

1968 Bill 23

First Session, 16th Legislature, 17 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 23

An Act respecting Municipal Government

THE MINISTER OF MUNICIPAL AFFAIRS

First Reading

Second Reading

Third Reading

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BILL 23

1968

An Act respecting Municipal Government

(Assented to _____, 1968)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as *The Municipal Government Act*.

PART 1

INTERPRETATION

2. In this Act,

1. "by-election" means an election held to fill a vacancy in the office of mayor or councillor at a time other than a general election;
2. "business" includes business, trade, profession, industry, occupation, employment or calling and the providing of goods and services;
3. "conditional owner" means a person who is a lessee, licensee or permittee from the Government of Canada or the Province, of land or other property if the land or property is not exempt from assessment and taxation by reason of *The Municipal Taxation Act*;
4. "elector" means a person qualified to vote at an election or at the taking of a vote, as the case may be;
5. "general election" means an election held for all the members of a council;
6. "hamlet" means
 - (i) an area of land subdivided into lots and blocks as a townsite, a plan of which is registered in a land titles office, or
 - (ii) an area of land as defined by subclauses (i) and (iii) of clause 20 on which are erected improvements used for purposes other than farming purposes, or
 - (iii) an area declared by an order of the Minister to be a hamlet;

7. "hawker" or "pedlar" means any person who, whether as principal or agent,
 - (i) goes from house to house selling or offering for sale any merchandise or services, or both, to any person, and who is not a wholesale or retail dealer in such merchandise or services, and not having a permanent place of business in the municipality, or
 - (ii) offers or exposes for sale to any person by means of samples, patterns, cuts or blueprints, merchandise or services, or both, to be afterwards delivered in and shipped into the municipality, or
 - (iii) sells merchandise or services, or both, on the streets or roads or elsewhere than at a building that is his permanent place of business, but does not include any person selling,
 - (A) meat, fruit or other farm produce that has been produced, raised or grown by himself, or
 - (B) fish of his own catching;
8. "hospital" means a hospital approved by the Minister of Health under *The Alberta Hospitals Act*;
9. "judge" means a judge of the Supreme Court of Alberta or a judge of the district court in the judicial district within which a municipality is wholly or mainly situated;
10. "land" means land, tenements, hereditaments or any estate or interest therein and, without restricting the generality of the foregoing, includes growing timber but does not include minerals;
11. "Local Authorities Board" means the Board established by *The Local Authorities Board Act*;
12. "mayor" includes the reeve of a municipal district;
13. "Minister" means the Minister of Municipal Affairs;
14. "mobile home" means
 - (i) any vacation trailer or house trailer, or
 - (ii) any structure whether ordinarily equipped with wheels or not, that is constructed or manufactured to be moved from one point to another by being towed or carried and to provide living accommodation for one or more persons;
15. "money by-law" means a by-law which by this Act must be advertised and may be required to be submitted to a vote of the proprietary electors;
16. "municipal official" means

- (i) a municipal commissioner, manager, secretary, treasurer, assessor, solicitor, comptroller, engineer and any other official appointed by resolution or by by-law of the council, and
 - (ii) the holder of any other position or office designated as such by the council;
- 17. "municipal secretary" means, in the case of a city, the city clerk, and in any other municipality the person appointed as secretary by the council;
- 18. "municipality" means a city, town, village, summer village or municipal district;
- 19. "owner" means
 - (i) in the case of land, any person who is registered under *The Land Titles Act* as the owner of land, or
 - (ii) in the case of property other than land, any person who is in legal possession thereof;
- 20. "parcel" means
 - (i) any unsubdivided block or any lot, or any part of such a block or lot in any area of land of which a plan of subdivision is registered in a land titles office, or
 - (ii) in any case where a building has been erected on two or more lots or parts thereof, all such lots, or
 - (iii) where there is no such plan of subdivision, a quarter section of land according to the system of surveys under *The Alberta Surveys Act* or any other area the description of which has been approved by the proper land titles office, or
 - (iv) all the land forming part of any railway, irrigation or drainage right of way;
- 21. "prescribed" means prescribed by the Minister;
- 22. "proprietary elector" means an elector whose name appears on the assessment roll in respect of land liable to assessment and taxation for general municipal purposes;
- 23. "public utility" means any municipal revenue earning work or utility, and includes the municipal
 - (i) telephone system,
 - (ii) waterworks system,
 - (iii) bus lines or other transportation system,
 - (iv) irrigation system,
 - (v) systems for the distribution of gas, whether natural or artificial,

- (vi) electric generating plants, artificial light or electric power systems,
 - (vii) heating systems, and
 - (viii) sewers,
and the service or commodity supplied by any public utility;
24. "purchaser" means any person who has purchased or otherwise acquired land or other property within the municipality, whether he has purchased or otherwise acquired the same direct from the owner thereof or from another person, and has not become the owner thereof;
25. "shop" means any building or portion of a building, booth, stall or place where goods are exposed or offered for sale by retail or public auction, and includes barber shops and ladies hairdressing, manicuring and beauty parlors, garages, filling stations and service stations;
26. "special franchise" means every right, authority or permission whether exclusive or otherwise, to construct, maintain or operate, within a municipality, in, under, above or on or through or across any highway, road, street, lane, public place or public water within the jurisdiction of the municipality of any poles, wires, pipes, tracks, conduits, buildings, erections, structures or other things for the purpose of bridges, railways, bus lines or other transportation systems or for the purpose of conducting steam, heat, water, natural gas or electricity or any property, substance or product capable of being transported, transmitted or conveyed for the supply of water, heat, light, power, transportation, telegraphic, telephonic or other services;
3. (1) Where by this Act a certain day is fixed on which or by which certain things are to be done or proceedings had or taken and the day so fixed is a Sunday or other holiday, the things or proceedings shall be done, had or taken on or by the next day that follows the fixed day and is not a holiday.
- (2) If any thing to be done by a council or an official or employee of a municipality within a number of days or at a time fixed by or under this Act, cannot be or is not so done, the Minister, by order, from time to time, may appoint a further or other time for doing it, whether the time at or within which it ought to have been done has or has not arrived or expired, as the case may be.
- (3) Any thing done at or within the time specified in the order is as valid as if it had been done at or within the time fixed by or under this Act.

(4) Where by this Act a certain day is fixed on or by which certain things are to be done or proceedings taken, if it appears that the date was fixed having regard to an earlier fixed date on or by which certain other things are to be done or proceedings taken then, notwithstanding anything in this Act, if default is made in respect of the earlier date a like delay is allowed in respect of the later date.

4. Where a question or by-law is to be submitted or some other thing is to be done which council desires to submit to the electors at the time of a general election or by-election and it becomes unnecessary to hold a general election or by-election, then the council

- (a) may defer the submission of the question or by-law to the next general election or by-election, or
- (b) may submit the question or vote at such other time as the council fixes.

5. (1) When the boundary of a municipality is wholly or partly described by reference to the boundary of a township or section of surveyed land along which a road allowance runs, then, unless the description otherwise specifies, the side of the road allowance upon which monuments or posts are placed under any survey made pursuant to any Act of Canada or Alberta relating to surveys is the boundary, except in the case of correction lines, when the south side of the road allowance is the boundary.

(2) Where a street, lane or roadway situated in a municipality is the boundary of the municipality and the municipality acquires land for the widening of the street, lane or roadway, the land so acquired shall be deemed to be within the boundaries of the municipality.

(3) A road allowance between an Indian Reserve and a municipality shall be deemed to be in the municipality, notwithstanding anything to the contrary in this section.

6. An Indian Reserve is not a part of a municipality for any purpose whatsoever.

7. (1) Where this Act provides for the doing of any thing by petition, the petition shall consist of one or more pages each of which shall contain an accurate and identical statement of the purpose and objectives of the petition and

- (a) each signature thereto shall be witnessed by an adult person, who shall take an affidavit that to the best of his belief the persons whose signatures he has witnessed are qualified to vote at a general election, and
- (b) the address and occupation of each signator thereto shall be set out opposite his signature,

and, in addition, in any petition restricted to proprietary electors, the legal description of the property or other

qualifications entitling that person to be a proprietary elector shall be set out opposite his signature.

(2) In computing the number of petitioners on a petition there shall be excluded the name of any person

- (a) whose signature appears on a page of the petition which does not contain an accurate statement of the purpose and objective of the petition identical to the statement contained on all the other pages of the petition, or
- (b) whose signature is not witnessed, or
- (c) whose address and occupation, or either, are not set out or are incorrectly set out, or
- (d) in the case of a petition restricted to proprietary electors,
 - (i) who is not a proprietary elector, or
 - (ii) whose property or other qualification as a proprietary elector is not or is incorrectly described or set out,or
- (e) in the case of a petition restricted to electors, who is not an elector.

(3) A corporation or a church or other religious organization, the name of which appears on the last revised assessment roll as the owner, conditional owner or purchaser of land that is not exempt from taxation, may in writing authorize a resident representative to sign a petition on behalf of the corporation or church or other religious organization, as the case may be, and this section applies in that case.

(4) Every petition shall be filed with the municipal secretary who shall, in accordance with subsection (2), compute the number of petitioners that have signed the petition and determine the sufficiency thereof.

(5) Every petition shall have attached to it a signed statement of a person whose name appears upon the petition, stating that he represents the petitioners and that he is the person to whom the municipality may direct any enquiries with regard to the petition.

(6) No name shall be removed from a petition after it has been received by the municipal secretary.

8. When determining the residence of any person for the purpose of establishing the responsibility of a municipality under

- (a) *The Public Welfare Act*, or
 - (b) *The Child Welfare Act, 1966*, or
 - (c) *The Juvenile Court Act*, or
 - (d) *The Alberta Hospitals Act*,
- residence shall be deemed not to have been acquired in the

municipality by virtue merely of residence within a military area or camp under the jurisdiction of the Department of National Defence (Canada) and within the municipality.

9. For the purposes of this Act, the place of residence is governed by the following rules, as far as applicable:

- (a) the residence of a person is the true, fixed, permanent home or lodging place to which, when he is absent, he has the intention of returning;
- (b) a person does not lose his residence by leaving his home for a temporary purpose;
- (c) if a person leaves the municipality with the intention of making his residence elsewhere, he loses his residence within the municipality;
- (d) the place where a person's family resides shall be deemed to be his place of residence unless he takes up or continues his abode in some other place with the intention of remaining there, or elects such other abode as his residence, in which case he shall be deemed to be a resident of this other place;
- (e) the residence of a single person is the place where he occupies a room as a regular lodger, or to which he habitually returns not having any other permanent lodging place;
- (f) no person shall be deemed to have residence in more than one municipality;

and in the event of a person maintaining residences in more than one municipality, he shall be required to elect one residence for the purpose of this Act.

10. (1) All the provisions of this Act that apply to villages apply to summer villages, except that in a summer village

- (a) three councillors shall be elected annually,
- (b) an annual meeting for the discussion of village affairs shall be held in the summer village on the third Saturday in July,
- (c) the councillors shall be sworn in and assume office at the first meeting of the council which shall be held not later than the 31st day of August, at a place, time and date to be fixed by council, and shall continue in office until their successors are sworn into office, and
- (d) the appointment of an auditor shall be made not later than the 30th day of September in each year.

(2) If in any particular or in any case it appears to the Minister to be difficult or impossible to apply the provisions of this Act to summer villages, the Minister may, in his discretion alter any dates prescribed by this Act for the doing of any matter or thing, and may give such order or directions as are required in the circumstances.

(3) For the purpose of any other Act applying or having reference to a village, a summer village shall be deemed to be a village and the provisions of that Act apply to a summer village accordingly.

11. (1) The Lieutenant Governor in Council may make regulations providing for any matter not provided for or insufficiently provided for in this Act but any regulation so made ceases to have any effect after the last day of the next ensuing session of the Legislature.

(2) The Minister may make regulations prescribing forms to be used under this Act.

12. Notwithstanding anything in this Act, a councillor of a city may also be referred to as an alderman and any such reference is for all purposes valid.

PART 2

FORMATION, ALTERATION AND DISSOLUTION

13. (1) When a municipality is formed under this Part, the mayor, councillors and other electors of the municipality become a corporation with the name given the municipality in the order forming it.

(2) The mayor, councillors and other electors of any city, town, village, summer village or municipal district in existence immediately prior to the commencement of this Act are hereby continued as a corporation

- (a) with the same status, name and number, if any, and
 - (b) with all the powers, rights, duties and functions of a municipality under this Act,
- as if incorporated under this Act.

14. (1) The Lieutenant Governor in Council, by order, may:

- (a) form into a municipal district any part of Alberta not included in a city, town, new town, village or summer village;
- (b) upon receipt by the Minister of a petition
 - (i) signed by at least 50 per cent of the proprietary electors thereof, and
 - (ii) accompanied by a plan showing the proposed boundaries of the proposed summer village,form any summer resort into a summer village if the area that would be included in the summer village contains not less than 50 separate buildings, each of which has been occupied as a dwelling at any time during the six-month period preceding the receipt of the petition;
- (c) upon receipt by the Minister of a petition
 - (i) by at least 50 per cent of the persons who would be proprietary electors of the village, if a village were formed, and
 - (ii) accompanied by a plan showing the proposed boundaries of the proposed village,form any part of Alberta into a village if the area that would be included in the village contains not less than 75 separate buildings each of which has been continuously occupied as a dwelling for a period of not less than six months immediately prior to the receipt of the petition;
- (d) form a village into a town
 - (i) if the village contains over 1,000 inhabitants, and
 - (ii) if the council of the village has, by resolution, requested the change in status;

- (e) form a town into a city
 - (i) if the town contains over 10,000 inhabitants, and
 - (ii) if the council of the town has, by resolution, requested the change in status;
- (f) form a city into a town or a town into a village
 - (i) if the population in the municipality warrants such a change, or
 - (ii) if a majority of the proprietary electors of the municipality voting upon the question as to whether or not the status of the municipality should be changed are in favour of the change, or
 - (iii) if there has been a failure to elect a council, or
 - (iv) if the municipality has failed to carry out the requirements of this Act, *The Municipal Election Act*, *The Municipal Taxation Act*, or
 - (v) for any other reason considered adequate by the Lieutenant Governor in Council.

(2) Upon receipt of a request to form a municipal district, village or summer village, the Minister may cause a notice in the prescribed form to be posted up in three conspicuous places within the proposed municipality and to be published in two issues of a newspaper having a general circulation within the proposed municipality.

(3) Any person may, within 30 days from the date of the notice, file with the Minister objections to the formation of the proposed municipal district, village or summer village, but if during the period of 30 days, no objections are filed or if in the opinion of the Lieutenant Governor in Council any objections that are filed do not disclose sufficient reason against the formation of the municipality, the Lieutenant Governor in Council by order may form the municipal district, village or summer village.

(4) When an order is made forming a municipal district, the Lieutenant Governor in Council shall by that or any subsequent order divide the municipal district into electoral divisions.

(5) Where an order is made forming a municipal district, village or summer village, the Minister, immediately upon the order being published, shall make the necessary arrangements for the election of the council, including the setting of dates for nominations and election, if any, and the first meeting.

15. (1) The order forming a municipality

- (a) shall describe the boundaries of the municipality formed,
- (b) shall give a name to the municipality in one of the following forms:

- (i) "The Municipal District of
No.....";
 - (ii) "The Village of";
 - (iii) "The Summer Village of";
 - (iv) "The Town of";
 - (v) "The City of";
- whichever is applicable to the class of municipality formed, and
- (c) shall state the date upon which the order becomes effective.
- (2) The order shall be published in the *Gazette* and publication of the order is conclusive proof of the legal formation of the municipality and of the fulfilment of all conditions precedent thereto.
- (3) Any misnomer, misdescription or omission or other error in any order forming a municipality may be corrected by subsequent order, and the correcting order may be made effective as of the date of the original order or upon such other date as the subsequent order may specify.

16. When the order forming a municipality (hereinafter referred to as the "new municipality") is changing the status of an existing municipality (hereinafter referred to as the "old municipality") from one class of municipality to another:

- (a) the mayor of the old municipality continues as the mayor of the new municipality until his successor is sworn into office;
- (b) each other member of the council of the old municipality continues as a member of the council of the new municipality until his successor is sworn into office;
- (c) each officer and employee of the old municipality continues as an officer or employee of the new municipality with the same rights and duties until the council of the new municipality otherwise directs;
- (d) all by-laws and resolutions of the old municipality continue as the by-laws and resolutions of the new municipality, in so far as they are not inconsistent with this Act, until they are repealed or others are made in their stead by the council of the new municipality;
- (e) all taxes due to the old municipality shall be deemed to be arrears of taxes due to the new municipality and may be collected and dealt with by the new municipality as if it had imposed the taxes;
- (f) all rights of action and actions by or against the old municipality may be continued or maintained by or against the new municipality;
- (g) all property vested in the old municipality becomes vested in the new municipality and may be dealt with by the new municipality in its own name sub-

ject to any trusts or other conditions applicable thereto;

- (h) all other assets, liabilities, rights, duties, functions and obligations of the old municipality become vested in the new municipality and may be dealt with by it in its own name.

17. (1) The Lieutenant Governor In Council may by order dissolve a village, summer village or municipal district.

(2) An order made under this section shall be published in the *Gazette*.

(3) Upon the date specified in the order, the members of the council of the village, summer village or municipal district, and all officers and employees thereof, cease to have any further authority.

18. No misnomer, misdescription or omission in any order altering or dissolving a municipality suspends or impairs in any way the operation of this Act with respect to the matter misnamed, misdescribed or omitted and it may be corrected at any time by the authority making the order, and a correction so made is effective upon such date as is specified in the correcting order and may be made effective upon the date of the original order.

19. (1) The Lieutenant Governor in Council may, subject to *The Geographical Names Act*, alter the name or number, if any, of a municipality upon the petition of a majority of the council.

(2) A notice of the alteration shall be published in the *Gazette*.

(3) The seal used by the municipality before the alteration of its name or number continues to be the seal, until changed by the council.

(4) No change of name or number affects any obligation, right, action or property, incurred, established, done or acquired prior to the change of name or number.

(5) No proceedings, agreements, notices or documents are invalid or defective because of any incorrect use of mistaken designation of the name of the municipality so long as the name used indicates with reasonable certainty the municipality in question.

20. (1) Where a petition is presented to the Local Authorities Board,

- (a) by a majority of the registered owners of any territory adjacent to a municipality, or
- (b) by the council of a municipality with respect to any territory adjacent to the municipality, or

- (c) by the Minister in respect of any part or parts of an improvement district that he desires to have annexed to a municipality,

requesting that the territory be annexed to the municipality, the Board by order may annex the territory, or any part thereof, to and make it a part of the municipality.

(2) The Local Authorities Board may, without a petition and of its own motion, by order and after notice,

- (a) annex to any municipality, any territory adjacent thereto, and
- (b) annex any portion of a municipality to an adjoining municipality.

(3) The order may be made subject to such terms and conditions as to the Board seem proper, and in particular the order may

- (a) contain directions that the annexed territory be or be not subject to debentures already issued by the municipality, with respect to the area annexed, or the rate levied to meet such debentures,
- (b) contain directions that the annexing municipality assess the land in such territory upon any basis or principle of assessment that seems proper to the Board, and that the municipality continue to do so for a fixed term of years,
- (c) fix a maximum rate of taxation for the land in the territory for a fixed term, and
- (d) deal with and make any order respecting any by-laws for the protection of any rights of any person in the annexed area.

(4) An order made pursuant to this section shall be published in the *Gazette* and becomes effective upon the date named in the order or in the absence of any date therein upon the date of the publication of the order in the *Gazette* and such publication is conclusive proof of the fulfilment of all conditions precedent to the making of the order.

(5) Any misnomer, misdescription, omission or error in any order may be corrected by subsequent order and the correction so made is effective upon such date as is specified in the correcting order and may be made effective upon the date of the original order.

(6) Where the Board has issued an order under this section, any municipality affected thereby that is of the opinion the order has imposed on it a financial hardship may request the Lieutenant Governor in Council to take such measures as he considers requisite to remove any resulting hardship.

(7) This section applies to new towns.

21. No order made under section 20 affects or abrogates any existing contract or any existing right of or held by any municipality or person for the production, transmission, delivery or furnishing of water, gas, heat, sewer service, light, power, telephone or transportation to or for inhabitants or businesses in the annexed or excluded territories, as the case may be, but the council of the area affected by the order is upon a renewal of the utility contract being proposed, subject to the provisions of this Act respecting utility renewal or purchase.

22. Where all the lands within the boundaries of a municipality are annexed to or amalgamated with lands within the boundaries of another municipality,

- (a) the council of the municipality so annexed or amalgamated ceases to have or exercise any jurisdiction, power, duty or function, and
- (b) the term of office of the mayor and councillors of that municipality terminate,

upon the effective date of the annexation or amalgamation.

23. (1) When under this Act a municipality, or part thereof, hereinafter referred to as the "old municipality", is included in another municipality, hereinafter referred to as the "new municipality", either at the time of the formation of the municipality or subsequently thereto, the property, rights and liabilities of the old municipality or part thereof, including all taxes then due, pass to the new municipality and all remedies that were available for the collection of any such taxes due to the old municipality are available to the new municipality in all respects as though the taxes or arrears had originally been due to it.

(2) All questions arising over the division or apportionment of the property, rights and liabilities or otherwise of the old municipality, shall be decided finally and without appeal by the Minister, unless other provisions for the settlement or adjudication thereof have been made in this or any other Act or by order in council and the Minister may make such orders and directions as are necessary to give effect to his decision.

(3) Nothing in this section in any way prejudices the rights of the debenture holders.

PART 3

THE COUNCIL

24. (1) Every municipality shall have a council, the members of which shall be elected in accordance with *The Municipal Election Act*.

(2) The council of a municipality is a continuing body notwithstanding any general or other election.

(3) The council shall continue to have the same number of councillors until changed under this Act.

25. (1) Except as otherwise provided in this Act:

- (a) the council of a municipal district shall consist of such uneven number of councillors as the Lieutenant Governor in Council, by order, specifies, one of whom shall be reeve;
- (b) the council of a summer village shall consist of three councillors, one of whom shall be mayor;
- (c) the council of a village
 - (i) shall consist of three councillors, or
 - (ii) if the council of a village having a population of at least 500 persons so authorizes, by by-law, shall consist of five councillors, one of whom shall be mayor;
- (d) the council of a town shall consist of a mayor and six councillors;
- (e) the council of a city shall consist of a mayor and
 - (i) six councillors, or
 - (ii) such greater even number of councillors, not exceeding 20, as the council, after the first election in the city, authorizes by by-law.

(2) Where the number of councillors has been increased in a village or city

- (a) the number of councillors in a village may, by by-law, be decreased to three, and
- (b) the number of councillors in a city may, by by-law, be decreased to an even number being not less than six.

(3) Where the number of councillors for a city or village has been increased or reduced,

- (a) if the by-law is finally passed more than 30 days prior to nomination day for the next ensuing general election the by-law applies to the next ensuing general election, but
- (b) if the by-law was finally passed 30 or fewer days prior to nomination day for the next ensuing general election, the by-law does not apply to that general election.

(4) When a by-law increasing or decreasing the number of councillors becomes applicable, the councillors then in office continue to hold office until the first meeting of the council held after the general election to which the by-law is applicable.

Ward System

26. (1) A council of a city

- (a) may, of its own motion, or
- (b) shall, on receipt of a petition signed by such number of electors as represent at least 2 per cent of the population, submit to a vote of the electors a proposal to have councillors elected by wards.

(2) Where on the vote of the electors a majority of the electors voting vote in favour of the proposal, the council shall, by by-law, declare the ward system to be in effect.

(3) The by-law shall not be given effect to until the general election next following the year in which the by-law was finally passed.

27. (1) The council shall by the by-law under section 26

- (a) divide the city into not less than three nor more than 10 areas, to be known as wards, in such a manner that the number of electors residing in each ward is substantially equal, and
- (b) specify the number of councillors, being not less than two, to be elected to represent each ward.

(2) The by-law shall state a name or number by which each ward is to be known.

(3) Subject to subsection (1) the council may by by-law alter the boundaries of any or all wards or the number of wards.

28. (1) Where a ward system has been established in a city,

- (a) the council may submit to the electors a proposal to abolish wards and to revert to a system of nomination and election of councillors by a vote of the electors of the entire city, and
- (b) upon receipt of a petition signed by such number of electors as represent at least 2 per cent of the population, the council shall forthwith submit the proposal to abolish wards to a vote of the electors.

(2) Where a majority of the electors voting on a proposal of abolishing wards vote in favour of the abolition of the ward system, the council shall forthwith repeal the by-law establishing the ward system.

(3) Where the ward system is abolished, all councillors then holding office continue to hold office in accordance

with this Act until their offices become vacant through the effluxion of time.

Qualifications for Mayor and Councillors

29. (1) A person is not qualified to remain a member of the council if he

- (a) is convicted of an indictable offence punishable by death or by imprisonment for more than five years, or
 - (b) absents himself, without being authorized by a resolution of the council to do so, from the meetings of the council for three regular consecutive meetings, or
 - (c) ceases to be a resident of the municipality, or
 - (d) is convicted of making a false statement in his acceptance of nomination, or
 - (e) ceases to be a Canadian citizen or British subject, or
 - (f) uses information gained through his position as a member of a council to gain a pecuniary benefit either directly or indirectly, or
 - (g) is a judge of a court of civil jurisdiction, or
 - (h) is an undischarged bankrupt, or
 - (i) is a surety for an officer or employee of the municipality, or
 - (j) is the auditor of or an officer or employee of the municipality, or
 - (k) is indebted to the municipality for taxes or any other debt in default exceeding \$50, excluding therefrom
 - (i) any indebtedness for current taxes, and
 - (ii) any indebtedness for arrears of taxes for which he has entered into a consolidation agreement with the municipality, if he is not in default in the payment of any sum payable under the agreement,
- or
- (l) is a party to a subsisting contract with the municipality under which money of the municipality is payable or may become payable for any work, service, matter or thing, or
 - (m) has a pecuniary interest, whether direct or indirect, in any subsisting contract with the municipality under which money of the municipality is payable or may become payable for any work, service, matter or thing, or
 - (n) is a party to a contract for the purchase or lease of real or personal property from the municipality.

(2) Subsection (1) does not apply to a person by reason only

- (a) of his being a shareholder in a corporation having a contract or dealings with the council,
 - (i) unless he holds or there is held by himself and spouse, parents, children, brothers and sisters, more than 25 per cent of the issued capital stock of the corporation, or
 - (ii) unless the contract or dealings are for the building, construction or repair of a public work of the municipality,or
- (b) of his contracting with the council for the supplying to him of a service, utility or commodity that the council has statutory authority to supply, or
- (c) of his being interested in a publication in which official advertisements of the council appear or that is supplied to the council thereof at the usual rates, or
- (d) of his selling or leasing to the municipality, land or interest in land that the council has authority to expropriate, if
 - (i) the person has been the owner of the land for not less than three years, and
 - (ii) the amount of the compensation has been fixed by an award made under *The Expropriation Procedure Act*, or, if the amount of the compensation has been agreed upon, a judge of the district court upon an application made by and at the expense of the municipality concerned has certified in writing that the amount of the compensation is fair and reasonable,or
- (e) of the sale of goods, merchandise or services to the municipality or to persons contracting with the municipality and made at competitive prices by a dealer in those goods, merchandise or services incidental to and in the ordinary course of his business, or
- (f) of services that are rendered by any person to indigents who are residents of the municipality and for which the municipality is or may become liable to pay, or of services rendered by any person where the municipality has provided a subsidy to secure his services, or
- (g) of his being appointed to a position under *The Civil Defence and Disaster Act*, or
- (h) of professional services rendered by a barrister and solicitor to the municipality, if the charges for the services have been taxed under the Consolidated Rules of the Supreme Court of Alberta, or

- (i) of the receipt by him of a gratuity or allowance for services on a committee or board appointed by or responsible to the council, or
- (j) of his being a member of a co-operative association, or
- (k) of his being the vendor or purchaser or assignor or assignee of land bought or sold under *The Farm Purchase Credit Act, 1963*, or
- (l) of his being a party to a contract for the purchase or lease of real or personal property from the municipality entered into before he became a member of the council.

30. (1) A member of a council ceases to be qualified to remain a member of the council if he fails to comply with subsection (2) or (3).

(2) A member of a council shall not vote in the council

- (a) on any question
 - (i) affecting a private company of which he is a shareholder, or
 - (ii) affecting a public company in which he holds more than 1 per cent of the number of shares issued, or
 - (iii) affecting a partnership or firm of which he is a member, or
 - (iv) affecting a company of which he is a director, or
- (b) on a contract for the sale of goods, merchandise or services to which he is a party, or
- (c) on a question affecting his selling or leasing land or an interest in land to the municipality, or
- (d) on any question in which he has a direct or indirect pecuniary interest.

(3) When a member of a council is not entitled to vote by virtue of subsection (2), he shall so declare before discussion of the question and shall not participate in the debate and the abstention shall be recorded.

31. Where a member of a council is not qualified under section 29 or 30 to be a member of the council

- (a) the member shall forthwith resign his seat on the council, and
- (b) if he does not so resign, the council may, by resolution declare him to be disqualified, or may apply to a judge for an order declaring his seat vacant.

32. (1) Upon the *ex parte* application of an elector who

- (a) files an affidavit showing that a member of a council never was or has ceased to be qualified as a member of the council, and

- (b) pays into court the sum of \$50 as security for costs to abide the event of the application,
- a judge of the Supreme or a district court may direct that there be served upon that member notice of an application for an order declaring him to be disqualified to be a member of the council.
- (2) Upon hearing the application and such evidence, either oral or by affidavit, as he requires the judge
 - (a) may, by order, declare the member to be disqualified, or
 - (b) may refuse the order,
 and, in either case, with or without costs.
 - (3) Where a judge declares a member of a council disqualified his seat on the council thereupon becomes vacant.
 - (4) Where a judge declares a member of a council disqualified for a contravention of clause (f) of section 29, he may order the disqualified member to pay the total amount of any profit so made to the municipality.

33. (1) Where a person is declared disqualified pursuant to section 31 or 32 and appeals therefrom he remains disqualified until the final determination of the appeal.

- (2) If, upon the final determination of the appeal, the disqualification is set aside,
 - (a) the court shall reinstate the member of the council for any unexpired portion of the term of office for which he was elected and require any person who had been elected to fill the balance of that term to vacate the office, but
 - (b) if the term of office for which the member was elected has expired, he shall not be reinstated, but he is eligible to be elected at the next ensuing election in the municipality, if otherwise qualified.

Term of Office

34. (1) At a general election in a municipality, other than a summer village, the mayor and councillors shall be elected for a three year term to hold office

- (a) commencing at the first meeting of the council following that general election, and
 - (b) unless their office is sooner vacated, continuing to the first meeting of the council following the next ensuing general election.
- (2) A person elected to a council to fill a vacancy caused otherwise than by the effluxion of time holds office for the balance of the period his predecessor would have held office, had the predecessor continued in office.

(3) The terms of office of persons elected to the council at the first election in a newly formed municipal district,

village or summer village expire at the first meeting of the council following the first general election in the municipal district, village or summer village.

35. (1) A majority of the whole council is necessary to form a quorum.

(2) No act or other proceeding of the council that is not adopted at a regular or special meeting of the council at which a quorum is present is valid or binding on any person.

(3) The proceedings of a council or of any committee thereof are not invalidated by any vacancy among its members or by any defect in the appointment at a meeting of any member or by the disqualification of any member thereon, so long as a quorum remains in office.

36. The council may make rules and regulations for calling meetings, governing its proceedings and the conduct of its members, appointing committees and generally for the transaction of its business.

Meetings of Council

37. The organizational meeting of the council shall be held annually, but no later than six weeks following the date specified in *The Municipal Election Act*

(a) for the receiving of nominations for councillor in a general election, or

(b) in any year in which a general election is not required to be held, the date specified for receiving nominations if a general election were held that year,

at a time and place to be fixed by the municipal secretary and the secretary shall give written notice of the day, time and place of the meeting to each member of the council in the manner prescribed by subsection (4) of section 41.

38. (1) The council, at its first meeting following the date of the general election, and periodically thereafter at such intervals as the council may determine, shall elect one of its number as deputy mayor.

(2) When the mayor, through illness, absence or other cause, is unable to perform the duties of his office, or when the office is vacant, the deputy mayor has all the powers, and shall perform all the duties, of the mayor during his inability or absence.

(3) When both the mayor and the deputy mayor, through illness, absence or other cause, are unable or unwilling to perform the duties of the office, the council may appoint an acting mayor.

(4) The acting mayor shall hold office for such time as the council may fix and has all the powers and shall perform all the duties of the mayor during such time.

39. Every member of a council shall make and subscribe the official oath prescribed by *The Oaths of Office Act* before entering upon the duties and shall deposit the oath with the municipal secretary.

40. (1) A council shall hold as many meetings in each year as are considered necessary to adequately deal with the business of the municipality.

(2) A council at any meeting at which all the members of the council are present, may decide to hold regular meetings of the council and the resolution shall state the day, hour and place of every such meeting and no notice of any such meeting is necessary.

