 on April 13, 2017, comes into force, section 54.6(2) is amended by:

- (a) **replacing** "regulate the smoking of tobacco" **with** "regulate smoking, as defined in the *Tobacco Control and Smoke-Free Places Act*,"; **and**
- (b) **deleting** "tobacco or holding lighted tobacco".

See S.Nu. 2018,c.8,s.1(2).

Geographical limitation

55. (1) Subject to subsection (2), a by-law applies only inside the boundaries of a municipality.

Exception

(2) A by-law, with the approval of the Minister, on the recommendation of Executive Council, may apply outside the boundaries of the municipality in respect of the following facilities, programs or services that serve the residents of the municipality:

- (a) a sewage or drainage system;
 - (b) a public incinerator;
 - (c) a public garbage dump;
 - (d) a water distribution system;
 - (e) an airport, aerodrome or facilities for them;
 - (f) fire protection services;
 - (g) ambulance services;
 - (h) recreation programs, services or facilities;
 - (i) a public quarry, as defined in subsection 53.8(1);
 - (j) a service or program undertaken by the municipal corporation in accordance with a valid community agreement or a valid public or private partnership agreement;
 - (k) a road outside the municipality and designated as a municipal road by order of the Minister on the recommendation of Executive Council.
- S.N.W.T. 1994,c.22,s.2; S.N.W.T. 1997,c.5,s.2(5);
S.Nu. 2003,c.2,s.19; S.Nu. 2012,c.17,s.5(9).

PROCEDURES FOR MAKING BY-LAWS

Readings of by-laws

56. (1) Every by-law must have three distinct and separate readings to be effective.

Number of readings at a meeting of council

(2) No council shall give more than two readings to a by-law at any one meeting of the council unless all council members are present at the meeting and before the third reading, they all agree, by resolution, to give the by-law third reading at the same meeting.

Requirement for written by-law

(3) No council shall give a by-law third reading unless the by-law is in writing.
S.Nu. 2003,c.2,s.20.

Requirements for by-laws

57. Every by-law, to be effective, must be

- (a) in writing;
- (b) under the seal of the municipal corporation;
- (c) signed by the mayor or other presiding council member; and
- (d) signed by the senior administrative officer.

Effective date of a by-law

58. Subject to this Act, a by-law is effective on the date it meets the requirements of section 57 or at a later date that the by-law may fix.

Posting of copies

59. (1) The senior administrative officer shall ensure that a copy of every by-law is posted, as soon as possible after it has received third reading, in a conspicuous place at the office of the municipal corporation for at least six weeks.

Transmittal of copies

(2) The senior administrative officer shall forward a copy of every by-law to the Minister or the designate of the Minister not later than 10 days after the by-law receives third reading.

Power to amend or repeal by-law

59.1. (1) Subject to this Act, a council may, by by-law, amend or repeal a by-law.

Power subject to conditions

(2) The power of a council to amend or repeal a by-law is subject to the same conditions as the power to make the by-law. S.Nu. 2003,c.2,s.21.

Evidence of by-law

59.2. A copy of a by-law under the seal of the municipal corporation and certified by the senior administrative officer to be a true copy is admissible in evidence without further proof. S.Nu. 2003,c.2,s.21.

Disallowance

59.3. The Minister, on the recommendation of the Executive Council, may disallow any by-law for any reason within one year after the by-law receives third reading. S.Nu. 2003,c.2,s.21.

Time for obtaining approval

60. (1) Where, under this or any other Act, a by-law requires the approval of the Minister, the voters, the ratepayers or some other authority, the approval must be obtained before the by-law receives third reading.

Endorsement of approval

(2) A by-law that receives the approval of the Minister, the voters, the ratepayers or some other authority must

- (a) be signed by the approving authority; or
- (b) where a signature is not practicable, have a certification of that approval endorsed on it by the senior administrative officer.

APPROVALS

Limit on resubmission for approval

61. If a by-law requiring the approval of the voters or ratepayers does not receive that approval, the council shall not submit another by-law for the same purpose to the voters or ratepayers within six months after the vote, except with the permission of the Minister. S.Nu. 2003,c.2,s.22.

62. Repealed, S.Nu. 2003,c.2,s.23.

Application of *Plebiscites Act*

63. Where this Act requires a by-law to be approved by the voters or ratepayers of a municipality, the council shall obtain the approval of the voters or ratepayers by initiating a plebiscite, in accordance with the *Plebiscites Act*, to be held at the same time as the next election or at such other date as the council may require. S.Nu. 2013,c.25,s.240(2).

Entitlement to vote

64. Where a ratepayer is a corporation, a group of co-owners or an unincorporated body of persons, the corporation, group or body, as the case may be, is entitled to only one vote on any by-law submitted to the ratepayers.

VOTER PETITIONS

Petition for by-law

64.1. (1) If the voters in a municipality, in accordance with the *Plebiscites Act*, petition the council to submit, for the approval of the voters, a by-law dealing with any matter within its power to make by-laws, the council shall

- (a) cause a by-law dealing with the subject matter of the petition to be prepared and read for the first time within 30 days of receiving the report of the Chief Electoral Officer, under section 13 of the *Plebiscites Act*, determining that the petition is valid;
- (b) cause a copy of the by-law to be forwarded to the Minister; and
- (c) submit the by-law to the voters for their approval under section 63.

Third reading

(2) If a majority of the voters who vote approve of the by-law referred to in subsection (1), the by-law as submitted shall be given third reading within four weeks after the vote, and no alteration that affects substance may be made in the by-law. S.Nu. 2003,c.2,s.24; S.Nu. 2013,c.25,s.240(3).

