

**CANADIAN INSTITUTE FOR THE ADMINISTRATION OF JUSTICE  
INSTITUT CANADIEN D'ADMINISTRATION DE LA JUSTICE**

**REGULATIONS AND BY-LAWS REAL LAWS IN THE REAL WORLD  
LES ENJEUX DE LA RÉGLEMENTATION**

**Radisson Hotel, Ottawa  
Hôtel Radisson, Ottawa**

**November 27 - 28, 1995  
Du 27 au 28 novembre, 1995**

**A NEW APPROACH TO ENABLING LEGISLATION  
ALBERTA'S MUNICIPAL GOVERNMENT ACT**

**ALEX FYFE**

**Alberta's Municipal Government Act -  
Enabling Municipalities to do their Job**

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**for the Canadian Institute for the Administration of Justice Conference on  
Regulations and Bylaws in the Real World  
Ottawa November 27, 1995**

**Municipal Government Act - General Approach**

Traditional municipal legislation lists what a municipality may do and how it may do it in great detail. There are usually long lists specifying what bylaws a municipality may pass and what powers a municipality has. Alberta's new Municipal Government Act SA 1994, cM-26.1 (the MGA) takes a different approach. It gives municipalities a very broad jurisdiction to pass bylaws and gives municipalities the capacity and powers of a natural person.

This paper will examine the bylaw making jurisdiction and natural person powers of municipalities under the MGA and how the 2 concepts inter-relate. It will also discuss some drafting issues that arose in the preparation of the MGA and how the MGA allows for the creation of a new form of municipality - the specialized municipality. All provisions referred to in this paper have been reproduced in the appendix.

**Jurisdiction to Pass Bylaws**

The Municipal Statutes Review Committee (the body charged with formulating the policy for the MGA) decided that the new MGA should give broad bylaw making jurisdiction to municipalities. The first issue became: What is the best way of doing it? The Committee considered recommending that municipalities be given the power to pass bylaws on any subject on which the Province can pass laws, so long as the bylaws were not inconsistent with existing provincial laws.

Another major option the Committee considered was to give municipalities the power to pass bylaws based on a list of "spheres of jurisdiction".

The first option offered certain advantages. Municipalities would be able to deal with any matter in their bylaws that the Province can in its laws. It would provide great flexibility and would reduce the size of the proposed MGA. This option was rejected though, because of a concern that municipalities would enter areas that the province never intended municipalities to enter, e.g. establishing a minimum wage or a municipal court system or implementing law reform proposals that the Government had chosen not to implement. There was also some doubt as to how the courts would interpret this option.

Under the "spheres of jurisdiction" option, bylaw passing powers would be described in general terms. The spheres would be broad categories and a synthesis of the particular bylaw passing provisions in the existing municipal legislation. The advantages of this option would be that it would confer broad bylaw making jurisdiction and still be reasonably familiar to municipalities and the courts. This option was chosen for the MGA.

The spheres of jurisdiction are set out in section 7 of the MGA. There are 9 spheres; 8 of them are set out in 2 lines of text or less.

Section 7 states that the bylaws must be passed for a municipal purpose. This "limitation" would likely apply even if it were not expressly stated, but stating the limitation allayed some concerns that the spheres were too broad. The municipal purposes, which are set out in section 3, are very general. In most cases, if a municipality's council considers a bylaw to be necessary or desirable for the municipality, the municipal purposes limitation would be met.

To ensure that the courts interpreted section 7 in a broad and liberal manner, sections 8 and 9 were added. Section 8 sets out certain matters that could be included in any bylaw. For example, it provides that the bylaws may regulate or prohibit, and may establish licensing schemes and rights of appeal. Section 9 establishes that section 7 was drafted in general terms to allow each municipality to govern in the manner it sees fit and to enhance the ability of municipalities to deal with future issues that may not have been contemplated when the Act was

passed.