41. (1) In the case of a city or town, the mayor may call special meetings of the council whenever he considers it expedient to do so, and he shall do so when requested in writing by a majority of council.

(2) In the case of a village or summer village, a special meeting shall be called by the secretary when required to do so by the mayor or a majority of the members of the council.

(3) In the case of a municipal district, a special meeting shall be called by the secretary when required to do so by the reeve or a majority of the members of the council.

(4) Written notice of a special meeting stating the time and place at which it is to be held and stating in general terms the nature of the business to be transacted thereat, shall be given to each councillor

(a) in the case of a city, town or village by delivering the notice to the council member at his residence or place of business not less than 24 hours prior to the meeting, and

(b) in the case of any other municipality by mailing the notice to the council member's address at least six clear days before the day of the meeting or by personally delivering the notice to him or in his absence from his residence, to any adult person thereat, at least three clear days before the date of the meeting.

(5) The mayor may call a special meeting of the council upon such shorter notice, either verbal or written, as he considers sufficient, if at least two-thirds of the members of the council give their consent in writing to such notice before the commencement of the meeting.

(6) No business other than that stated in the notice shall be transacted at any special meeting of council, unless all the

members of the council are present, in which case, by unanimous consent any other business may be transacted.

42. (1) The council shall hold its meetings openly and no person shall be excluded therefrom except for improper conduct.

(2) The person presiding at any meeting may cause to be expelled and excluded any person who has been guilty of improper conduct at the meeting.

(3) Notwithstanding subsection (1), where a majority of the members present are of the opinion that it is in the public interest to hold a committee meeting of the whole or part of the council on any subject in private, a council may, by resolution, exclude any person or persons from the meeting, but it has no power at such a committee meeting to pass any by-law or resolution apart from the resolution necessary to revert back to an open meeting.

43. (1) A council may appoint standing or special committees consisting of one or more of its members and may delegate to any such committee

- (a) any matter for consideration or inquiry, and
- (b) any of the duties and powers imposed and conferred upon the council by this Act, except the powers
 - (i) to borrow money, or
 - (ii) to pass a by-law, or
 - (iii) to enter into a contract.

(2) A committee to which a duty or power is delegated pursuant to subsection (1) may exercise or perform it in like manner and with the same effect as the council.

44. (1) A council may by by-law provide

- (a) for the appointment of an executive committee which may be comprised of
 - (i) members of the council, or
 - (ii) members of the council and officials of the municipality,and
- (b) for the delegation to the executive committee the power to make decisions or orders, enter into contracts, execute agreements or documents and to affix the municipal seal thereto.

(2) All decisions, orders, contracts, agreements and documents made or executed by the executive committee are as valid and enforceable as if made directly by the council that delegates such powers.

(3) Every order, contract, agreement or document made or executed under this section shall be signed by the municipal secretary.

45. (1) The mayor, when present, and every councillor present shall vote on every matter

- (a) unless the mayor or councillor is excused by resolution of the council from voting, or
- (b) unless disqualified from voting by reason of pecuniary interest,

and the municipal secretary shall, whenever a recorded vote is demanded by a member of the council, record in the minutes the name of each member of the council present and whether the member voted for or against the matter.

(2) Any by-law or resolution upon which there is an equality of votes shall be deemed to be decided in the negative.

Remuneration

46. (1) The mayor may be paid such remuneration as may be fixed by the council.

(2) A council may provide for the payment to the members of the council such remuneration, either annual or otherwise, for attending the meetings of the council and the committees thereof or for assuming or performing any additional duties.

(3) A council may provide for the payment of reasonable allowances for travelling and for subsistence and out of pocket expenses incurred in attending meetings affecting the municipality, which shall be paid to members in the manner and at the rates provided by the resolution.

Duties of Mayor

47. (1) The mayor is the chief officer of the municipality and shall

- (a) preside at all meetings of the council whenever he is present,
- (b) cause the laws governing the municipality to be executed,
- (c) supervise and inspect the conduct of all officials of the municipality in the performance of their duties,
- (d) cause all negligence and carelessness and violation of duty to be prosecuted and punished, as far as it is within his power to do so, and
- (e) communicate from time to time to the council all such information and recommend such measures that he considers will better the finances, health, security, cleanliness, comfort, ornamentation and prosperity of the municipality.

(2) The mayor is *ex officio* a member of all boards, associations, commissions, committees or other organizations to which the council has the right to appoint members, pursuant to this Act and the mayor when in attendance,

possesses all the rights, privileges, powers and duties of other members, whether elected or appointed.

Vacancies

48. (1) The mayor of a municipality who has been appointed to his office by the council may resign his position as mayor while retaining his seat on the council.

(2) The mayor or any councillor may resign his seat at any time by giving written notice to the municipal secretary who shall place the resignation before the next meeting of the council.

(3) A resignation takes effect and the seat becomes vacant upon the date the written notice of resignation is received by the municipal secretary.

49. (1) When the office of mayor becomes vacant by death, resignation, forfeiture or otherwise, the council shall forthwith appoint one of the councillors to fill the position until the next general election, but a vacancy shall be deemed not to occur among the councillors by reason of the appointment unless the number of councillors remaining is reduced to the point where a by-election is required, in which event the appointment of a councillor to the position of mayor is temporary until a by-election is held at which the vacancy in the office of mayor and any other vacancy on the council are filled.

(2) When a councillor is elected by the council to fill the office of mayor pursuant to subsection (1), then

- (a) upon a mayor being elected by the electors, or
- (b) upon the former mayor being reinstated in the office of mayor,

the councillor so appointed reassumes his office as councillor if the term of his office has not then expired.

50. When in a municipality having a council of six or more members a seat or seats in the council become vacant by death, resignation, forfeiture or otherwise, the council shall make provision to fill the vacancy or vacancies by the holding of a by-election for that purpose except that

- (a) during the two-year period immediately following a general election a by-election need not be held if there is only one vacancy on the council, and
- (b) during the third year following a general election a by-election need not be held unless the number of vacancies on the council reduces the council to a number less than one more than the quorum of the council.

51. (1) When a by-law to increase the number of councillors is passed pursuant to section 25 during the two-year period following a general election, a by-election shall be held to fill the vacancies.

(2) If the by-law is passed during the third year following a general election a by-election need not be held to fill the vacancies.

52. In a municipality having a council of five members or less, the council shall provide for the filling of all vacancies which occur prior to the last six months of the term.

53. (1) When the number of members of the council required by this Act is for any reason not nominated or elected, the Minister

- (a) may appoint some person or persons to fill the vacancies caused thereby, or
- (b) may, for the purpose of filling the vacancies, direct that an election be held under *The Municipal Election Act*, and appoint a returning officer for that purpose.

(2) Where the provisions of *The Municipal Election Act* cannot be conveniently applied to the election, the Minister may make regulations governing the time and conduct of and the procedure at or otherwise relating to the election.

PART 4

OFFICERS AND EMPLOYEES

Municipal Secretary

54. (1) Every council shall, at its first meeting after the formation of the municipality or as soon thereafter as may be practicable, by by-law appoint a municipal secretary and prescribe his duties.

(2) When a vacancy occurs in the office of municipal secretary, the council shall forthwith make arrangements to fill the vacancy.

(3) When a municipal secretary is appointed the municipality shall forthwith advise the Minister in writing of the appointment.

55. Notwithstanding any other duties the municipal secretary shall

- (a) attend all regular and special meetings of the council and shall in the English language truly record in the minute book, without note or comment, all resolutions, decisions and other proceedings of the council,
- (b) enter in the minutes of every meeting the names of the members of the council present at the meeting,
- (c) transcribe into a suitable register and have custody of all by-laws and, having seen to their proper completion, preserve and keep safe the originals thereof,
- (d) take charge of and keep on record all other books, papers, accounts, plans, maps, correspondence and any other documents committed to his charge by the council and deliver them to his successor or such other person as the council may designate upon his ceasing to hold office,
- (e) faithfully prepare and transmit to the Minister such statements and reports and such other information in regard to the municipality as may be required by the Minister and in such form as the Minister may direct,
- (f) call special meetings or other meetings of the council in the manner provided in this Act,
- (g) when required to do so by an inspector of the Department of Municipal Affairs, produce the minute and other books and all papers and records of whatsoever kind in his possession,
- (h) advise the Minister of the names and addresses of the persons elected as councillor and mayor within five days of the holding of any general or special election, and

- (i) have custody of the corporate seal of the municipality.

Treasurer

56. (1) The council shall, by by-law, appoint a person to be treasurer and may, if it considers it advisable, combine the duties of treasurer with those of another office.

- (2) Unless the council otherwise directs, the treasurer
 - (a) shall collect, receive and safely keep all moneys belonging to or accruing to the municipality and issue or cause to be issued receipts therefor,
 - (b) shall deposit or cause to be deposited daily or as often as the council may direct all moneys received by him in a chartered bank or treasury branch designated by the council,
 - (c) may, with the approval of the council, authorize any department of the municipality to deposit directly the moneys it receives,
 - (d) shall pay all accounts which are a proper charge against the municipality and for which payment has been properly authorized either in the estimates of expenditure or by resolution of the council, and
 - (e) shall, unless otherwise provided by resolution of the council, together with the mayor or such other person as the council may appoint, sign all necessary cheques.

57. The council by resolution may

- (a) authorize the mayor and treasurer to issue each week, fortnight or month, as the case may be, a single cheque covering the municipality's payroll for deposit to a payroll account upon which the wage cheques of municipal employees may be issued with the signature of the treasurer alone,
- (b) authorize the treasurer alone to sign and issue cheques for refund of deposits, and
- (c) authorize the treasurer alone to sign and issue cheques covering disbursements authorized under any plan of social welfare in force in the municipality.

58. (1) The treasurer shall maintain such records as the council requires him to keep.

(2) The treasurer shall submit to the council monthly or at such other interval as the council may prescribe a correct statement of the moneys standing to the credit or debit of the municipality.

59. Any signatures required under sections 56 and 57 may be printed, lithographed or otherwise mechanically reproduced if so authorized by resolution of the council.

60. The treasurer may delegate to such other municipal official as he considers appropriate the right to disburse moneys from an imprest account.

61. (1) The treasurer of every municipality, other than a city, shall complete and make ready for the auditor not later than January 15 in each year the books, records and accounts of the immediately preceding year.

(2) The treasurer of a city shall complete and make ready for the auditor not later than March 31 in each year the books, records and accounts of the immediately preceding year.

62. (1) Every municipality, other than a city, shall cause to be prepared by the first day of February an annual financial statement

(a) in the form prescribed by the Minister, or

(b) if no form is prescribed in a form acceptable to the council,

of the financial transactions of the municipality of the immediately preceding year.

(2) Every city shall cause to be prepared the statement referred to in subsection (1) no later than the 15th day of April.

63. (1) The treasurer of every city shall not later than the last day of May in each year and the treasurer of every other municipality shall not later than the last day of February in each year cause the financial statements or a synopsis thereof and the accompanying auditor's report to be published in such manner as the council considers advisable in order to give such information to the ratepayers concerning the financial affairs of the municipality as the council considers reasonable and proper.

(2) The council may provide for supplying of a printed copy of the abstract or auditor's report and may provide for the sale thereof at such price as the council may fix.

Auditor

64. (1) The council shall not later than April 1st in any year appoint one or more auditors to examine the financial statements of the municipality and of every administrative body handling municipal funds and for which no statutory audit provision is made.

(2) The appointment of an auditor may be effective from year to year, but no appointment shall be made for a period exceeding five years.

(3) The secretary shall

(a) in writing advise the auditor of his appointment within 30 days of the appointment, and

(b) send a copy of the appointment to the Minister.

(4) If the council appoints a different auditor or auditors, it shall advise the former auditor or auditors in writing prior to April 1st of the appointment.

(5) A person appointed as auditor may be reappointed by a council at the conclusion of the five-year period referred to in subsection (2).

(6) Where the position of auditor becomes vacant by death, resignation or otherwise, the council shall forthwith appoint another auditor or auditors to fill the position.

(7) No person appointed as auditor shall hold any other office in the municipality of which he is the auditor.

65. (1) The auditor has at all times the right of access to any and all of the records, including the books, documents, accounts, vouchers, receipts, investment securities, debentures and matured debentures paid of the municipality or other administrative body handling municipal matters or funds.

(2) The auditor is entitled to receive from members of the council, any administrative body handling municipal funds, or any official or employee of the municipality and any other person any information or explanation necessary for the performance of his duties.

66. (1) The auditor shall make such examination as will enable him to report to the council.

(2) The auditor shall make a report to the council on the financial statements of the municipality and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the municipality and the results of its operations during the immediately preceding year, in accordance with generally accepted accounting principles applied on a basis consistent with that of the previous year.

(3) In addition to the examination and reports required by this section,

(a) the Minister or the council may at any time require such further examinations and reports from the auditor as may be considered necessary, or

(b) the auditor may on his own initiative make any further examinations or reports as he considers advisable,

and in any such case the provisions of this section apply *mutatis mutandis*.

67. The auditor in his report shall make such statements as he considers necessary in any case where

(a) the financial statement of the municipality is not in agreement with the accounting records, or

- (b) the financial statement is not in accordance with the requirement of this or any other Act or by-law or resolution of the council, or
- (c) he has not received all the information and explanation he has required, or
- (d) proper accounting records have not been kept so far as appears from his examination.

68. (1) Prior to March 31st in each year all fidelity bonds or securities required under section 82 for the faithful performance of employees shall be produced to the auditor and he shall report any inadequacies therein to the council.

(2) The auditor shall, in his discretion, report in writing to the commissioners, the manager or the council and the Minister every defalcation or irregularity dealing with the assets, liabilities, accounts, funds or financial obligations of the municipality or any other administrative body of the municipality which come to his attention.

(3) The council shall upon receipt of a report under subsection (2) immediately take such steps as it considers necessary to recover any misappropriated or misused funds or to institute proceedings for prosecution or both depending upon the circumstances involved.

69. (1) When any expenditure made or contemplated to be made is believed by the auditor

(a) to be lacking of proper authority under this or any other Act, or

(b) to be irregular,

he shall forthwith notify in writing, or in his report, the commissioners, manager or the council, as he considers proper, of the lack of authority for the expenditure or the reasons he considers the expenditure to be irregular.

(2) Upon receiving a report under subsection (1) the council shall take such steps as it considers proper and necessary in the circumstances.

70. (1) During the course or at the conclusion of his examination of the financial statements, the auditor shall cause to be sent out such number of notices as he considers adequate to persons shown in the records of the municipality to be indebted for

(a) arrears of taxes, and

(b) arrears of utility or other accounts.

(2) The notices referred to in subsection (1) shall contain a statement of the amount of taxes or other amount owing by the person to whom the notice is addressed, together with a request that if the amount shown on the notice is incorrect the person shall immediately notify the auditor as to the discrepancy.

71. (1) In the case of all municipalities, except cities, the auditor shall forward to the Minister not later than the 15th day of February in each year a copy of the financial statement.

(2) In the case of cities, the auditor shall forward to the Minister not later than the first day of June in each year a copy of the financial statement.

72. The council may authorize an auditor to perform additional duties of an accounting nature, as may be agreed upon.

73. Notwithstanding anything in this Act, no person is ineligible for appointment as auditor by reason only of his having or having had any interest in a contract for the supply of electronic data processing service to or for a municipality.

Comptroller

74. The council shall make provision for the proper maintenance of all books and records of the municipality and for that purpose may appoint a comptroller and designate his duties.

Municipal Engineer

75. If a council appoints an official with the title of municipal engineer, he shall be a member of The Association of Professional Engineers of Alberta.

Municipal Solicitor

76. (1) A council may retain a member of The Law Society of Alberta, in good standing, as the municipal solicitor on a fee basis, or may appoint a member of The Law Society of Alberta, in good standing, as the municipal solicitor on a full-time basis, in which event it may determine his duties and remuneration and the terms of his employment.

(2) Notwithstanding that the remuneration of the municipal solicitor is paid wholly or partly by salary, the municipality is entitled to tax and collect lawful costs in all actions and proceedings to which the municipality is a party.

Assessor

77. (1) The council of every municipality shall appoint an assessor and prescribe his duties.

(2) When an assessor is appointed the municipal secretary shall forthwith in writing advise the Minister of the appointment.

Other Officials

78. The council may provide for the appointment of such other officials as it considers necessary for carrying into effect this Act or any other Act affecting municipalities or any municipal by-law.

79. The council may by resolution appoint an assistant to any municipal official and the assistant has

- (a) all such powers and duties as may be delegated to him by that official, and
- (b) all the powers of the official during his absence or inability to act.

80. (1) The council may by resolution appoint some person to act in place of any municipal official who is absent or is incapable of performing his duties, or during a temporary vacancy in the office.

(2) When a municipal official is absent or incapable of performing his duties or during a temporary vacancy in the office, the municipal commissioners or the manager, if any, or the mayor may, in writing, appoint some person to act in place of any official until the next meeting of the council.

(3) During the period of the absence, incapability or vacancy, a person appointed under subsection (1) or (2) has all the powers of the official.

81. (1) A municipal official, other than a commissioner or manager, holds office during the pleasure of the council or according to the terms expressed in the by-law or resolution by which he is appointed and upon his services being terminated except for cause, the council shall grant to that official one month's notice or one month's pay in lieu of notice and

- (a) may grant up to three months' notice or three months' pay in lieu of notice, and
- (b) in the event that that official has served for a period of at least 15 years, may grant him up to 12 months' or one year's pay.

(2) In addition to the duties assigned to him by this Act, or by the general law of Alberta, a municipal official shall perform such other duties as may be required of him by the by-laws or resolutions of the council.

82. (1) The council shall require a municipal official or employee to give such security as is considered expedient for the faithful performance of his duties.

(2) The bonds or policies of guarantee of a corporation with power to grant securities, being bonds or policies for the integrity and faithful accounting of public office or

servants or persons occupying positions of trust, may be accepted instead of or in addition to the personal bond of an official or employee and any premiums payable in respect of bonds and policies of guarantee shall be paid by the municipality.

(3) Every member of a council who knowingly permits a municipal treasurer or any other official whom the council has required to furnish a bond, to enter upon his duties or discharge his duties at a time when he is not bonded or guaranteed is, to the extent of the sum in which the treasurer or other official should have been bonded or guaranteed, jointly and severally liable for any default of the treasurer or other official, except only any councillor who appears by the minutes of the council to have voted in favour of a resolution prohibiting the treasurer or such other designated official from entering upon or discharging his duties at a time when he is not bonded.

83. No member of the council is eligible for appointment to any municipal office other than that of mayor or deputy mayor or acting mayor.

84. All employees appointed by the council hold office during the pleasure of the council or as expressed in their appointment.

85. (1) Every official of the municipality shall, before entering upon the duties of his office, make and subscribe the official oath prescribed by *The Oaths of Office Act*.

(2) The official oath subscribed shall within eight days be deposited in the office of the municipal secretary who shall preserve it among the municipal records.

86. (1) The mayor may suspend any official or employee, other than a municipal commissioner or municipal manager, and he shall forthwith report the suspension and the reasons therefor to the council not later than the next meeting thereof.

(2) The council may reinstate the official or employee suspended or may dismiss the official or employee.

(3) When the suspended official or employee is dismissed by council, the employee or official shall not receive any salary or remuneration from the date of his suspension by the mayor unless the council, by resolution, otherwise determines.

(4) The council may by resolution, suspend a municipal manager or commissioner, but shall give such official a written statement of the reasons therefor and afford such official with a reasonable opportunity to be heard before the council in person, or through his solicitor or agent.

(5) No municipal manager, commissioner, secretary, treasurer, secretary-treasurer or department head shall be

discharged without first being furnished with a written statement of the reasons therefor and the council shall afford such person a reasonable opportunity to be heard before the council in person, or through his solicitor or agent.

Municipal Commissioners or Manager

87. (1) A council may, by by-law, provide for the delegation of any or all of its executive and administrative duties and powers to one or more municipal commissioners or to a municipal manager.

(2) The municipal commissioners or the municipal manager, as the case may be, shall exercise the powers and duties set out in this Act, and such other powers and duties as may be vested, confirmed or delegated by by-law or by resolution of the council.

88. Where a by-law provides for the appointment of a commissioner or a manager he shall be appointed by and hold office during the pleasure of the council or according to the terms expressed in the by-law or resolution by which he is appointed and shall not be dismissed except upon a two-thirds majority vote of all the members thereof.

89. The mayor is *ex officio* a commissioner in addition to those appointed by the council.

90. (1) No person having an interest in a contract with the municipality shall be appointed a municipal commissioner or municipal manager, and neither the municipal manager or a municipal commissioner shall during his term of office, have an interest, direct or indirect in such a contract.

(2) If a municipal commissioner or municipal manager, as the case may be, knowingly acquires such an interest, he may be immediately dismissed without notice and without compensation.

(3) No person is disqualified from holding the office of municipal commissioner or municipal manager by reason of his being a user or consumer of a public utility supplied by the municipality, or by reason of any dealing or contract with the municipality with reference to the supply of any public utility to him.

91. The council shall fix the annual salary and fringe benefits, including pensions, sick leave and other pre-requisites to be paid or provided for each of the municipal commissioners or to the municipal manager, as the case may be, and in the case of termination of the appointment of a municipal commissioner or the municipal manager, except for cause or pursuant to subsection (2) of section 90, he shall receive three months' notice, or in lieu thereof, one-

quarter of his annual salary, except that when that official has served for a period exceeding 15 years, he may be granted not more than 12 months' notice or salary in lieu of notice, as the council may decide.

92. When a municipal commissioner or municipal manager, as the case may be, is incapable through illness, absence or other cause, of performing the duties of his office, the council may appoint a substitute who during that illness, absence or other incapacity has and may exercise all the powers of the commissioner or manager.

93. Unless the context otherwise requires, wherever in this Act or any other Act there is a reference to municipal commissioners or to their powers, the reference shall be deemed to be a reference to the municipal manager, or to the municipal commissioners, as the case may be, if any, and if there is no by-law providing for either municipal commissioners or a municipal manager, the reference shall be deemed to be a reference to the mayor.

Board of Police Commissioners

94. (1) A council, by by-law, may provide for a board of police commissioners consisting of one or more persons to be appointed by the council.

(2) In case of inability to act for over two months due to absence from the municipality or illness of any person appointed by the council under subsection (1), the council may appoint a person to act during the inability of the member.

(3) The council may provide for the payment of a reasonable remuneration to each member of the board for his services, or to any person appointed under subsection (2) to fill a vacancy.

(4) The council may by the same or another by-law provide for the indemnification of the board and of the members of it against all claims and actions arising out of the exercise of the powers granted to it pursuant to the by-law.

95. (1) The council by by-law may prescribe

(a) the powers and duties to be exercised by the board, and

(b) the rules and regulations governing the proceedings of the board and the conduct of its meetings, and the board shall have sole charge and control of the powers and duties delegated by the council to the board.

(2) The by-law passed by the council may provide

(a) that the police force shall consist of a chief of police and as many constables and other officers and assistants as may be considered necessary from time to time by the board,

- (b) that the board shall appoint the members of the police force, who shall hold office during pleasure,
- (c) that the board shall have sole charge and control of the force and of the police department, and
- (d) that the board from time to time may make such regulations as it may consider expedient for the government of the force, for preventing neglect or abuse and for rendering the force efficient in the discharge of its duties.

96. (1) If authorized to do so by by-law of the council, the board may pass by-laws in respect of all matters within its powers, and any such by-law shall be deemed to be sufficiently authenticated by the signature of the chairman.

(2) A copy of any such by-law, either written or printed, purporting to be certified a true copy by a member of the board shall be received in evidence in all courts without proof of the signature or official character of the member who signed it.

(3) Where the board has authority to make by-laws it may in and by such by-laws attach penalties for the infraction thereof, and such penalties may be recovered by way of summary conviction before a magistrate of the municipality or before a justice of the peace residing in or near the municipality.

(4) Where the board has the authority to make by-laws it may by by-law delegate to the chief of police the right to maintain discipline in the force by applying the penalties set in the by-law against members of the force guilty of breaches of duty or discipline or of the requirements of any rules applicable to the members of the police force either by fine or by additional duty or deprivation of off-duty time.

(5) When a chief of police has imposed a fine for a breach of duty or discipline upon a member of the force he may direct that in absence of payment of the fine it may be deducted from the payment of the members in a lump sum or by instalments as the chief of police may direct.

97. Each member of the police force, before entering upon his duties, shall take and subscribe the official oath prescribed by *The Oaths of Office Act*.

98. Subject to the paramount authority of the board, the members of the police force

- (a) shall obey all lawful directions and be subject to the orders of the chief of police, and
- (b) are charged with the duty of preserving the peace, apprehending offenders and generally with the performance of all duties that by law devolve upon peace officers.

99. (1) A member of the force may be suspended by the chief of police, who shall forthwith report the suspension to the board, or if there is no board, to the council.

(2) A member who is suspended or dismissed is entitled to be heard in person or through his agent before the board or the council, as the case may be.

(3) The board or the council, as the case may be, may dismiss or reinstate any member of the force suspended by the chief of police.

100. (1) The board or the council, as the case may be, may investigate the conduct of any member of the police force either of its own motion or in connection with a charge of negligence or misconduct or in case of suspension.

(2) For the purpose of the investigation the board or the council, as the case may be, has all the powers and authority for compelling witnesses to attend and testify under oath concerning the subject matter of the investigation, for preserving order and for punishing for contempt that may be exercised by a magistrate or justice of the peace in respect of criminal or quasi-criminal matters being heard before him.

101. (1) Subject to the prior approval of the Lieutenant Governor in Council, the council may enter into arrangements with the Government of Canada for the use or employment of the Royal Canadian Mounted Police, or any portion thereof, in policing the municipality and in enforcing the laws of the municipality, and may, in any such arrangement, agree upon and determine the amount of money to be paid by the municipality for such services.

(2) Where a municipality enters into such arrangements sections 94 to 100 do not apply.

PART 5
POWERS AND DUTIES

General

102. (1) Every city, town and village shall at a place named by the council have an office within the corporate limits of the city, town or village.

(2) Every municipal district shall have an office at a place selected by the council.

103. (1) The powers and duties imposed or conferred upon a municipality by this or any other Act are vested in and are exercisable by the council of the municipality.

(2) Except as provided in this or any other Act, a council may exercise and perform the powers and duties imposed or conferred on it either by resolution or by by-law.

(3) A council may exercise or perform by by-law any power or duty that is stated in this or any other Act to be exercisable by resolution.

104. The jurisdiction of a council is confined to the territorial limits of the municipality and to any property owned, controlled or managed by the municipality outside its limits, except where further jurisdiction beyond the limits is expressly given to a council by this or any other Act.

105. Except as otherwise provided in this Act, every resolution or by-law shall be passed by a majority vote of the members present at any duly constituted meeting of the council.

106. A by-law or resolution that is inconsistent with any Act in force in the Province or with the regulations made pursuant to such an Act has no validity in so far as it is so inconsistent.

107. (1) Every by-law shall be under the seal of the municipality and shall be signed by the mayor or person presiding at the meeting at which the by-law is finally passed and by the municipal secretary or by the person acting as municipal secretary at the meeting.

(2) In the event of the inability, neglect or failure of one or both of the parties named in subsection (1) to sign, the council by resolution in any particular case, may authorize such persons as it designates in the resolution to sign the by-law.

108. Every by-law shall have three distinct separate readings before it is finally passed, but not more than two readings of a by-law shall be had at any one meeting unless

the members present unanimously agree to give the by-law third reading.

109. (1) A by-law is valid and binding, notwithstanding any lack of compliance with a provision of this Act

- (a) either in substance or in form, or
 - (b) in the proceedings prior to the passing of the by-law, or
 - (c) in the manner of passing the by-law,
- unless an application to quash it is made within two months next after the final passing of the by-law.

(2) Notwithstanding subsection (1), in the case of a by-law requiring assent of the electors, where the by-law has not been submitted to, or has not received assent of the electors, an application to quash the by-law may be made at any time.

110. Where any council has authority to direct by by-law that any matter or thing be done by any person, the council may also by the same or another by-law, direct that in default of its being done by the person, the matter or thing shall be done at the expense of the person in default, and the municipality may recover the expenses thereof with the costs, by action in any court of competent jurisdiction or in like manner as municipal taxes.

111. A by-law or resolution passed by a council in the exercise of any of the powers conferred and in accordance with this Act, and in good faith, is not open to question, nor shall it be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them.

112. (1) The council may repeal or amend any by-law, but when the by-law has received the assent of the electors the repeal or amendment shall be similarly assented to.

(2) Notwithstanding subsection (1), a by-law that has received the assent of the electors may be amended without reference to the electors, if the amendment does not materially affect the by-law in principle or in substance.

(3) No by-law relating to the procedure of the council when in session shall be repealed, amended or suspended, except so far as the terms thereof themselves permit, unless it is repealed, amended or suspended

- (a) by a by-law unanimously passed at a regular or special meeting of the council at which all the members thereof are present, or
- (b) by a by-law passed at a regular meeting of council, pursuant to a notice in writing given and openly announced at the next preceding meeting of the council and setting out the terms of the substantial effect of the proposed by-law.

113. (1) The council may by by-law

- (a) impose a penalty not exceeding \$500, exclusive of costs, for contravention of any by-law and provide for reasonable punishment by imprisonment for any period not exceeding six months in case of non-payment of the fine and costs imposed for any such contravention, unless the fine and costs including the costs of committal are sooner paid,
- (b) provide that where the conviction is for the non-payment of any licence fee payable to the municipality under any by-law, the magistrate or justice may adjudge payment thereof in addition to the penalty, and
- (c) enact the procedure for payment to the municipal treasurer or other person designated by the council of an amount fixed by by-law, being an amount which may be accepted by the municipality in lieu of proceeding with any punishment by way of prosecution for the contravention of any by-law of the municipality designated by the council.

(2) The council may enact a general penalty by-law for a contravention of any by-law or of any number of specified by-laws, and may impose a fine and costs and imprisonment in the case of non-payment of the fine and costs as set out in clause (a) of subsection (1) and of the payment in addition to the penalty as set out in clause (b) of subsection (1).

(3) A council may either in a general penalty section in a by-law or in a penalty applicable to a contravention of a particular provision of the by-law provide for a minimum fine which shall be imposed by a court upon a conviction for a contravention of the by-law and may also provide for minimum and maximum fines which shall be applicable to second and subsequent offences.

114. A penalty and licence fee imposed under this Act, unless provision is specially made in respect thereof, may be recovered and enforced with the costs of summary conviction before a justice of the peace or magistrate.

115. A penalty or fine under any by-law of a municipality if no other provision is made respecting it, belongs to and forms part of the general revenue of the municipality.

116. Where a person is committed to gaol by reason of a contravention of a by-law of the municipality, there shall be charged to the municipality such part of the expenses paid by the Province for the transport of the person to gaol, and for his maintenance while there as may be designated by the Lieutenant Governor in Council.

117. The council may pass such by-laws as are considered expedient and as are not contrary to this or any other Act,

- (a) for the peace, order and good government of the municipality,
- (b) for promoting the health, safety, morality and welfare thereof, and
- (c) for governing the proceedings of the council, the conduct of its members and the calling of meetings.

118. (1) Subject to the other provisions of this Act, a council may pass a by-law authorizing the making of an agreement with the council of any other municipality, the board of trustees of a school district or division or the Minister on behalf of any improvement district or special area

- (a) for the joint construction, ownership, maintenance, operation or use of a public work or building, or
- (b) for the performance of any other matter or thing considered by all the councils or boards, or the Minister concerned to be a benefit to their respective municipalities, school districts, school divisions, improvement districts or special areas, and may enter into an agreement as to the joint control and management of anything that concerns their respective municipalities, school districts, school divisions, improvement districts or special areas.

(2) Where an agreement is entered into pursuant to subsection (1), the council may in the by-law

- (a) appoint one or more of its members to be members of a joint committee with members appointed by the board of trustees of a school district or school division or by the councils of other municipalities or the appointee of the Minister on behalf of any improvement district or special area, and
- (b) delegate to such joint committee power to construct, maintain, control and manage such undertaking, including the power to disburse the proceeds of debentures or other funds used for the purpose of such undertaking.

(3) A committee established pursuant to subsection (2) may in each year requisition the council of each municipality, the board of trustees of a school district or school division or the Minister for the proportionate share of the cost of operating the undertaking and expend any sums so requisitioned for the control, management, upkeep and operational expenses of the undertaking.

(4) A committee established pursuant to subsection (2) shall in each year furnish the council of each municipality, board of trustees of a school district or school division concerned or the Minister with an audited statement of its receipts and payments for the preceding year and shall

also supply each council, board of trustees of a school district or school division or the Minister with such information regarding its management and operation as is considered necessary.

119. Subject to this Act, a council may pass a by-law authorizing the making of an agreement with the Province for the maintenance, operation and use of a public work, building or campsite or for the performance of any matter or thing considered by the council and the Province to be a benefit to both parties.