64.2. Repealed, S.Nu. 2013,c.25,s.240(4).

64.3. Repealed, S.Nu. 2013,c.25,s.240(5).

64.4. Repealed, S.Nu. 2013,c.25,s.240(6).

Time for holding vote

64.5. If a petition for a vote of the electors is filed with the senior administrative officer within 12 months before a general election and a vote of the electors is to be conducted because of the petition, the council may direct that the vote be conducted at the general election. S.Nu. 2003,c.2,s.24.

Note: On April 1, 2019, subsection 64.5 is amended by striking "electors" wherever it appears and substituting "voters".

See S.Nu. 2017,c.21,s.1(11).

Limit on petitions

64.6. If a vote of the electors is conducted on a by-law, the council may refuse to receive any further petition on the same or a similar subject filed within one year of the date of the vote. S.Nu. 2003,c.2,s.24.

Note: On April 1, 2019, subsection 64.6 is amended by striking "electors" wherever it appears and substituting "voters".

See S.Nu. 2017,c.21,s.1(11).

Limit on subject matter

64.7. A petition requesting a by-law to be made on a subject under Part IV of this Act (Financial Affairs), the *Property Assessment and Taxation Act*, or the *Planning Act* is of no effect. S.Nu. 2003,c.2,s.24.

By-law passed as result of petition

64.8. A by-law the council was required to pass as a result of a vote of the electors may be amended or repealed only if

- (a) a vote of the electors is held on the proposed amendment or repeal and the majority of the electors voting vote in favour of the proposed amendment or repeal; or
 - (b) three years have passed from the date the by-law was passed.
- S.Nu. 2003,c.2,s.24; S.Nu. 2012,c.17,s.5(7)(t).

Note: On April 1, 2019, subsection 64.8 is amended by striking "electors" wherever it appears and substituting "voters".

See S.Nu. 2017,c.21,s.1(11).

65. Repealed, S.Nu. 2003,c.2,s.25.

66. Repealed, S.Nu. 2003,c.2,s.25.

67. Repealed, S.Nu. 2003,c.2,s.25.

QUASHING BY-LAWS AND RESOLUTIONS

Application to quash

68. (1) Any person

- (a) resident in the municipality, or
- (b) adversely affected by a resolution or by-law,

may apply, by way of originating notice, to a judge for an order quashing a resolution or by-law of the municipal corporation.

Rules of the Nunavut Court of Justice

(2) The application must be in accordance with the Rules of the Nunavut Court of Justice. S.Nu. 2012,c.17,s.5(9).

ROADS

Authority over roads

69. (1) A council may make by-laws under this Part in respect of the following roads in the municipality:

- (a) a road shown on a plan of survey registered under the *Land Titles Act*;
- (b) a road on public land that is designed or intended for or used by the public but not shown on a plan of survey registered under the *Land Titles Act*;
- (c) a road on private land dedicated for public use by the owner by instrument in writing and adopted as a municipal road by by-law;
- (d) a road maintained at the expense of the municipal corporation on a frozen body of water or water course.
- (e) **repealed, S.Nu. 2003,c.2,s.28.**

Primary highway

(2) No council may make by-laws under this Part in respect of a primary highway designated under the *Public Highways Act*, except in accordance with an agreement made under that Act. R.S.N.W.T. 1988,c.8(Supp.),s.201; S.Nu. 2003,c.2,s.28; S.Nu. 2012,c.17,s.5(9).

Incidental powers

70. A council may, by by-law,

- (a) classify municipal roads for any purpose it considers necessary;
- (b) adopt as a municipal road any road on private land dedicated for public use by the owner by instrument in writing;
- (c) designate parts of municipal roads as sidewalks, curbs, medians and other component parts; and
- (d) provide for the naming or numbering of municipal roads and the numbering of buildings.

Construction

- 71.** (1) A council may, by by-law, provide for the construction of
- (a) roads on land belonging to the municipal corporation or on land expropriated for the purpose under the *Expropriation Act*; and
 - (b) works on municipal roads.

Repair

- (2) A council may, by by-law, provide for the repair of
- (a) municipal roads; and
 - (b) works on municipal roads.

Removal of snow and other obstructions

- 72.** A council may, by by-law, provide for the removal of snow, ice, dirt, garbage or other obstructions from municipal roads by
- (a) the municipal corporation;
 - (b) the occupier of adjacent property; or
 - (c) any person responsible for depositing it on a municipal road.

73. Repealed, S.Nu. 2003,c.2,s.26.

Encroachments

- 74.** A council may, by by-law, prohibit and provide for the removal of encroachments, obstructions and nuisances on municipal roads.

Opening and closing roads

- 75.** (1) A council may, by by-law, provide for the opening and closing of municipal roads in accordance with this Act.

Right to compensation and access

- (2) No municipal corporation shall close a municipal road if it prevents a person from entering or leaving his or her real property or residence, unless the municipal corporation provides the person with
- (a) reasonable compensation; and
 - (b) other convenient means of access.

Temporary closure

- 76.** (1) A council may, by resolution, temporarily close a municipal road for a fixed period of time.

Notice of closure

- (2) Where a council temporarily closes a municipal road, it shall
- (a) cause signs or signal devices to be erected to warn traffic of the closure;
 - (b) give notice of the closure to the public that may be appropriate in the circumstances; and

- (c) provide any person who would be prevented from entering or leaving his or her real property or residence with other convenient means of access.

Public notice and hearing

77. Before a council gives third reading to a by-law that will open, establish, close, widen, divert or dispose of a municipal road, the council shall

- (a) give public notice of the proposed by-law at least two weeks in advance; and
- (b) hear any person, or representative of the person, who claims to be affected by the by-law and who wishes to be heard.