Another interpretive aid that was given serious consideration was the use of examples. When the MGA was first introduced in 1992 as Bill 51, it had a schedule containing examples of bylaws that could be passed under the spheres and a section stating that the examples were illustrative and indicative only, not exhaustive and not intended to limit the powers of council to pass bylaws. (This schedule is included in the appendix.) The schedule of examples was extensive; it listed over 70 bylaws that could be enacted under the spheres. Legislative Counsel Office had mixed feelings about the schedule of examples. On the one hand, the examples would support the broad and liberal interpretation that was intended. But on the other hand, a municipality or the courts could end up concluding that a proposed bylaw was ultra vires because it was not included in the extensive list of examples; also, municipalities could end up drafting a bylaw to match an example. Legislative Counsel Office supported the use of examples because the spheres approach was so different from traditional municipal legislation, but we preferred a less extensive list of examples. In the end, a decision was made outside of Legislative Counsel Office to drop the schedule of examples.

How did the spheres approach affect the drafting of the MGA? Once it was established that a municipality could pass a bylaw on just about anything in the realm of municipal governance, the rest of the MGA only had to deal with imposing restrictions on that power. There are, on the whole, few restrictions on a municipality's bylaw passing power. The biggest restriction is set out in section 13, which provides that if there is any inconsistency between a bylaw and a law passed by the Province, the bylaw has no effect to the extent of the inconsistency. Some bylaws may not be passed unless they are advertised - the requirement of advertising triggers the right of electors to petition against the proposed bylaw; others do not come into force unless they are approved by a particular Minister. The bylaw passing power with respect to municipal taxes and assessment is dealt with in the parts on assessment and taxation.

When municipalities were given such broad bylaw passing powers, there was a need to "harmonize" this broad jurisdiction with the rest of Alberta's legislation. The purpose of the harmonization process was to review bylaw passing provisions in other Acts and determine whether the provision could be eliminated because it would be covered by the new spheres or

whether the provision should be redrafted as a restriction on the spheres. (An example of a restriction is the new section 57.1(2) of the Dairy Industry Act.)

Unfortunately the harmonization process was left to the end and there was not enough time to consult with departments that administered Acts containing municipal bylaw passing powers. Section 10 was added to the MGA to deal with bylaw passing provisions that escaped the harmonization process. It provides that if a bylaw could be passed under the spheres and under another Act, any special procedures in the other Act apply. It also provides that if there is an inconsistency between a bylaw passed under the spheres and a bylaw that could be passed under another Act, the bylaw passed under the sphere is of no effect to the extent that it is inconsistent with the bylaw passing power in the other Act.

#### Natural Person Powers

The second way in which the MGA expanded municipalities' powers was to grant them natural person powers. Section 6 provides that, subject to the MGA and any other enactment, a municipality has the capacity, rights, powers and privileges of a natural person. The concept is relatively simple. If a natural person can do a thing, a municipality can do the same thing. Alberta's business corporations have had natural person powers since 1982. Metis settlements in Alberta were given natural person powers in 1990. Municipalities in England established by Royal Charter were generally considered as being common law corporations having the same powers as natural persons. It seemed logical to extend natural person powers to municipalities. It would reduce many of the particular authorizing sections in the existing municipal legislation and would give municipalities equal footing with business corporations.

What effect did the granting of natural person powers to municipalities have on the drafting of the MGA? The MGA was intended to expand municipal powers, so all of the existing powers in the old Act had to be reviewed to determine if they were covered by the natural person powers. There were certain areas that were felt not to be included in natural person powers; examples are the power to make laws and to expropriate, the power to tax, the power to deal with public highways and the power to declare holidays. These areas were mentioned specifically in the MGA. The other effect of the natural person powers was that the focus shifted to considering

whether there should be a restriction on the exercise of the natural person powers, rather than should a municipality be authorized to do something. Examples of restrictions are municipalities not being able to acquire an interest in mines or minerals without the approval of the Lieutenant Governor in Council (section 71) and municipalities not being able to control profit corporations without the Minister's approval (section 73).