120. Where power is given to the municipality under this or any other Act to perform services or sell goods or lands, it shall be deemed to have and to always have had the same right as a private individual to take security for any debt owing to it and arising out of matters transacted in the exercise of such power.

121. The municipality may acquire, hold and dispose of real or personal property offered or transferred to it in partial or complete settlement or payment of, or a security for, any lien or charge or any right to a lien or charge on any taxes, licence fee or other indebtedness owing to the municipality.

122. (1) The council may provide for the submission to the electors or proprietary electors any municipal question or plebiscite not specifically authorized by this Act, but over which a council has jurisdiction.

(2) The council may make such expenditure as it considers necessary and advisable to provide information to the electors on any by-law or question that is to be submitted to a vote.

123. (1) The council may by by-law appoint any board, association, commission or other organization that is considered desirable for the purpose of managing and operating or advising in the management and operation of any branch or department of the municipality's service and in the extension and improvement thereof.

(2) There shall not be delegated to any such board, association, commission or other organization the right to appropriate or expend any public moneys other than such moneys voted by the council as are necessary for the carrying on of the management and operational functions of the organization.

(3) The constitution, duties, powers and functions of the board, association, commission or other organization and all necessary provisions with reference to administration may be prescribed in the by-law or by-laws appointing it.

(4) If it is reported to the council that any person appointed by the council as a member of any board, association, commission or other organization has been absent from three consecutive meetings of that organization, the council may terminate his appointment and may appoint another person in his stead, and council may terminate the appointment of any member at any time for cause.

124. When any personal property acquired by a municipality for any purpose authorized by this Act is no longer required, the municipality may dispose of it and until the property is sold, may rent or lease it.

125. No property owned by the municipality under the authority of this or any other Act is liable to seizure by way of distress for rent.

General Government

126. (1) The council of a city may and every other municipality shall provide for the holding of an annual meeting of the electors for the discussion of municipal affairs.

(2) If an annual meeting is held in any year, it shall be held not later than March 31 and notice of the meeting shall be given by causing it to be

- (a) mailed at least 16 clear days before the date of the meeting to each resident of the municipality, or
- (b) published in an issue of a newspaper circulating within the municipality once a week for two successive weeks, the last of which shall be published not less than seven clear days prior to the date of the meeting.

(3) At the time and place set out in the notice, the mayor, secretary-treasurer and the chairmen of the various committees shall attend and submit to the meeting their respective reports for the year ending on the 31st day of December.

(4) The mayor shall cause to be read to the meeting the latest municipal inspector's report on the affairs of the municipality.

127. (1) A council may acquire lands or any interest therein either within or without the municipality for any purpose authorized by this Act.

(2) The acquisition may be made by purchase, lease or licence, or by expropriation and acquisition may by the terms thereof be permanent, temporary or conditional, either within or without the municipality.

(3) Notwithstanding subsection (1), before acquiring any land or interest in land, situated outside the boundaries

of the municipality, the council shall obtain the approval of the council of the municipality in which the land is situated.

(4) If the approval of the council of the municipality in which the lands, or any interest therein are situated cannot be obtained, the council of the municipality shall submit the matter to the Local Authorities Board for its approval, which may be given under such terms and conditions as the Board may decide.

(5) If the Local Authorities Board refuses to give approval, the council may not acquire the land or interest therein.

(6) A council may acquire by gift, either

(a) from the Crown in right of Canada, in right of Alberta, or from the Soldiers' Settlement Board, or from the Department of Veterans' Affairs, any land situated within or without the municipality, and

(b) from any other person lands that are situated within or without the municipality, and free at the time of transfer from all encumbrances whatsoever.

(7) Subject to the provisions of this Act respecting the acquisition of land outside a municipality, the council may by by-law authorize the acquisition of

(a) lands within or without the municipality for the purpose of subdivision and building sites,

(b) subdivided lands within or without the municipality for resale as building sites, and

(c) lands previously used as military establishments by purchase or lease from the Government of Canada or the Government of Alberta.

(8) Any parcel of land acquired pursuant to subsection (6) shall, if assessable, continue to be assessed from the date of acquisition by the municipality and the taxes payable to the municipality and to any school district that collects its own taxes in respect thereof, shall continue to be charged against the parcel of land, and in case the parcel is sold or leased, the proceeds of the sale or lease shall be dealt with and distributed in the manner prescribed by *The Tax Recovery Act*.

(9) If

(a) in the opinion of the Public Utilities Board the taking of any portion of any parcel could be unfair, unjust or discriminatory with respect to the owner thereof, and

(b) the owner of the land agrees to the municipality taking the entire parcel,

the Board may require that the municipality take the entire parcel and pay compensation therefor.

(10) Where the council is of the opinion that the municipality can obtain at a more reasonable price or obtain

greater advantage by acquiring the whole or a greater portion of any parcel, of which a part may be expropriated by the municipality, the municipality may take the whole or the greater portion of the parcel.

(11) Lands acquired pursuant to this section may be sold, leased or otherwise disposed of in whole or in part and in such manner and at such times and under such terms and conditions as the council by resolution from time to time may prescribe.

128. (1) Where the council is empowered to acquire any land or any estate or interest therein either by purchase, expropriation, gift or other manner other than pursuant to *The Tax Recovery Act* or section 24 of *The Planning Act*, the council may hold, convey or dispose of the land or estate or interest in the land in any manner that the council considers to be advisable or expedient.

(2) The disposal of any land or estate or interest in land as authorized by subsection (1) does not require the assent of the electors except that the council does not have power

- (a) to dispose of its estate in any land acquired for a public park, public recreation grounds or exhibition grounds, or
- (b) to sell to any person lands, buildings or portion thereof at any sum less than what is the fair actual value thereof at the time of sale, or
- (c) to rent or lease to any person any lands, buildings or portion thereof at a rent less than a fair rental value except where the leasing is to a school, welfare organization, community service club or other organization if, in the opinion of the council, the school, welfare organization, community service club or other organization is carrying out or proposes to carry out activities beneficial to the municipality, or
- (d) to dispose of or to devote to any other purpose lands, buildings or portion thereof that have been dedicated to the municipality by gift for a specific purpose, when such lands or buildings have been accepted by the municipality for that specific purpose

without advertising the disposition and the provisions of section 311 relating to the requirement of submitting the matter to a vote of the proprietary electors apply *mutatis mutandis* to the disposition, sale or rental of the land.

(3) The proceeds of the sale of lands or the revenue from lands may be appropriated by the council as if the proceeds or revenue or money was raised by general rates for general municipal purposes.

(4) Notwithstanding the foregoing, a council may sell, rent or lease to the Crown in right of Alberta, a munici-

pality, a school district, a school division, a public junior college or a university, lands or buildings, or any portion thereof, at a sale price of less than the fair actual value thereof at the time of sale or at rental of less than the fair rental value thereof.

129. A council may

- (a) authorize the acquisition or construction of any building required for any municipal purpose, including the housing of any municipal official or for any business or other operation which the municipality may be authorized to conduct,
- (b) construct or acquire a building with floor space which is greater than is necessary for the accommodation of the municipal services required and may lease or rent any surplus floor space not required for the municipal services, and
- (c) rent, lease or purchase any buildings for the purpose of providing public rest and reading rooms or other public accommodation and shall, in the event of so doing, make regulations for the conduct and maintenance of them.

130. (1) If the council desires to acquire land, either within or without the municipality for any purpose authorized by this Act, or required for municipal public use or in connection with any plan of development whether undertaken solely by the municipality or in conjunction with any person or for the purpose of preventing the working of any mine within, upon or under any portion of the land within the municipality or for the purpose of improving any land owned by the municipality, the municipality shall first negotiate with the owners and occupiers of such land or other persons interested therein for the acquisition of the land by agreement and in case it cannot acquire the land at an acceptable price by agreement, the municipality may take steps to acquire the land by expropriation pursuant to *The Expropriation Procedure Act*.

(2) In this Act "plan of development" means a development scheme pursuant to *The Planning Act* but does not include an urban renewal scheme under *The Alberta Housing Act*.

131. The municipality shall make due compensation to the owners or occupiers of, or other persons interested in, any land taken by the municipality in the exercise of any of the powers conferred by this Act, and shall pay damages for any land or interest therein injuriously affected by the exercise of such powers, and the amount of such damages shall be such as necessarily result from the exercise of such powers beyond any advantage that the claimant may derive from the contemplated work.

132. Any claim for compensation for lands taken or damages in respect of lands injuriously affected shall be deemed appurtenant to the land and passes by any transfer or conveyance thereof.

133. Where the land to be taken is required for the opening, extending or widening of any highway the municipality shall also deposit copies of the plan of survey in the office of the Registrar of the land registration district within which the municipality is situated, and the Registrar shall receive and preserve the plan in like manner as railway plans are received and preserved under *The Railway Act*.

134. (1) Where through agreement with the owner, a council acquires land for the purpose of a highway, road, street, lane, bridge, culvert, ditch or drain, title to the land may be vested in the city, or in the case of any other municipality, the Crown in right of Alberta, by filing in the proper land titles office

- (a) plans of survey in accordance with section 133, and
- (b) an affidavit of the municipal secretary setting forth a description of the land, and stating that agreement has been reached with all the owners thereof as to the land to be acquired and the price to be paid,

and it is not necessary to register a transfer to that land.

(2) A municipality is not entitled to mines and minerals in any land vested in it pursuant to this section and the title to any mines or minerals is not affected by the filing of any plan of survey pursuant to this section.

135. (1) Notwithstanding anything in this Act, where in the exercise by a municipality of any of the powers conferred on it by this Act the municipality, in the erection or construction of a municipal work or structure, causes damage to an owner or other person having an interest in land immediately adjacent to the land upon which the municipality erects or constructs the work or structure by reason of loss of or permanent lessening of use of the land of that owner or other person, the person sustaining the damage is entitled to compensation therefor and may at any time after the damage has been sustained with within 60 days after notice has been given in a newspaper of the completion of the work or structure in respect of which the damage is sustained, file with the municipal secretary a claim for damages in respect thereof, stating the amount and particulars of his claim.

(2) The notice of the completion of the work shall be given by the municipal secretary forthwith after the person in charge of the work or undertaking has given his final certificate and shall state the last day on which any claim under this section may be filed.

(3) If the municipality is not able to agree with the claimant as to the amount of compensation or damages, the compensation and damages shall be settled and determined by the Public Utilities Board, and the amount so awarded shall be paid to the claimant by the municipality.

(4) The amount payable for damages under this section shall not exceed the amount of the difference between

(a) the appraised value of the property prior to the exercise by the municipality of any of the powers conferred on it by this Act, and

(b) the appraised value of the property after the exercise of the powers referred to,

together with an amount of not more than 10 per cent of the amount of the difference as so determined.

(5) This section does not apply to any damages caused by

(a) the construction of boulevards or placement of dividers down the centre of a highway, street or lane for the purpose of channelling traffic, or

(b) the restriction of traffic to one direction only on any highway, street or lane.

(6) Any claim under this section that is not made within the period hereinbefore limited is forever barred and extinguished.

136. Except where coal mining rights are acquired to prevent the working of a coal mine within, upon or under any portion of land within the municipality, the municipality is not entitled to any mines or minerals whether solid, liquid or gaseous that may be found to exist within, upon or under the land vested in the municipality by expropriation proceedings and the title to mines and minerals is in no way affected by the registration of the conveyance or transfer of the land or of the order of the Public Utilities Board vesting title to the land in the municipality.

137. The council may grant any officer or employee who has been in the service of the municipality for 10 years who, while in such service has become incapable through age or illness of efficiently discharging the duties of his office, a sum not exceeding his aggregate salary for the last three years of his service as a gratuity upon his dismissal or resignation.

138. (1) The council, by by-law, may set up, contract for and maintain a pension or superannuation plan or a benefit fund either alone or in conjunction with any national or provincial plan for the benefit of

(a) civic employees or any group thereof, or

(b) members of the police force, or

- (c) employees of the fire department, or
- (d) employees of the hospital board, or
- (e) employees of the library board, or
- (f) employees of the exhibition board or association, or
- (g) employees of any other board or commission authorized pursuant to this Act,

or all or any of them, and for the benefit of their dependants or any of them, may classify the employees affected or any group thereof, as to age or otherwise, as may be considered expedient, and may make adherence and contribution to the plan or fund compulsory or optional as to all employees or any group or class thereof.

(2) Any such pension or superannuation plan or benefit fund may require such contributions on the part of the members or employees and on the part of the municipality, as the council in its discretion may provide in the by-law, and the council may deduct the contributions of the members or employees from their salaries.

(3) A by-law passed under this section shall be deemed not to be a money by-law.

139. (1) The powers conferred upon the council by section 138 may be exercised either alone or jointly with the boards of trustees of school districts situated wholly or partly within the municipality in respect of their non-teaching staffs, the library board, the hospital board, the exhibition board or other board or commission authorized pursuant to this Act or with any one or more of them, each of the parties acting for and assuming responsibility only in respect of its own employees.

(2) A joint agreement made pursuant to this section may provide that any party thereto may withdraw therefrom subject to such conditions as may be specified in the agreement.

140. (1) Where the municipality establishes a pension or superannuation plan or a benefit fund, the money payable therefrom to an employee or to his estate, whether by way of annuity, death benefit or otherwise

- (a) is not assignable, and
- (b) is not subject to garnishee proceedings or attachment or seizure, except in respect of failure of the employee to account for public money or to pay a debt due to the municipality.

(2) Subsection (1) does not apply in respect of

- (a) a refund of money from a pension or superannuation plan, or
- (b) a refund of money from a benefit fund,

to an employee on termination of his employment with the municipality and before qualification for pension, superannuation or benefits.

141. (1) The council may invest any surplus money standing to the credit of the funds in any of the investments authorized for insurance companies by the *Canadian and British Insurance Companies Act* (Canada), as amended from time to time, and may sell, assign or transfer such securities and reinvest the proceeds thereof or any part of the proceeds in like securities.

(2) The council, by by-law, may appoint trustees to carry out the provisions of subsection (1) and to keep an account of the investments for and on behalf of the pension or superannuation plan or fund.

(3) The council or the trustees, as the case may be, may borrow from any person or bank such sums as the council or trustees consider necessary to meet the obligations of the funds and may give as security for the loan any investments or other assets held to the credit of the funds.

142. (1) The council, by by-law, may set up, contract for or otherwise institute a scheme of insurance for the purpose of insuring all or any employees referred to in section 138 against sickness, accident or death, as the case may be.

(2) Any such scheme of insurance may require such contributions on the part of the members or employees, and on the part of the municipality, as the council in its discretion may provide in the by-law, and the council may deduct the contributions of the members or employees from their salaries.

(3) A by-law passed under this section shall be deemed not to be a money by-law.

(4) For the purpose of such a scheme of insurance the council may with the consent of the Local Authorities Board exercise the corporate powers of an insurance company pursuant to *The Alberta Insurance Act* which will enable the insurance to be provided without being subject to the limitations provided by Part XIV of that Act.

143. (1) The council by by-law approved by the Lieutenant Governor in Council may adopt a crest or coat of arms for the municipality.

(2) A person who, without the authority of the council, assumes or uses the crest and coat of arms of the municipality, or any heraldic emblem so nearly resembling it as to be calculated to deceive, is guilty of an offence and liable on summary conviction to a fine of not more than \$50 for every day during which the offence continues.

144. The council may provide for taking the census of the municipality.

145. (1) The council, may, with the approval of the Local Authorities Board, exercise such powers of an insur-

ance company pursuant to *The Alberta Insurance Act* as will enable the council to establish and maintain a plan of insurance to cover losses that may occur to the property of the municipality by reason of fire and other occurrences and to cover the municipality's legal liability to others arising out of accidents and occurrences, and to adjust and settle any loss, whether on a strictly legal basis or otherwise.

(2) The council may do all things necessary for the proper conduct and handling of the business of insurance, including re-insurance of any of such risks as may be covered by such plan with any insurance company lawfully authorized to deal in re-insurance risks.

(3) The council may make application for incorporation of a company to be known as "The Municipal Insurance Company Limited" or such other similar name as council may choose, and may provide for setting aside the necessary capital therefor from time to time and for depositing with the Government any money or security that *The Alberta Insurance Act* may require and for otherwise complying with all the provisions of *The Alberta Insurance Act*.

146. The council may pay for or towards the reception or entertainment of guests, travelling or other expenses incurred in respect of matters pertaining to or affecting the interests of the municipality or the celebration of events or matters of national interest or importance.

147. The council may pay for or towards the diffusion of information respecting the advantages of the municipality as a manufacturing, business, educational or residential centre.

148. (1) Immediately after the preparation of the estimates as required by section 85 of *The Municipal Taxation Act*, the council of a municipal district

- (a) shall cause to be prepared a report or reports in the prescribed form setting out the works of a public nature and are recommended to be undertaken throughout the municipal district, and
- (b) for that purpose may appoint such person or persons as the council by resolution determines.

(2) Upon receipt of the recommendation, the council at its discretion shall determine the works that will be undertaken, and the amount that will be expended thereon, and by resolution shall authorize the location of the works and the amount of the expenditures in connection therewith.

(3) In determining the work to be undertaken and the amounts to be expended thereon the council shall consider the municipal district as a single unit, and shall not con-

sider electoral divisions as a basis for the distribution of expenditures on public works and no accounts of a municipal district shall be charged or maintained against electoral divisions.

(4) Except in a case of sudden and urgent necessity, no public work shall be undertaken or expense incurred in connection therewith until the resolution authorizing the expenditure has been passed by the council as provided by subsection (2).

(5) No grant by the province to a municipal district to be expended on public works therein shall be disbursed until a resolution as required by subsection (2) has been passed by the council, unless the Province in making the grant otherwise directs.

(6) A grant by the Province to a municipal district to be expended on public works therein

- (a) shall not be distributed for expenditure on the basis of electoral divisions,
- (b) shall be deposited in the general revenue fund of the municipal district, and
- (c) shall form a part of the funds estimated to be expended as provided by subsections (2) and (3).

149. (1) Any elector may at all reasonable times inspect

- (a) any contract, account or by-law,
- (b) any report of the commissioners or of any committee or of any official of the municipality after it has been submitted to the council, other than an opinion or report of the municipal solicitor or of any counsel engaged by the municipality, and
- (c) the minutes of council, after they have been adopted by the council,

and the municipal secretary shall within a reasonable time after demand by an elector furnish him with copies of any such documents or parts thereof at the rate of 50 cents per 100 words, each figure to be counted one word or at a rate of \$1 per reproduced page or part thereof of any such documents.

(2) Any elector may at all reasonable times inspect any audited report or abstract thereof, and may by himself or his agent and at his own expense take a copy thereof or extracts therefrom.

Protection to Persons and Property

150. The council may by by-law make provision for the regulation of any matter or thing for the protection of life or property.

151. The council of a city, town or village may pass a by-law authorizing the entering into of an agreement with any person for the provision of weather modification services.

152. The council may pass by-laws

- (a) for preventing drunkenness, swearing, obscene, offensive, insulting language, fighting or disorderly conduct on or near and street or in or near any public place or building within the municipality, or in any place to which the public has access,
- (b) prohibiting the sale of firecrackers or fireworks to persons under the age of 21 years,
- (c) regulating the firing off of firecrackers or fireworks, and
- (d) prohibiting the discharge of guns or other firearms in any specified part or parts of the municipality.

153. (1) The council may delegate to the mayor or to a committee composed of members of the council the power

- (a) to declare a state of peacetime emergency or disaster, and
- (b) to take immediate action to deal with a peacetime emergency or disaster in the municipality.

(2) When a peacetime emergency or disaster occurs, the mayor or committee authorized to deal therewith, may without further authorization, take such steps as are considered necessary to protect life and property of the municipality and its residents, and for that purpose may expend money of the municipality for any purpose considered necessary in the circumstances.

(3) In dealing with a peacetime emergency or disaster under this section, the mayor or committee, as the case may be, may co-operate with the council of another municipality, the board of a school division or district, or with any Minister, department or agency of the Government of Alberta or of Canada.

(4) When a state of peacetime emergency or disaster is declared under this section and measures are taken to deal therewith, no mayor, councillor or person appointed to carry out the measures is personally liable in respect of damage caused through any action taken by him.

154. (1) the council may pass a by-law

- (a) regulating the time after which children shall not be in a public place at night without proper guardianship, and
- (b) designate the age or apparent age of boys and girls to whom the by-law applies.

(2) A child to whom the by-law applies who is found in a public place after the time so fixed may be warned to go home by a peace officer and if after the warning the child refuses or fails to go home he may be taken to his home or to a shelter by the peace officer.

(3) A parent who permits his child to contravene the by-law is guilty of an offence and liable upon summary conviction

- (a) for a first offence to a fine of \$5,
- (b) for a second offence to a fine of \$10, and
- (c) for a third or subsequent offence to a fine of \$20, and in each case in default of payment to a term of imprisonment of not more than three months.

155. The council of a municipality may pass by-laws:

- (a) for the prevention or extinguishing of fires, the preservation of life and property and the protection of persons from injury or destruction by fire;
- (b) for the prevention of prairie or running fires and the enforcement of the provisions of *The Forests Act, 1961* in that behalf;
- (c) for the entering into agreements with other municipalities or persons for the joint use, control and management of fire extinguishing apparatus and equipment;
- (d) for the purchase and operation of apparatus and equipment for extinguishing fires and preserving life and property;
- (e) for the charging of the cost to the owner or occupant of land, and for the recovery of such cost as the by-law may provide where costs have been incurred with respect to extinguishing fires and preserving life and property from injury or destruction by fire on lands situated outside the boundaries of the municipality;
- (f) for the appointment of a fire marshall, firemen or other officials charged with the responsibility for inspection of private and public property for protection against fire and investigation of fires.

156. For the prevention or extinguishing of fires and for the preservation of life and property from injury or destruction by fire, the council may pass by-laws providing for any or all of the following:

- (a) the building of fire walls and the granting of bonuses to assist in the building thereof;
- (b) compelling male adults for the time being in the municipality to assist in the extinguishing of fires and to assist in the prevention or the spread thereof;

- (c) the prevention of interference with the efforts of persons engaged in the extinguishing of fires or prevention of the spreading of fire, by regulating the conduct of the public at or in the vicinity of any fire;
- (d) the regulation of the storage or transportation of explosives or other highly inflammable or dangerous matter and the prohibition of the storage or transportation thereof except by permit authorized by resolution of the council;
- (e) the prevention of the erection or placing of any building, erection or other structure within areas prescribed in the by-law unless the main walls and roof thereof are constructed of incombustible materials;
- (f) the prevention of structural alterations to any existing building, if the existing building does not conform in structure to the building and fire regulations governing construction in any defined area;
- (g) the razing or removal at the expense of the owner thereof of any building erected or placed in contravention of any by-law passed under this Act, and if the expense is not paid upon demand the levying and collecting of the expense from the owner as if the expense were taxes;
- (h) the regulation of the construction of chimneys and the enforcing of the proper cleaning thereof at stated intervals either by licensed chimney sweeps or otherwise, the licensing of such sweeps and the fees to be charged therefor;
- (i) the inspection and supervision of electric wiring to ensure that the wiring complies with the minimum standards prescribed in *The Electrical Protection Act*, and the fees to be charged for such inspections, which fees shall be reasonable in amount and shall not be imposed for the purpose of exacting revenue;
- (j) the regulation of the method of lighting, subject to the minimum standards prescribed by *The Electrical Protection Act*, the construction of doors, the width of aisles, the provision of fire escapes in or leading to places of public accommodation or assembly, and generally all matters relating to the construction, maintenance or conduct of such places as in the safety of the public may be deemed convenient;
- (k) adopting and constituting the *National Fire Code of Canada 1963*, with the exception of any specified provisions thereof or any modification of that code, either in place of or in addition to any regulations made under any other clause of this section;

- (l) the prohibition of the use of a building as a public garage or machine shop unless it is provided with a concrete floor, and the prohibition of the use of any building for such purpose unless it be separated from all other buildings by a fire wall or by a clear space of not less than 100 feet;
- (m) the disposal of ashes or combustible refuse and the prohibition of the placing or retention of such in or on property, whether public or private, except in fire-proof containers;
- (n) the appointment of a fire marshal and the requirement that he be given access at reasonable hours to both public and private places for the purpose of inspecting premises;
- (o) notwithstanding any other of the provisions of this Act, any other matter or thing for the protection of life or property as may be considered proper.

157. (1) The council may pass by-laws

- (a) preventing, and compelling the abatement, of nuisances generally, and regulating untidy and unsightly premises,
- (b) for the purpose of requiring an owner, lessee, tenant or agent of the owner to cut the grass on a boulevard which abuts or flanks a property occupied by him and providing that in the event of the failure of the owner, lessee, tenant or agent of the owner to cut the boulevard grass after reasonable notice to him to do so, the municipality may cut the grass and charge the cost of the work done against the property as taxes due and owing and collect it as such,
- (c) providing for the eradication of dandelions and noxious weeds or plants and the cutting of grass on public or private property,
- (d) providing for the removal or pruning of trees or shrubs, on private property or otherwise, that in any way interfere with or endanger the lines, poles, conduits, pipes, sewers or other works of a municipal or other public utility,
- (e) requiring the owner, lessee, tenant, agent, manager or occupant of any premises in connection with which a fire is burning and every person who operates, uses or causes or permits to be used any furnace or fire, to prevent the emission to the atmosphere from such fire or opaque or dense smoke,
 - (i) for a period of more than six minutes in any one hour, or
 - (ii) at any other point than the opening to the atmosphere of the flue, stack or chimney,

- (f) for the purpose of eliminating or mitigating within the municipality
 - (i) the mosquito nuisance,
 - (ii) insect pests harmful to the growth or development of trees and shrubs or any vegetable or plant life,
 - (iii) blight or disease to trees and shrubs or vegetable or plant life, and
 - (iv) the emission into the atmosphere of opaque or dense dust,and
- (g) for the purpose of prohibiting, eliminating or abating noise.

(2) Any person thereunto authorized by the council may enter any lands, buildings or premises to inspect for conditions that may constitute a nuisance or contravene or fail to comply with any by-law passed pursuant to subsection (1).

(3) In any by-law passed under subsection (1) the council may

- (a) require the owner, agent, lessee or occupier to remedy in such manner as the council may direct any condition on his land that constitutes the nuisance or that contravenes or fails to comply with the by-law and impose appropriate fines and penalties in case of failure to do so,
- (b) provide that if the owner, agent, lessee or occupier fails, neglects or refuses to remedy the condition, the council may cause such work to be done as the council considers necessary to remedy it.
- (c) charge the cost of the work done to remedy the condition to the owner, agent, lessee or occupier, and in default of payment
 - (i) recover the cost as a debt due to the municipality, or
 - (ii) charge the cost against the land concerned as taxes due and owing in respect of that land and recover the cost as such,and
- (d) make any other provisions that the council considers necessary to carry out the purposes of the by-law.

(4) Any owner, agent, lessee or occupier who receives a notice, order or direction requiring him to abate a nuisance or to remedy any condition that constitutes a nuisance or that contravenes or fails to comply with a by-law passed under this section and who thinks himself aggrieved may appeal within 10 days to the Supreme Court and if it is satisfied that the council has acted unreasonably or unjustly or in a manner contrary to the intent and

meaning of this section, it may set aside, vary or modify the notice, order or direction of the council.

158. (1) If in the opinion of the council, a building, structure, erection, excavation or hole is by reasons of its ruinous, dilapidated, unsafe or unprotected condition, dangerous to the public safety or health, or a building is because of its unsightly condition detrimental to the surrounding area, the council may make an order respecting the building, structure, erection, excavation or hole.

(2) Any such order may require the owner within a period of time which shall not be less than 30 days from the date of the making of the order,

(a) to remedy the condition in the manner and to the extent directed in the order, or

(b) to demolish or remove the building, structure or erection or fill the excavation or hole and level the site thereof.

(3) If the owner does not remedy the condition within the period specified within the order, or the building, structure or erection has not been demolished or removed at the expiration of the period specified in the order, the building inspector or other authorized person shall remedy the condition to the extent directed in the order or cause the unoccupied building, structure or erection to be demolished or removed or the excavation or hole to be filled and the site thereof levelled.

(4) The removal may be done by way of selling the building, structure or erection, in which case the net proceeds realized from the sale shall be paid to the owner, mortgagee or other person entitled thereto, unless there are any taxes or other charges owing in respect of the building, structure or erection or the land on which it is situated, in which case the amount of the tax or other charge shall be set off against the net proceeds of the sale of the building, structure or erection and any amount in excess thereof shall be paid to the owner, mortgagee or other person entitled thereto.

(5) If the proceeds from the sale of the building, structure or erection, after deduction of taxes or other charges owing thereon are insufficient to meet the costs of the demolition or clearance of the site, or if no proceeds are realized from the demolition and removal of the building, structure or erection, the council may charge the costs of the work done against the owner of the land on which the building, structure or erection was located, and recover the costs as a debt due to the municipality or charge the cost against the land concerned as taxes due and owing in respect of that land and recover the cost as such.

(6) The council shall cause not less than 14 days' notice to be sent by registered mail to the owner of the land upon which the unoccupied building, structure or erection stands,

specifying the date, time and place at which the making of the order will be considered and that the owner will be given an opportunity of appearing and being heard by the council at the meeting before the making of the order.

(7) Any person who thinks himself aggrieved by an order of the council made under this section may apply to the Supreme Court within 30 days from the date of the making of the order and if the Court is satisfied that

- (a) the proper procedure as set forth in this section has not been followed, or
- (b) that the council has acted in a manner contrary to the intent or meaning of this section,

it may set aside, vary or modify the order of the council as it considers just.

(8) In order to effect a demolition or removal of any building pursuant to this section, the council may cause the occupants of the building to be removed by force.

159. (1) Notwithstanding section 158, if, in the opinion of the council, a hole or excavation, or an unoccupied building is so ruinous, unsafe or dilapidated as to be dangerous or likely to cause injury to a person, then the council may promptly take such reasonable emergency action as required to eliminate or minimize the hazard.

(2) When such emergency action has been taken, the municipality shall promptly advise the owner of the property by registered mail of the action of the municipality and its intention to charge the cost thereof to the property and invite him to appear before the council for the purpose of disputing the justification of the council having acted under this section and of contesting the intention of the municipality to charge the costs of the emergency action against the land.

(3) If an owner fails to appear before the council the provisions of subsections (4) and (5) of section 158 apply, but if the owner or his agent appears before the council and is dissatisfied with the disposition of the matter he may within 30 days appeal to the Supreme Court.

160. The council may pass by-laws for the purpose of preventing the spread of tuberculosis, infectious bovine abortion and other animal diseases that are communicable to human beings and, without restricting the generality of the foregoing, may pass by-laws

- (a) appointing inspectors to inspect and to subject to such tests as may be required by the by-laws all cattle within the municipality and all dairy cows any of the milk from which is used for human consumption within the municipality,
- (b) empowering the inspectors to make such orders as

may be required for effectually carrying out the provisions of this section,

- (c) providing for the collection, detention and isolation of such animals for the purpose of making such tests,
- (d) providing for the branding and quarantining of infected animals,
- (e) compelling the owners to separate such animals from their herds,
- (f) preventing the use for human consumption of milk from animals that have been quarantined or found to be infected,
- (g) providing for the slaughtering of animals that have not been separated from the herds when required to be separated by order of an inspector, and
- (h) requiring persons who know that an animal is infected with any disease communicable to human beings or has reacted to a test for such disease to report the same to the nearest inspector.

161. For the purpose of regulating and controlling animals the council of any municipality may pass by-laws

- (a) preventing the leading, riding and driving of cattle or horses on any sidewalk,
- (b) providing for distraining and impounding animals running at large, and
 - (i) determining the compensation to be allowed for carrying out the provisions of such by-law and for services rendered with respect to, and sustenance supplied for, animals distrained or impounded,
 - (ii) appointing poundkeepers,
 - (iii) providing sufficient yards, buildings and enclosures for the safekeeping of such animals as it may be the duty of the poundkeeper to impound,
 - (iv) appraising damages to be paid by the owners of animals impounded for trespassing, and
 - (v) providing for the sale or destruction of animals in case they are not claimed within a reasonable time or in case damages, costs and expenses are not paid,
- (c) restraining and regulating the running at large of dogs, and
 - (i) providing for the impounding of dogs running at large and for the killing, sale or other disposition of impounded dogs if not claimed from the pound within a specified time or if the claimant does not comply within a specified time with such conditions governing payment

- of costs and expenses and removal from the pound as the by-law may provide,
- (ii) classifying dogs for licensing purposes, and
- (iii) prescribing a tariff of licence fees to be paid by persons owning, possessing or harbouring dogs, which fees may vary as between the different classifications of dogs,
- (d) regulating the keeping by any person of wild or domestic animals or poultry within the limits of the municipality,
- (e) prohibiting the keeping by any person of wild or domestic animals or poultry in any specified part or parts of the municipality where, in the opinion of council, that keeping it likely to cause a nuisance, and
- (f) for the prevention of cruelty to animals.