WATER DISTRIBUTION, SEWAGE AND DRAINAGE SYSTEMS

Scope of by-law

77.1. (1) A council may, by by-law, provide for the establishment, acquisition, operation, maintenance or alteration of

- (a) a sewage system to collect, convey and dispose of sewage;
- (b) a drainage system to collect, convey and dispose of surface and other waters; or
- (c) a water distribution system for the supply of water for drinking and other purposes.

Source of funding

(2) A by-law providing for the establishment, acquisition, operation, maintenance or alteration of a sewage, drainage or water distribution system must state the sources of funding for all costs that will be incurred by the municipal corporation as a result. S.Nu. 2003,c.2,s.27.

Mandatory connection to system

77.2. A council may, by by-law, require the owners of real property to connect their buildings and structures to a water distribution system or to a sewage or drainage system in the manner that the by-law may require. S.Nu. 2003,c.2,s.27.

Costs of connection

77.3. A council may, by by-law, impose a charge on the owner of real property for the costs incurred by the municipal corporation in providing a connection between a water distribution system or a sewage or drainage system and the edge of the real property to be served. S.Nu. 2003,c.2,s.27.

78. Repealed, S.Nu. 2003,c.2,s.28.

79. Repealed, S.Nu. 2003,c.2,s.28.

80. Repealed, S.Nu. 2003,c.2,s.28.

Regulation of use of system

81. A council may, by by-law, prohibit or regulate the discharge of substances and liquids into a sewage or drainage system.

Regulation of private system

82. A council may, by by-law, regulate the design and installation of a sewage and drainage system owned or operated by persons other than the municipal corporation.

83. Repealed, S.Nu. 2003,c.2,s.29.

84. Repealed, S.Nu. 2003,c.2,s.29.

GARBAGE AND WASTE

Incinerators, garbage dumps, toilets and garbage collection

85. (1) A council may, by by-law,

- (a) provide for the establishment and operation of public incinerators and public garbage dumps;
- (b) regulate or prohibit certain types of waste from being burned in incinerators or dumped in garbage dumps;
- (c) provide for the establishment and operation of public toilets; and
- (d) provide for the establishment and operation of a system for the collection, removal and disposal of garbage.

Clean-up

(2) A council may, by by-law, provide for an annual or seasonal clean-up of the public areas in the municipality.

Mandatory use of garbage collection system

86. A council may, by by-law, require persons to use any system established for the disposal of garbage on the terms and conditions that the by-law may require.

Regulation of drains, cesspools, septic tanks and toilets

87. A council may, by by-law, require and regulate the emptying, cleaning and disinfecting of private drains, cesspools, septic tanks and toilets and the removal and disposal of waste from them.

Sale or use of by-products

88. A council may, by by-law, provide for the sale or use of any by-product, including heat, obtained by the municipal corporation by incinerating or processing garbage or waste.

WATER SUPPLY

89. Repealed, S.Nu. 2003,c.2,s.30.

90. Repealed, S.Nu. 2003,c.2,s.30.

91. Repealed, S.Nu. 2003,c.2,s.30.

Regulation of private system

92. A council may, by by-law, regulate the design and installation of a water distribution system owned or operated by persons other than the municipal corporation.

93. Repealed, S.Nu. 2003,c.2,s.31.

94. Repealed, S.Nu. 2003,c.2,s.31.

OTHER WORKS AND SERVICES

Parking facilities, trailer parks and mobile home parks

95. A council may, by by-law, provide for the establishment and operation of

- (a) parking lots;
- (b) parking buildings;
- (c) trailer parks; and
- (d) mobile home parks.

AIRPORTS

Establishment and operation of municipal airports

96. (1) A council may, by by-law, provide for the establishment and operation of airports or aerodromes and facilities for them, under licences issued under the *Aeronautics Act* (Canada).

Establishment and operation of airports under agreement

(2) A council may, under an agreement or as a result of an obligation imposed under an agreement made by the Government of Canada, make by-laws

- (a) respecting the establishment and operation of airports or aerodromes and facilities for them; and
- (b) respecting other matters that are necessary to implement or operate the agreement or arising as a result of the agreement.

FIRE PREVENTION

Fire protection service

97. A council may, by by-law, provide for the establishment and operation of a fire protection service.

Building control

98. (1) A council may, by by-law,

- (a) divide the municipality into fire districts of different classes;

- (b) determine the standards for buildings and structures in each class of fire district; and
- (c) prohibit or regulate the construction of buildings and structures in a fire district according to the standards of that class of fire district.

Fire hazards

(2) Subject to sections 178 to 180, a council may, by by-law, provide for the demolition, removal or alteration of buildings, structures, vegetation, waste or any thing that the council considers to be or likely to be a fire hazard.

Agreements

99. A municipal corporation may enter into agreements respecting the use of fire-fighting staff and equipment.

Regulation of dangerous products

100. A council may, by by-law, prohibit or regulate the manufacture, processing, storage, sale, transport or use of combustibles, chemicals, explosives or other dangerous products.

AMBULANCE SERVICES

Establishment and operation of ambulance service

101. A council may, by by-law, provide for

- (a) the establishment and operation of an ambulance service; and
- (b) the entering into of agreements with the Government of Nunavut respecting ambulance services.

S.Nu. 2012,c.17,s.5(9).

PUBLIC HEALTH

Public health and contagious diseases

102. A council may make by-laws respecting public health and the prevention of contagious diseases and may, by by-law,

- (a) compel the removal of any insanitary thing or thing dangerous to public health and safety from public or private property;
- (b) prohibit or regulate the construction and use of outdoor toilets, cesspools and septic tanks;
- (c) prohibit or regulate the construction and operation of slaughterhouses, gas works, tanneries and other trades or factories that may create a nuisance to the public;
- (d) prohibit or regulate the deposit of anything prejudicial to public health in any stream or body of water in or used by the municipality; and
- (e) prohibit or regulate smoking in public places.