There was also a need to harmonize other Alberta legislation with municipalities' natural person powers. If another Act conferred a power that was covered by natural person powers, the provision in the Act would have to be repealed or converted into a restriction on the natural person powers. In conducting a review of the legislation, very few Acts dealt with general municipal powers and very little harmonization was required.

#### Interrelationship Between Spheres and Natural Person Powers

There was an overlap between the natural person powers and the power to pass bylaws under the spheres. An example is a municipality entering into a contract in which the municipality is authorizing a corporation to provide some sort of service to the community on behalf of the municipality. The natural person powers would authorize the municipality to enter into the contract. One of the spheres, section 7(f), authorizes a municipality to pass bylaws respecting services provided by or on behalf of the municipality. The overlap in authority between natural person powers and the section 7(f) sphere does not cause a problem; but a problem is created by section 180(2). Section 180(2) states that if a municipality is required or authorized to do something by bylaw, it may only be done by bylaw. Section 180(2) was added to clarify that if a section in an Act states that a council may pass a bylaw to do something, the council may do it only by bylaw as opposed to doing it by resolution or delegating the matter to the chief administrative officer. Section 180(2) could have been used to support an argument that the municipality would have to pass a bylaw to authorize the contract.

Section 11 was added to the MGA to establish an exception to section 180(2). Section 11 provides that a municipality may do something under its natural person powers even if the thing could be done under a bylaw passed under section 7.

### Bylaws Passed under Natural Person Powers

One section in the MGA that has caused some concern is section 11(2). It states that the sphere that deals with the enforcement of bylaws, e.g. creating offences and penalties, does not apply to a bylaw passed under a municipality's natural person powers. The concern is that a natural person cannot make laws. So why does section 11(2) refer to bylaws passed under a municipality's natural person powers?

The answer to this question begins with section 202(1). It states that when a municipality wishes to exercise its natural person powers, the natural person powers may be exercised by council or by the chief administrative officer, unless council specifies otherwise. Section 180(1) says that a council may act only by resolution or bylaw and section 180(3) provides that if council is authorized to do something without specifying that it be done by bylaw or resolution, the thing may be done by bylaw or resolution. Based on sections 202 and 180, a council could exercise its natural person powers by passing a bylaw. An example may be that council wants to pass a bylaw authorizing a high profile purchase or sale of property within the municipality. The municipality's authority for the bylaw would be based on its natural person powers, not on the broad spheres of jurisdiction. Section 11(2) was added to ensure that if a council used the municipality's natural person powers as the authority for a bylaw, council could not make it an offence for someone to contravene the bylaw.

The negative reaction that people experience when confronted with the notion that natural person powers may be used as the authority for a bylaw can be overcome by considering what it means to say that a natural person cannot pass laws. This limitation applies to what I would describe as "true laws". By that I mean laws that are of a legislative nature, e.g. laws that are intended to regulate behaviour and for which it is reasonable to impose a sanction for non-compliance, or laws that grant or take away rights. Natural person powers could not be used to pass such laws. The bylaws that a council could pass under the natural person powers would be tied to the operation of the municipality and its contractual rights. Such bylaws are not true laws. These bylaws would be no different from the bylaws passed by a business corporation.

I considered establishing in the MGA that a council's bylaw passing power was restricted to

passing bylaws that were "true laws". All other council decisions would be by resolution. If it were thought necessary to give some resolutions a higher profile, special procedures could be established for passing those resolutions, e.g. certain resolutions would be required to be advertised or certain resolutions could not be introduced and passed at the same meeting unless unanimous consent were obtained. This approach is similar to the technique used in drafting Acts in which an Act states that a body has the authority to make regulations only when it is thought that the regulations would be of a legislative nature. If the matter that the body is dealing with is not likely to be of a legislative nature, then the body is simply authorized to deal with the matter without referring to regulations. I started to develop this approach too late in the drafting process and had to drop it.