162. (1) The council, subject to the provisions of any Act of the Parliament of Canada, or of the Legislature of Alberta, or to any order of the Canadian Transport Commission may make by-laws

- (a) sanctioning and permitting the track of any railway, street railroad or tramway to be laid in, on or along any street, avenue or lane,
- (b) prescribing compensation for any damage that may be done on the property or on the streets, avenues or lanes and that the amount of the damage, if any, shall be settled in the manner provided for compensation for expropriation,
- (c) regulating the use of locomotive engines and of steam or other motive power on any or every portion of any roadroad,
- (d) providing and regulating the speed of cars upon any and every part of any roalroad,
- (e) regulating the rate of speed of railway trains and engines along or across any of the streets, avenues or lanes,
- (f) preventing the obstruction of any streets, avenues or lanes by leaving, keeping or allowing to stand thereon any engine, train, car or truck for a longer period than five minutes at a time,
- (g) preventing the loading or unloading of any car or truck alongside or from any street crossing or sidewalk,
- (h) preventing the blowing of whistles or ringing of bells while an engine is going along or across any street, avenue or lane except under conditions mentioned in the by-law, and
- (i) imposing a fine not exceeding \$500 for a breach of any such by-law.

(2) In any proceedings taken for infraction of by-laws passed under this section, service of necessary documents upon any resident employee of the railroad is good service upon the owners of the railroad.

(3) Any of the persons in charge of the engine, car, truck or train as well as the railroad company are liable to the fine provided in the by-law, and proceedings may be taken against either or any of them.

163. A council may pass by-laws

- (a) prohibiting the posting or exhibition of placards, play-bills, posters, writing or pictures or the writing of words, or the making of pictures or drawings that are indecent or that may tend to corrupt or demoralize, on any wall or fence or elsewhere on or adjacent to a highway or public place,
- (b) preventing and controlling throughout the municipality or in any specified part thereof, the erection and use of billboards, signboards or other advertising devices of any kind, whether the notices are printed or otherwise displayed, and
 - (i) requiring a permit from the council or an official designated for the purpose, as a condition of erecting any signboard, billboard or other advertising device,
 - (ii) imposing an annual licence fee in respect of each billboard, signboard or other advertising device,
 - (iii) authorizing the removal and destruction of signboards or billboards or other advertising devices erected or maintained without permit or licence, and
 - (iv) requiring the licensee to pay a proportionate share of the cost of a bond of indemnity indemnifying the municipality and all concerned against claims, demands, actions, proceedings and costs for loss, damage or injury to persons or property arising by reason of the erection, maintenance, use or existence of any such billboard, sign or other advertising device,
- (c) regulating and licensing billposters and preventing the pulling down and defacing of signboards and billboards or printed or other notices lawfully affixed and preventing the defacing of private or other property by printed or other notices, and
- (d) prohibiting or controlling and regulating the use of loudspeakers or other devices for the amplification of sound on any street or other public place or in any building or premises.

164. On such terms, at such prices and for such payment as the council may by by-law determine, the council

may act as agent or dealer, or establish or appoint an agency to act as agent or dealer to provide to farmers resident or operating in a municipality, any formula, chemical preparation or commodity used for the destruction of brush or noxious weeds or for the destruction of animals, insects or other pests.

165. The council may license and regulate or regulate without licensing all ambulances and ambulance services operating either wholly within or partly within and partly without the municipality for the use of the public and may

- (a) require that ambulances, when responding to calls,
 - (i) carry such emergency equipment, and
 - (ii) be accompanied by a person having such medical or first aid qualifications,as the council may specify from time to time, and
- (b) fix the fees which may be charged in respect of ambulance services.

166. The council by by-law may acquire and equip a motor vehicle or vehicles for the purpose of providing an ambulance service in the municipality.

167. (1) For the purpose of encouraging the establishment and maintenance of an ambulance service in the municipality, the council may annually by by-law authorize the payment to the owner of an ambulance of a grant.

(2) A council may enter into an agreement with one or more owners of ambulances to furnish certain ambulance services and to keep available such numbers of ambulances as shall be specified in the agreement both for the purposes of serving employees of the municipality and serving other inhabitants of the municipality.

(3) An expenditure under this section shall not exceed an amount equal to $\frac{1}{4}$ mill levied on the net assessment upon which taxes are levied in the municipality or \$1,000 whichever is the greater.

168. A council may pass a by-law for the acquisition, construction, operation, control and maintenance of public markets and scales.

Public Works

169. (1) The title to every public highway, road, street, lane, alley, boulevard, park, square, bridge or other public place in every city, except as far as excluded by a special act or agreement, is vested in the city.

(2) The title to all road allowances transferred to the Crown in right of Alberta by *The Saskatchewan or Alberta Roads Act*, being chapter 180 of the Revised Statutes of

Canada, 1927, and to all public travelled roads or trails are vested in the Crown in right of Alberta, by reason of that Act and if situated within a city, is vested in the city.

(3) The title to all public roads, highways, streets, lanes in a municipality other than a city are vested in the Crown in right of Alberta.

(4) Subject to *The Public Highways Development Act*, *The Water, Gas, Electric and Telephone Companies Act*, *The Pipe Lines Act, 1958* and any other Act, every river, stream, bridge, public road, highway, street and lane is subject to the control and management of the council of the municipality in which it is situated.

(5) Subsection (4) shall be deemed to have reference only to the property in the surface of a public road, highway, street, or lane and in so much of the actual soil below and the air above the surface, as reasonably may be required for the control, protection and maintenance of the public road, highway, street and lane for use of the public.

(6) Notwithstanding anything contained in this Act, a street railway company or other electric railway company subject to such regulations, and subject to any other specific directions as may from time to time be made and given by any municipality, Act or regulations of the Province of Alberta, may put down, take up, relay, connect disconnect, repair and maintain its track and wiring for the transmission of electricity, or may operate its railway along, over and across every such public road, highway, street, and lane, bridge, watercourse, stream or public place of every and any description whatsoever.

170. (1) The Minister of Highways has at all times the right to enter any municipality for the purpose of constructing, erecting, maintaining or repairing a highway, as defined in *The Department of Highways Act*.

(2) The Minister of Public Works has at all times the right to enter any municipality for the purpose of constructing or erecting, maintaining or repairing a public work as defined by *The Public Works Act*.

(3) The Minister of Telephones has at all times the right to enter a municipality for the purpose of constructing, expanding, erecting, maintaining or repairing any part of the Alberta Government Telephone System or systems or any appliance used in connection therewith.

(4) For all purposes mentioned in subsections (1), (2) and (3), all public roads, highways or other public places or parts thereof where such work is being carried on shall, until the work is completed, be under the direction, control and management of whichever of the Ministers is in charge of the work.

171. A council may, by resolution, name or number the street and avenues, and change the names and numbers of any of the streets and avenues now existing or hereafter laid out by the municipality, and whenever it is expedient to do so, the council, by resolution, may for municipal purposes change the name of any subdivision or district or part of a subdivision or district without regard to the name shown on the plan registered in the land titles office for the subdivision or district, and without the necessity of having the name shown upon the registered plan changed, if all particulars of any change are recorded on a plan filed with the municipal secretary, who shall make the plan available to the public.

172. (1) The council may grant to any person owning land adjacent to a highway or public place, the privilege of erecting a structure overhanging the highway or public place or any part thereof, or of excavating under the highway or public place for a cellar, area-way or other purpose under such terms and conditions and subject to the payment of such annual rental as the council may fix.

(2) The council may grant a permit under such conditions and for such terms as it may specify, to the owner of a building or structure that encroaches upon a road, street, lane or other public place permitting the building or structure to remain thereon.

(3) A person who has been granted a privilege under subsections (1) and (2) shall indemnify the municipality in full against any claim for damage sustained by reason of the existence of the privilege.

(4) The annual rental for the privilege shall be added to or deemed to be part of the taxes of the adjacent land to which it is appurtenant and *The Tax Recovery Act* applies thereto.

173. The council of a municipality may pass by-laws or resolutions for

- (a) the acquisition, construction, maintenance, repair of public highways, roads, streets, lanes, ditches, sidewalks, culverts, squares or other public places, including the control of all structures above, overhanging or underneath them, and
- (b) purchasing, housing and maintaining of all such machinery and equipment as may be considered necessary for the construction and maintenance of all public works undertaken by the municipality.

174. (1) Where a municipality acquired by purchase or otherwise any land abutting on a street, road, lane or public highway, and such land is acquired for the purpose of becoming part of the street, road, lane or public highway, then until the land is incorporated in the street, road, lane

or public highway, the municipality may grant to an adjoining land owner a licence or permit to occupy that land under such terms and conditions and subject to such payment or licence fee as the council may fix.

(2) The person who has been granted a privilege under subsection (1) shall indemnify the municipality in full against any claim for damage sustained by reason of the privilege.

(3) Any land occupied under a licence or permit pursuant to subsection (1) shall be deemed to be a part of the adjoining street, road, lane or public highway for the purpose of this Act.

175. (1) The council of a city may pass by-laws for the purpose of closing and selling, leasing or holding the whole or any portion of any street, road, lane or public highway, and the council of any other municipality may do so with the approval of the Minister of Highways.

(2) No such by-law shall be passed

(a) until any necessary approval has been given, and

(b) unless at least two weeks before the date fixed for the passing of the by-law, notice of the intention of the council to pass the by-law

(i) has been served to the persons registered or assessed as the owners of the land abutting upon the portion of the highway so proposed to be closed, or

(ii) has been mailed by registered mail to the persons assessed or registered as owners of the abutting land at the address as shown by the last revised assessment roll, or by the records of the land titles office for the registration district in which the land is situated, or

(iii) has been published once a week for at least two successive weeks in some newspaper circulating in the municipality, the last of such publication to be at least two weeks before the date fixed for the passing of the by-law.

(3) Before the passing of the by-law, a person who claims that the land in which he is interested as owner, occupier or otherwise will be affected prejudicially by the by-law, shall be afforded an opportunity to be heard by the council either by himself or by his agent.

(4) Any person who occupies, owns or is otherwise interested in land that sustains damages through the closing of the street, lane, road or highway shall be compensated for such damages as hereinafter provided.

(5) Where a claim is made for compensation for damages by the owner or occupier or other person interested in lands alleged to have been injuriously affected by the exercise of any powers of the council under this section, if the

council or official is not able to agree with the claimant as to the amount of compensation or damages, the compensation or damages shall be settled and determined by the award of the Public Utilities Board.

(6) When it appears that the amount of compensation after deducting the selling price in case a sale is contemplated, would be so large that the amount ought not to be paid out of current revenue, the by-law shall, with the approval of the Local Authorities Board, be subject to section 311, and if finally passed, the amount necessary to be raised to pay the compensation and any costs, may be raised by the issue of debentures for the amount payable, on such terms and at such rate of interest as the council by by-law determines.

(7) Nothing in this section shall be deemed to restrict or prevent the exercise of the Local Authorities Board in any case where the municipality makes application to that Board, of any power or jurisdiction contained in any Act conferring power or jurisdiction upon the Local Authorities Board to close the highway in whole or in part, or to alter or divert it, as incidental to dealing with a replotting scheme, cancellation of a plan of subdivision or the re-subdivision of land or otherwise, pursuant to *The Local Authorities Board Act*, *The Planning Act* or any other Act.

176. (1) Every public road, street, bridge, highway, square, alley or other public place that is subject to the direction, management and control of the council including all crossings, sewers, culverts and approaches, grades, sidewalks and other works made or done therein or thereon by the municipality or any other person with the permission of the council shall be kept in a reasonable state of repair by the municipality, having regard to

(a) the character of the road, street, bridge, highway, square, alley, public place or work made or done therein or thereon, and

(b) the locality in which it is situated or through which it passes,

and if the municipality fails to keep it in reasonable state of repair, the municipality is civilly liable for all damages sustained by any person by any reason of its default, in addition to being subject to any punishment provided by law.

(2) This section does not apply to any road, street, bridge, alley, square, crossing, culvert, sidewalk or other work made or laid out by a private person until it has been established as a public work by by-law or otherwise assumed for public use by the municipality.

(3) The municipality is not liable for damages under this section unless the person claiming them has suffered by reason of the default of the municipality a particular loss

or damage beyond what is suffered by him in common with all other persons affected by the want of repair.

(4) Nothing contained in this section casts upon the municipality any obligation or liability in respect of acts done or omitted by persons exercising powers or authorities conferred upon them by law, and over which the municipality has no control, where the municipality is not a party to those acts or omissions and where the authority under which those persons proceed is not a by-law, resolution or licence of the council.

177. Default under section 176 shall not be imputed to a municipality in any action

- (a) without proof by the plaintiff that the municipality knew or should have known of the disrepair of the road or other work, or
- (b) if the municipality proves that it had not actual or constructive notice of the disrepair or that it took reasonable means to prevent the disrepair arising, or
- (c) where any traffic control device has been defaced, removed or destroyed by someone other than a municipal official or employee, or as a result of an act of vandalism, without proof by the plaintiff that the municipality knew of the defacement, removal or destruction, and failed to restore, repair or replace the traffic control sign in a reasonable period of time.

178. No action shall be brought against a municipality for the recovery of damages caused

- (a) by the presence or absence or insufficiency of any wall, fence or guardrail, railing, curb, pavement markings, traffic control device, illumination device or barrier adjacent to or in, along or upon the highway, 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 upon the highway that is not on the roadway.

179. (1) Whether the want of repair was the result of non-feasance or misfeasance, no action shall be brought under section 176 and unless notice in writing of the cause of the action has been mailed to or served upon the municipal secretary within 30 days after the date on which the cause of action arose.

(2) When a person injured as a result of the alleged default of the council under section 176 dies, or when the court or judge before whom the action is tried considers

that there is a reasonable excuse for the absence or insufficiency of the notice and that the defendant council has not thereby been prejudiced in its defence, the absence or insufficiency of the notice is no bar to the maintenance of the action.

180. (1) The council may pass a by-law for the opening and maintaining of a temporary road or right of way for public purposes, across private property for a term not exceeding two years, when in the opinion of the council the condition of the public road in the neighborhood makes the action necessary or expedient.

(2) The council that passes a by-law under this section shall make provision therein for funds for paying compensation for the use thereof in every instance to the occupier or owner of the land upon which the temporary road has been opened, as may be mutually agreed upon between the council and the person interested, or in the event of disagreement the compensation as may be determined by the Public Utilities Board.

181. The council may pass by-laws:

- (a) compelling all persons, or all persons within specified areas of the municipality, to remove and clear away all snow, ice, dirt and other obstructions from the sidewalks adjoining the premises owned or occupied by them;
- (b) providing for the clearing of sidewalks, adjoining property of non-residents and all other persons who for 24 hours neglect to clear them, and in case of non-payment of the expenses thereof by the owner or occupant, the charging of the expenses against the property as a special assessment to be recovered in like manner as and with other taxes;
- (c) prohibiting the planting of trees, hedges or shrubs on private property at or adjacent to and within 25 feet from street intersections or such lesser distance as may be stated in the by-law, and requiring the removal of such trees, hedges or shrubs already planted, or limiting the height of such trees, hedges or shrubs whether planted before or after the date of the passing of the by-law;
- (d) prohibiting the building, placement, erection or continued existence of fences, walls or other objects on private property at or adjacent to and within 25 feet from street intersections or such lesser distance as may be stated in the by-law when the fences, walls or other objects interfere with good visibility for safe traffic flow but the by-law shall provide that where any such fence, wall or

other object that adversely affects good visibility for safe traffic flow is in existence at the date of the coming into force of the by-law, the fence, wall or other object may only be removed or reduced in height at the expense of the municipality.

182. The Lieutenant Governor in Council may by order direct that any highway, bridge or stream partly within the municipal limits, or any part of such highway, bridge or stream shall be subject to the direction, management and control of the council designated by the Lieutenant Governor in Council for the public use of the municipality.

183. (1) A council shall make adequate provision for

- (a) the drainage of all highways constructed or maintained by the council, and
- (b) the disposition of any water collected in a drainage ditch or other artificial depression created by the council on or contiguous to the road forming the site of the highway,

in such a manner as to prevent the flooding of other land.

(2) A person who is the owner or occupant of land in the vicinity of a highway mentioned in subsection (1) and who claims that default has been made by the council in performing the duty cast upon it by subsection (1) may lodge his complaint before the council.

(3) The complaint

- (a) shall be in writing,
- (b) shall be forwarded by registered mail to the municipal secretary,
- (c) shall contain a description of the land in respect of which default is claimed, and
- (d) shall contain a statement of the nature of the alleged default.

(4) Upon receipt of the complaint the municipal secretary

- (a) shall by registered mail advise the complainant
 - (i) that his complaint has been received,
 - (ii) that he may appear before the council personally or through an accredited agent for the purpose of speaking in support of the complaint, and
 - (iii) of the time and place of the next meeting of the council,and
- (b) shall lay the complaint before the council for its consideration at its next meeting.

(5) The council shall make or cause to be made by a committee consisting of not less than three members of the council an inquiry as to whether or not there are grounds for the complaint.

(6) After the inquiry is made the committee shall report the results of the inquiry to the council and, if there are grounds for the complaint made, the council

- (a) shall determine the measures to be taken to remedy the cause of complaint,
- (b) shall by resolution order such measures to be taken, and
- (c) shall forward a copy of the resolution to the complainant by registered mail.

(7) The order of the council shall state a time for completion of the measures to be taken, which shall not be later than 60 days from the date of the receipt of the complaint unless the complainant agrees in writing to a later time in which case the agreed later time shall be stated in the order.

(8) If the council considers that there are no grounds for the complaint it shall notify the complainant in writing to that effect within 30 days after the meeting at which the complaint was considered.

(9) No complaint that a default has been made by a council in performing a duty imposed upon the council by subsection (1) shall be lodged after the expiration of two years from the date the alleged default occurred, and unless notice in writing of the default has been mailed to or served upon the municipal secretary within 60 days after the day on which the cause of complaint arose.

184. (1) An owner or occupier of land who has complied with the requirements of subsections (2) and (3) of section 183 may make a complaint in writing to a judge of the district court within which the land is situate, that

- (a) a default has been made by the council in performing a duty laid upon it by section 183, or
- (b) the decision of the council on a complaint under section 183 is unjust and unwarranted.

(2) When an owner or occupier of land makes a complaint under subsection (1), he shall pay into court the sum of \$25 as security for costs to abide the event, and the judge on a complaint may direct that notice of the complaint be served upon the municipality.

(3) The judge shall hold an inquiry to ascertain whether or not there are grounds for the complaint and, if there are grounds, shall on inquiry determine the measures that should be taken by the council to remedy the default that contributed to the cause of complaint.

(4) The judge in his discretion may order the council to carry out any measures that he deems proper to remedy the default and may fix a time for the completion of any measure so ordered to be carried out.

(5) If the judge does not issue an order respecting the disposal of the complaint, he shall notify the council and the complainant

- (a) that no order will issue, and
- (b) that the complainant is entitled upon receipt of the notification to bring an action in any court of competent jurisdiction.

185. No action for an omission or default by a council to perform its duties under section 183 lies at the suit of any person to whom subsection (2) of section 183 applies, unless he has made a complaint in accordance with that section and the judge

- (a) has, under subsection (4) of section 184, made an order that has not been complied with by the council, or
- (b) has, in accordance with subsection (5) of section 184, declined to make an order.

186. (1) The council by agents, workmen and servants

- (a) may enter upon any land abutting on a road in the district for the purpose of erecting snow fences on that land to prevent the road from becoming blocked by snow drifts,
- (b) may erect fences upon that land, and
- (c) may from time to time enter upon that land to maintain, repair, replace or remove the snow fences.

(2) If any loss or damage is caused to the person in occupation of the land through the placing or maintaining of snow fences

- (a) that person shall be compensated therefor in such amount as the council may determine, and
- (b) the decision of the council as to the amount of the compensation is final and conclusive.

(3) If a snow fence erected pursuant to subsection (1) is not removed from the land by the council on or before the 15th day of April in any year, the person in occupation of the land may remove the snow fence, and may recover from the council the cost of the removal.

187. (1) Where a person petitions a council for the provision of a road through any land and the council is of the opinion that the desired road is necessary for the convenience and benefit of the petitioner but is not required in the interest of the public generally, the council may

require the petitioner to deposit with the municipal secretary or treasurer such sum as the council considers sufficient to cover the cost of providing the road and paying compensation in connection therewith.

(2) When the deposit is made the council by by-law

(a) may provide for the desired road or such other road as in the opinion of the council will be substantially of equal convenience to the petitioner, and

(b) may provide for the acquisition of any land required for the purpose thereof.

(3) For the purpose of acquiring land required for the provisions of any such road, the council has the power to acquire the land by expropriation or otherwise.

(4) When the road asked for in the petition is provided or when any other road that in the opinion of council is substantially of equal convenience and benefit to the petitioner is provided, the sum deposited shall be applied toward expenses incurred by the council in providing the road and for any compensation payable in connection therewith and the surplus thereof, if any, shall be repaid to the person or persons depositing the same.

188. (1) A council may, in cases of emergency or where no privately owned equipment is available, authorize the use of municipal equipment and employees for snow plowing or road building or road maintenance, or water or sewer repairs, when these services are requested by a resident or ratepayer of the municipality or by another municipality.

(2) Any municipality or ratepayer requesting such service shall pay for the use of the machinery at a rate not less than the rate paid by the Government of Alberta for rental of similar equipment.

(3) Notwithstanding subsections (1) and (2), a council may authorize the use of municipal equipment for snow plowing, road building or road maintenance on an Indian Reserve situated within the boundaries of the municipality on such terms and conditions as may be mutually agreed upon between the council and the governing authority of the reserve.

189. (1) Where a council proposes to enter into an agreement with the Minister of Highways under *The Public Highways Development Act* for the construction of a highway and to defray the municipality's portion of the cost of the construction out of its yearly revenues, the council may pass a by-law authorizing the agreement and payment of the amount to be expended thereunder in not more than 15 yearly instalments without the issue of debentures.

(2) If the council desires to enter into any such agreement and to raise money by the issue of debentures for the purpose of defraying the expenses payable by the municipality under the terms of the agreement, it shall pass a by-law for that purpose.

190. (1) Notwithstanding the provisions of this or any other Act, the council upon request from a person who is an owner, purchaser or lessee of land may by by-law authorize such person to construct a Texas gate across a municipal road at such place and according to such specifications and conditions as may be contained in the by-law.

(2) A Texas gate shall be constructed and kept in a reasonable state of repair by the person receiving permission to construct it.

(3) If that person does not keep the Texas gate referred to in this section in repair that person and not the municipality is liable for damages sustained by any person by reason of default.

191. (1) Where the council considers it expedient to construct under any of the highways of the municipality a system of storm sewers separate from a combined system of sanitary and storm sewers, the owner of any building, erection or structure situated on land abutting upon any highway where the separate system of storm sewers is constructed, if so required by council, shall connect his building, erection or structure to each of those systems.

(2) If the owner fails, neglects or refuses to do so within such period of time as may be fixed by the council, the municipality may enter upon the land and building, erection or structure concerned and make such connection and charge the cost thereof against the land and building concerned in the same manner as taxes and with the same priority as to lien and to payment thereof as in the case of ordinary municipal taxes.

192. A council may provide for the planting and protecting of trees, shrubs, grass and flowers on any highway or public place.

Sanitation and Waste Removal

193. The council, subject to the provisions of *The Public Health Act* and any regulations thereunder, may pass by-laws

- (a) authorizing the constructing and maintaining of such sewers, drains and ditches, either within or outside the municipality, as may be required
 - (i) to secure the proper drainage of the municipality and disposal of the sewage, or

- (ii) to control or divert water in any stream or other watercourse,
- (b) preventing or restricting, controlling and regulating the discharge into any stream, watercourse, drain, sewer or sewerage system of any deleterious matter, substance or thing, whether liquid or solid, that would be injurious to health, life or property, or injure, pollute or damage any stream, watercourse, drain, sewer, sewerage system or sewage treatment plant,
- (c) providing for and regulating and controlling the preliminary treatment of any sewage or other deleterious matter, substance or thing, whether liquid or solid, before it is discharged into any stream, watercourse, drain, sewer or sewerage system,
- (d) compelling any owner or occupant of land to construct and properly maintain such works as the council considers necessary for the proper treatment of any sewage or other deleterious matter, substance or thing, whether liquid or solid, before it is discharged into any stream, watercourse, drain, sewer or sewerage system and preventing any such discharge where such works have not been so constructed or are not so maintained,
- (e) preventing or reducing the flooding of basements or cellars connected with the municipal sewerage system by compelling the owner to install and operate a suitable gate valve or other mechanical device for the purpose of cutting off or controlling the connection between the sewerage system and the cellar or basement,
- (f) charging to all persons occupying property connected with the sewerage system of the municipality a service charge to be determined by the council in such manner as it considers equitable, having regard to the municipality's portion of the cost of the sewerage system and to the cost of treatment and disposal of sewage and the services respectively rendered with respect to such properties,
- (g) authorizing the constructing, maintaining and operating of a sewage disposal plant,
- (h) providing for the cleaning or flushing of streets and regulating the parking of vehicles that might interfere with such cleaning or flushing,
- (i) making provision for the proper scavenging of the municipality, licensing and regulating scavengers and fixing a schedule of rates to be charged by scavengers,
- (j) preventing and controlling the construction of privy vaults and providing for the keeping of them in a proper state of cleanliness,

- (k) charging to all assessed owners of lands, whether otherwise exempt from taxation or not, upon which privies exist, whether used or not, a fixed sum per privy per annum to cover the cost of removing the contents thereof or the contents of pail receptacles where supplied to such owners, and the actual cost to the municipality of such receptacles, and such charge shall be added to the tax roll as a special assessment against the lands of such owners, and may be recovered in like manner as other taxes that are a lien upon land,
- (l) prohibiting or restricting, controlling and regulating the placing or depositing or refuse as defined in the by-law upon any street or lane or in any park, public place or watercourse and compelling the removal of such refuse by the party so placing or depositing it and the placing of it in the place ordered by the council either within or outside the municipality,
- (m) providing for the summary removal from any building or other erection or from any lot of refuse as defined in the by-law, or directing that any such refuse shall be removed or otherwise dealt with by the owner, agent, lessee, occupier or other person designated in the by-law,
- (n) regulating and controlling the use of nuisance grounds owned or used by the municipality,
- (o) establishing, maintaining and supervising comfort stations, and
- (p) requiring that premises be put and maintained in a proper sanitary condition and providing penalties for infraction and other means for enforcing the by-law, including forcible removal of occupants and closing of the premises.

194. The council may pass by-laws

- (a) defining and classifying "ashes", "garbage" and "refuse",
- (b) establishing and maintaining a system for the collection, removal and disposal of garbage or of garbage and refuse or of ashes, garbage and refuse throughout the municipality, either
 - (i) at the expense of the municipality or of the owners or occupants of the lands in respect of which the service is rendered, or
 - (ii) at the expense of the municipality with respect to any defined area or areas, and at the expense of such owners or occupants with respect to any other defined area or areas, or
 - (iii) at the expense of the municipality with respect to any defined class or classes of prem-

ises and at the expense of such owners or occupants with respect to any other defined class or classes of premises, or

- (iv) at the expense of the municipality with respect to any defined class or classes of ashes, garbage and refuse and at the expense of such owners or occupants with respect to any other defined class or classes thereof,
- (c) requiring the removal and disposal of garbage or of garbage and refuse or of ashes, garbage and refuse by the owners or occupants of the lands or premises on which it originates, or by any defined class or classes of such owners or occupants, and providing for removal and disposal by the municipality at the expense of owners or occupants who fail to comply with the by-law,
- (d) compelling owners and occupants of land to provide such receptacles as may be specified in the by-law for ashes, garbage and refuse,
- (e) providing for the erecting and maintaining of such buildings, machinery and plant as is considered necessary for the collection, removal and disposal of ashes, garbage and refuse, or the contracting with some person for the collection, removal and disposal by him of the ashes, garbage and refuse, upon such terms and conditions as is considered expedient,
- (f) prohibiting the handling of or interfering with or removal of ashes, garbage and refuse, or any receptacle therefor, by persons not authorized or required by the by-law to handle or remove it,
- (g) prohibiting the removal of garbage and refuse from a hotel, boarding house or restaurant, for use as food for swine or other livestock, except under the authority of a permit issued by the medical health officer.

195. (1) If the local board of health for the municipality, or the medical health officer, or any person authorized by them upon due examination is satisfied that any building, enclosure or structure or portion thereof, has for any reason become or is unfit for the purpose for which it was used, or that it has become unsanitary or a nuisance or in any way dangerous to the health of the occupants or neighbors, the medical health officer of the municipality may issue a notice addressed to the owner of such premises or the agent or person in charge of the premises or all of them, requiring the premises to be put in proper sanitary condition, or if the board sees fit, requiring the occupants to quit and close up the premises within such time as the board considers reasonable.

(2) If any person to whom a notice is addressed under subsection (1), refuses or neglects to comply with the terms of the notice, he is guilty of an offence and liable on summary conviction to a fine of not more than \$10 for each and every day he neglects or refuses and in default of payment to imprisonment for a term not exceeding 30 days.

(3) The board may cause the premises to be properly cleaned and may make sewer and water connections, install plumbing and effect such alterations as may be necessary to put the premises in a sanitary condition at the expense of the owner or occupants.

(4) The board may remove or cause to be removed the occupants forcibly and close up the premises and if so closed the premises shall not be re-occupied until put in proper sanitary condition.

(5) A certificate signed by the board or the medical health officer of the municipality showing the amount of expenses incurred by reason of the doing of all or any of the things referred to in this section shall be filed with the person having charge of the tax collector's roll, who shall enter the amount shown in the certificate in the roll against the property affected and the amount shall be deemed taxes and be collected with the ordinary municipal taxes.

196. (1) If the owner, agent or occupant refuses or neglects to comply with any by-laws as provided in section 193, the medical health officer, whether before or after the occupants have left the premises, may affix to the building or structure a placard declaring it unfit for occupation and forbidding use of it.

(2) Any person removing or defacing such placard is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and not more than \$100 and in default of payment thereof to imprisonment for a term not exceeding 30 days.

(3) Any owner, agent or person renting or allowing to be occupied or any person occupying such building, enclosure or structure or part thereof without the consent of the medical health officer is guilty of an offence and liable on summary conviction to a fine of not more than \$15 for each day the building, enclosure or structure is rented, allowed to be occupied or occupied and in default of payment to imprisonment for a term not exceeding six months.

197. (1) If the council establishes a system for the collection, removal or disposal of ashes, garbage, refuse or waste matter either as a municipal undertaking or by contract, all matter collected by the municipality or the

contractor becomes the property of the municipality and may be sold or disposed of as the council may direct.

(2) The council may provide for the collection of any manufacturing or trade waste or manure and it may be removed or disposed of under such terms and conditions as the council may direct.

198. The council, subject to *The Public Health Act* and any other Act affecting the public health and any regulations made thereunder, may pass by-laws

- (a) providing for the health of the municipality and against the spread of communicable diseases, and appointing and defining the duties of a health officer and assistants,
- (b) regulating and controlling the use of wells, springs and other sources of supply of water for the municipality and preventing the contamination thereof or of any stream of water flowing through or past the municipality,
- (c) making and enforcing regulations for the sanitary condition of bread, bakehouses and bakeries, and, subject to *The Bread Act*, fixing the quality and weight of bread offered for sale or sold within the municipality and prescribing the marks it shall bear,
- (d) requiring bakers and other persons offering bread for sale to wrap the bread in paper of a prescribed quality and description, and forbidding such persons to expose, offer for sale or sell bread not so wrapped,
- (e) regulating the sale, distribution and packaging of any article used for food or drink and providing for the inspection of such articles and for seizure and forfeiture of such articles offered or exposed for sale, contrary to law,
- (f) providing for the distribution and delivery of dairy and bakery products within the municipality,
- (g) preventing or regulating bathing or washing the person in any public water in the municipality,
- (h) for closing, filling up or cleaning wells, cisterns or other sources of water supply whenever the medical health officer of the municipality reports them as unfit for use or likely to be deleterious to health, and for entering upon any lands for the purpose of doing so,
- (i) compelling the removal of dirt, filth or rubbish or any other obstructions off the highways or streets, lanes, alleys and by-ways or public places by the

- party depositing it and providing for such removal at the expense of the party if he defaults,
- (j) compelling the removal from any place within the city of any thing considered dangerous to the health or lives of the inhabitants, and
 - (k) preventing or regulating the erection or continuance of slaughterhouses, gas works, tanneries, breweries, distilleries, livery, feed and sale stables and laundries on certain streets and avenues or within certain portions of the municipality.

199. The council may pass by-laws providing for

- (a) engaging the services of medical practitioners, dental surgeons, nurses and such other persons as may be required to carry out the medical inspection of schools, to conduct child welfare stations and to give instructions and advice on all matters of public health, and authorizing arrangements with the Department of Health and with any municipality, school district or school division as to the sharing of expenses in connection with the employment of such persons, and
- (b) taking over, purchasing, erecting, operating, maintaining and regulating hospitals, either directly or by means of a board of governors, commission, corporation, board or other body which may be constituted or incorporated for that purpose.