Note: On the same day as section 8 of the *Cannabis Act* (Canada), introduced in the House of Commons as Bill C-45 on April 13, 2017, comes into force, paragraph 102(e) is amended by: **adding "**, as defined in the *Tobacco Control and Smoke-Free Places Act*," **after "smoking"**.

See S.Nu. 2018,c.8,s.1(3).

Cemeteries and disposal of the dead

- 103.** A council may, by by-law,
- (a) provide for the establishment and operation of cemeteries; and
 - (b) regulate the disposal of the dead.

RECREATION

Recreation programs, services and facilities

- 104.** A council may, by by-law, provide for the establishment and operation of recreation programs, services and facilities.

BUILDING CONTROL AND PROTECTION OF HERITAGE RESOURCES

Building control

- 105.** (1) Subject to subsection (2), a council may, by by-law, prohibit or regulate
- (a) the construction, alteration, repair and demolition of buildings and structures; and
 - (b) excavations.

Content of by-law

- (2) A by-law made under subsection (1)
- (a) may not be made without the approval of the Minister;
 - (b) may not in any way alter or render inoperable any part of
 - (i) the Code as defined in the *Building Code Act*, and
 - (ii) other codes and standards adopted in accordance with section 4 of that Act;
 - (c) must provide for the appointment of building officials to perform the duties and exercise the powers of building officials under the *Building Code Act*;
 - (d) must provide that only persons who possess the qualifications prescribed under the *Building Code Act* may be appointed as building officials under the by-law;
 - (e) may provide for additional duties to be performed or powers to be performed by building officials appointed under the by-law; and
 - (f) may provide for the charging of fees.

Invalidation of by-law

(3) The Minister may, by order, invalidate a by-law, including a portion of a by-law, made under subsection (1).

Effect of invalidation

- (4) Where the Minister has invalidated a by-law under subsection (3),
- (a) the by-law is of no force and effect;
 - (b) the invalidation has no effect on a permit issued or decision made under the *Building Code Act* before the invalidation by a building official appointed under the by-law; and
 - (c) for greater certainty, the council may, subject to a new approval under paragraph (2)(a), make a new by-law under subsection (1).

By-law in effect

- (5) Where a by-law under subsection (1) is in effect in a municipality,
- (a) the building officials appointed under that by-law
 - (i) shall perform the duties and may exercise the powers of building officials under the *Building Code Act* and its regulations within the municipality, and
 - (ii) shall follow any reasonable direction of the chief building official appointed under the *Building Code Act* in the performance of their duties and the exercise of their powers under that Act; and
 - (b) the council and municipality shall ensure that
 - (i) sufficient building officials are appointed under the by-law to effectively carry out those duties, powers and directions, and
 - (ii) building officials appointed under the by-law are provided with a document establishing their appointment.

Appeal of decision of building official

(6) For greater certainty, a decision made by building official appointed under a by-law made under this section with respect to any duty or power under the *Building Code Act* is reviewable and appealable in the same manner as a decision of a building official appointed under that Act. S.Nu. 2017,c.6,s.47.

Designation and classification of heritage resources

106. (1) A council may, by by-law, provide for the designation and classification of places, buildings or works as heritage resources because of their prehistoric, historic, cultural, natural or aesthetic value.

Protection of heritage resources

(2) A council may, by by-law, prohibit or regulate the construction, alteration, repair, demolition and excavation of heritage resources.

Building permits

- 107.** (1) A council may, by by-law,
- (a) require permits to be obtained from the municipal corporation for the purposes of section 105 or 106; and
 - (b) subject to sections 178 to 180, provide for matters relating to the issuance, suspension and cancellation of permits.

Combination of building permit and development permit

(2) A council may, by by-law, combine a permit issued for the purposes of section 105 or 106 with a development permit issued under the *Planning Act*.

Effect of by-law

(3) No by-law made under section 105 or 106 shall affect any construction, alteration, repair, demolition or excavation that was commenced before the coming into force of the by-law.

Compulsory demolition, etc.

- 108.** Subject to sections 178 to 180, a council may, by by-law, provide for
- (a) the demolition, removal or alteration of buildings or structures that were constructed, altered or repaired in contravention of a by-law made under section 105 or 106; and
 - (b) the filling, covering or alteration of excavations that were made in contravention of a by-law made under section 105 or 106.

BUSINESS LICENSING

Definition of "business"

- 109.** For the purposes of this section and sections 110 to 112, "business" includes
- (a) a profession, trade, manufacture or undertaking of any kind,
 - (b) an adventure in the nature of trade, and
 - (c) the sale or offer for sale of goods or services in a public place,
- but does not include a business that is regulated by an Act of Canada or any other exempt business that is prescribed.

Business licensing and regulation

- 110.** A council may, by by-law,
- (a) classify businesses for the purposes of business licences;
 - (b) prohibit the operation of any class of business without a licence issued by the municipal corporation;
 - (c) regulate the operation of any class of business; and
 - (d) subject to sections 178 to 180, provide for matters relating to the issuance, suspension or cancellation of business licences.

Time of opening and closing

111. A council may, by by-law, regulate the time of opening and closing of any class of business that is licensed by the municipal corporation.

Compliance with *Workers' Compensation Act*

112. No business licence shall be issued by a municipal corporation unless the application is accompanied by a certificate in the prescribed form stating that the business is in compliance with the *Workers' Compensation Act*.