### Specialized Municipalities

Another innovation in the MGA is the ability to create a new form of municipality called the specialized municipality. Under section 83 a specialized municipality may be formed when the Minister is satisfied that the traditional forms of municipality, e.g. city, town or village, do not meet the needs of the residents of the proposed municipality, if a special form of municipality is needed to assist a municipality in the transition of one form of municipality to another, or if the Minister is satisfied that in the circumstances a specialized municipality is the appropriate form of municipality. Section 89(3) sets out the matters that may be dealt with in the order forming a specialized municipality. It provides that the order may specify enactments that do not apply to the specialized municipality and may specify provisions that are to be added to or replace the provisions of the MGA or other enactments in respect of the specialized municipality. The effect is that the order forming a specialized municipality can customize Alberta's legislation to meet the particular circumstances of the specialized municipality.

There is currently one specialized municipality - the Municipality of Wood Buffalo. The municipality includes what was the City of Fort McMurray and is approximately 67,000 square kilometres. Its area is more than the combined area of Nova Scotia and Prince Edward Island. Before the specialized municipality was created, Fort McMurray had a large population base for the region and good municipal administration and services but a poor industrial tax base. Fort McMurray was surrounded by sparsely populated settlements that had, on the whole, poor



municipal services but a good industrial tax base - the oil sands projects. The creation of Wood Buffalo provided all the residents of the new municipality access to good services and municipal administration and the industrial tax base is shared by all the residents. The formation order for the Municipality of Wood Buffalo established different mill rates for the urban and rural areas, created a special council structure to protect rural voters, and maintained the application of urban and rural grant programs.

### Safety Valves

The MGA has 2 provisions that were added to deal with unforeseen problems. The first is section 710, which authorizes the Minister to make regulations to deal with problems arising from the transition from the old legislation to the MGA. The second is section 603, which authorizes the Lieutenant Governor in Council to make regulations on any matter that the Minister considers is not sufficiently provided for, or to restrict the power or duty of a council to pass bylaws. The section 603 regulations have a maximum life of 2 years and are intended to be replaced with an amendment to the Act.

### Conclusions

The approach of giving municipalities broad bylaw passing powers and natural person powers and then concentrating on restrictions and limitations is workable from a drafting perspective and in the end created a shorter, clearer Act. So far, this approach has been welcomed by the municipalities and there have been no court cases based on the interpretation of the spheres or the exercise of a municipality's natural person powers. If other provinces or territories are considering adopting the spheres of jurisdiction approach and granting municipalities natural person powers, I recommend pursuing the approach of restricting the bylaw passing power of municipalities to laws that are of a legislative nature.

# APPENDIX

## MUNICIPAL GOVERNMENT ACT

- Interpretation    **1(1)** In this Act,
- (r) "municipal purposes" means the purposes set out in section 3;
  - (t) "natural person powers" means the capacity, rights, powers and privileges of a natural person;

### PART 1

#### PURPOSES, POWERS AND CAPACITY OF MUNICIPALITIES

- Municipal purposes    **3** The purposes of a municipality are
- (a) to provide good government,
  - (b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality, and
  - (c) to develop and maintain safe and viable communities.
- Corporation    **4** A municipality is a corporation.
- Powers, duties and functions    **5** A municipality
- (a) has the powers given to it by this and other enactments,
  - (b) has the duties that are imposed on it by this and other enactments and those that the municipality imposes on itself as a matter of policy, and
  - (c) has the functions that are described in this and other enactments.
- Natural person powers    **6** A municipality has natural person powers, except to the extent that they are limited by this or any other enactment.

**PART 2****BYLAWS****Division 1  
General Jurisdiction**

General  
jurisdiction to  
pass bylaws

**7** A council may pass bylaws for municipal purposes respecting the following matters:

- (a) the safety, health and welfare of people and the protection of people and property;
- (b) people, activities and things in, on or near a public place or place that is open to the public;
- (c) nuisances, including unsightly property;
- (d) transport and transportation systems;
- (e) businesses, business activities and persons engaged in business;
- (f) services provided by or on behalf of the municipality;
- (g) public utilities;
- (h) wild and domestic animals and activities in relation to them;
- (i) the enforcement of bylaws made under this or any other enactment, including any or all of the following:
  - (i) the creation of offences;
  - (ii) for each offence, imposing a fine not exceeding \$10 000 or imprisonment for not more than one year, or both;
  - (iii) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment so long as the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence;
  - (iv) providing that a specified penalty prescribed under section 42 of the *Provincial Offences Procedure Act* is reduced by a specified amount if the penalty is paid within a specified time;
  - (v) providing for imprisonment for not more than one year for non-payment of a fine or penalty;