200. (1) Where an agreement in conjunction with another municipality has been made to provide medical, nursing, clinical or isolation care and attention for the residents of the whole or part or parts of each such municipality the proportionate share of the moneys payable by each municipality shall be determined according to the assessment of all property in each municipality comprised in the area covered in the agreement compared to the total assessment in the total area covered in the agreement.

(2) In any municipality other than a city no by-law providing for the entering into an agreement with another municipality for the providing of medical, hospital or other medical care shall be finally passed until it has been approved in writing by the Minister of Health.

(3) Where any municipal council has passed a by-law fixing a minimum tax for medical service, the council, by by-law, may provide that a resident of the municipality who is not assessed upon the assessment and tax roll may enter into a contract with the council for the purpose of enjoying the benefits of the medical service upon voluntary payment of the amount fixed by by-law as a minimum tax for the medical service and the by-law may provide that only a non-assessed person who has entered into such a contract is to be entitled to the benefits of the medical services.

201. (1) The council by by-law may appoint a board of governors consisting of not less than two and not more than 15 members to manage, control and operate any hospital belonging to the municipality and may define the powers and duties of the board and fix the remuneration of any of the members.

(2) The members may be appointed by resolution of the council and shall hold office during the pleasure of the council.

(3) The council may on the petition of the governing body or persons operating any hospital other than a hospital belonging to the municipality, appoint a board for the hospital consisting of not less than two and not more than 15 members and may confer upon the board such powers not inconsistent with this Act as the council and the governing body or persons operating the hospital may agree upon.

202. Where a bequest, gift or devise whether made by a will, trust, deed or any other matter is hereafter made to a hospital belonging to a municipality and is subject to any annuity or other charge, the municipality upon payment of the bequest or gift or transfer of a property to the hospital may guarantee payment of the annuity or charge.

203. The council of any municipality may pass by-laws respecting all matters pertaining to the vendors of food and drink including the right to provide for and enforce penalties with regard to breaches thereof.

204. The council, subject to *The Public Health Act*, may pass by-laws for the control and regulation of slaughter houses, dairies or other industries producing or keeping any food, drink or other materials intended for sale for human consumption, including the right to impose penalties with respect to breaches of the by-law.

Social Welfare

205. For the purpose of providing accommodation for indigent residents of the municipality, the council may by by-law authorize

- (a) the purchase or lease of land and buildings,
- (b) the alteration and repair of any building on any land acquired pursuant to this section,
- (c) the erection of any buildings on any land acquired under this section,
- (d) the furnishing of any premises so acquired,
- (e) provision for the management of such premises, and
- (f) all other acts and things considered necessary or advisable to have the premises conducted and

managed successfully and economically as a place of public accommodation.

206. (1) The council may pass by-laws providing for grants

- (a) to any hospital,
- (b) to any charitable organization,
- (c) to sufferers from any calamity anywhere in Canada, and
- (d) to religious, educational or other organizations which the council may deem entitled to such grants, and may make all regulations, conditions and provisions with respect thereto.

(2) Subject to subsection (3), a council may make grants for any or all of the purposes mentioned in this section but in any one year the aggregate of all such grants shall not exceed a sum equal to one-half a mill on the net total assessment of the municipality upon which taxes are levied.

(3) No grant otherwise permitted by this section shall be made to any person

- (a) if the grant provides for or is to provide membership in a society or organization to the municipality or to any person, or
- (b) if the society or organization in any manner provides or is to provide membership to any person as a result of the receipt of such a grant.

Recreation and Community Services

207. (1) The council may pass by-laws respecting all matters pertaining to the acquisition, establishment, construction, control and operation of parks, athletic grounds and exhibition grounds, including provision for the acquisition, construction and control of structures, equipment, machinery and fittings as may be necessarily required.

(2) Without restricting the generality of subsection (1), the council may pass by-laws

- (a) establishing and maintaining swimming pools or granting aid towards the establishment and maintenance of swimming pools,
- (b) establishing and maintaining or granting money to aid in the construction of public bathing houses,
- (c) acquiring or erecting and operating municipal skating rinks or making grants in aid of the erection or of the maintenance and operation of skating rinks or both,
- (d) acquiring, maintaining and operating municipal golf courses, and
- (e) making grants in aid to playground associations.

(3) The council may impose special taxes for all purposes set out in this section and may provide for the charging of admissions or the raising of funds as the council may decide.

208. The council may by by-law appoint a parks board to exercise such powers as the by-law vests in the parks board.

209. (1) The council, by by-law, may appoint a recreation board to exercise such powers in the control, supervision and management of any recreation program as the council may determine, and to take such measures, either alone or in co-operation with other bodies as may be considered advisable for the encouragement and development of such recreation program.

(2) The members of the board may be appointed by resolution of the council and shall hold office during the pleasure of the council and shall receive such remuneration, if any, as the council may determine.

210. (1) A council may pass a by-law providing for the acquisition of land, the construction of buildings and the operation, regulation, maintenance and control thereof and for all other matters pertaining to the establishment of and assistance to music, art, libraries, planetariums, museums and zoos as the council may determine.

(2) A council may pass a by-law for the establishment, acquisition, construction, operation, maintenance and control of any civic centre in such manner as the by-law provides.

Miscellaneous

211. A council may purchase membership or buy shares in a co-operative association organized under *The Co-operative Associations Act* and may accept patronage dividends from such co-operative.

212. (1) A council by by-law may

- (a) authorize the acquisition by purchase, lease or otherwise, of land for an airport or seaplane base,
- (b) provide thereon all necessary buildings, structures and facilities,
- (c) control and operate the airport or seaplane base and for that purpose make such regulations and charge such fees or levies as the council approves, and
- (d) dispose of the airport or seaplane base so acquired and built.

(2) A council may grant a bonus or other aid to a person, company or corporation for the construction, establish-

ment or operation of an airport or seaplane base, the operation of which is of benefit to the municipality.

213. The council may control and regulate all businesses carried on within the municipality including the manner of operation, the nature of operation and the location thereof, and may license any or all such businesses,

- (a) whether or not the business is mentioned elsewhere in this Act, and
- (b) whether or not the business has a business premises within the municipality.

214. (1) The council may by by-law do all things with respect to the regulation of any business or industry including the licensing thereof, the restriction and limitation of its operations and any other matter considered necessary with respect to such businesses or industry including the right to impose a penalty and to prohibit the carrying on of any business or industry without a licence.

(2) Such power extends within the municipality to persons who carry on any business or industry partly within and partly outside the municipality.

(3) A licence fee may be in the nature of a reasonable tax for the privilege conferred by the licence or for the purpose of raising revenue and may be computed in any manner accepted by the council.

(4) In fixing a licence fee the council shall, where applicable, have regard for the business tax payable by similar businesses in the municipality.

(5) In establishing licence fees the council may charge a greater licence fee to a person who does not maintain a place of business within the municipality or reside in the municipality or both.

(6) The power to license a business or industry includes the power to specify the qualifications of the persons carrying on the business or industry and the conditions upon which such licences shall be granted.

215. (1) The council may refuse to grant or may revoke any licence if in its opinion there are just and reasonable grounds for the refusal of the application or for revocation of the licence.

(2) The council may delegate to the medical health officer the power to revoke the licence of any person who sells food or drink for human consumption within the municipality but who neglects or refuses to comply with the rules, orders or regulations of the Minister of Health or the by-laws of the municipality relevant to such business.

216. (1) Where a licence is revoked or surrendered the licensee is entitled to a refund of part of the licence fee.

(2) The refunds to be granted may be prescribed by the by-law.

(3) If there is no by-law the amount of the refund shall be in proportion to the non-expired part of the term for which it was granted.

217. The imposing or collecting of licence fees shall in no case be held to prevent the assessment of land held or used by the licence holders or the collection of taxes imposed thereon.

218. No municipality or municipal official shall issue a licence to anyone

(a) as owner of a motor vehicle, chauffeur, dealer in motor vehicles or keeper of a garage, or

(b) as auctioneer, or

(c) as hawker or pedlar, or

(d) as owner, proprietor, lessee, manager, agent or person in charge of a menagerie, circus, wild west show, trained animal show or similar show, or

(e) as owner, proprietor, lessee or manager of a theatre, moving picture theatre, opera house, concert hall, dance hall, assembly room or other place of public entertainment or film exchange, or

(f) as itinerant exhibitor of moving pictures, moving picture operator or operator's apprentice,

or to any other person required by law to obtain a provincial licence until the applicant has first produced the proper provincial licence and no licence issued by a municipality without such production is valid.

219. Where, in any prosecution or proceeding under a by-law providing for the licensing of any business, or of persons carrying on the business or engaged therein, it is alleged that the person proceeded against, carried on or engaged in the business without having first obtained a licence to do so, proof of one transaction in the business is sufficient to establish that the person proceeded against, carried on or engaged in the business.

220. Where a by-law for licensing has been passed and a licence fee imposed by the by-law is unpaid, the licensing officer may give notice in writing to any person by whom the licensee is employed and by the notice require that person to pay the licence fee out of moneys payable by him to the licensee and upon receipt of the notice by that person the amount of the licence fee to the extent of the money so payable shall be held to be a debt due by such person to the municipality and may be recovered as a debt due to the

municipality and may be collected in the same manner as taxes levied by the municipality.

221. (1) Every person carrying on or engaged in any business in respect of which a licence is required under this Act, upon request of a licence inspector, shall give to the inspector all information necessary to enable him to carry out his duties.

(2) A person carrying on or engaged in any such business who fails to furnish such information within 10 days from the date on which the request is made, is guilty of an offence and liable on summary conviction to a fine of not more than \$5 for every day during which the default continues.

222. The council may pass by-laws for the control and regulation of trades and occupations and may, without restricting the generality of the foregoing, pass by-laws:

- (a) regulating and licensing plumbers and providing for inquiry into their qualifications and establishing a board for the examination of journeyman plumbers, master plumbers, foremen, overseers or managers using the tools of the trade and desiring to engage in the work of plumbing within the municipality and fixing the fees for such examinations and authorizing the examining board to grant or refuse certificates of qualification;
- (b) regulating and licensing electrical workers, providing for inquiry into their qualifications, establishing a board for the examination of journeyman electricians, master electricians, foremen, overseers or managers using the tools of the trade and desiring to engage in the work of installing electrical apparatus or fixtures within the municipality, charging fees for such examinations and authorizing the board to grant or refuse certificates of qualification;
- (c) regulating and licensing gas fitters and steam fitters and providing for inquiry into the qualifications of gas fitters and steam fitters and establishing a board for the examination of journeyman gas fitters and steam fitters, master gas fitters and steam fitters, foremen, overseers or managers using the tools of the trade and desiring to engage in the work of gas fitting and steam fitting in the municipality and fixing the fees for such examinations and authorizing the examining board to grant or refuse certificates of qualification;
- (d) regulating and licensing plasterers and providing for inquiry into their qualifications and establishing a board for the examination of journeyman plasterers, master plasterers, foremen, overseers

or managers using the tools of the trade and desiring to engage in the work of plastering within the municipality, and fixing the fees for such examinations and authorizing the examining board to grant or refuse certificates of qualification;

- (e) licensing contractors who enter into contracts for the erection, alteration, or repair of buildings, or structures, the installation of heating plants, plumbing or other fixtures or the performance of other similar work in the municipality, classifying such contractors, prescribing a schedule of licence fees to be paid by such contractors, which may vary as between the different classifications, and requiring such contractors to pay the prescribed fee as a condition of commencing to carry out any such contract;
- (f) regulating the installation, maintenance or repair of gas piping, appliances, equipment and material used or to be used in connection with natural, manufactured or artificial gas within the municipality, and
 - (i) establishing a board, consisting of such number of persons as the council may designate, to fix and prescribe safety standards as to design, type, quality or workmanship and nature of material for all such gas piping, appliances and equipment used or to be used within the municipality, and
 - (ii) prohibiting the sale of or the offering or exposing for sale or use within the municipality of any gas piping, appliances, equipment or material not approved by the said board.

223. The council may pass by-laws not inconsistent with any Act or regulation of Parliament, or of the Legislative Assembly of Alberta to prescribe, regulate and enforce standards respecting any materials, equipment or appliances installed or used in the construction of buildings or structures and without restricting the generality of the foregoing may set standards for gas piping, steam fittings, electric wiring and plumbing.

224. (1) The council may pass by-laws licensing, regulating and controlling the taxi business.

(2) Without restricting the generality of the foregoing the council may pass by-laws to

- (a) establish and specify the rates or fares that may be charged for hire of taxis,
- (b) limit the number of vehicles that may be used by a person in the taxi business,

- (c) limit the number of passengers to be carried in each taxi,
- (d) require the equipping of taxis with meters or other devices to record fares,
- (e) limit the number of hours any person may drive a taxi during any one day, and
- (f) refuse a licence or refuse renewal of a licence to drive a taxi to a person whose driving record or character or state of health makes that person unfit to operate a public conveyance.

(3) Subsections (1) and (2) do not apply with respect to motor vehicles kept for the purpose of being rented without a driver and classified as "D.U." vehicles for the purpose of licensing under *The Public Service Vehicles Act*.

(4) A council may delegate by by-law or resolution the power to one or more officials to make any decision under this section but a person affected thereby may appeal any such decision to the council.

225. (1) Subject to *The Public Service Vehicles Act* and *The Highway Traffic Act*, a council may pass by-laws licensing, regulating and controlling the business of operating trucks propelled by mechanical power for transporting materials or doing work for gain either wholly within or partly within and partly without the boundaries of the municipality.

(2) Without restricting the generality of the foregoing the council may establish the amount of the licence fee to be charged to the person carrying on the business of transporting materials for gain or doing work for gain by means of vehicles operated by mechanical power by reference to the number of vehicles used in the carrying on of the business or by such other means as seems expedient to the council.

226. (1) A council may pass by-laws providing for the licensing of mobile homes situated in the municipality.

(2) The licence fee to be imposed in respect of mobile homes pursuant to a by-law under this section shall not exceed \$120 a year or \$10 a month for each calendar month during which the mobile home is within the boundaries of the municipality.

(3) Where the council has passed a by-law for the licensing of mobile homes then as soon as the mobile home is used as a residence in the municipality the full amount of the licence fee for that portion of the licensing year then unexpired thereupon becomes due and payable unless the municipality and the owner of the mobile home have entered into an agreement whereby the licence fee is made payable by instalments in advance.

(4) Where the owner of a mobile home has paid the full annual licence fee imposed pursuant to this section and the mobile home is moved from the municipality or ceases to be occupied as a residence the owner upon application therefor shall be refunded one-twelfth of the annual licence fee for each full calendar month remaining in the year and during which the mobile home is not within the municipality or the mobile home is not occupied as a residence.

(5) A licence shall not be required in respect of a vacation trailer occupied by a *bona fide* tourist.

(6) A mobile home licence pursuant to a by-law under this section is not liable to assessment and taxation pursuant to *The Municipal Taxation Act*.

(7) A licence fee payable pursuant to this section is collectible as a debt due to the municipality.

227.(1) The council by by-law may provide for the imposition of a tax on persons who are in legal possession of equipment when the equipment is engaged in the drilling of any well for which a licence is required under *The Oil and Gas Conservation Act* or in legal possession of equipment capable of or designed for drilling a gas or oil well when the equipment is engaged in servicing a gas or oil well.

(2) The tax shall be computed in accordance with a schedule which may be established by the Lieutenant Governor in Council.

(3) The treasurer in writing may require any owner, conditional owner or lessee of drilling equipment to supply such information as may be necessary to compute the tax.

(4) The tax may be imposed at any time during a calendar year and becomes due and payable upon cessation of the drilling or servicing operation and may be recovered with costs and with interest as a debt due to the municipality from the owners, conditional owners or lessees of the equipment.

(5) When taxes imposed by a by-law passed under this section remain unpaid for a period of 30 days after the cessation of the drilling or servicing operation the treasurer or any person appointed by him in writing may levy the taxes with costs by distress.

(6) This section does not apply in respect of any equipment licensable under *The Mobile Equipment Licensing Act*.

228. The council may pass by-laws licensing and regulating all places of amusement, entertainment or athletic contests of every kind and description and may by by-law prohibit amusements, entertainment or athletic contests as considered necessary in the public interest and may provide for penalties for breaches of any by-law passed under this section.

229. The council may pass by-laws licensing and regulating salesmen and the sale of goods of all kinds and description and may provide for the imposition of penalties with respect to breaches of such by-laws.

230. The council may by by-law make provision for the licensing, control and regulation of any public hotel or other place of public accommodation and may provide for the imposition of penalties with respect to breaches of any such by-law.

231. The council may by by-law provide for all matters or things relating to the days and hours wherein shops or any class of shops shall be permitted to remain open or shall be required to close and for such purpose may exempt shops or any class of shops or one or more classes of shops designated as to size or type from any of the provisions of such by-law and may designate by type the merchandise that may be sold or exposed for sale during the hours such shops are permitted to be open.

232. The council, by by-law, may require that during the whole or any part of a holiday as defined in *The Interpretation Act, 1958* or of a day proclaimed as a civic holiday, all shops, businesses and industries or any specified class or classes thereof be closed and remain closed.

233. The council, by by-law, may impose a penalty not exceeding \$100 exclusive of costs, for the breach of a by-law relating to the closing of shops, businesses or industries, and may provide for punishment by imprisonment for any period not exceeding 60 days in case of the non-payment of the fine and costs imposed for any such breach unless the fine and costs, including the costs of committal are sooner paid.

234. (1) Notwithstanding anything contained in this Act, the council by by-law may

- (a) prescribe the hours of any day of the week when the following business premises or any class of such premises, namely, garages, filling stations, service stations, machine shops and implement shops shall be and remain closed, and
- (b) provide that certain designated business premises selected by a system of rotation or otherwise may remain open during the time when all such premises, or the premises of a specified class, are required to be closed.

(2) The council by by-law may authorize sales in emergencies or in other prescribed conditions during the hours when premises, or the premises of a specified class, are required to be closed under the provisions of this section.

(3) The by-law authorizing sales in emergencies or in other conditions may

- (a) prescribe conditions on which gasoline, oil and grease may be sold in or by garages, filling stations and service stations and in or by any of them, and
- (b) prescribe conditions on which services, material and parts may be sold or supplied by garages, filling stations, service stations, machine shops and implement shops or by any of them.

(4) Notwithstanding anything contained in this Act or in any by-law, and notwithstanding any system of rotation, the council, in the case of garages, filling stations and service stations

- (a) may exempt one or more designated garages, filling stations or service stations from the application of any of the provisions relating to closing contained in this Act or in any by-law, or system of rotation, as the case may be,
- (b) may provide for the closing of any premises described in this section during a part of any day, and
- (c) may further provide for any area in the municipality to be supplied during the time when all such premises or the premises of a specified class are required to be closed with a varying number of premises for service if the needs of the travelling public, in the opinion of the council, require such varying number of premises for service.

235. Where a by-law is passed pursuant to section 231, 232 and 234, the council may in that or another by-law prescribe the manner in which premises are to be kept closed and the circumstances under which premises are to be deemed to be open and not closed.

236. A closing by-law does not apply to

- (a) a fair or exhibition that is lawfully held, or
- (b) a bazaar for charitable or church purposes, or
- (c) a shop in which the entire business carried on is confined to
 - (i) the post office business, or
 - (ii) the sale of medicines and medical and surgical appliances, or
 - (iii) the sale of intoxicating liquors in the manner prescribed by law, or
 - (iv) the sale of refreshments for consumption on the premises, or
 - (v) the sale of tobacco and other requisites of smokers, or

- (vi) the sale of newspapers, or
- (vii) the ordinary business of a railway book stall or refreshment room, or
- (viii) any one or more of such businesses,
- or
- (d) that part of a shop wherein any one or more of the businesses mentioned in clause (c) is carried on.

237. (1) The mayor may declare by proclamation that any one day of the year or any two half days shall be civic holidays.

(2) The council may, of its own motion, also declare another one day or another two half days as civic holidays.

238. (1) The council may pass by-laws to carry out the provisions of *The Planning Act* and to regulate in every way the construction of buildings and may provide for the classification, alteration, repair, demolition or removal of buildings within the municipality or any part thereof as the council considers necessary.

(2) In any by-law relating to the construction, erection, sanitation or use of buildings or other similar by-law, the council may

- (a) provide for the creation of an appeal board to deal with and adjudicate upon any question that may arise under the provisions of the by-law,
- (b) prescribe the duties and powers of the board, and
- (c) fix their remuneration and tenure of office.

239. (1) The council may pass by-laws

- (a) providing for the issuance of building permits for all or any part of a building, erection or structure to be erected, altered or repaired,
- (b) prohibiting the commencement of the erection, alteration, repair, demolition or removal of any building, erection or structure except in conformance with the regulations pertaining thereto and unless authorized by permit, and
- (c) providing that the granting of a building permit shall not entitle the grantee, his successors or assigns or anyone in his or their behalf, to erect any building, erection or structure that fails to comply with the requirements of any building restriction agreement affecting the site described in such permit.

(2) Neither the municipality nor any of its officials or employees shall be held liable for damages or otherwise by reason of the fact that a building, erection or structure, the erection of which has been authorized by permit, does not comply with the requirements of any such building restriction agreement.

(3) The council may pass by-laws adopting and constituting as building regulations the National Building Code of Canada or any part or parts thereof.

240. (1) The council may pass by-laws for regulating, restricting, limiting or prohibiting, the carrying on or conducting in any particular district or districts within the municipality of a business that, in the opinion of the council, is undesirable or unsuitable to such district or districts.

(2) In any by-law passed pursuant to this section, the council may declare any business so carried on or conducted in any district or districts to be a nuisance and direct the business to be removed from the district or districts.

(3) The power granted by this section is in addition to and not in substitution for the other powers given a municipality by this Act or by any other Act.

241. (1) The council, by a two-thirds vote of all the members thereof, may pass by-laws

- (a) directing that the owner of any building situated upon land abutting upon any street or public place wherein there is a sewer and water main shall install, in the building, connections with the sewer and water mains, and such apparatus and appliances as may be required to ensure the proper sanitary condition of the building and premises,
- (b) preventing the use or continuance of any water closets or privies that are not connected with the sewer and providing for them to be removed or filled up, and
- (c) directing the owner of any building, erection or structure situated on land abutting upon any road or street where a system of storm sewers is constructed to connect his building, erection or structure to the system.

(2) If the owner fails, neglects or refuses to do so within such period of time as may be fixed by the council, the municipality may enter upon the land and building, erection or structure concerned and make such connection and charge the cost thereof against the land, building, erection or structure concerned in the same manner as taxes and with the same priority as to lien and to payment thereof as in the case of ordinary municipal taxes.

242. (1) A council may pass a by-law for the purpose of entering into an agreement with any irrigation district for a supply of water for irrigation purposes within the municipality, upon such terms and conditions as the council considers proper.

(2) Where a municipality enters into an agreement under this section it has all necessary power and authority to construct, maintain and operate any and all ditches, culverts and other works considered necessary for the conveyance of water along or across any streets, lanes, highways or other public places within the municipality for the purpose of making water available for irrigation to such public places and private lands within the municipality as the council considers expedient, but no ditch or work shall be constructed along the portion of a street, lane or highway that may be graded for vehicular traffic and when a ditch or work is carried across a street, lane or highway, the street, lane or highway shall be protected by a suitably covered culvert.

(3) No ditch for conveying water for irrigation purposes shall be constructed, maintained or operated along a street, lane or highway until not less than two-thirds in number of the persons whose names appear upon the assessment roll as owners in respect of all property abutting or facing on the street, lane or highway have signed a request therefor or a consent thereto.

(4) When, under the provisions of this section, a municipality enters into an agreement for a supply of water for irrigation purposes the council, upon the request of the persons whose names appear upon the assessment roll as owners of any property abutting or facing on a street, lane or highway along which the water is being conveyed, may furnish to the property such supply of water as the council may think fit, under such terms and conditions as the council may prescribe under section 277.

(5) A municipality and any other person who is the owner of land upon which water is conveyed for irrigation purposes under an agreement made pursuant to this section, is liable only for damages when they are occasioned by water from a ditch used for the conveyance of water as aforesaid and the water escapes by negligence from any such ditch of the municipality or of the other person, or from the land on which it is located and runs over the surface upon surface of other land.

(6) No municipality or other person as aforesaid is liable under any circumstances for damage caused by seepage into the soil or saturation of the soil by water conveyed or used for irrigation purposes or by the escape of such water otherwise than over the surface of the land.

(7) A municipality is in no case liable for loss or damage unless the loss or damage is occasioned by the escape of water, through the negligence of the municipality, from a ditch, culvert or other work constructed, maintained or operated by the municipality or from land owned and occupied solely for municipal purposes.

243. Where a municipality is the owner of any mineral, including gas and oil, the council may

- (a) test, explore, mine or drill for and recover such minerals, including gas and oil,
- (b) deal in, lease, sell or dispose of any such minerals in such manner as the council considers to be in the best interest of the citizens,
- (c) enter into agreements with any person to carry out, either in association with or on behalf of the municipality, any or all of the activities specified in clause (a),
- (d) enter into an agreement with any person owning mineral rights adjacent to mineral rights owned by the municipality for the joint conduct of operations to recover such minerals including gas and oil or with respect to the sharing of the proceeds of the minerals recovered from the adjacent parcels,
- (e) generally do all acts or things collateral or incidental to the exercise of any of the powers granted by this section, and
- (f) apply for the incorporation of a company, pursuant to *The Companies Act*, to be known as "The Minerals Rights Development Company Limited" or by such other name as the council may choose, to carry out any or all of the powers or purposes referred to in this section.

244. A council, by by-law or resolution, may take all proceedings, make all expenditures and do all other things that may be necessary to implement the provisions of the *Veterans' Land Act* (Canada) for the establishment of veterans on land within the municipality, and for that purpose

- (a) may make all necessary agreements with the Government of Canada or of Alberta or any other person, and
- (b) may acquire any real property necessary therefor by purchase, gift or otherwise and by expropriation proceedings pursuant to *The Expropriation Procedure Act*.

Special Provisions Applicable to Municipal Districts

245. (1) The council of a municipal district may pass by-laws to establish and determine the boundaries of a fire protection area and for that purpose may

- (a) authorize the purchase and operation of apparatus and equipment,
- (b) authorize agreements with associations or persons or other municipalities for the purchase, joint use,

control and operation of the apparatus and equipment, and

- (c) recover any expenditure made pursuant to this section by the levy of a special tax on all assessed property in the fire protection area and appearing on the assessment roll of the municipal district.

(2) Where charges have been incurred with respect to extinguishing fires and preserving life and property from injury or destruction by fire on lands in the municipal district but situated outside the boundaries of a fire protection area, the council may pass a by-law to charge the costs to the owner or occupant of the land, and in default of payment may

- (a) recover the costs as a debt to the municipal district, or
- (b) charge the costs against the land concerned as taxes due and owing in respect of that land and recover the costs as such.

246. To encourage a veterinarian to practice in a municipal district, the council may annually, by by-law, authorize the payment to the veterinarian of a grant not exceeding a sum equal to $\frac{1}{4}$ mill on the total net assessment upon which taxes are levied in the municipal district, or \$4,000, whichever is greater.

247. (1) A council of a municipal district by by-law may prohibit the construction, placing or laying, either above or below the ground, of

- (a) power transmission poles, lines or cables,
- (b) telegraph poles, telephone poles, lines or cables, and
- (c) wells,

closer than 101 feet from the centre line of a secondary road established pursuant to *The Public Highways Development Act*.

(2) A council by by-law may prohibit the construction or placing of

- (a) buildings and shelter belts,
- (b) farm dugouts, and
- (c) cesspools or disposal fields,

closer than 125 feet to the centre line of any public road, highway or street.

(3) In lieu of or in addition to prohibiting the construction, laying or placing of any works or things as provided in subsections (1) and (2), the by-law may permit such construction, laying or placing within a specified distance of the centre line of a specified secondary highway, road, highway or street, or any part thereof, upon such terms and conditions as may be set out in the by-law.

- (4) A by-law made pursuant to this section
 - (a) shall provide for the payment from municipal funds of compensation by the municipal district to any person who suffers damages as a result of the by-law,
 - (b) may prescribe a fine not exceeding \$200, with imprisonment for a term not exceeding 30 days for default in payment of the fine for failure
 - (i) to comply with a by-law passed pursuant to subsection (1) or (2), or
 - (ii) to comply with any of the terms or conditions of the construction, laying or placing of any of the works or things referred to in a by-law passed pursuant to subsection (3),
 - and
 - (c) may authorize the removal, at the expense of the owner, of any works or things that were constructed, laid or placed in contravention of the by-law.
- (5) Where there is a disagreement between a council and a person who claims to have incurred damage or loss as a result of a by-law under this section, compensation shall be determined by arbitration under *The Arbitration Act*.

248. A council of a municipal district by by-law may authorize the expenditure of municipal funds for the purpose of implementing an agreement

- (a) for the construction and operation of a seed cleaning plant, or
- (b) for such other approved programs as can be entered into under *The Agricultural Service Board Act*.

249. (1) The council of a municipal district by by-law may

- (a) authorize the drilling of a well, the provision of a reservoir, and the provision of equipment therefor in any hamlet to provide a supply of water for the residents of the hamlet, and
- (b) recover the cost thereof by a levy of a special tax on all property in the hamlet appearing on the assessment roll of the municipal district.

(2) The levy referred to in subsection (1) shall be made in the same manner, at the same time as, and in addition to the annual levy of taxes, and any tax so levied shall be added to and forms part of the municipal taxes for the year in which the levy is so made.

250. The council of a municipal district may pass a by-law authorizing the making of advances in such monetary sums as it considers necessary to supply any commodities

(a) for the next ensuing spring seeding season, or
(b) for the sustenance of stock, or
(c) for any other good and sufficient reason,
to farmers who reside in the municipal district and are owners, purchasers or lessees of land therein and who because of adverse conditions are unable to procure the required commodities from their own resources.

251. (1) Where necessary the council may pass a by-law authorizing the borrowing from a person, bank or corporation of such sums of money as the council considers necessary for the purpose of making the advances referred to in section 250.

(2) The municipal district may repay any sum of money so borrowed to the lender together with interest at such rates not exceeding 7 per cent a year, and at such time or times, as is agreed upon between the municipal district and the lender.

(3) The borrowing of any such sum of money shall not be for a longer period than three years and the borrowed sum or sums of money shall be repaid by annual payments equal to the sum obtained by dividing the principal by the number of years for which the loan is to run.

(4) There shall be paid out of the collection of taxes, current and arrears, in each of the years during which the loan is to run and as a first charge against the taxes the sum necessary to make the payment of principal together with such interest on the whole amount borrowed as is necessary, and consideration shall be given to the amount or amounts that have been repaid by the resident farmers who have obtained any such commodity.

252. No commodity shall be supplied to a purchaser or lessee of land without the consent in writing of the registered owner of the land.

253. A commodity shall be supplied only by the municipal district or by an agent of the municipal district appointed for that purpose by resolution of the council.

254. The municipal district shall charge the recipient of a commodity supplied such an amount and no more as it considers reasonably sufficient to cover the cost of the commodity and the expenses entailed by the purchase and distribution of the commodity.

255. (1) When the municipal district advances a commodity the municipal district shall take from the recipient thereof his note or notes for the price thereof.

(2) The notes mentioned in subsection (1)

- (a) shall bear interest at the same rate as the rate of interest payable by the municipal district in respect of borrowings made by the municipal district for the purposes of this Act, and
 - (b) shall be payable on demand at the office of the treasurer of the municipal district.
- (3) A lien in the prescribed form shall be taken from the recipient of a commodity
- (a) for a lien upon all crops grown or to be grown
 - (i) upon the land in respect of which the commodity is supplied, and
 - (ii) upon any other land farmed by the recipient, until all advances made pursuant to this Act together with interest thereon have been repaid, and
 - (b) for a charge
 - (i) upon the interest of the recipient in the land in respect of which the commodity is supplied, and
 - (ii) upon his interest in any other land.

256. (1) Within 90 days of the making of an advance for the purpose of supplying a commodity to a person pursuant to this Act, the municipal district

- (a) shall cause to be published in the *Gazette* a notice that an advance has been made for that person, and
 - (b) shall register in the office of the proper land registration district the agreement for a lien.
- (2) The charge referred to in subsection (1) has precedence over all other encumbrances against the land except
- (a) taxes and sums that by law may be charged against the land in the same manner as taxes,
 - (b) any mortgage
 - (i) that is a first registered encumbrance against the land at the time the lien is registered by the municipal district, or
 - (ii) that, being registered at the time, subsequently becomes a first registered encumbrance by the discharge of previous encumbrances,
 - and
 - (c) sums remaining unpaid in respect of advances previously made under a statute providing for seed grain advances.