TAXIS

Regulation of taxis

113. A council may, by by-law,

- (a) prohibit the operation of a taxi without the vehicle or operator, or both, being licensed by the municipal corporation;
- (b) regulate the operation of taxis;
- (b.1) establish qualifications for a taxi operator licence;
- (c) establish quotas for taxi licences;
- (d) establish a tariff of minimum and maximum fares that may be charged by taxi operators;
- (e) regulate the transfer of taxi licences;
- (f) classify taxis for the purposes of the by-law;
- (g) regulate the nature and location of taxi stands; and
- (h) subject to sections 178 to 180, provide for matters relating to the issuance, suspension and cancellation of taxi licences and taxi operator licences.

S.N.W.T. 1997,c.5,s.2(9).

PUBLIC TRANSIT SYSTEM

Public transit system

114. A council may, by by-law,

- (a) establish and operate a public transit system; and
- (b) regulate the operation of a public transit system operated by other persons.

ANIMALS

Regulation of animals

115. A council may, by by-law,

- (a) prohibit or regulate the keeping and moving of animals;
- (b) prohibit the owner or person in possession of an animal from allowing it to run loose or out of control;
- (c) require animals or certain classes of animals to be licensed;
- (d) classify animals for the purposes of the by-law;

- (e) provide for matters related to the issuance, suspension and cancellation of licences for animals; and
- (f) prohibit cruelty to animals.

Enforcement

116. A council may, by by-law, provide for the enforcement of a by-law made under section 115 by authorizing

- (a) the capture or impounding of animals;
- (b) the sale or destruction of captured or impounded animals; and
- (c) the charging of fees for the release of a captured or impounded animal.

Insect control

117. A council may, by by-law, provide for the establishment and operation of a program for the elimination or control of insects.

Snares and traps

118. Despite the *Wildlife Act*, a council may, by by-law,

- (a) prohibit or regulate the setting of snares and traps that may pose a danger to people or domestic animals in inhabited areas of the municipality; and
 - (b) provide for the removal and disposition of snares and traps set in contravention of the by-law.
- S.Nu. 2012,c.17,s.5(9).

PUBLIC NUISANCES

Noise

119. A council may, by by-law, prohibit or regulate the creation of noise that could disturb the public in all or any part of the municipality.

Air pollution

120. A council may, by by-law,

- (a) prohibit or regulate the emission of pollutants into the atmosphere; and
- (b) establish or adopt standards for the maximum amount of pollution that may be emitted into the atmosphere.

Defacing property

121. A council may, by by-law, prohibit the defacing of private property without the consent of the owner or occupier, or public property by posters, graffiti or other markings.

ADULT PUBLICATIONS

Definition of "adult publication"

122. (1) In subsection (2), "adult publication" means any book, magazine, printed matter, audiotape, photograph, film or videotape

- (a) the principal characteristic of which is the portrayal of a female person's breasts or a person's genitals; and
- (b) that is or is intended to be
 - (i) erotic,
 - (ii) sexually violent, or
 - (iii) sexually degrading.

Regulation of adult publications

(2) A council may, by by-law, regulate

- (a) the public exhibition or display, or
- (b) the distribution or sale,

of adult publications in order to protect the welfare of persons under the age of 18 years.

FIREARMS AND FIREWORKS

Regulation of projectile propelling device

123. A council may, by by-law, prohibit or regulate

- (a) the discharge of any device capable of propelling a projectile; or
 - (b) the sale of any device, other than a firearm, that is capable of propelling a projectile.
- S.N.W.T. 1997,c.5,s.2(10).

Sale and use of fireworks

124. A council may, by by-law,

- (a) classify fireworks;
- (b) prohibit or regulate the sale of classes of fireworks; and
- (c) prohibit or regulate the use of classes of fireworks.

INOPERABLE VEHICLES

Removal and disposal of inoperable vehicles

125. Subject to sections 178 to 180, a council may, by by-law, provide for the removal and disposal of vehicles that

- (a) are inoperable, wrecked or dismantled;
- (b) are not located in a building; and
- (c) do not form part of a business lawfully operated on the premises.

UTILITY FRANCHISES

Grant of franchises

126. (1) A council may, by by-law, grant a franchise to any person authorizing the person to provide to persons in the municipality

- (a) electric power;
- (b) water;
- (c) gas; or
- (d) public transit.

Approval of voters

(2) Subject to subsection (5), a by-law made under subsection (1) must be approved by the voters.

Terms and conditions

(3) A franchise may be exclusive or not and may be granted on the terms and conditions that the council considers necessary or advisable.

Incidental powers

(4) A franchise may authorize the person providing the utility to construct, operate or remove poles, wires, conduits, buildings, structures or vehicles on municipal roads or public places.

Exemption from approval

(5) The Minister may, by order, exempt a by-law made under subsection (1) from the approval of the voters, where the council requests the exemption.

R.S.N.W.T. 1988,c.46(Supp.),s.29.

Term

127. (1) No council shall grant a franchise for a term exceeding 20 years.

Renewal

(2) A council may, from time to time, by by-law, renew the term of a franchise for further terms of not more than 10 years each.

Action on expiration of franchise

(3) Where a franchise is not renewed, a council may, with the approval of the Minister, purchase any or all the rights under the franchise and any or all property used in connection with the franchise on the terms that the parties may agree or, failing agreement, the terms that may be determined by a sole arbitrator under the *Arbitration Act*.

MISCELLANEOUS POWERS

Flag, crest and coat of arms

- 128.** A council may, by by-law,
- (a) adopt a flag, crest or coat of arms for the municipal corporation; and
 - (b) make rules for the use of the flag, crest or coat of arms.
- S.Nu. 2003,c.2,s.32; S.Nu. 2012,c.17,s.5(9).

Census and civic holiday

- 129.** A council may, by by-law,
- (a) provide for a census to be taken in the municipality; and
 - (b) declare one day a year to be a civic holiday.