- (vi) providing that a person who contravenes a bylaw may pay an amount established by bylaw and if the amount is paid, the person will not be prosecuted for the contravention;
- (vii) providing for inspections to determine if bylaws are being complied with;
- (viii) remedying contraventions of bylaws.

Powers under  
bylaws

**8** Without restricting section 7, a council may in a bylaw passed under this Division

- (a) regulate or prohibit;
- (b) deal with any development, activity, industry, business or thing in different ways, divide each of them into classes and deal with each class in different ways;
- (c) provide for a system of licences, permits or approvals, including any or all of the following:
  - (i) establishing fees for licences, permits and approvals including fees for licences, permits and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue;
  - (ii) establishing fees for licences, permits and approvals that are higher for persons or businesses who do not reside or maintain a place of business in the municipality;
  - (iii) prohibiting any development, activity, industry, 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) setting out the conditions that must be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them;
  - (vi) 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 bylaw or for any other reason specified in the bylaw;

- (d) provide for an appeal, the body that is to decide the appeal and related matters.

Guides to interpreting power to pass bylaws

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

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

Bylaw passing powers in other enactments

**10(1)** In this section, "specific bylaw passing power" means a municipality's power or duty to pass a bylaw that is set out in an enactment other than this Division, but does not include a municipality's natural person powers.

(2) If a bylaw could be passed under this Division and under a specific bylaw passing power, the bylaw passed under this Division is subject to any conditions contained in the specific bylaw passing power.

(3) If there is an inconsistency between a bylaw passed under this Division and one passed under a specific bylaw passing power, the bylaw passed under this Division is of no effect to the extent that it is inconsistent with the specific bylaw passing power.

Relationship to natural person powers

**11(1)** Despite section 180(2), a municipality may do something under its natural person powers even if the thing could be done under a bylaw passed under this Division.

(2) Section 7(i) does not apply to a bylaw passed under a municipality's natural person powers.

## Division 2 Scope of Bylaws

Geographic area of bylaws

**12** A bylaw of a municipality applies only inside its boundaries unless

- (a) one municipality agrees with another municipality that a bylaw passed by one municipality has effect inside the boundaries of the other municipality and the council of each municipality passes a bylaw approving the agreement, or
- (b) this or any other enactment says that the bylaw applies outside the boundaries of the municipality.

- Relationship to Provincial law **13** If there is an inconsistency between a bylaw and this or another enactment, the bylaw is of no effect to the extent of the inconsistency.
- Mines and minerals **71** No municipality may acquire an estate or interest in mines or minerals without the prior approval of the Lieutenant Governor in Council.
- Control of profit corporations **73(1)** In this section, "corporation" means a corporation that operates for the purpose of making a profit.
- (2) No municipality may, by itself or with other municipalities, control a corporation except in accordance with the regulations.
- (3) The Minister may make regulations
- (a) respecting information that must be provided to the Minister before a municipality or group of municipalities controls a corporation;
  - (b) providing that certain corporations may not be controlled by a municipality or group of municipalities unless the Minister's approval is obtained;
  - (c) respecting terms and conditions that apply when a municipality or group of municipalities control a corporation.
- (4) The regulations may apply to one corporation or one approval or may be general.
- Specialized municipality **83** A specialized municipality may be formed for an area
- (a) in which the Minister is satisfied that a type of municipality referred to in section 77(a), (b), (c), (d) or (e) does not meet the needs of the residents of the proposed municipality,
  - (b) to provide for a form of local government that, in the opinion of the Minister, will provide for the orderly development of the municipality to a type of municipality referred to in section 77(a), (b), (c), (d) or (e), or to another form of specialized municipality, or
  - (c) in which the Minister is satisfied for any other reason that it is appropriate in the circumstances to form a specialized municipality.