257. (1) Where within 90 days after the making of an advance pursuant to this Act the municipal district causes to be published in the *Gazette* a notice to the effect that an advance has been so made and setting out the name and post office address of the recipient of the commodity there is created as from the date of the publication

(a) a lien

- (i) upon all crops grown from any seed supplied pursuant to this Act at any time within 12 months after the advance referred to in the notice, and
- (ii) having priority over all claims and demands of whatsoever kind, nature or description, except liens that pursuant to *The Crop Liens Priorities Act* are prior to the lien created by this section,

and

(b) a lien

- (i) upon all crops grown or to be grown
 - (A) upon the land in respect of which the commodity is supplied, and
 - (B) upon any other land farmed by the recipient,until all advances made pursuant to this Act together with interest thereon have been repaid, and
- (ii) having priority over all other claims and demands of whatsoever kind, nature and description, except only as is otherwise provided by *The Crop Liens Priorities Act*.

(2) In the event of foreclosure or sale by the owner of a mortgage that is or that becomes a first registered encumbrance within the meaning of section 256, the lien referred to in clause (b) of subsection (1) ceases to exist on and after the date of the foreclosure or sale.

258. *The Bills of Sale Act* does not apply to an agreement for a lien taken pursuant to this Act.

259. (1) No person for whom an advance for a commodity has been made and who has been supplied with the commodity under this Act shall, during the year in which the advance is made and in any ensuing years so long as any money is owing in respect thereof, sell, ship or otherwise dispose either by himself, his servant or agent directly or indirectly of any grain that is subject to a lien for such an advance without the consent in writing of the municipal district or some person authorized by the municipal district for that purpose.

(2) A person contravening this section is guilty of an offence and liable on summary conviction to a fine of not more than \$100, to which sum shall be added the amount owing in respect of the advance, and in default of payment forthwith the person convicted is liable to imprisonment for a term of not more than one year.

260. (1) A lien upon crops created pursuant to this Act is enforceable by seizure and by sale of the crops

(a) in the same manner as is provided for the recovery by distress of taxes owing to the municipal district in which the crop is grown, and

(b) at any time before severance and at any time after severance wherever the crop is found except only where a buyer has acquired a good title thereto pursuant to section 26 of *The Sale of Goods Act*.

(2) The costs chargeable in respect of seizure and sale under this section are those payable to bailiffs under *The Seizures Act*.

261. Where an application for an advance for commodities is made by an occupant of land the title to which is in the Crown in right of Alberta, the municipal district with the consent of the Minister of Lands and Forests may supply commodities to the occupant of the land and the amount advanced for the commodities is a first charge against the interest of the applicant in the land.

262. (1) Where the applicant for an advance for commodities pursuant to this Act is a person whose interest in the land that he farms is that of lessee or a homesteader or a purchaser under an agreement for sale, the municipal district may require that the applicant give to the municipal district a mortgage upon his livestock and its increase to secure the repayment of the amount of the advance with interest.

(2) *The Bills of Sale Act* applies to a mortgage mentioned in subsection (1)

(a) except that the time for registration of the mortgage is 60 days instead of 30 days as prescribed by that Act,

(b) except that section 13 of *The Bills of Sale Act* does not apply to the mortgage, and

(c) except that no fee is payable upon the registration of the mortgage.

263. Where a mortgage is taken under this Act to secure an advance of feed or fodder for the feeding of any livestock that is subject to a prior mortgage, charge or encumbrance the mortgage has priority over every prior mortgage, charge or encumbrance upon the livestock.

264. An advance made pursuant to sections 250 to 263 shall be made to the recipient in kind and not otherwise and under no circumstances shall any money be advanced to the recipient instead of or in addition to the commodity supplied.

265. (1) Upon payment in full of the amount secured by the lien agreement the secretary-treasurer if so requested shall give a discharge of the lien agreement in the prescribed form.

(2) The discharge may be registered with the Registrar in the land titles office in which the agreement was registered.

266. A Registrar of land titles shall, without fee or charge,

- (a) receive and file a lien agreement delivered to him for filing pursuant to this Act,
- (b) make all necessary entries and memorandum with reference thereto, and
- (c) register each lien agreement and each discharge thereof.

267. (1) The council of a municipal district may pass a by-law for the purpose of entering into an agreement with any person for the provision of weather modification services to the municipal district or to a part or parts of the municipal district.

(2) No agreement made pursuant to subsection (1) is operative until the by-law authorizing the agreement has received the assent of

- (a) two-thirds of the proprietary electors of the municipal district or part thereof voting thereon in the manner provided in *The Municipal Election Act*, when the total number of proprietary electors voting on the by-law is not more than 50 per cent of the total number of proprietary electors entitled to vote thereon, or
- (b) a majority of the proprietary electors of the municipal district or part thereof voting thereon in the manner provided in *The Municipal Election Act*, when the total number of proprietary electors voting on the by-law is more than 50 per cent of the total number of proprietary electors entitled to vote thereon.

(3) The expenses incurred under the agreement pursuant to subsection (1) shall be met by the levy and collection of a mill rate tax upon the physical land liable to assessment and taxation in that part or parts of the municipal district covered by the agreement.

(4) The rates shall be levied in addition to and together with the rate authorized for ordinary municipal purposes and they shall be a lien upon the property subject to the same penalties and collectible in the same manner as taxes.

(5) A by-law passed pursuant to this section shall be submitted to the proprietary electors not more than once in each calendar year.

(6) Notwithstanding subsection (5), in one calendar year and in that year only, two by-laws may be submitted to the proprietary electors if the weather modification services specified in the second by-law are to be carried out in a different year from the year specified in the first by-law.

268. (1) The council of a municipal district shall in each year cause at least 50 per cent of the taxes collected for municipal purposes in the previous year in a hamlet to be expended on public works within the hamlet if a petition to that effect and signed by a majority of the owners, conditional owners and purchasers of land therein is received by the council prior to the first day of April, but if the petition is received after the first day of April the council may postpone the expenditure of such sums until the following year.

(2) The council by agreement with the petitioners may postpone the expenditure of such moneys until such agreed upon time as a fund has been accumulated to undertake a public work of major proportions.

(3) This section applies only to a hamlet in which there are at least ten dwellings.

(4) In this section the words "public works" include any system of street lighting.

PART 6

PUBLIC UTILITIES

269. (1) The council with the approval of the Public Utilities Board may enter into a contract with a person undertaking to provide the residents of a municipality with a supply of all or any of the following, namely: telephones, transportation, light, power, natural and artificial gas, water and heat, and confer a special franchise upon that person in respect of the subject matter of the contract for any period not in excess of 20 years.

(2) When a person undertakes to provide a community antenna television system to the residents of a municipality, then a contract may confer a special franchise upon the person for a period not in excess of 20 years.

(3) The provisions of section 311 relating to the requirement of advertising and if necessary submitting the matter to a vote of the proprietary electors apply *mutatis mutandis* to a by-law passed pursuant to this section.

270. The council, with the approval of the Public Utilities Board, may enter into a contract with any person to supply light, power, gas, natural and artificial gas or

water for the use of the municipal corporation for any period not exceeding 20 years.

271. (1) Application for the approval by the Public Utilities Board of any special franchise or other contract entered into pursuant to section 270 or pursuant to a municipal charter, or any renewal thereof as hereinafter provided, shall be made to the Board prior to or forthwith after the first reading of the by-law.

(2) Any such contract, whether or not it contains an express provision to that effect, is subject to the following conditions, namely,

- (a) that at or before the expiration of the term thereof, and after the expiration of the term if the contract has been continued in force under subsection (3), the contract may be renewed for a period not exceeding 10 years from the date of the renewal and so on from time to time with such alterations, if any, as may be agreed upon by the parties and approved by the Public Utilities Board, and
- (b) that, if either party refuses to renew the contract, or if the parties fail to agree as to the conditions of the renewal, then the council, subject to the consent of the Public Utilities Board, may purchase all the rights of the contractor in all matters and things under the contract and in all apparatus and property used for the purposes thereof, for such price and on such terms as may be agreed upon with the contractor in all matters and things under the contract and in all apparatus and property used for the purposes thereof, for such price and on such terms as may be agreed upon with the contractor, or failing such agreement, then for such price and on such terms as may be fixed and settled by the Public Utilities Board on the application of either of the parties.

(3) If any such contract is not renewed on or before the expiration of the original term, or of any renewal thereof, by express agreement of the parties as aforesaid, or if the council does not complete the purchase of the subject matter thereof as hereinbefore provided, then the contract continues in full force and effect until such time as either party terminates it on six months' written notice given to the other with the approval of the Public Utilities Board.

(4) When pursuant to this or any other Act, an area is or has been heretofore incorporated as, or annexed to, or included in a municipality, a special franchise with respect to the area, or a contract for the supply of light, power, natural gas or water to persons resident in the area, that has been conferred or entered into by the governing authority previously having jurisdiction in the area and that has become operative therein shall be deemed to

have been conferred or entered into on its original date by the council of the new municipality and to have become operative therein and sections 270 and this section apply, the necessary changes being made, to the special franchise or contract.

272. (1) A municipality may enter into an agreement with the holder of a special franchise whereby the municipality accepts payment of a percentage of the gross revenue of the special franchise from such holder in lieu of taxing the special franchise, lands, improvements, pipe lines, works and transmission lines, machinery, equipment and apparatus belonging to and used by the special franchise holder in the operation of such special franchise.

(2) The percentage of the gross revenue payable to the municipality may be of a fixed percentage or may be of different percentages for different classes of consumers.

(3) The provisions of *The Municipal Taxation Act* shall not be construed so as to abrogate the conditions of any subsisting special franchise agreement.

273. (1) A council may by by-law purchase, lease and construct any public utility, in whole or in part.

(2) Where a by-law has been passed pursuant to subsection (1), the municipality may

- (a) improve, drill, explore for, extend, hold, maintain, control, operate and conduct the public utility, in whole or in part and acquire all buildings, wells, materials, works, machinery, plants, equipment and appurtenances necessary in connection therewith,
- (b) consider the public utility either separately as a distinct undertaking, or with two or more such works in conjunction as one entire undertaking,
- (c) sell, lease or dispose of all fittings, machines, apparatus, meters or other things used in connection with any public utility carried on by the municipality together with every product, refuse or residue resulting from the conduct of any such public utility,
- (d) enter upon or purchase such lands and buildings as it considers necessary or advantageous for the purposes of any public utility,
- (e) subject to section 276, exercise the powers provided in this section, either within or without the municipality,
- (f) employ such superintendents, engineers, surveyors and other persons as may be necessary or expedient to enable the powers of the municipality to be properly exercised, and
- (g) with the approval of the Public Utilities Board

enter into a contract with any person to supply additional quantities of any services for the use of the municipality for the security and protection of service to its utility consumers for any period not exceeding 20 years.

(3) Without restricting the generality of clause (g) of subsection (2), any such contract may include provision for the supply of

- (a) standby service in the event of failure of the municipality's facilities,
- (b) peak or base load and reserve supply, and
- (c) interchange and ancillary services.

274. (1) Where a municipality proposes to purchase, lease or otherwise acquire

(a) the property and rights of a franchise holder or contractor pursuant to clause (b) of subsection (2) of section 271,

(b) from an owner, a utility system described in sub-clauses (i) to (vii) of clause 23 of section 2,
the municipality shall obtain the approval of the proprietary electors voting thereon.

(2) The vote shall be conducted as if it was a vote on a money by-law.

275. (1) A municipal district may exercise the powers provided in section 270 or 273, in a specified part or parts of the municipal district only, in which event only the proprietary electors of the specified part or parts of the municipal district are entitled to petition for a vote or to vote on the by-law.

(2) The by-law and contract shall provide specifically that the municipal district will be under no liability or obligation to do any act or thing whatsoever in relation to the privileges granted thereby that will cause any increase in the tax rate or any other levy which is made annually by the council.

(3) When pursuant to this or any other Act, a new town or village has reverted to the status of a hamlet, a special franchise with respect to the area, or a contract for the supply of light, power, natural gas or water to persons in the area, that has been conferred or entered into by the governing authority previously having jurisdiction in the area and that has become operative therein shall be deemed to have been conferred on and entered into on its original date by the council of the municipal district in which the hamlet is situated and to have become operative therein, and section 271 applies, the necessary changes being made, to the special franchise or contract.

276. (1) Subject to *The Public Utilities Board Act*, *The Gas Utilities Act* and *The Power Commission Act*, the municipality may supply any person outside the municipality with a public utility upon special terms, and may exercise all other powers necessary to the carrying out of its agreement with such person as well outside the municipality as within the municipality.

(2) Where the supply of a public utility is to be made in another municipality, no pipes poles or wires for that purpose shall be carried in, upon, through, over or under any highway or public street, lane, road or passage within the other municipality without the consent of the council of that other municipality.

(3) Where there is a dispute between the municipality and any other municipality in connection with any public utility construction work that is being carried on within the boundaries of that other municipality, the dispute may be submitted to the Local Authorities Board for an order upon such terms and conditions as to the Board seems proper.

(4) Where there is a dispute between the municipality and any other municipality in connection with the rates, tolls or charges, the dispute may be submitted to the Public Utilities Board for an order upon such terms and conditions as to the Board seem proper.

(5) Subsection (4) applies whether or not a public utility is subject to the control and order of the Public Utilities Board pursuant to section 102 of *The Public Utilities Board Act*.

277. A council may pass by-laws

- (a) for the general maintenance or management or conduct of any public utility constructed or maintained, and of the officers and others employed in connection with them,
- (b) fixing in connection with public utilities, such rates, charges, tolls, fares and rents and the times and places where they will be payable and providing for such discount as the council considers expedient for prepayment or punctual payment, or an additional percentage charge not exceeding 10 per cent of the rates, tolls, fares or rents in arrears as the council considers advisable for failure to pay them until after the date fixed for payment,
- (c) providing for the rent of fittings, machines, apparatus, meters or other things leased to consumers,
- (d) providing for the collecting of the rates, charges, tolls, fares or rents in connection with any public utility,
- (e) providing for enforcing payments of such rates, charges, tolls, fares or rents by all or any of the following methods, namely:

- (i) by action in any court of competent jurisdiction, or
 - (ii) by shutting off the utility being supplied to the consumer or discontinuing the service thereof, or
 - (iii) by distress and sale of the goods and chattels of the person owing such rates, charges, tolls, fares or rents wherever they may be found in the municipality,
- and
- (f) providing for enforcing the terms and conditions under which the public utility is supplied either
 - (i) in the general by-law under which the public utility is supplied, or
 - (ii) in the agreement made between the municipality as supplier and the consumer,
 by shutting off the public utility being supplied to the consumer or discontinuing the service thereof until the consumer complies with the terms and conditions or such of them as the council designates in the by-law.

278. (1) The distress and sale for rates, charges or rents shall be conducted in the same manner as sales are conducted for arrears of taxes and the costs chargeable are those payable under *The Seizures Act*.

(2) An attempt to collect the rates or rents by any such process does not in any way invalidate any lien the municipality is entitled to upon the premises in respect of which the indebtedness is incurred.

279. A council may pass by-laws authorizing the discontinuance of a telephone service supplied by the municipality to any person while any toll or charge payable by the person to the Alberta Government Telephones for long distance telephone service remains unpaid.

280. Any user of a public utility being aggrieved respecting service charges, rates and tolls made to such user may by application appeal to the Public Utilities Board and the Board, if satisfied that such service charge

- (a) does not conform to the public utility rate structure established by the municipality, or
- (b) has been improperly imposed, or
- (c) is discriminatory,

may make an order varying, adjusting or disallowing the whole or any part of such charge.

281. For the purpose of any public utility, the municipality may sink and lay down pipes, power cables, wells, tanks and reservoirs and erect poles, wires, acquire or erect

structures and other conveniences together with shafts, dams, buildings and machinery as may be necessary or expedient and to alter all or any of the works both as to position and construction as it considers advisable.

282. (1) For the purpose of inspecting, repairing or placing meters upon any service pipe or connection within or without any house or building as is considered expedient, an official authorized by the municipality for that purpose shall have free access, at proper hours of the day and upon reasonable notice given and request made, or, in the case of the written authority of the mayor given in respect of the special case, without notice, to all parts of every building or other premises in which water, telephone, gas, electricity or heat is delivered and consumed or that is served by a sewer.

(2) For the purposes set out in subsection (1) or for the purpose of protecting or regulating the use of such meter, or other equipment, any official authorized by the municipality, may set or alter the position of it or of any pipe, wire connection or tap.

(3) The municipality may fix the price to be paid for the use of a meter and the times when and the manner in which the price will be payable, and may also charge for and recover the expenses of such alterations, and such price and expense of such alterations may be collected in the same manner as water rates.

283. Where any consumer discontinues the use of any public utility furnished by the municipality, or the municipality lawfully refuses to continue any longer to supply it, any authorized official or servant of the municipality may at all reasonable times enter the premises in or upon which such consumer was supplied with the public utility for the purpose of removing therefrom any fittings, wires, machines, apparatus, meters, pipes or other things that are the property of the municipality in or upon such premises and may remove it therefrom, but he shall do no unnecessary damage.

284. (1) The municipality, its engineers, servants and workmen, from time to time and at such times as the council considers fit, may enter into and upon, take or use by expropriation under *The Expropriation Procedure Act*, the land of any person, bodies politic or corporate in the municipality or within 10 miles thereof, and may survey, set out and ascertain such parts thereof as are required for the purposes of any public utility that the municipality is empowered to construct or operate, and may contract with the owners or occupants of the land and any person having a right or interest therein for the purchase or renting thereof, or of any part thereof, or of

any privilege that may be required for the purpose of the public utility, at the option of the municipality.

(2) The municipality and the servants under its authority, may, for the purposes set out in this Part, enter and pass upon and over any such lands, and may cut and dig up the lands, if necessary, and may lay down pipes, excavate ditches, erect poles and wires through the lands, and in, upon, through, over and under the highways, streets, lanes, roads, squares, bridges or other passages, whether it is within the municipality or not, and for such purposes may break up, dig and trench it.

(3) For the purpose of taking up, examining or repairing and otherwise maintaining any public utility, the municipality may exercise the same power as set out in subsection (2).

(4) Any power given to the municipality under this section may with regard to private property be exercised with the consent of the owner thereof.

285. The municipality may construct, erect and maintain in and upon any land acquired under this Act all reservoirs, waterworks, gas works or wells and shafts, dams, buildings, machinery or other things requisite for the public utilities authorized under this Act, and for conveying water, gas, electricity, heat or power through the same by such lines of pipes, ditches, poles or wires as may from time to time be found necessary or expedient.

286. (1) All lands not being the property of the municipality and all highways, streets, lanes, roads, squares, bridges or other passages so dug up or interfered with shall be restored to their original condition without unnecessary delay, or compensation shall be paid therefor.

(2) The municipality may enter upon, set out, ascertain, purchase, use and occupy such parts of the land as the municipality thinks necessary and proper,

(a) for the making and maintaining of a public utility, and

(b) for the taking up, improving, moving, altering or repairing it, and for enabling it to be used by the municipality or by the inhabitants thereof.

287. (1) Where different parts of a building belong to different tenants or lessees, the municipality may carry pipes or wires to any part of the building passing over the property of one or more proprietors, or in the possession of one or more tenants, to convey any public utility to the property of another or property in the possession of another.

(2) Such pipes or wires shall be carried up and attached to the outside of the building unless consent is obtained to carry the same inside.

288. (1) Utility service pipes, lines, power cables or sewers that may be required shall be constructed and laid down up to the outer line of the street by the municipality and the municipality is solely responsible for keeping them in repair.

(2) Service connections from the outer line of the street into private property shall be made by the municipality to an agreed point, on payment by the owner of the charges therefor and the owner becomes solely responsible for the repair and maintenance of the service connections that lie within his property.

289. Where vacant space intervenes between the outer line of the street and the wall of the building or other place into which the public utility is to be taken or with which the sewer is to be connected, the municipality may, with the consent of the owner, lay the service pipes, lines, power cables or sewer connections across the vacant space and charge the cost thereof to the owner of the premises, or the owner himself may lay service pipes, lines, power cables or sewers if it is done to the satisfaction of the municipality or person appointed by it in that behalf.

290. The expense incidental to the laying, connecting, disconnecting or repairing, as herein provided, of service pipes, lines, power cables or sewers when such work is done by the municipality beyond the outer limit of the street, or the expense of superintending such work when it is done by any other person, is payable by the owner on demand of the municipality, and if not paid may be collected forthwith in the same manner as water rates.

291. (1) All service pipes, lines, power cables or sewers to the interior face of the outer walls of the buildings supplied, together with all branches, couplings, stop-cocks and apparatus placed therein by the municipality are under its control.

(2) If any damage is done to that portion of the service pipes, lines, power cables or sewer or its fittings, either by neglect or otherwise, or if the sewer becomes obstructed in any manner between the inner surface of the wall of the building supplied and the outer line of the street, the occupant or owner of the land shall forthwith repair it to the satisfaction of the municipality.

(3) In default of his so doing, whether notified or not, the municipality may enter upon the lands where the service pipes, lines, power cables or sewers are situated and by its officers, agents or servants repair it and charge the cost to the owner of the premises as hereinbefore provided.

292. A stop-cock placed by the municipality inside the wall of the building shall not be used by the public utility user except in cases of accident or for the protection of the building or the pipes or to prevent the flooding of the premises.

293. Persons supplied with water by the municipality may be required to place only such taps for drawing and shutting off the water as are approved of by the municipality.

294. (1) The municipality shall regulate the distribution and use of water in all places and for all purposes where it may be required.

(2) The municipality may erect such number of public hydrants and in such places as it considers fit and direct in what manner and for what purposes hydrants will be used, and may fix the rate or rent to be paid for the use of water from hydrants or fire plugs and by public buildings.

295. Where the municipality has constructed any public utility and where there is a sufficient supply thereof, the municipality shall supply, upon such terms as the council considers advisable, any building within the municipality and situated upon land lying along the line of the public utility, upon the supply being requested by the owner or occupant or other person in charge of the buildings.

296. (1) The municipality shall do as little damage as possible in the execution of the powers granted to it by this Part and shall make reasonable and adequate satisfaction to the owners, occupants or other persons interested in the lands, waters, rights or privileges entered upon, taken or used by the municipality, or injuriously affected by the exercise of its powers.

(2) In the case of disagreement, the compensation or damage shall be ascertained by the Public Utilities Board.

297. The municipality is not liable for damages,

- (a) caused by the break of any public utility main, service pipe, line, power cable or attachment, or for the breaching of any ditch, or
- (b) caused by the interference of any supply of any public utility necessary in connection with the repair or proper maintenance of the public utility,
or
- (c) generally for any accident due to the operation of any public utility,

unless such action has been shown to be directly due to the negligence of the municipality or its employees.

298. (1) Where the occupant is the owner or purchaser of a building or lot or part of a lot, the sum payable by him for the public utility supplied by the municipality to him or for his use and all rates, costs and charges imposed under any by-law passed under this Part are a preferential lien and charge on the building or lot or part of a lot and on the personal property of the debtor and may be levied and collected in like manner as municipal rates and taxes are recoverable.

(2) Where the occupant to whom the public utility has been supplied is a person other than the owner or purchaser of the building or lot or part of a lot, the sum payable by the occupant is a debt due by him and shall be a preferential lien and charge on his personal property and may be levied and collected with costs by distress.

299. (1) In the event of the rate or rent remaining uncollected and unpaid and continuing a lien upon the premises as aforesaid, the collector shall make a return showing the amount of the rent or rate so in arrears, together with all costs and charges in connection therewith.

(2) The return shall be made by the collector to the municipal secretary at least once in every year and on such day or days as may be fixed by the council or by the by-law in that behalf.

(3) The rate or rent, together with interest thereon at a rate which shall be fixed by the council and which shall not be greater than 10 per cent a year, shall be collected by the treasurer by the sale of land and premises in the same manner and subject to the same provisions as in the case of a sale of land for arrears of municipal taxes.

(4) Any public utility expenses, rates or rents that may be charged as taxes against a person may be entered on the assessment and tax roll at any time.

300. (1) The council may

(a) employ the ordinary collectors and assessors and such other persons as in its opinion may be necessary to carry out the objects of this Part, and

(b) specify their duties and fix their compensation.

(2) All such persons shall hold their offices at the pleasure of the council or as the council shall determine by by-law in that behalf.

(3) All such persons shall give such security as the council from time to time requires and any premium payable therefor shall be paid by the municipality.

(4) Such assessors and collectors, in the performance and enforcement of the matters committed to them, have the full powers that the assessors and collectors of the municipality may by by-law possess and enjoy in respect of municipal taxes.

301. Any municipality may, with the approval of the Public Utilities Board, extend its transportation system beyond the boundaries of the municipality.

302. (1) A municipality may, under a by-law of any adjoining municipality, exercise the like powers within the adjoining municipality as it may under this Part exercise within the municipality, upon such terms as may be agreed upon.

(2) The adjoining municipality may either require the municipality to pay a sum in gross or annually for the privilege, or may pay a sum to the municipality in gross or annually therefor.

303. (1) The council may make by-laws prohibiting any user of public utility

- (a) from lending, selling or disposing of the public utility, or
- (b) from giving it away or permitting it to be taken, or
- (c) from using or applying it to the use or benefit of others or to any other than his own use and benefit, or
- (d) from increasing the usage of the public utility beyond that agreed upon with the municipality, or
- (e) from wrongfully or improperly wasting the public utility.

(2) The by-law may provide that any person who contravenes the by-law may forfeit the right to be supplied with the public utility and shall be guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

304. All persons who by themselves, their servants or agents, by act, default, neglect or omission occasion any loss, damage or injury to any public utility constructed under this Act or to any plant, machinery, fitting or appurtenance thereof, are liable to the municipality for or in respect thereof may be recovered by the municipality.

305. (1) If any person

- (a) wilfully or maliciously hinders or interrupts or causes or procures to be hindered or interrupted, the municipality or its contractors, servants, agents, workmen, or any of them, in the exercise of any of the powers and authorities relating to public utilities and authorized by or contained in this Act, or
- (b) wilfully or maliciously lets off or discharges water or gas or heat so that it runs waste or useless, or
- (c) not being in the employment of the municipality and not being a member of the fire department and

authorized in that behalf, wilfully opens or closes any hydrant, or obstructs the free access to any hydrant, stop-cock, chamber pipe or hydrant chamber by placing on it any building material, rubbish or other obstruction, or

- (d) throws or deposits any injurious, noisesome or offensive matter into the water or waterworks or upon the ice in case such water is frozen or in any way fouls the water or commits any wilful damage or injury to the works, pipes or water or encourages the same to be done, or
- (e) wilfully alters any meter placed upon any service pipe or connected therewith within or without any house, building or other place so as to lessen or alter the amount of water, gas, electricity or heat registered thereby, unless specially authorized by the municipality for that particular purpose and occasion, or
- (f) lays or causes to be laid or attached any pipe or main or wire or rod to communicate with any pipe or main or wire or rod of the public utility or in any way obtains or uses any water, gas, electricity or heat thereof without consent of the municipality, or
- (g) washes or cleanses cloth, wool, leather, skin or animals or places any nuisance or offensive thing within the distance of one mile above the source of supply for such waterworks, in any river, pond, creek, spring, source or fountain from which the water of the waterworks is obtained, or conveys, casts, throws or puts any filth, dirt, dead carcass or other noisesome or offensive thing therein or within the distance as above set forth, or causes, permits or suffers the water of any sink, sewer or drain to run or be conveyed in the same or causes any other thing to be done whereby the water therein may be in any way tainted or fouled, or
- (h) wilfully, and without authority from the proper officer of the municipality, hinders or interrupts the transmission of any communication over the wires or apparatus of the telephone system of the municipality, or interferes with, damages, taps or makes any unauthorized connection with any wires, equipment or apparatus belonging to or in the custody or under the control of the telephone department of the municipality, or
- (i) wilfully, and without authority, hinders, interrupts or cuts off the supply of a public utility,

he is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

(2) The penalties in money under subsection (1) or any portion of them, which may be recovered shall be paid to the court and by it paid to the treasurer of the municipality.

306. The council may pass by-laws to regulate and control, in any respect, the conduct of passengers on public vehicles.

307. All materials procured under contract with the municipality and upon which the municipality has made advances in accordance with such contract are exempt from execution.

308. All works, wells, pipes, poles, erections and machinery requisite for any public utility is vested in and is the property of the municipality.

PART 7

FINANCE

309. The financial year of the municipality shall begin on the first day of January and close on the 31st day of December.

310. (1) The council may authorize the mayor and treasurer to borrow such sums as the council considers necessary to meet the expenditures and obligations of the municipality.

(2) The municipality may, as security for such loan, give treasury bills, temporary debentures, promissory notes or similar forms of obligation signed by the mayor and treasurer, and each such bill, debenture, promissory note or obligation is valid and binding upon the municipality according to its tenor.

(3) The council may designate the revenues of the municipality, if any, that shall be charged with the repayment of such treasury bills, temporary debentures, promissory notes or other obligations, and may pledge as security for the payment of the money the whole or any part of all unpaid taxes and penalties on taxes assessed or levied in any prior years together with penalties thereon and the whole of the taxes for the current year or such part thereof as may be considered expedient and any other designated revenue.

(4) The council, from time to time during the year in which such moneys are borrowed and for two succeeding years, may extend the loan and renew or extend such bills, debentures, promissory notes or other obligations whether original or renewed.

(5) The amount so borrowed shall not exceed the amount of the taxes levied or estimated to be levied for the current year.

(6) If the council authorizes the borrowing of any sum greater than that specified in subsection (5), every member of the council who votes therefor is disqualified for three years from holding any municipal office.

(7) The assent of the proprietary electors is not required for any borrowing made pursuant to this section.

311. (1) Subject to the exception set out in this or any other Act, no by-law for creating a debt not payable within the current year has any effect until it has received the approval of the Local Authorities Board and the assent of the proprietary electors when such assent is required by this Act.

(2) The application to the Local Authorities Board for approval of a by-law shall be made before or forthwith after the first reading of the by-law and no further action, including advertising and submission to a vote of the proprietary electors, shall be taken upon the by-law until authorization has been received from the Local Authorities Board, but the Board may grant approval to a by-law notwithstanding the failure of a municipality to comply with this subsection.

(3) Within 21 days from the date of the issuance of an order or as otherwise authorized by the Local Authorities Board approving a by-law referred to in subsection (1), a council shall publish a notice of the proposed by-law, in a form approved by the Local Authorities Board, once a week for two consecutive weeks in at least one newspaper circulating within the limits of the municipality.

(4) If a petition for a vote on a money by-law is received by the municipal secretary within 15 days of the last publication of the notice and if the petition is signed by at least

- (a) 5 per cent of the proprietary electors in a municipality having a population of 10,000 or more persons, or
- (b) ten per cent of the proprietary electors in a municipality having a population of less than 10,000 persons but more than 1,000 persons, or
- (c) 15 per cent of the proprietary electors in a municipality having a population of less than 1,000 persons,

the council if it decides to proceed with the by-law shall submit the money by-law to a vote of the proprietary electors.

(5) The necessary changes being made, section 150 of *The Municipal Taxation Act* applies to the petition.

312. The council has power, without vote of the proprietary electors, to pass by-laws to borrow money for the construction of any work ordered under the authority of any statute by the Canadian Transport Commission or by the Government of Canada or of Alberta and for the issue of debentures for the payment thereof.

313. A council, by by-law, may authorize the mayor and the municipal secretary to guarantee on behalf of the municipality the due repayment of money borrowed for the erection of any structure required in the municipality for community recreational purposes, but no such by-law and no such guarantee has any effect until it has been approved by the Local Authorities Board and section 311 applies thereto.

314. (1) Notwithstanding anything in this Act, a council may make an expenditure or create a liability for any capital purpose authorized by this Act if

- (a) any debt created thereby is repaid within five years, and
- (b) yearly payments of principal and interest under clause (a) do not exceed an amount equivalent to 5 mills on the assessment of the municipality upon which the taxes are levied.

(2) An expenditure under this section shall be authorized by by-law unless provision for the expenditure has been made in the estimates of revenue and expenditure of the municipality in which case a resolution of the council authorizing the expenditure and the debt therefor will suffice.

(3) An expenditure under subsection (1) does not require the approval of the proprietary electors or the issuance of debentures.

(4) The aggregate of all expenditures or liabilities made or incurred under this section shall not at any time exceed the equivalent of 25 mills on the total assessment of the municipality upon which taxes are levied.

(5) Where moneys received under an insurance policy are used to restore or rebuild a property originally covered by the insurance policy or where money received by way of a gift or grant for a specific purpose is used for that purpose, the spending of the money shall be deemed not to be an expenditure under this section.

315. (1) The council may pass by-laws for borrowing, by the issue of debentures upon the credit of the municipality at large, the money required to meet the whole or any part of the costs or estimated costs of any local improvement, but

- (a) the debentures shall mature within the probable lifetime of the local improvement,
- (b) it is not necessary to obtain the assent of the proprietary electors to the passing of
 - (i) a by-law for raising the cost or estimated cost of a local improvement to be levied by special assessment, or
 - (ii) a by-law for raising the cost or estimated cost for an extension of a sewer system or a water system originally constructed as a local improvement, or
 - (iii) a by-law for raising the cost or estimated cost of a local improvement, unless the share of the cost or estimated cost to be borne by the municipality at large is greater than 50 per cent of the cost or estimated cost of the local improvement,
- and
- (c) nothing herein contained shall be construed as authorizing an extension of the general debt of the municipality beyond the limits thereof fixed by this Act.