130. Repealed, S.Nu. 2003,c.2,s.33.

130.1. Repealed, S.Nu. 2003,c.2,s.33.

130.2. Repealed, S.Nu. 2003,c.2,s.33.

131. Repealed, S.Nu. 2003,c.2,s.33.

132. Repealed, S.Nu. 2003,c.2,s.33.

132.1. Repealed, S.Nu. 2003,c.2,s.33.

132.2. Repealed, S.Nu. 2003,c.2,s.33.

132.3. Repealed, S.Nu. 2003,c.2,s.33.

132.4. Repealed, S.Nu. 2003,c.2,s.33.

132.5. Repealed, S.Nu. 2003,c.2,s.33.

LIMITATIONS

Prohibition on exemptions

- 133.** No council has the power to grant a specific person an exemption from
- (a) any tax, rate, rent or other charge payable to the municipal corporation, or
 - (b) the application of a by-law,
- unless specifically authorized by an Act or regulation.

Limit on powers after election day

134. (1) During the period commencing on election day and ending on the day the term of new council members begins, no council or council member shall

- (a) make a by-law or resolution that will result, directly or indirectly, in an expenditure not set out in the budget for the current fiscal year;
- (b) enter into a contract or obligation on behalf of the municipal corporation; or
- (c) appoint or dismiss any officer of the municipal corporation.

Exception

(2) Despite subsection (1), a council or council member may do those things referred to in subsection (1) where

- (a) it is in the public interest and is urgently required; or
- (b) it is authorized by a by-law made before the election day.
S.Nu. 2012,c.17,s.5(9).

Note: On April 1, 2019, subsection 134 is amended **by striking "election day" wherever it appears and substituting "the 35th day before election day"**.

See S.Nu. 2017,c.21,s.1(12).

PART IV

FINANCIAL AFFAIRS

BUDGETS

Fiscal year

135. The fiscal year for a municipal corporation is the calendar year.

Adoption of budget

136. (1) Every council shall, by resolution, before each fiscal year, adopt a budget for the fiscal year.

Content of budget

(2) The budget must include estimates of

- (a) all expenditures to be incurred by the municipal corporation, including
 - (i) payments in respect of debts,
 - (ii) operating expenditures,
 - (iii) capital expenditures, and
 - (iv) grants;
- (b) all revenues to be received by the municipal corporation, including
 - (i) charges for municipal services,
 - (ii) property taxes, and
 - (iii) grants and contributions;

- (c) all school taxes collected by the municipal corporation and forwarded under the *Property Assessment and Taxation Act*; and
 - (d) any sum required to meet a deficit of the municipal corporation, if any, in the preceding fiscal year.
- S.Nu. 2010,c.7,s.2.

Forwarding copy of budget

137. Every council shall ensure that a copy of the budget is forwarded to the Minister or the designate of the Minister.

Public access to budgets

137.1. A copy of the current year's budget must be available for inspection by members of the public at the offices of the municipal corporation during regular business hours.

S.Nu. 2003,c.2,s.34.

Surplus

138. (1) A municipal corporation may save any surplus at the end of a fiscal year for use in future fiscal years.

Deficit

(2) Every municipal corporation shall eliminate any deficit at the end of a fiscal year by the end of the next fiscal year.

EXPENDITURES AND DISBURSEMENTS

Expenditure control

139. (1) No person shall incur an expenditure on behalf of the municipal corporation that is not included in or is inconsistent with the budget for the fiscal year.

Exception

- (2) Despite subsection (1), where
- (a) a council has not yet adopted a budget, or
 - (b) an expenditure is not included or is inconsistent with the budget,
- a person may incur an expenditure on behalf of the municipal corporation, if the expenditure
- (c) is one that the municipal corporation is legally obligated to incur, or
 - (d) is authorized by the council by resolution.
- S.Nu. 2012,c.17,s.5(9).

Deposit of moneys

140. The senior administrative officer shall ensure that all moneys received by or on behalf of the municipal corporation are deposited in accounts in banks designated by the council by resolution.

Disbursements

141. (1) Every disbursement of money belonging to the municipal corporation must be made by a cheque or other negotiable instrument that is

- (a) drawn on or made from a bank account referred to in section 140; and
- (b) signed or authorized by
 - (i) the mayor or a councillor designated by the council, and
 - (ii) the senior administrative officer.

Reproduction of signatures

(2) A council may, by by-law, authorize the signature of any person referred to in paragraph (1)(b) to be engraved, lithographed, printed or mechanically reproduced for the purpose of issuing cheques.

Petty cash funds and imprest bank accounts

(3) Despite subsection (1), the council may authorize the establishment and use of petty cash funds and imprest bank accounts. S.Nu. 2012,c.17,s.5(9).

General municipal fund

142. Subject to section 143, every municipal corporation shall have a fund, to be known as the general municipal fund, composed of all moneys belonging to the municipal corporation, whether received or receivable.

Other funds

143. (1) A council may, by by-law, establish one or more funds in addition to the general municipal fund for the purpose of carrying on specific activities or achieving specific objectives.

Matters relating to other funds

(2) A council shall, by by-law, in respect of each fund established under subsection (1),

- (a) designate the name of the fund;
 - (b) describe the purpose of the fund;
 - (c) describe what the fund will be composed of;
 - (d) describe the specific purposes of any reserves that will be created under the fund; and
 - (e) make rules governing the operation of the fund that the council considers necessary or advisable.
- S.N.W.T. 1997,c.5,s.2(15).

Reserves

143.1. (1) A council may, by resolution, segregate portions of a fund established under subsection 143(1) as reserves for specific future purposes.

Matters relating to reserves

(2) A council shall, by resolution, in respect of each reserve created under subsection (1),

- (a) designate the name of the reserve;
- (b) describe what the reserve will be composed of; and
- (c) make rules governing the operation of the reserve that the council considers necessary or advisable.