Contents of  
order**89(1) A formation order must**

- (a) describe the boundaries of the municipality formed by the order,
- (b) give the municipality the status of municipal district, village, town, city or specialized municipality, and
- (c) give the municipality an official name.

**(2) If a municipal district is formed, the order**

- (a) must state the number of councillors that is to comprise its council,
- (b) must establish wards for it and describe their boundaries,
- (c) may specify or describe by reference, the provisions of this or other enactments that do not apply to the municipal district, or that apply with or without modification, and
- (d) may specify or describe by reference, any provisions that are to be added to or replace the provisions of this or other enactments.

**(3) If a specialized municipality is formed, the order must state the number of councillors that is to comprise its council and apply either section 150(1) or (2) to the municipality and may**

- (a) establish wards for it and describe their boundaries;
- (b) specify or describe by reference, the provisions of this or other enactments that do not apply to the specialized municipality, or that apply with or without modification;
- (c) specify or describe by reference, any provisions that are to be added to or replace the provisions of this or other enactments;
- (d) prescribe matters or conditions that govern the functions, powers and duties of the specialized municipality;
- (e) if a specialized municipality is formed all or partly from an improvement district, provide that Part 15 continues to apply to the specialized municipality as if it were an improvement district.

**(4) If the order provides that Part 15 continues to apply to a specialized municipality under subsection (3)(e), the Minister may at any time in respect of the specialized municipality**

- (a) exercise any of the powers that the Minister has in respect of an improvement district under Part 15 or any other enactment, including the power to delegate;
  - (b) limit the power, authority or jurisdiction of the specialized municipality;
  - (c) prescribe how or the conditions under which the specialized municipality may exercise any power or authority;
  - (d) require the specialized municipality to exercise or perform a power, right or duty of a municipality;
  - (e) authorize the council to pass some or all of the bylaws that the council of a municipal district may pass, subject to any conditions the Minister imposes.
- (5) If a municipality is formed from an improvement district, the order may dissolve the improvement district.

**Division 9  
Council Proceedings  
Requirements for Valid Action**

Methods in  
which council  
may act

- 180(1)** A council may act only by resolution or bylaw.
- (2) Where a council or municipality is required or authorized under this or any other enactment or bylaw to do something by bylaw, it may only be done by bylaw.
- (3) Where a council is required or authorized under this or any other enactment or bylaw to do something by resolution or to do something without specifying that it be done by bylaw or resolution, it may be done by bylaw or resolution.

Exercise of  
certain powers  
and duties

- 202(1)** Where
- (a) this or any other enactment or bylaw requires or authorizes a municipality to do something, but does not specify who in the municipality may do it, or
  - (b) the municipality wishes to exercise its natural person powers,

the thing may be done or the natural person powers may be exercised by council or by the chief administrative officer, unless council specifies otherwise.

- (2) Only a council may pass bylaws.



**PART 16****MISCELLANEOUS**

Lieutenant  
Governor in  
Council  
regulations

**603(1)** The Lieutenant Governor in Council may make regulations

- (a) for any matter that the Minister considers is not provided for or is insufficiently provided for in this Act;
- (b) restricting the power or duty of a council to pass bylaws.

**(2)** A regulation made under subsection (1) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the matter to this Act;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) 2 years after the regulation comes into force.

**(3)** The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

**PART 18****TRANSITIONAL PROVISIONS,  
CONSEQUENTIAL AMENDMENTS,  
REPEAL AND COMMENCEMENT****Division 1****Transition from Former Acts to this Act**

Definitions

**709** *In this Division,*

- (a) *"former Assessment Appeal Board Act" means the Assessment Appeal Board Act, RSA 1980 cA-46;*
- (a.1) *"former County Act" means the County Act, RSA 1980 cC-27;*
- (b) *"former Improvement Districts Act" means the Improvement Districts Act, RSA 1980 cI-1;*
- (c) *"former Municipal Government Act" means the Municipal Government Act, RSA 1980 cM-26;*
- (d) *"former Municipal Taxation Act" means the Municipal Taxation Act, RSA 1980 cM-31;*

- (e) "former Municipalities Assessment and Equalization Act" means the Municipalities Assessment and Equalization Act, RSA 1980 cM-32.