(2) The council may pass by-laws for borrowing, by way of temporary loans without the issue of debentures but within the restrictions aforesaid, on the credit of the municipality at large the whole or any part of the cost of a local improvement.

(3) Debentures issued or money borrowed for the purpose of local improvements to the extent to which the sums are secured by special assessments therefor form no part of the general debt of the municipality within the meaning of this Act.

(4) It is not necessary to state the amount of the local improvement debt so secured by special assessment in any by-law for borrowing money and it is sufficient to state in any such by-law that the amount of the general debt of the municipality as therein set forth is exclusive of local improvement debts secured by special assessment.

316. (1) The moneys required to pay the cost of any local improvement may be borrowed under the authority of one or more by-laws.

(2) The portion payable by way of special assessment and the portion to be borne by the municipality at large may be provided for in one or more separate by-laws.

(3) Every by-law providing for the raising of that portion of the cost payable by way of special assessment or of any part thereof shall state by recital or otherwise,

- (a) the amount of the debt that the by-law is intended to create and in general terms the object for which it is to be created,

- (b) the total amount required to be raised annually for paying the debt and interest under the by-law and whether the whole or, if not, what portion thereof is payable by way of special assessment and the system of special assessment applicable, and
 - (c) the total assessed value of the land, excluding improvements, charged with the special assessment and if any portion of the debt created by the by-law is to be borne by the municipality at large the total assessed value according to the last revised assessment roll.
- (4) If in any year the amount realized from the special rate imposed to provide for the owner's portion of the cost and interest is insufficient to pay the amount falling due in that year in respect of so much of the debentures as represent the owner's portion of the cost, the council may pay the portion out of the general revenue of the municipality or may provide for the deficiency in the estimates for the following year, by levying and collecting the portion by a general rate, but this does not relieve the land specially assessed from the special rate thereon.

317. (1) In the case of local improvement debenture by-laws, the interest rate on the debentures issued thereunder may be different than the interest rate used in the calculation of the estimated cost of construction of the type of local improvement concerned for the purpose of fixing the unit rate.

(2) The total amount collectible from the special frontage assessment and special benefit assessment on the properties concerned during the lifetime of the local improvement shall be approximately equal to the total principal and interest payable on the debentures to be issued under the by-law.

(3) The debentures of an issue maturing in different years may bear different rates of interest.

(4) The amount collectible in any one year from the special frontage assessment or the special benefit assessment on the properties concerned may be less than the amount payable in respect of the principal and interest payable on debentures in any such year.

318. (1) The council may authorize the mayor and treasurer

- (a) to borrow moneys required by the municipality for the operation of any utility or a hospital to an amount not exceeding the total amount of accounts owing to the municipality with respect to such utility, or hospital, whether by way of Government grant or for goods or services supplied by the municipality,

- (b) to execute any form of obligation in connection with the loan, and
 - (c) to assign such grants or accounts, or both, as security for the loan.
- (2) A by-law authorized by subsection (1) does not require the assent of the proprietary electors.

319. A person lending moneys to a municipality is not bound to establish the necessity for the borrowing nor to see that it is expended for the purpose for which it is borrowed.

320. Subject to the limitations and restrictions contained in this Act and in *The Local Authorities Board Act*, a council, by by-law, may borrow money for any purpose within the jurisdiction of the municipality whether under this or any other Act, and may issue debentures therefor.

321. (1) Notwithstanding any provision of this Act, a by-law to borrow money for the purchase, construction, maintenance or improvement of a public utility may make the debenture debt

- (a) a lien and first charge on the gross revenues of that public utility only and not on the taxes, rates or other revenues of the municipality, or
- (b) a lien and first charge on the gross revenues of that public utility in priority to a charge on the taxes, rates and other revenues of the municipality.

(2) The provisions of this Act relating to debenture by-laws apply *mutatis mutandis* to a by-law passed pursuant to this section but instead of providing a tax levy the by-law shall prescribe a utility rate sufficient to pay the principal and interest of the debentures.

(3) Whenever it appears that the utility rate specified in a by-law passed pursuant to clause (a) of subsection (1) is too low to produce sufficient revenue to pay principal and interest on the debentures, the council shall, by by-law increase the utility rate accordingly.

(4) Whenever it appears that the utility rate specified in a by-law passed pursuant to clause (b) of subsection (1) is too low to produce sufficient revenue to pay the principal and interest on the debentures, the council shall, by by-law, provide for the raising of the deficiency by an increase in the utility rate or by the levy of a tax or by both methods.

322. (1) Notwithstanding anything in this Act, a by-law to borrow money by way of debenture for the acquisition of land pursuant to section 127 may provide that the debenture debt is to be

- (a) a lien and first charge on the gross sales or rental

revenues of the lands acquired and not on the taxes, rates or other revenues of the municipality,
or

- (b) a lien and first charge on the gross sales or rental revenues of the lands acquired in priority to a charge on the taxes, rates and other revenues of the municipality.
- (2) The provisions of this Act relating to debenture by-laws apply *mutatis mutandis* to a by-law passed pursuant to this section except that instead of providing a tax levy the by-law shall pledge the entire proceeds of the sale or lease of the land acquired.
- (3) The proceeds from the sale or rental of the lands acquired shall be deposited in a special trust account out of which the annual instalments of principal and interest on the debenture shall be paid.

323. (1) Except as otherwise provided by this Act, by-laws for contracting debts that are not payable within the current year shall provide for the issuing of debentures and the levying of annual rates for the payment of the debts, and are subject to the provisions of this Act for the passing of a money by-law.

(2) A debt contracted pursuant to a by-law and not payable within the current year shall be made payable within a period not in any case to exceed 50 years from the date of the issue of debentures.

(3) The debentures or other securities authorized to be issued under any by-law of the municipality may be made payable as to principal and interest in the currency or currencies of such country or countries, and at such place or places, either in Canada or elsewhere, as the council considers expedient.

324. (1) The by-law creating the debt shall state by recital or otherwise,

- (a) the amount of the debt intended to be created and in some brief and general terms the object for which it is to be created,
- (b) the period over which the indebtedness is to be spread and the amount of the instalments to be paid in each of the years or the period at the end of which it is to be paid,
- (c) the maximum rate of interest and whether it is to be paid annually or semi-annually,
- (d) the amount of the equalized assessment in the municipality as last determined and fixed by Assessment Equalization Board,
- (e) the amount of the existing debenture debt of the municipality and how much, if any, of the principal or interest thereof is in arrears, and

- (f) that any required consent or approval of the Minister or of the Provincial Board of Health has been obtained.
- (2) Every such by-law shall
 - (a) authorize the issue of debentures for the amount of the debt to be created thereby,
 - (b) determine the amount or denomination thereof,
 - (c) fix the maximum rate or rates of interest payable thereon, and name the places where and the time when the principal and interest are payable,
 - (d) provide for the assessment and levy of an annual rate or rates sufficient to pay the principal and interest of the debentures, and
 - (e) generally be in such form and contain such further provisions as may be required by the Local Authorities Board.
- (3) The by-law shall name a day when it is to take effect.
- (4) If no day is named in the by-law it takes effect on the day of the final passing thereof.

325. (1) Subject to the approval of the Local Authorities Board, any such by-law may provide that all or any part of the debentures authorized thereby will be redeemable at the option of the municipality at any time or at such time or times in advance of maturity, as the by-law may prescribe.

- (2) The by-law shall specify
 - (a) the place of redemption,
 - (b) the manner of publishing notice of intention to redeem, and
 - (c) the price or prices at which the debentures may be so redeemed, and the price or prices may include such premium or premiums, if any, on redemption as may be provided in the by-law.
- (3) The council may subsequently exercise the option to redeem all or any of such redeemable debentures and set a date for redemption in advance of the maturity thereof.
- (4) If notice of intention to redeem has been given as hereinafter set forth, the principal of every debenture so to be redeemed becomes due and payable on the date set for redemption and from and after that date interest ceases to accrue on the debentures so to be redeemed.
- (5) Notice of intention so to redeem shall be sent by post at least 30 days prior to the date set for such redemption to the person, if any, in whose name the debenture is registered, at the address shown in the debenture register, and the notice shall be published in such manner as may be set out in the by-law.
- (6) Any debentures that are so redeemable shall contain a provision or bear an endorsement to the effect that

they are issued subject to redemption and the provision or endorsement shall specify,

- (a) the place of redemption,
- (b) the price or prices at which the debenture may be redeemed, and
- (c) the manner of giving notice of intention to redeem.

(7) Where only a portion of the debentures issued under the by-law is to be redeemed at any time, the debentures to be redeemed shall comprise only the debentures having the earlier maturity dates so that no debenture issued under the by-law will be called for redemption in priority to any such debenture that has an earlier maturity date.

(8) When only a portion of the debentures of any one maturity are to be redeemed the debentures to be redeemed shall be selected by lot.

(9) Where a debenture is redeemed on a date prior to maturity, the redemption does not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, or the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof.

326. (1) A by-law providing for the issuance of debentures may

- (a) provide that the indebtedness shall be payable as to principal and interest in any manner that may be approved by the Local Authorities Board, and
- (b) provide for terms and conditions of the earlier redemption thereof as may be approved by the Local Authorities Board.

(2) The by-law shall provide for the raising in each year in which an instalment falls due, of a sum sufficient to pay both principal and interest when and as they become due.

(3) Notwithstanding anything in this Act any by-law including a consolidating by-law, that authorizes the issue of debentures that by the by-law are made redeemable in whole or in part in advance of maturity, and either with or without a premium on redemption, may contain such provisions as the Local Authorities Board may approve, and in such case the municipality shall carry out such purchase or redemption of debentures accordingly and may effect any temporary loans that may be expedient or necessary for the purpose.

327. (1) A by-law may provide that the debentures and coupons shall be payable at any place or places in Canada or in any other country and may be payable in lawful money of Canada or pounds sterling or in the moneys of such place or country where they are made payable.

(2) A by-law authorizing the issue of debentures for a certain amount with interest in lawful money of Canada shall be taken to authorize the issue of debentures, or any of them, according to this section, unless the by-law provides that this section shall not apply thereto.

(3) A by-law authorizing the issue of debentures for a certain amount with interest in lawful money of Canada shall be deemed to authorize the issue of debentures of a like amount of dollars in lawful money of the United States of America.

328. (1) In the case of a by-law heretofore or hereafter passed, the council, by by-law, without the assent of the proprietary electors, may authorize a change

- (a) in the mode of issue of the debentures, or
- (b) in the place or places where they are payable, or
- (c) in the manner of repayment as authorized by the Local Authorities Board,

or in any one or more of those particulars.

(2) The by-law may also

- (a) provide that the debentures shall be issued with interest coupons instead of in amounts of combined principal and interest or *vice versa*, or
- (b) change the interest from annual to semi-annual or *vice versa*, or
- (c) provide that the debentures may be issued in a different currency or may be in different amounts from those authorized by the original by-law.

329. (1) Where any debentures issued under a by-law have been sold, pledged or hypothecated, the council, upon again acquiring them or any part of them, or at the request of any holder of them may, by by-law, without the assent of the proprietary electors, authorize the cancellation of the debentures and the issue of one or more debentures in substitution therefor.

(2) The by-law may

- (a) make the new debentures payable by the same or a different mode and at the same or a different place or places, or
- (b) authorize any manner of repayment approved by the Local Authorities Board, or
- (c) change the interest from annual to semi-annual or *vice versa*, or
- (d) provide that they may be issued in a different currency, or
- (e) provide that they may be in different amounts from those of the original debentures.

330. In the case of a by-law passed pursuant to section 328, 329 or 336 neither the period over which the indebtedness was originally spread nor the term at the end of which it was made payable, as the case may be, nor the rate of interest, shall be increased or extended except as provided by section 333 and the amount of the principal of the new debentures shall not exceed the amount of the principal remaining owing upon the original debentures.

331. (1) In the case of a by-law heretofore or hereafter passed, the council, by by-law without the consent of the proprietary electors, may repeal the by-law as to all or any part of the debentures to be issued thereunder and as to all or a proportionate part of the amounts to be raised annually.

(2) The repealing by-law shall state the facts upon which it is founded and may provide for the treasurer withdrawing from the sinking fund amounts that may have been paid into that fund in respect of debentures that are not to be issued.

332. No by-law authorized by section 328, 329 or 331 takes effect until approved by the Local Authorities Board.

333. When

- (a) owing to a decline or advance in the rate of interest between the passing of a money by-law and the sale or other disposal of the debentures they or any of them cannot be sold or disposed of except at a heavy premium or at a discount involving a substantial reduction in the amount required to be provided, or
- (b) in the opinion of the council, with a view to the better marketing of the municipal securities, it is desirable
 - (i) that the whole or any part of the debentures authorized by such a by-law bear a rate or rates of interest differing from the rate or rates specified in the by-law, or
 - (ii) that the period over which the indebtedness was originally spread or the term at the end of which it was made payable should be changed or extended,

the council, with the approval of the Local Authorities Board, and without submitting the matter to the proprietary electors, may pass a by-law to amend the money by-law providing for a different rate or rates of interest, or a different period over which the indebtedness will spread, or a different term at the end of which the indebtedness will be made payable, upon all or any of the debentures and for a corresponding change in the amount to be raised annually with respect thereto.

334. (1) A council that has passed a by-law for contracting a debt or incurring a liability or for borrowing money may apply to the Local Authorities Board for a certificate approving the by-law.

(2) A municipality that intends to apply for a certificate approving a by-law shall forward to the Board a copy of the by-law together with a copy of the proposed advertisement as required by section 311 before advertising the by-law.

(3) No certificate shall be granted while any action or proceeding in which the validity of the by-law is called in question or by which it is sought to quash it, is pending, nor until two months after the final passing of the by-law unless notice of the application is given in such manner and to such persons, if any, as the Board may direct.

(4) The Board may grant the certificate notwithstanding any defect or irregularity in substance or in form in the proceedings prior to the final passing of the by-law or in the by-law itself if, in the opinion of the Board, the provisions of the Act under the authority of which the by-law was assumed to be passed have been substantially complied with.

(5) The certificate may be in a form approved by the Local Authorities Board.

(6) A by-law approved by the certificate of the Board and any debenture that is issued or that may thereafter be issued in conformity with the provisions of the by-law is valid and binding upon the municipality and upon the property liable to the rate imposed by or under the authority of the by-law, and the validity of the by-law and of every such debenture is not thereafter open to question in any court.

335. (1) Where a by-law has been approved under this Act, the Local Authorities Board, upon the application of the council, may countersign the debentures that are issued or that may be issued under the authority of the by-law.

(2) Notwithstanding anything to the contrary in this Act, the countersigning by the Board is conclusive proof of the validity of the debentures and their validity is not open to question in any court.

(3) The countersigned debentures are valid and binding upon the municipality and upon the property liable to the rate imposed by or under authority of the by-law.

336. (1) The council, by by-law and without the assent of the proprietary electors, may consolidate the amount or any part of the amount of debenture debt created or authorized to be created under two or more existing by-laws, and authorize the issue of one or more debentures for any

term of years not greater than the longest term provided by any of such by-laws and may provide for the payment of interest on the amount of the debt so consolidated at a rate not exceeding the highest rate stated in any of such by-laws.

(2) The consolidation of local improvement debentures does not affect the local improvement assessment or the liens on the property described in the local improvement by-laws.

(3) The consolidating by-law shall provide for the assessment and levy of an annual rate or rates sufficient to pay the principal and interest of the consolidated debentures.

(4) The debentures issued under a consolidating by-law as provided in subsection (1) may be made repayable as authorized by the Local Authorities Board and subject to subsection (1) may bear such rate or rates of interest and may be payable at such time or times and in such currency of payment as the council considers expedient, irrespective of the rate or rates of interest or the manner or time of payment or the currency of payment provided for in the by-laws authorizing the debenture debt to be consolidated, and the consolidating by-law may provide for raising annually during each year of the currency of the consolidated debentures by a special rate on all the ratable property in the municipality, the sums to be raised in each such year to pay the interest on and principal of the consolidated debentures that may be issued and sold to meet the property owners' share, actual or estimated, of the cost of local improvements, but in that case the sums to be raised in any year as aforesaid shall be reduced by the amounts of the special assessments levied in that year against the properties specially assessed for local improvements.

(5) Where a debenture has been issued and the council considers it advisable to consolidate the unpaid balance of the debt created thereby with other debentures, whether issued or not, it may, with the consent of the holder of such debenture

(a) include such balance in the amount to be consolidated by the consolidating by-law, and the provisions of subsections (1) and (2) thereupon apply, or

(b) where such debenture is repayable on the sinking fund plan, cause to be paid to the holder thereof the amount of the sinking fund accrued to the credit of such debenture before proceeding with the consolidation of the balance remaining.

(6) The consent of the Local Authorities Board to the consolidation of debentures under this section and the terms of repayment of the consolidated debenture shall be obtained before the third reading of the consolidating by-law.

(7) The net amount realized by the issue and sale of consolidated debentures shall be applied for the purposes set forth in the separate by-laws in the same proportions as the respective principal amounts of debentures authorized by the separate by-laws bear to the principal amount of the consolidated debentures.

337. (1) The council, with the approval of the Local Authorities Board, may for the purpose of purchasing or redeeming in advance of the maturity thereof the whole or any part or parts of the outstanding debentures of the municipality, pass by-laws for contracting debts by borrowing money and for levying rates and taxes for the payment of such debts on the ratable property in the municipality.

(2) Notwithstanding anything in this Act or *The Local Authorities Board Act*, it is not necessary for any such by-law to be referred to or assented to by the proprietary electors.

338. (1) Where a municipality has constructed, purchased or acquired a public utility, sewer, sewerage works, paved street, concrete or bituminous walk, public building or other public works, a bridge or fire equipment, or an asphalt paving plant, or engineering equipment required for street or public utility improvements, the council may pass a by-law for borrowing such further sums as may be necessary to extend, rehabilitate, re-equip or improve it.

(2) In the case of a bridge, the borrowing may also be for the purpose of replacing the bridge.

(3) The extension, rehabilitation or improvement of a public work or paved street shall be deemed to include the construction of new traffic arteries including overpasses, underpasses, cloverleaves and flyovers.

(4) The extension, rehabilitation or improvement of a public utility sewer, sewerage works, paved street, concrete or bituminous walks, public buildings or other public works shall be deemed to include the acquisition of any necessary land.

(5) The by-law does not require the assent of the proprietary electors if

(a) it is passed by a vote of two-thirds of all the members of the council, and

(b) it is approved by the Local Authorities Board.

339. (1) In this section "non-profit corporation" means a corporation whose net profits will accrue to the municipality and whose assets will, upon winding up or dissolution, be given or transferred to the municipality.

(2) A council may by by-law authorize the municipality to enter into an agreement with a non-profit corporation

- (a) whereby the municipality would undertake to guarantee the repayment of money borrowed by the corporation for the construction of parking facilities or parking structures for motor vehicles or other public structures on municipal land leased to the corporation for that purpose, or
 - (b) whereby the municipality would undertake to pay any deficiencies in the repayment of any amounts borrowed by a corporation for the construction of parking facilities or parking structures for motor vehicles or other public structures on municipal land leased to the corporation for that purpose.
- (3) A council may by by-law authorize the municipality to enter into a lease-back agreement with a non-profit corporation whereby the municipality would transfer land to the corporation for the construction of parking facilities and parking structures for motor vehicles or other public structures and lease the land from the corporation after the construction of the facilities or structures at an annual rental sufficient to repay the annual costs of the borrowing by the corporation for the construction of the parking facilities or structure.
- (4) Where pursuant to a by-law under this section a municipality creates a liability, whether contingent or otherwise, that would extend over a period in excess of 25 years, the annual sums after the 25 year period that the municipality would or might be liable to pay thereunder shall be considered a debenture debt.

340. (1) Pending the sale of any debentures authorized by a by-law or in lieu of selling and disposing of them, the council may, by resolution, raise money by way of loan on the debentures, which shall not exceed 80 per cent of the par value of the debentures, and may hypothecate them for any such loan.

(2) The proceeds of every loan shall be applied to the purposes for which the debentures were issued and should the debentures be subsequently sold the proceeds thereof shall first be applied in repayment of the loan.

(3) The lender is not bound to ensure the application of the proceeds of the loan.

341. (1) Any debenture under this Act may be in such form as is approved by the Local Authorities Board.

(2) A debenture may be issued for the full amount or for a lesser amount than that mentioned in the by-law or a series of debentures aggregating the full amount or lesser amount than that mentioned may be issued.

(3) A debenture under this Act may be made payable in such manner that, for the first five years succeeding its date, interest only will be payable thereon or it may pro-

vide for the payment of principal and interest secured thereby in any other manner approved by the Board.

(4) Whenever a series of debentures of the same denomination is issued at the same time, each of the series shall be distinguished by a mark or symbol different from the mark or symbol appearing on the other debentures of the same issue.

(5) The marks or symbols shall appear on the coupons attached to the debentures bearing the like mark or symbol.

342. (1) A debenture shall be sealed with the seal of the municipality and signed either by the mayor or by some person authorized by by-law to sign it in his stead.

(2) Every coupon attached to debentures shall bear the signature of the mayor or of some person authorized by by-law to sign it in his stead and of the treasurer or of some person authorized by by-law to sign in his stead.

(3) The signatures on debentures or on coupons attached to debentures may be reproduced by lithographing or printing or any other method of mechanical reproduction.

343. (1) Debentures may be issued either all at one time or in instalments at such times as the council considers expedient and may be dated accordingly.

(2) No debenture shall be issued after the expiration of six years from the final passing of the by-law authorizing the issue.

(3) Any taxes imposed in accordance with the provisions of the by-law after the final passing thereof and not required to repay the debenture or any portion of the debenture, including interest thereon, issued under the authority of the by-law may be used for the purpose of meeting the cost, including interest, of the work authorized by the by-law.

344. Any debenture issued under this Act is valid and binding upon the municipality notwithstanding any insufficiency in form or substance or otherwise of the by-law or of the authority of the municipality in respect thereof, if

- (a) the by-law has received the assent of the required number of proprietary electors voting thereon, where their assent is required,
- (b) no successful application has been made to quash it within two months after its final passing, and
- (c) the by-law has received the approval of the Local Authorities Board where its approval is required.

345. Any debenture issued in respect of a local improvement shall be deemed not to be invalid by reason only of a defect or omission in the proceedings relating to the auth-

orization, undertaking or construction of the work or the making of the special assessment or anything incidental thereto.

346. Where the interest for one year or more on the debentures issued under a by-law or the principal of any debenture that has matured has been paid by the municipality the by-law and the debentures issued under it are valid and binding upon the municipality and are not open to question in any court, even if the assent of the required number of proprietary electors has not been obtained.

347. Wherever there is a reference to the duties of the treasurer in connection with the debenture register and the council has appointed some other person to perform those duties, the reference shall be construed to be a reference to such other person as the council has appointed.

348. (1) The Treasurer shall open and keep a book or record to be known as "The Debenture Register", wherein shall be entered particulars of every by-law authorizing the issue of debentures and of all debentures issued thereunder.

(2) Every debenture issued shall have written, printed or stamped thereon a memorandum, with the proper particulars inserted therein, in a form approved by the Local Authorities Board.

349. Every debenture registered in the debenture register is valid and binding in the hands of the municipality or of any *bona fide* purchaser for value, notwithstanding any defect in form or substance.

350. A certificate signed by the treasurer and sealed with the seal of the municipality and certifying that a debenture has been registered in the debenture register is *prima facie* proof of the registration.

351. Any debenture may contain the following provision: "This debenture or any interest therein, after a certificate of ownership has been endorsed thereon by the treasurer, shall not be transferable except by entry by the treasurer or his deputy in the debenture register until a transfer to bearer has been registered."

352. (1) In the case of the issue of debentures containing the provision mentioned in section 351, the treasurer shall enter in the debenture register a copy of all certificates that he gives of ownership of debentures and also every subsequent transfer of any such debenture.

(2) No such entry shall be made except upon the written authority of an unregistered holder in the case of a bearer

debenture, or the person last entered in the register as the owner of the debenture, or of his executor or administrator or of his attorney, and the written authority shall be retained and filed by the treasurer.

(3) After a certificate of ownership has been endorsed as aforesaid, the debenture shall, as transfers of the debenture are authorized by the then registered owner thereof or his attorney, executor or administrator be transferred only by entry, by the treasurer or his deputy, in the debenture register, until a transfer to bearer has been registered.

(4) The treasurer, on receipt of a debenture accompanied by a transfer purporting to be signed by the owner, if the signature is guaranteed by a bank or notary public, shall register the transfer in accordance with the request and in so doing neither the treasurer nor the municipality incurs liability to the true owner for any loss caused by the transfer in case the transfer was not signed by him.

(5) Notwithstanding registration of a debenture, if the interest coupons are detached the coupons shall be transferable by delivery.

353. (1) The treasurer shall keep in his books two separate accounts of every debt, one for the interest and the other for the sinking fund or for instalments of principal, both to be distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted.

(2) The treasurer shall keep the accounts so as to exhibit at all times the state of every debt and the amount of money raised, obtained and appropriated for payment of it.

354. If, after paying the interest on a debt for any financial year and appropriating the necessary sum to the sinking fund of the debt or in payment of the instalments of principal, there is a surplus properly applicable to the debt, it shall so remain until required in due course for the payment of interest or for the sinking fund or in payment of the principal.

355. (1) The council may appropriate to the payment of any debt the surplus income derived from any civic work or public utility, or from any share or interest therein, after paying the annual expenses thereof, or may so appropriate any unappropriated money in the treasury or any money raised by general rate.

(2) Any money so appropriated shall be carried to the credit of the sinking fund of the debt or may be applied in payment of any instalment thereof accruing due.

(3) The council, from time to time, may appropriate to a reserve fund part of any surplus income arising from

any civic work or public utility for the purpose of meeting contingencies that, in the opinion of the council, are likely to arise in connection therewith.

356. A municipality purchasing its own debentures out of current funds may cancel the debentures so purchased and the levies or any portion thereof required for their repayment.

357. (1) The treasurer shall prepare and lay before the council each year before the striking of the annual rate, a statement showing the amount that will be required to be raised for sinking fund purposes during the year.

(2) For every contravention of this section the treasurer is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

358. If the council neglects in any year to levy the amount required to be raised for a sinking fund, or for the instalment necessary for the payment of a debenture debt, each member of the council is thereupon disqualified for the next three years from holding any municipal office, but no member is liable to the penalty hereby imposed who shows to the satisfaction of the judge that he made reasonable efforts to procure the levying of the required amounts.

359. The sinking fund to redeem the outstanding debentures of the municipality in each year, as and when received by the treasurer, shall be deposited by him in some chartered bank or treasury branch to be designated by the council to the credit of a special account to be called "The Sinking Fund Account of the (*name of municipality*)".

360. No money levied and collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the municipality.

361. (1) If at any time there is a deficiency in the sinking fund account of the municipality, the council may pass by-laws providing for the issue of debentures and for levying rates for payment thereof upon the general ratable property in the municipality, without the assent of the proprietary electors, for the purpose of making good the deficiency.

(2) The proceeds of debentures issued for such purpose shall be allocated to the sinking funds of the various issues to which they are properly applicable.

362. (1) If a part of the proceeds from the special rate levied in respect of a debt and at the credit of the sinking fund account or of the special rate account thereof or of a reserve fund cannot be immediately applied to-

wards paying the debt by reason of no part of it being yet payable, the council shall invest it from time to time in securities, authorized by subsection (2) and, from time to time as such securities mature, may invest in other like securities.

(2) Subject to sections 363 and 369, the council shall from time to time invest the sinking fund

- (a) in stock, debentures or securities of the Government of Canada or of any province of Canada, or
- (b) in debentures or securities the payment of which is guaranteed by the Government of Canada or of any province of Canada, or
- (c) in the debentures of any municipality, school division, school district or municipal hospital district in Alberta, or
- (d) in local improvement or any other debentures of the municipality, or
- (e) in any of the investments authorized for insurance companies by the *Canadian and British Insurance Companies Act* (Canada), as amended from time to time, other than investments under subsection (4) of section 63 of that Act,

and from time to time as such securities mature may invest in other like securities, and may invest and reinvest the fund or any part thereof in authorized securities, and sell, assign or transfer them, and call in and vary the investments for others of a like nature.

(3) The council may regulate by by-law the manner in which the investments are to be made.

(4) The council, when acquiring its own debentures, may apply the sinking fund, to an amount equal to the amount of the debentures, for the purposes to which the proceeds of the debentures are properly applicable and the council shall hold the debentures as an investment on account of the sinking fund, and deal with them accordingly.

(5) The council, by by-law, may direct that any surplus moneys in the hands of the treasurer and not specially appropriated to any other purpose, shall be credited to the sinking fund account of any debenture debt, and may invest the sinking fund in any of the securities named in and according to this section.

363. No member of the council shall take part in or be a party to the investment of any moneys referred to in section 362 otherwise than as authorized in this Part and any person so doing is personally liable for any loss thereby sustained by the municipality.

364. The council, by by-law, may direct that any part of the sinking fund, instead of being invested as provided

in this Part, shall be applied from time to time towards payment or redemption of any of the debentures to which the sinking fund is applicable, at such value as may be agreed upon between the council and the holders of the debentures.

365. (1) Notwithstanding anything contained in this Part, if a municipality receives, during the current year, interest on or earnings of its sinking fund investments in excess of that required to pay

- (a) the interest of a debt for the financial year preceding the year in which the application hereinafter mentioned is made, and
- (b) the necessary sum into the sinking fund account up to the 31st day of December of that year,

the Local Authorities Board, on the application of the council and on such terms and conditions as are considered advisable, may authorize the council to use the excess interest or earnings for such purposes as may be approved by the Local Authorities Board.

(2) Notwithstanding anything in this Act, if at any time it is made to appear to the satisfaction of the Local Authorities Board, that owing to abnormal economic condition an extraordinary situation exists with respect to the financial condition of a municipality or that a surplus exists beyond the amount necessary for the security of the fund, the Board, on the application of the council and on such terms and conditions as are considered advisable, may authorize the council to use the whole or a part of any balance of excess interest or earnings held in reserve in the sinking fund account for such purposes as may be approved by the Board.

366. (1) Subject to section 365, if the council applies any of the said money for current or other expenditure, the members who vote for such application are personally liable for the amount diverted and it may be recovered by the municipality, by action.

(2) If the municipality refuses or neglects for one month to bring an action against the members of the council who voted for the application of the moneys as aforesaid, after receiving a request in writing from a ratepayer or from a holder of any debentures of the sinking fund from which payment has been diverted, or from the Local Authorities Board, action may be brought either by any ratepayer on behalf of himself and other ratepayers or by any holder of such a debenture or by the Local Authorities Board.

(3) The members of the council who voted for such application are thereupon disqualified for three years from holding any municipal office.

367. (1) The municipality, by by-law, may provide for the appointment of three trustees, two of whom shall be appointed by a judge on application by the municipality and the third by the council, to take charge of the sinking fund of the municipality.

(2) At least one of the trustees shall be a member of the council or a municipal commissioner and, notwithstanding anything in this Act, such trustee may be appointed by the council, and if so appointed, is entitled to payment for his services as provided in subsection (5).

(3) The sinking fund, to redeem the outstanding debentures of the municipality shall in each year be invested in the name of the municipality by the trustees in such of the securities mentioned in section 362 as the trustees think best.

(4) The trustees may require the treasurer to pay from moneys to the credit of the sinking fund such sums as they from time to time required for investment, and all such sums coming into the hands of the treasurer from the temporary investment of the sinking fund shall be applied in the manner and to and for the purposes above mentioned.

(5) Each of the trustees may be paid for his services such amount as may be fixed by the council for each meeting held by the trustees.

(6) Administrative, office and other expenses incurred by the trustees in the performance of their duties shall be paid from the general funds of the municipality.

(7) The trustees, whenever required by the council shall give a detailed statement in writing of the fund and the manner in which it is invested.

(8) In no case shall the moneys to the credit of the sinking fund account be withdrawn without the consent of the trustees.

(9) The trustees shall hold office until removed therefrom by the council or a judge in the manner provided for their appointment.

368. (1) The trustees have the same power and authority to deal with the sinking fund as the council would otherwise have, and in particular they may

- (a) invest and reinvest the fund in authorized securities, sell, assign, or transfer them, and call in and vary the investments for others of a like nature,
- (b) collect the money due upon mortgages or other securities in which any portion or all of the fund is invested, and take such steps as seem proper for enforcing the securities and for the adjustment, compromise or collection of the debts due thereunder,

- (c) foreclose mortgages and all parties having any interest in or claim upon the property covered thereby,
 - (d) lease, rent, insure or otherwise deal with the property foreclosed,
 - (e) sell, assign, transfer and convey property obtained by foreclosure and sell under power of sale property mortgaged to the municipality, and
 - (f) sign discharges or partial discharges of mortgages and receipts for money paid on account of any claim of the municipality.
- (2) When a mortgage is foreclosed by the trustees the title to the property shall be vested in the municipality with absolute power in the trustees to sell, transfer and dispose of it.
- (3) In the case of property acquired by foreclosure or sold under power of sale, the conveyances shall be signed by at least two of the trustees in their official capacity.
- (4) Discharges or partial discharges of mortgages and receipts for moneys paid shall be given in the name of the municipality but shall be signed by at least two of the trustees.