S.N.W.T. 1997,c.5,s.2(15).

FINANCIAL STATEMENTS

Preparation of financial statements

144. (1) The senior administrative officer shall ensure that financial statements of the municipal corporation are prepared for each financial year.

Content of financial statements

(2) The financial statements must include

- (a) a statement of assets and liabilities of the municipal corporation presenting fairly the financial position of the municipal corporation as at the end of the fiscal year;
- (b) a statement of expenditures and revenues of the municipal corporation showing the results of operations for the fiscal year;
- (c) a statement of changes in financial position of the municipal corporation for the fiscal year;
- (d) a list of all debts written off by the municipal corporation during the fiscal year;
- (e) a list of all debts forgiven by the municipal corporation during the fiscal year;
- (f) a list of all capital assets disposed of by the municipal corporation during the fiscal year;
- (g) any statement, report, schedule, account, note, explanation or information relating to the financial statements that the council considers necessary or advisable; and
- (h) the report of the auditor on his or her examination of the accounts and financial transactions of the municipal corporation.

Requirements of financial statements

(3) The financial statements must be prepared

- (a) in accordance with an appropriate disclosed basis of accounting;
- (b) on a basis consistent with that of the preceding fiscal year or another disclosed basis;
- (c) in accordance with the generally accepted accounting principles recommended from time to time by the Canadian Institute of Chartered Accountants; and
- (d) in accordance with guidelines issued by the Minister.

Time of submission

(4) The financial statements must be submitted to the Minister not later than 120 days after the end of the fiscal year. S.Nu. 2003,c.2,s.35.

Public access to financial statements

144.1. A copy of the municipal corporation's financial statements and auditor's reports must be available for inspection by members of the public at the offices of the municipal corporation during regular business hours. S.Nu. 2003,c.2,s.36.

Auditor

145. (1) Every council shall, by resolution, appoint an auditor for the municipal corporation that is satisfactory to the Minister.

Prohibited auditors

(2) No person or firm shall be appointed as an auditor if, at the time of appointment or during the current or preceding fiscal year, the person, firm or an employee or a partner of the person or firm

- (a) is or was a council member;
- (b) is or was an officer of the municipal corporation; or
- (c) has or had, directly or indirectly, any interest in a contract or employment with the municipal corporation, other than as an auditor.

Notice of appointment

(3) Every council shall give written notice to the Minister of the appointment or revocation of an auditor, within 30 days after the appointment or revocation.

Compulsory revocation of appointment

146. The Minister may, by written notice, require a council to revoke the appointment of an auditor where, in the opinion of the Minister, the auditor

- (a) is incapable of satisfactorily performing the duties of auditor; or
- (b) has failed to satisfactorily carry out his or her duties under this Act.

Report of auditor

147. (1) An auditor shall report annually to the council on the results of his or her examination of the accounts and financial statements of the municipal corporation and shall

- (a) state whether, in his or her opinion,
 - (i) the financial statements present fairly the financial position as at the end of the fiscal year and the results of the operations and the changes in financial positions for that fiscal year in accordance with an appropriate disclosed basis of accounting consistently applied,
 - (ii) proper books of account have been kept and the financial statements are in agreement with the books of account, and
 - (iii) the transactions that have come under his or her notice are in accordance with

- (A) this Act and the regulations, and
- (B) the by-laws of the municipal corporation; and
- (b) report on any other matter falling within the scope of his or her examination that, in his or her opinion, should be commented on.

Powers of auditor

(2) An auditor may require any council member or any employee of the municipal corporation

- (a) to produce all records kept in respect of the administration of the municipal corporation; and
- (b) to provide the information and explanations that the auditor considers necessary.

Place of audit

(3) An auditor must conduct the audit in the municipality unless the auditor obtains the permission of the council or a judge to conduct it elsewhere.

S.Nu. 2012,c.17,s.5(9).

BORROWING

Prohibition

148. No municipal corporation shall borrow money except in accordance with this Act or the *Nunavut Housing Corporation Act*. S.Nu. 2012,c.17,s.5(9).

Temporary borrowing

149. (1) A council may, by by-law, authorize the municipal corporation to borrow on a temporary basis for a period not exceeding one year, the amounts that may be needed to meet expenditures lawfully authorized to be incurred but for which revenues received are insufficient.

Maximum amount

(2) The total amount borrowed under subsection (1) must not at any time exceed 85% of the estimated revenues as set out in the budget for that fiscal year.

Form of borrowing

(3) The municipal corporation may borrow under subsection (1) by way of overdraft, line of credit, temporary loan, unsecured note or other arrangement.

Administrative matters

(4) A by-law made under subsection (1) may provide for those administrative matters in respect of the borrowing that the council considers necessary or advisable. S.N.W.T. 1997,c.19,s.2(4).

Long-term borrowing

150. (1) Where a municipal corporation is a municipal taxing authority, the council may, by by-law, authorize the municipal corporation to borrow on a long-term basis for a period exceeding one year amounts that may be needed for municipal purposes.

Maximum amounts

(2) The Minister may, by regulation, prescribe the maximum amounts that a municipal corporation or municipal corporations may borrow on a long-term or short-term basis.

Approval by ratepayers

(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.2(17); S.N.W.T. 1997,c.19,s.2(5);
S.N.W.T. 1998,c.5,s.7(4); S.Nu. 2003,c.2,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) 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.

(3) **Repealed, S.N.W.T. 1997,c.19,s.2(6)(b).**

S.N.W.T. 1997,c.5,s.2(18); S.N.W.T. 1997,c.19,s.2(6).

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.2(7).

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.2(8).

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.2(9).

Forwarding copy of long-term debt security to Minister

155. 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.2(9).

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 Nunavut 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 Nunavut.