1994 cM-26.1 s616;1995 c24 s88,94

**Transitional  
regulations**

**710** *The Minister may make regulations*

- (a) *respecting the conversion to this Act of anything from the former Acts referred to in section 709 or from any other Act repealed by this Act;*
- (b) *to deal with any difficulty or impossibility resulting from this Act or the transition to this Act from the former Acts referred to in section 709 or from any other Act repealed by this Act.*

1994 cM-26.1 s617;1995 c24 s94,96

**DAIRY INDUSTRY ACT**

**Pasteurization  
by-laws**

**57.1(1)** In this section "pasteurization" has the meaning ascribed to it in the regulations.

(2) A council of a city, town, village, summer village or municipal district may not pass a by-law requiring the pasteurization of

- (a) milk brought into the municipality by a producer and sold to a dairy manufacturing plant, or
- (b) products of milk manufactured, processed, reprocessed, packed or repacked in a dairy manufacturing plant in accordance with the requirements of this Act and the regulations.

(2.1) Repealed 1994 cM-26.1 s642(18).

(3) A council of a city, town, village, summer village or municipal district that passes or amends a by-law requiring the pasteurization of milk sold, offered for sale or delivered within the limits of the municipality before the milk is sold, offered for sale or delivered must provide the Minister with a copy of the by-law or amendment within 30 days after it is passed.

1984 cP-27.1 s91;1987 c18 s29;1994 cM-26.1 s642(18);  
1995 c24 s99(39)

**BILL 51  
SCHEDULE**

Examples of bylaws that may be passed under the spheres of jurisdiction under Part 1, Division 2

**Sphere of Jurisdiction**

**Examples**

the protection of persons and property and the regulation of nuisances

- (a) regulate hazards, dangerous activities or things to be prevented or removed, including clearing sidewalks of snow and ice;
- (b) authorize removal of dangerous or hazardous things by municipal employees at the cost of the person named in the

- (c) establish curfews for children;
- (d) regulate disorderly conduct;
- (e) prohibit the discharge of firearms;
- (f) regulate the sale of firecrackers;
- (g) establish fire protection areas in rural municipalities;
- (h) require drainage ditches to be kept clear of obstructions and allow municipal action if they are not cleared;
- (i) provide for weed control and mosquito control.

the regulation of gatherings of people and any activity or thing in a public place or place that is open to the public

- (a) regulate activities in parks;
- (b) establish speed limits and pedestrian crosswalks in parks;
- (c) require permits for parades, exhibitions, shows or events;
- (d) require security and medical personnel at sports events or contests;
- (e) regulate billboards, the posting of placards and advertising;
- (f) regulate places of amusement, entertainment and athletic events;
- (g) regulate activities or other things at or near intersections or along roads that could limit visibility or distract drivers;
- (h) establish malls and promenades.

the regulation of transport and transportation systems

- (a) regulate public transit systems;
- (b) to the extent that they are not in conflict with a law of the Parliament of Canada, regulate airports, floatplane bases and railways and the operation of them, including the speed of trains across roads.

the regulation of business, business activities and persons engaged in business

- (a) regulate taxis and limousine services;
- (b) regulate vendors of food and drink;
- (c) regulate trades and occupations;
- (d) regulate salespersons and the sale of goods;
- (e) regulate hotels and other places of public accommodation;
- (f) regulate cemetery, crematorium and columbarium services;

- (g) regulate business licensing generally;
- (h) regulate opening and closing hours of retail businesses;
- (i) restrict or prohibit the carrying on of a business in a part of the municipality.

the regulation of services, public utilities or other activities that are necessary or desirable for persons or property

- (a) regulate water supply, distribution, drainage and irrigation services and systems;
- (b) regulate electrical, gas and communications services and systems;
- (c) regulate sanitary sewage collection, treatment and disposal services and systems;
- (d) regulate a person's use of a public utility.

the regulation of wild and domestic animals and activities in relation to them

- (a) regulate animals in public places;
- (b) regulate zoos and pet shops;
- (c) require the licensing of dogs and cats;
- (d) regulate ownership of exotic animals;
- (e) regulate animals to prevent the spread of animal diseases that are communicable to humans;
- (f) prohibit cruelty to animals.

the regulation of any activity or thing that endangers or affects the safety, health or convenience of others

- (a) provide for the fuondation of the municipality's water supply;
- (b) regulate smoking in public places;
- (c) provide for measures to control the spread of communicable diseases;
- (d) regulate enclosures for swimming pools;
- (e) regulate wells, springs and other sources of water for the municipality;
- (f) regulate sanitation in places where food is prepared or processed for sale to the public;
- (g) regulate the sale, distribution and packaging of food;
- (h) regulate bathing or washing in public waters;
- (i) require the removal of dirt, filth, rubbish or other matter dangerous to public health;
- (j) provide for medical inspections at schools and establish child welfare stations;
- (k) provide for the construction, acquisition and maintenance of hospitals;

- (l) regulate gas piping, steam fittings and electrical wiring;
  - (m) regulate the use of cranes, hoists or other things that project or swing over public places.
- the regulation of any activity or thing that endangers or affects the environment
- (a) regulate solid and other waste collection, disposal and recycling services and systems.
- respecting the establishment and collection of fees, costs, rates, tolls or charges for services, activities of or things provided or done by the municipality, or for the use of the municipality's property, including property under the direction, control and management of the municipality
- (a) establish the fees, rates, tolls or charges payable for a licence, permit, approval or other authorization;
  - (b) state the method by which fees, rates, tolls or charges or the cost of services are to be calculated or assessed and the persons by whom and when they are to be paid;
  - (c) establish penalties or interest for non-payment or late payment of money payable and discounts or other benefits for early payment.
- enforcement of bylaws
- (a) specify a minimum and maximum range of fines applicable to second and subsequent offences;
  - (b) establish a minimum daily fine for every day that an offence continues;
  - (c) provide that when conviction is for non-payment of fees payable to the municipality under a bylaw, the court may order payment of the fee in addition to the fine and costs;
  - (d) establish the procedure for payment to a designated officer of an amount that may be accepted by the municipality instead of proceeding with prosecution;
  - (e) establish a general penalty for contravention of any bylaw or any number of specified bylaws;
  - (f) allow for discounting a fine for prompt payment if the voluntary payment of a fine is authorized under section 42 of the Provincial Offences Procedure Act.
- good government of the municipality
- (a) conduct a census;
  - (b) provide for a system of numbering of parcels and buildings;
  - (c) provide that names and numbers of houses or dwelling units be displayed in a certain manner.

under any sphere

- (d) allow roads and areas to be named.
- (a) provide a system of granting permits, approvals, licences or similar authority and prohibiting any development, activity, industry, business or thing until the licence, permit, approval or authority has been granted;
- (b) provide that terms and conditions may be imposed on any permit, approval, licence or authority, the nature of the terms and conditions and who may impose them;
- (c) set out the conditions that must be met before a permit, approval, licence or authority is granted or renewed, the nature of the conditions and who may impose them;
- (d) provide for the duration and the suspension or cancellation of a licence, permit, approval or other authority for failure to comply with a term or condition of the bylaw or for any other reason specified in the bylaw;
- (e) provide for an appeal in respect of any matter referred to in bylaws, the body to decide the appeal and related matters;
- (f) prescribe forms or authorize them to be prescribed;
- (g) regulate any development, activity, industry, business or thing in different ways and may divide each of them into classes and regulate each class in different ways;
- (h) provide for any act or thing collateral or incidental to the exercise of a bylaw making power.