Repayment of borrowed money

(3) Any money borrowed from the Government of Nunavut 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 Nunavut at the time of the loan. S.N.W.T. 1997,c.19,s.2(10); S.Nu. 2012,c.17,s.5(9).

Refinancing long-term debt securities

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(6) 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.2(19); S.N.W.T. 1997,c.19,s.2(11).

LOCAL IMPROVEMENTS

Undertaking local improvements

157. A 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) Despite 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.31(Supp.),s.6; S.Nu. 2012,c.17,s.5(9).

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, for a maximum amount of \$5,000 in a fiscal year or more than \$5,000 with the prior approval of the Minister.

Maximum

(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.31(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.2,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.2,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.2,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.2,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.2,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.2,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.2,s.40.

REVENUE

Charges for municipal services

169. 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.2(20).

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 established by a municipal corporation, a volunteer member of a search and rescue operation or emergency measures organization, or any other volunteer performing duties under the direction of a municipal corporation. (*travailleur bénévole*)

S.Nu. 2003,c.2,s.41; S.Nu. 2007,c.10,s.37(3).

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.2,s.41; S.Nu. 2012,c.17,s.5(7)(u).

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.2,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.2,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.2,s.41; S.Nu. 2012,c.17,s.5(7)(v).

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.2,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.2,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.2,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.2,s.41.

Note: Six months after section 5 of S.Nu. 2017,c.7 comes into force, paragraph 170.9(d) is amended by:

- (a) **striking out "and" in the English version of paragraph 170.9(d); and**
- (b) **adding the following after paragraph 170.9(d):**
 - (d.1) the mandatory part of the municipal fire protection plan, as provided for in the *Fire Safety Act*; and

See S.Nu. 2017,c.7,s.11.

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.2,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.2,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.2,s.41; S.Nu. 2012,c.17,s.5(7)(w).

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.2,s.41; S.Nu. 2012,c.17,s.5(7)(x),(y).

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.2,s.41; S.Nu. 2012,c.17,s.5(7)(z).

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.

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.2,s.41.

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.2(21); S.Nu. 2012,c.17,s.5(6).

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.2(22).

Note: On the earlier of December 31, 2018 or a day to be fixed by order of the Commissioner:

(2) Subsection 172(3) is amended by striking out "*Motor Vehicles Act*" and substituting "*Traffic Safety Act*".

See S.Nu. 2017,c.20,s.65(2).

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.2,s.42.

Notice of certain by-laws

175. No council shall give third reading to a by-law that would authorize 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 and safety, or extraordinary circumstances warrant, the court may hear the application without notice to any person. S.Nu. 2003,c.2,s.43; S.Nu. 2012,c.17,s.5(7)(z.1),(z.2),(9).

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.2,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.2,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.2,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.2,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.2,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.2,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.2,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 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.

Contents 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 Nunavut. S.Nu. 2012,c.17,s.5(9).

Note: On the earlier of December 31, 2018 or a day to be fixed by order of the Commissioner the following is added after subsection 178(6):

(7) The council shall notify the Registrar of Motor Vehicles appointed under the *Traffic Safety Act* of any disposal of a vehicle under section 125.

See S.Nu. 2017,c.20,s.65(3).

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 by way of originating notice under the Rules of the Nunavut Court of Justice.

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.
S.Nu. 2012,c.17,s.5(9).

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, 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 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 for 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.2(23).

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) \$2,000 for an individual; and
 - (b) \$10,000 for a corporation.
- R.S.N.W.T. 1988,c.72(Supp.),s.2.

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.

Punishment for offences under this Act or by-laws

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

- (a) to a fine not exceeding
 - (i) \$2,000 for an individual, and
 - (ii) \$10,000 for a corporation; or
- (b) to imprisonment for a term not exceeding six months in default of payment of a fine.

R.S.N.W.T. 1988,c.72(Supp.),s.3; S.Nu. 2003,c.2,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;
- (e) a municipal supervisor.

S.Nu. 2003,c.2,s.46; S.Nu. 2012,c.17,s.5(7)(z.3),(9).

MUNICIPAL INSPECTORS

Appointment

188. The Minister may appoint municipal inspectors.

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;
- (d) financial affairs.

S.Nu. 2003,c.2,s.47; S.Nu. 2012,c.17,s.5(9).

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.2,s.48; S.Nu. 2012,c.17,s.5(7)(z.4).

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.2,s.48.

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.2,s.48.

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.2,s.48.

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.2,s.48.

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.2,s.48.

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.2,s.48; S.Nu. 2012,c.17,s.5(7)(z.5).

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.2,s.48.

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.2,s.48.

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 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.2,s.49; S.Nu. 2012,c.17,s.5(7)(z.6).

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.

Note: On April 1, 2019, section 205 is repealed and the following substituted:

Return of control to council

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

- (a) request the Chief Electoral Officer to conduct an election for new council members in the same manner as the first election of a council; and
- (b) by order, provide for the transition of control from the municipal administrator to the newly elected council and revoke the order issued under section 192.

Consultation with Chief Electoral Officer

(2) Before making an order under this section, the Minister shall consult with the Chief Electoral Officer regarding the timing of the order and the conduct of the election for the new council.

See S.Nu. 2017,c.21,s.1(13).

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 Nunavut on the terms and conditions that the Minister may require.

S.Nu. 2012,c.17,s.5(9).

Ownership of receivables

209. All revenues of a dissolved municipal corporation not yet received by it belong to the Government of Nunavut and may be collected accordingly. S.Nu. 2012,c.17,s.5(9).

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.2,s.50.

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.2,s.51.

Continuation of municipal corporations

213. Every city, town and village 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 they are not inconsistent with this Act, until they expire or are 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-treasurer 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.