369.(1) When, in the opinion of the trustees, it is expedient to do so in the interests of the sinking fund, they may, with the consent of the council, borrow money from any chartered bank for a period not exceeding six months.

(2) As security for such temporary loan they may pledge or hypothecate any stock, debentures, mortgages or other securities held in the sinking fund.

(3) Any loans made under this section may be renewed for a period not exceeding six months.

(4) Where there are no sinking fund trustees the powers conferred by this section may be exercised by the council.

370. (1) All funds coming into the hands or under the control of the trustees for the benefit of the sinking fund shall be deposited by them in a separate account in a chartered bank or in a treasury branch to be called the "sinking fund account".

(2) No part of the sinking fund account shall be withdrawn except

- (a) upon cheque signed by at least two of the trustees, and
- (b) for the purpose of carrying out the trust.

371. At all meetings of the trustees called by the chairman, or in his absence by either one of the other trustees in the usual way, two of the number constitute a quorum,

and all acts done for or on behalf of the trustees by the quorum are as effectual as if the acts had been done by the three trustees.

372. The trustees may purchase any of the debentures, stock or other securities of the municipality.

373. (1) The council, at any time by resolution, may require the trustees not to invest any part of the sinking fund in the manner hereinbefore provided and to call in the investments already made and to collect and pay the amounts due thereupon into the sinking fund of the municipality.

(2) Upon such resolution being communicated to the trustees they shall not make any further investments until rescission of the resolution but shall proceed to call in and realize upon those already made as they mature.

(3) In such case the council

- (a) has no power to withdraw any moneys from the account except as provided in subsection (4), but
- (b) may transfer the account from one chartered bank or treasury branch to another so long as it is kept at compound interest.

(4) As debentures outstanding mature the sinking fund to the credit of the municipality shall be applied to the payment of them at the date of maturity or may be used in the purchase thereof before maturity.

374. (1) Instead of trustees the council may appoint a trust company that has been approved by the Lieutenant Governor in Council under *The Trust Companies Act, 1967*.

(2) The company thereupon has all the power and authority conferred on trustees by this Act and all the above provisions with respect to trustees apply in so far as they are applicable to the company.

375. Where a municipality has provided for the appointment of sinking fund trustees, the council at any time by by-law may abolish, suspend or discontinue in whole or in part the duties and operations of the sinking fund trustees.

376. Instead of trustees or a trust company, the council may by by-law appoint a board consisting of such permanent officials of the municipality as are considered expedient and may delegate or entrust to the board

- (a) all or any of the powers, duties, rights, responsibilities and jurisdiction conferred upon or vested in the sinking fund trustees,
- (b) all or any books, records, registers and documents belonging to or in use by the trustees in carrying out their duties, and

- (c) all or any of the lands, mortgages, encumbrances, leases, instruments, moneys, bonds, debentures, securities and property of every nature and kind vested in the trustees or over which the trustees exercise jurisdiction and control.

377. (1) The council in any by-law passed under section 375 or 376, may provide for the doing of all acts, matters or things that may require to be done in order to carry into effect the powers and authority granted by the by-law.

(2) Upon the passing of such a by-law all the assets held by or in the name of the trustees or over which the trustees have jurisdiction and control vest in the municipality, but if any part of the assets is held by the trustees for or on behalf of any association of civic employees or of any person other than the municipality, then that part of the assets shall be held by the municipality subject to the same terms and conditions as they are held by the trustees.

(3) The filing in the proper land titles office of a certified copy of a by-law passed pursuant to section 375 or 376 operates as a transfer to the municipality of any lands, mortgages, encumbrances, leases or other instruments standing in the name of the trustees, and the Registrar of the land titles office, upon payment of the proper fees, shall register the municipality as the owner thereof.

378. (1) No money borrowed for capital expenditure, or in the hands of the municipality as capital funds shall be applied towards current expense.

(2) If the council applies any of such moneys for current expense, the members who vote for such application are personally liable for the amount diverted, and it may be recovered by the municipality, by action against them in any court of competent jurisdiction.

(3) If any of the money is applied toward current expense, the mayor and treasurer are guilty of an offence and for every such offence each is liable on summary conviction to a fine of not more than \$100.

379. (1) Where debentures have been issued for a public work, and, upon completion of the work or in consequence of its partial abandonment, there remains an unexpended balance, the council, by resolution reciting the facts, may declare its intention to apply to the Local Authorities Board for authority to use the balance for capital expenditures upon any object not authorized by the by-law under which the debentures were issued.

(2) The Local Authorities Board may grant permission to use the balance for such purposes and upon such terms and conditions as the Board deems expedient.

380. (1) If the council applies moneys included in any such unexpended balance to any purpose not authorized by the Local Authorities Board, the members who vote for such application are personally liable for the amount diverted and it may be recovered by the municipality by action.

(2) If the municipality refuses or neglects for one month to bring an action against the members of the council who voted for the application of the moneys as aforesaid, after receiving a request in writing from a ratepayer or from a holder of any debentures from which payment has been diverted, action may be brought either by any ratepayer on behalf of himself and other ratepayers or by any holder of such a debenture.

(3) The members of the council who vote for such application are disqualified for three years from holding any municipal office.

381. (1) The council may provide for the formation and maintenance of reserve funds and special reserve funds.

(2) Any reserve funds formed in accordance with subsection (1) or any operating surpluses of the municipality may be invested in any of the securities referred to in section 362.

382. (1) To obtain funds for special reserves the council may include in the estimates and levy for any one year a sum not exceeding one-third of the total sum expended on general revenue accounts by the municipality during the immediately preceding year.

(2) All money collected for special reserve funds shall be paid into special reserve fund trust accounts.

(3) The total of all special reserve fund trust accounts at any one time shall not exceed the total amount of all taxes levied in the two immediately preceding years.

(4) The council may use the special reserve funds for any capital expenditures or deferred maintenance that it is authorized to undertake.

(5) The provisions of this section that are applicable to special reserve funds do not apply to reserves or surpluses available from public utilities, land sales or sources other than by levy.

PART 8

LEGAL PROCEEDINGS

383. Where,

- (a) duties, obligations or liabilities are imposed by law upon a person, or
- (b) contracts or agreements, are or have heretofore

been created, enacted or validated by a statute imposing such duties or obligations or liabilities, the municipality may by action enforce the duties or obligation and the payment of the liabilities and may obtain as complete and full relief, and enforce the same remedies as could have been maintained, obtained and enforced therein by the Attorney General as plaintiff or as plaintiff upon the relation of any person interested.

384. (1) Where any by-law or resolution is illegal in whole or in part, or where anything has been done under it that by reason of such illegality gives any person a right of action, no such action shall be brought until one month has elapsed after the by-law or resolution has been quashed or repealed, nor until one month's notice in writing of the intention to bring the action has been given to the city.

(2) Every such action shall be brought against the municipality alone and not against any person acting under the by-law or resolution.

385. (1) Subject to sections 387 and 388, no action shall be brought against a municipality, its officials, employees, or agents by reason of death of or injury to any person, or any injury to the property of any person arising out of any accident alleged to be due to the negligence of the municipality, its officials, employees or agents acting in the course of their employment unless notice in writing of the accident and the cause thereof has been served upon the municipal secretary within six months of the happening of the accident.

(2) In the case of the death of any such person the want of notice is not a bar to the maintenance of the action, and in other cases the want or insufficiency of the notice hereby required is not a bar to the action if a court or judge considers there is reasonable excuse for the want of such notice or insufficiency thereof and that the city, its officials, employees or agents have not thereby been prejudiced materially in their defences.

(3) The provisions of this Act, as to the time within which notice shall be given the municipality, its officials, employees, or agents acting in the course of their employment apply to the premises of and the activities conducted by any board, association or organization in cases where, if liability is imposed, payment thereof would be required directly or indirectly to be made by the municipality.

386. (1) Where the municipality tenders amends to the plaintiff or his solicitor, if such tender is pleaded and, if traversed, proved and no more than the amount of the tender is recovered, the plaintiff shall have no costs but costs shall be taxed to the defendant on such scale as the

presiding judge may direct and shall be set off against the amount recovered and the balance due to either party may be recovered as in ordinary cases.

(2) The tender of a cheque of the municipality payable to the claimant constitutes a legal tender of payment of a claim against the municipality other than a claim founded on a cheque or note.

(3) The council of any municipality upon any claim being made, or action brought for damages for alleged negligence on the part of the municipality may tender or pay into the court, pursuant to the rules of the court in that behalf, such amount as it considers proper compensation for the damages sustained, and in the event of the non-acceptance by the claimant of the tender or of the amount paid into court and on the action being proceeded with and no greater amount being recovered than the amount so paid into court, the costs of the suit or the costs of the suit subsequent to the payment into the court in case no tender was made shall be awarded to the defendants and set off against any amount recovered against them.

387. (1) Except in the case of gross negligence the municipality is not liable for injury to any property or person, caused by snow, ice or slush upon any sidewalk, street or highway or lane in the municipality.

(2) No action shall be brought in order to recover against the municipality for any damage to any property or person sustained by reason of the existence of snow, ice or slush upon any street, sidewalk or highway or lane in the municipality, unless notice in writing of the claim and of the injury complained about has been served upon or sent by registered mail to the municipal secretary within 21 days after the cause of action arises and, failing such notice, the municipality is relieved of any liability for damages or compensation in respect of the action for injury, notwithstanding any provision or law to the contrary.

388. No action shall be commenced against a municipality, its officials, employees or agents for the recovery of damages occasioned by default in the municipality's duty of repair referred to in section 135 whether the want of repair was the result of non-feasance or misfeasance, unless notice in writing of the claim and of the injury complained of has been served upon or sent by registered post to the municipal secretary within 60 days after the happening of the injury.

389. (1) Failure to give or insufficiency of the notice under section 385, 387 or 388, is not a bar to the action if the court or judge before whom the action is tried is of the opinion that there is reasonable excuse for the want

or insufficiency of the notice and that the municipality was not thereby prejudiced in its defence.

(2) In case of the death of the person injured, failure to give notice is not a bar to the action.

390. (1) Where the municipality and an adjacent municipality are jointly liable for keeping in repair a public road, street, bridge, highway, square, alley or other public place or work, there shall be contribution between them as to the damages sustained by any person by reason of their default in keeping it in repair or in a safe condition.

(2) An action by any such person shall be brought against all such municipalities jointly, and any defendant therein may require that the proportions in which damages and costs recovered in the action are to be borne by them be determined therein.

(3) In settling the proportions, either in the action or otherwise, regard shall be had to the extent to which each municipality was responsible, either primarily or otherwise, for the act or omission for which the damages have become payable or are recovered and the damages and costs shall be apportioned between them accordingly.

391. (1) Where an action may be brought against the municipality by any person who has suffered damages by reason of default of the municipality in keeping in proper repair any public road, street, bridge, highway, square, alley or other public place or work, no action shall be brought in respect of the damage against any member of the council or officer or employee thereof personally, but the remedy therefor shall be wholly against the municipality.

(2) This section does not affect the liability of a mere contractor with the municipality, nor of any officer or employee of such contractor by reason of whose act or neglect the damage was caused.

392. (1) Where an action is brought against the municipality to recover damages sustained by reason of any obstruction, excavation or opening in or near a public highway, street, bridge, alley, square or other public place or work, placed, made, left or maintained by any person other than a municipality or a servant of the municipality, or by reason of any negligent or wrongful act or omission of any person other than the municipality or a servant or agent of the municipality, the municipality has a remedy over against the other person for, and may enforce payment of, the damages and costs of any that are recovered against the municipality.

(2) The municipality is entitled to the remedies, provided in this section, over in the same action if the other person is a party to the action and if it is established in

the action against him, that the damages were sustained by reason of an obstruction, excavation or opening place, made, left or maintained by him, or by reason of any negligence or wrongful act or omission of such person.

393. (1) The municipality may in such action have the other person added as a party defendant or third party, if not already a defendant, for the purposes of the remedy over, and the other person may defend the action as well against the plaintiff's claim as against the claim of the municipality to a remedy over.

(2) The judge upon the trial of the action may order costs to be paid by or to any of the parties thereto or in respect of any claim set up therein as in other cases.

394. If the other person is not a party defendant in the action, or if the other person is not added as a party defendant or third party, or if the municipality has paid the claim for damages before any action is brought to recover them, or before the recovery of damages or costs against the municipality therein, the municipality has a remedy over by action against such other persons for such damages and costs as have been sustained by reason of any obstruction, excavation opening placed, made, left or maintained as aforesaid or by reason of negligent or wrongful act or omission of that person.

395. Such other persons shall only be deemed to admit the validity of the judgment, if any, obtained against the municipality where a third party notice has been served on him pursuant to *The Judicature Act* or the rules of court providing for third party notices or when he has admitted or is estopped from denying the validity of the judgment.

396. Where no third party notice has been served or where there has been no such admission or estoppel and the other person has not been made a party defendant or third party to the action against the municipality or where damages have been paid without action or without recovery of judgment against the municipality, the liability of the municipality for the damages, and the fact that damages were sustained under such circumstances as to entitle the municipality to the remedy over, shall first be established in the action against such person in order to entitle the municipality to recover in the action.

397. (1) Any elector of the municipality may by notice of motion apply to a judge of the district court to quash any by-law, order or resolution of the council in whole or in part for illegality.

(2) The judge, upon such motion, may quash the by-law, order or resolution in whole or in part and may, according

to the result of the application, award costs for or against the municipality and may determine the scale of the costs.

(3) The notice of motion shall be served at least seven clear days before the day on which the motion is to be made.

(4) Before any such motion is made the applicant, or where the applicant is a corporation some person on its behalf, shall enter into a recognizance before the judge himself in the sum of \$100, with two sureties each in the sum of \$50, of which it shall be a condition that the applicant will prosecute the motion with effect and pay any costs that might be awarded against him.

(5) The judge may allow the recognizance upon the sureties entering into proper affidavits of justification and thereupon it shall be filed in the district court with the other papers relating to the motion.

(6) In lieu of the recognizance mentioned in subsections (4) and (5), the applicant may pay into court the sum of \$100 as security for any costs that might be awarded against him, and the certificate of payment into court shall be filed in the district court with the other papers relating to the motion.

(7) Upon the determination of the proceedings the judge, in his discretion and having regard to the result of the application, may order the money paid into court to be applied in the payment of costs or to be paid out to the applicant.

(8) All moneys required to be paid into or out of court under this section shall be paid in and paid out in like manner as moneys are paid into and out of court in actions pending in the court.

(9) No application to quash a by-law, order or resolution in whole or in part shall be entertained unless the application is made within two months or, in the case of a by-law passed under section 139, one month from the passing of the by-law, order or resolution, except where a by-law requires the assent of the electors and the by-law has not been submitted to or has not received the assent of the electors entitled to vote thereon, in which case an application to quash the by-law may be made at any time.

398. Any by-law the passing of which has been procured through or by means of contravention of section 150 or 151 of *The Municipal Election Act* may be quashed upon an application made in conformity with the provisions therein contained.

399. (1) A copy of any by-law or resolution or a part thereof written or printed or otherwise reproduced and under the seal of the municipality certified to be a true copy by the municipal secretary shall be taken to be auth-

entic and shall be received in evidence as *prima facie* proof of its passing and of the contents thereof without any further proof in any court, unless it is specially pleaded or alleged that the seal or signature of the municipal secretary has been forged.

(2) The municipal secretary shall deliver the copy upon payment of a fee therefor at a rate not exceeding 50 cents for every 100 words or at a rate not exceeding \$1 a page or part thereof.

(3) When a copy of a by-law or resolution so certified has been filed with a court, it shall, for the purpose of all prosecutions before it for contravention thereof, be deemed to be a public record and may be used and acted upon in the same manner as an Act.

400. Printed documents purporting to be printed copies of any or all by-laws passed by the council and purporting to be printed by the authority thereof, shall be admitted in evidence in all courts as *prima facie* proof of such by-laws and of the passing thereof.

401. A copy of any book, record, document or account certified under the hand of the secretary and the municipal seal shall be received in all courts without proof of the seal of the municipality or of the signature or official character of the person appearing to have signed it, unless the court orders a check thereof.

402. In respect of acts done or omitted to be done by other persons acting in the exercise of powers or authorities conferred upon them by law and over which the municipality has no control, nothing in this Act casts upon the municipality any obligation or liability therefor, where the municipality is not a party to the acts or omissions and the authority under which the person acted or act is not a by-law, order, resolution, or licence of the council.

403. Every penalty and licence fee imposed under this Act may, unless any other provision is specially made in respect thereof, be recovered and enforced with costs on summary conviction before a magistrate.

404. (1) Any penalty or fine under any by-law of the municipality shall, if no other provision is made respecting it, belong to and form part of the general revenue of the municipality.

(2) When any person is committed to gaol by reason of a breach of any by-law of the municipality, there is chargeable to the municipality such part of the expenses paid by the Province for the transport of the person to gaol and for his

maintenance while there as may be designated by the Lieutenant Governor in Council.

405. Where any building is erected or is being erected or is being used, or where any land is being used, in contravention of any by-law of a municipality, or where the breach of a by-law is of a continuing nature or where any person is carrying on business or is doing any act, matter or thing without having paid any licence or permit fee required to be paid in respect thereof, then in addition to any other remedy and to any penalty imposed by the by-law, the municipality may, in any of those cases, apply to a judge by way of action or originating notice for an injunction or other order, and the judge may grant or refuse the injunction or other order or may make any other order that in his opinion the justice of the case requires, and an appeal to the Appellate Division of the Supreme Court of Alberta lies from any order made by a judge hereunder.

406. (1) Where any conviction founded upon the breach of any by-law of the municipality is appealed against to the court empowered to hear and determine appeals against summary convictions, and any question arises upon the hearing of the appeal in regard to the validity of the by-law or the right of the council to pass it, any person aggrieved by the decision of the court may require the court to state and sign a case, setting forth the facts of the case and the grounds upon which the validity of the by-law or the right of the council to pass it is questioned, to the Appellate Division of the Supreme Court of Alberta.

(2) The Appellate Division shall hear and determine the question of the validity of the by-law and the right of the council to pass it, and shall thereupon affirm, reserve, or modify the decision, order or determination in respect of which the case has been stated, or remit the matters to the court below with the opinion of the court thereon, and may make such other order in relation to the matter and such orders as to costs as to the court seems fit.

(3) All such orders are final and conclusive as against all parties.

407. (1) Any writ of execution against a municipality may be endorsed with a direction to the sheriff of the judicial district in which the municipality is located to levy the amount thereof by rate.

(2) Where the sheriff is directed to levy by rate, he shall deliver a copy of the writ and endorsement to the municipal secretary with a statement in writing of the amount required to satisfy the execution, including the amount of interest calculated to a date as near as is convenient to the date of the service, and sheriff's fees.

(3) If the amount, with interest thereon from the date mentioned in the statement, is not paid to the sheriff within 30 days after service, the sheriff shall examine the assessment roll of the municipality and shall, in like manner as rates are struck for general municipal purposes strike a rate on the dollar sufficient to realize the amount claimed with such addition thereto as the sheriff considers sufficient to cover the interest and his own fees up to the time when the rate will probably be available.

(4) The sheriff shall thereupon issue an order under his hand and seal of office directed to the municipal treasurer and shall attach thereto a statement of the rate struck by him and shall by the order, after reciting the writ and that the municipality has neglected to satisfy it and referring to the rate attached to the order, command the treasurer to levy the rate at the same time and in the same manner as the general annual rates.

(5) At the time for levying the annual rates next after the receipt of the order the municipal treasurer shall add a column to the tax roll headed "Execution rate in A.B. versus", adding a similar

(name of municipality)

column if there are more executions than one, and shall insert therein the amount that is required to be levied upon each person pursuant to the order and shall levy the amount of the execution rate and shall, within the time that he is required to make the returns of the general annual rate, return to the sheriff the order with the amount levied thereon, deducting his percentage.

(6) The sheriff, after satisfying the execution and all fees thereon, shall return any surplus within 10 days after receiving it to the treasurer for the general purposes of the municipality.

(7) The municipal secretary, the treasurer and the assessor shall, for the purpose of carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Act with respect to such execution, be deemed to be officers of the court from which the writ issued, and as such may be proceeded against by attachment, *mandamus* or otherwise to compel them to perform the duties hereby imposed on them.

408. Debts or money owing by any person or other municipality to the municipality or to a hospital board or any other board or organization whose funds are derived from the municipality or for the payment of whose deficit the municipality is liable, may be set off against any debts or moneys owing to the same person or municipality by the municipality or such board or organization, as the case may be.

409. (1) If in any case money deposited with the municipality by any person as a guarantee deposit for the payment of accounts of the municipality with respect to water, light, telephone or other utilities remains unclaimed for a period of five years after the account of the person so depositing it has been discontinued, the amount of the deposit shall be transferred to the general revenue account of the municipality.

(2) The municipality remains liable to repay the amount of the deposit to the person lawfully entitled thereto for a period of 10 years next following the discontinuance of the account but after the 10 year period the deposit becomes the absolute property of the municipality free from any claim in respect thereof.

410. (1) All lost or unclaimed property in the possession of the municipality or any department thereof shall be retained for three months.

(2) If not claimed within three months the municipality may dispose of the property by public auction, and any property offered for sale by public auction and not sold thereat may be otherwise disposed of as the council directs.

(3) The purchaser at such auction or otherwise becomes the owner of the property and any claim of the earlier owner shall be converted into a claim for the proceeds of sale, after the charges have been deducted for hauling, storage and other necessary expenses, including the costs of sale, that have been incurred by the municipality.

(4) If no claim is made to such proceeds within one year from the date of sale, the proceeds form part of the general revenue of the municipality.

411. Any person who contravenes any provision of this Act for the contravention of which no punishment has been specifically provided is guilty of an offence and liable on summary conviction to be punished by imprisonment for any term of not more than six months, or to be ment for any term of not more than one year, or to be fined not more than \$500, or to both such fine and imprisonment.

412. Any member of the council

(a) holding, enjoying, undertaking or executing any contract or agreement, the holding, enjoying, undertaking or executing of which is declared by this Act to make the seat of the member liable to forfeiture, or

(b) acting as a surety for any official or employee of the council,

is guilty of an offence and liable on summary conviction to a fine of not less than \$10 and not more than \$500 and

in default of payment to imprisonment for a term not exceeding 30 days.

413. Any official of the municipality

- (a) who refuses, neglects or fails to discharge the duties of his office, or
- (b) who knowingly signs any statement, report or return that is required by this Act or any other enactment, and that contains any false statement, or
- (c) who refuses or neglects to hand over to his successor in office, or to such persons as are designated in writing to him by the council or by the Minister, all moneys, books, papers, and other property of the municipality in his possession,

in addition to any civil liability that he may incur, is guilty of an offence and liable on summary conviction to a fine of not less than \$10 and not more than \$500 and in default of payment to imprisonment for a term not exceeding 30 days.

414. The Minister may require a municipality to supply such statistical information and records as he may require from time to time.

415. (1) Every municipality shall afford to the Alberta Assessment Appeal Board access to all books, papers, documents or other information in the possession or power of the municipality, and the officials of the municipality to whom the Appeal Board applies for any statement, report, copies of documents or any other information shall furnish it free of charge.

(2) Any municipality not complying with the requirements of this section, whether wilfully or not, is liable to a penalty of \$1 a day during the existence of the default.

(3) Any official of a municipality who refuses, neglects or fails to observe the provisions of this section, whether his failure be wilful or not, is guilty of an offence and liable upon summary conviction to a fine of not more than \$50.

416. (1) If one-third of the members of the council, or one-fourth of the proprietary electors of the municipality, petition the Lieutenant Governor in Council for a commission to issue under the great seal to inquire into the financial affairs of the municipality, the Lieutenant Governor in Council may issue a commission accordingly.

(2) The commissioner or commissioners have all the powers of commissioners appointed under *The Public Inquiries Act*.

417. (1) Where a council passes a resolution

- (a) requesting that an inquiry be made into any matter mentioned in the resolution and relating to an alleged malfeasance, breach of trust or other misconduct on the part of
 - (i) a member of the council or other official or an employee or agent of the municipality, or
 - (ii) a person having a contract with the municipality in relation to the duties or obligations of that person to the municipality,
- or

- (b) requesting that an inquiry be made into or concerning any matter connected with the good government of the municipality or the conduct of any part of the public business thereof,

the Attorney General may appoint a judge or some other suitable person to make the inquiry.

(2) The person appointed to make the inquiry shall, as promptly as is conveniently possible, make the inquiry and report the result of the inquiry and the evidence taken thereon to the Attorney General and to the council.

(3) The person appointed to make the inquiry has, for the purpose of the inquiry, all the powers of a commissioner appointed under *The Public Inquiries Act*.

(4) The person appointed to make the inquiry is entitled to receive and shall be paid such fees by the council as may be agreed upon.

(5) The council may engage and pay counsel to represent the municipality and may pay all proper witness fees to persons summoned to give evidence at the instance of the municipality.

(6) Any person charged with malfeasance, breach of trust or other misconduct or whose conduct is called in question may be represented by counsel.

418. The mayor or other member presiding at any meeting of the council or of any committee of the council may

- (a) require any person appearing before the council or committee or making any claim or submission to the council or committee to do so under oath, and
- (b) administer the oath or affirmation to any such person.

419. (1) The council, at any time by resolution, may appoint a committee of its members to investigate and make inquiry into or concerning any matter connected with the good government of the municipality, or with the administration of any of the public utilities under the control of the municipality whether such matter involves any charge against any official or employee of the municipality or not.

(2) The council may by the resolution authorize the committee to engage counsel and such other skilled persons and clerical assistants as the committee considers necessary to assist it in its investigation.

(3) Where the matter to be investigated or inquired into concerns any charge against any official or employee of the municipality, or where during the investigation any charge against any such employee arises, the committee so appointed may summon the official or employee before it to answer the charge.

(4) The committee may summon witnesses and take evidence under oath.

(5) The committee may pay all costs, charges and expenses incurred by them in and about such investigation.

(6) The committee shall report the result of the inquiry to the council.

420. No person shall, by reason of the adverse or unauthorized possession, occupation, enjoyment or use of any land owned by the municipality or of the highway within the municipality and shown upon any plan of subdivision or dedicated for use as a highway, whether adopted by the municipality as a highway or not, obtain any estate or interest therein or in any such land by reason of the adverse possession, occupation, enjoyment or use thereof, and it shall be deemed that no such right has heretofore been so acquired.

421. (1) A member of a council who spends or authorizes the expenditure of any funds of the municipality, unless he has first been empowered to do so by by-law or resolution of the council, is, in addition to being liable for a civil action instituted against him by the municipality or any ratepayer thereof, guilty of an offence and liable on summary conviction to fine of not less than \$10 and not more than \$100, and in default of payment to imprisonment for a term not exceeding two months.

(2) A councillor is not liable under this section for authorizing work of an urgent nature that is subsequently ratified by the council.

422. (1) A mayor, councillor or employee of a municipality, either in his own name or in the name of another, alone or jointly with another is prohibited from entering into a contract with the municipality for the supplying to him of a service or commodity other than a service or commodity that the council has statutory authority to supply.

(2) A contract entered into contrary to subsection (1) is void, and a person who contravenes this section is guilty of an offence and is liable upon summary conviction to a

fine of not more than \$100 and in default of payment to imprisonment for a term not exceeding 60 days.

423. A person who, within a municipality and either directly or indirectly, personally or through any servant, employee or agent,

- (a) kindles a fire and lets it run at large on any land not his own property, or
- (b) permits a fire to pass from his own land, or
- (c) allows a fire under his charge, custody or control or under the charge, custody or control of any servant, employee or agent, to run at large,

is guilty of an offence and liable on summary conviction to a fine of not less than \$25 and not more than \$200 but any such conviction does not affect any civil liability.

424. Every person who interrupts, hinders or molests any person engaged under the authority of the municipality in making an examination, for or in constructing, maintaining or repairing any public work or any works connected therewith on any land is guilty of an offence and liable upon summary conviction to a fine of not more than \$50 or to imprisonment for a term not exceeding 30 days, or to both.

425. (1) All fines, penalties and forfeitures mentioned in this Act may be recovered and enforced with costs on summary conviction, unless otherwise provided.

(2) All moneys accruing from fines or penalties under this Act, shall unless otherwise provided, belong to the municipality.

426. (1) No council has power

- (a) to grant a bonus or other aid to any person, for the construction, establishment or operation of any manufacturing, mill, railway or other business or concern whatever, or
- (b) to exempt from taxation any manufacturing, mill, railway or other business or concern, to subscribe for stock therein or to guarantee the bonds, debentures or other securities thereof.

(2) No council has power

- (a) to sell or lease land to a person at a price which represents less than the fair actual selling value thereof, or
- (b) to sell distribute or deliver light, heat, power, water, gas, oil, electricity or coal to a person at a price that is less than the actual cost thereof to the municipality.

(3) The selling or leasing of the land and the selling, distributing or delivering of the commodities or services shall not be deemed to be the granting of a bonus or aid within the meaning of this section.

(4) If the council attempts to pass a by-law contrary to subsection (1) in regard to bonusing, a member of the council voting in favour of the by-law

(a) is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and not more than \$100 and in default of payment to imprisonment for a term not exceeding 60 days, and

(b) is disqualified for a period of three years from holding any municipal office.

(5) The provisions of this section do not apply to any agreement between the municipality and any person, firm or corporation and in existence at the time of the passing of this Act or to an agreement under section 339.

427. The provisions of the Calgary Charter relating to the lands, buildings, plants and equipment of the water supply and distribution system commonly known as the Glenmore dam, and the provisions relating in particular to the assessment and taxation thereof by the Municipal District of Springbank continue to be applicable.

428. (1) The provisions of the Edmonton Charter relating to

(a) the composition and constitution of the local board of health and the Edmonton Library Board and the method of appointment and term of office of members of the said boards,

(b) the exclusive franchise for the sale of natural gas now held by Northwestern Utilities Limited, and

(c) exemptions and fixed taxation for hotels contained in subsection 35 of section 221 of the said Charter,

continue to be applicable.

(2) In the case of the local board of health referred to in clause (a) of subsection (1), the council of the city of Edmonton after the first day of July, 1953, may appoint as a member of the local board of health a qualified dentist who has been recommended by the Edmonton Dental Council and whose term of office shall be the same as that prescribed in the Edmonton Charter for medical practitioners appointed to the local board of health.

(3) The Board of Governors of the Royal Alexandra Hospital established by by-law of the City of Edmonton, is hereby declared to be, and to have been since its inception, a body corporate under the name of the Royal Alexandra Board of Governors, and, without in any way restricting the powers it may exercise, with power to

- (a) operate the Royal Alexandra Hospital mentioned in the by-law, and any addition or modifications thereto, for the care and treatment of persons suffering illness, injury or disability for which active treatment, hospital care is required or is proper, and
- (b) carry on educational activities and provide educational facilities related to the care and treatment of persons suffering illness, injury or disability or relating to the promotion of health and in particular, but not so as to restrict the generality of the foregoing, conduct a school of nursing.

429. (1) Upon application by the council of a city in existence on the first day of January, 1952, the Lieutenant Governor in Council may declare a provision contained in a charter of a city to be in full force and effect, if, in the opinion of the Lieutenant Governor in Council,

- (a) the subject matter of the provision is not adequately dealt with in this Act,
- (b) the provision is not contrary to nor inconsistent with the provision of this Act, and
- (c) the provision is necessary for the proper and efficient administration of the city.

(2) Where a provision in a city charter has been declared to be in full force and effect pursuant to the provisions of subsection (1), it ceases to have any force or effect on and after the first day of January, 1973, or such earlier date as may be mentioned in the order.

430. Where a special provision or exception is applicable to an individual city, the provisions of this Act shall be varied only in so far as may be necessary to give effect to the special provision or exception.

431. A body corporate that is incorporated or continued as a body corporate by the provisions of any city charter or any Act for the purpose of operating or administering a sinking fund, hospital, exhibition, or for any purpose shall continue to be a body corporate and to have the same constitution and to perform and exercise the same duties and powers that were conferred upon it by or pursuant to the city charter or Act.

432. (1) *The Municipal Taxation Act* is amended by striking out section 162.

(2) *The Department of Municipal Affairs Act* is amended as to section 17 by striking out the words "When a new village is formed under *The Town and Village Act* or when a new municipal district is formed or created by merger under *The Municipal District Act*," and by substituting the words

"When a new village, municipal district or county is formed or a municipal district is created by merger,".

(3) *The Municipal and Provincial Properties Valuation Act* is amended as to section 2 by striking out clause (a) and by substituting the following:

(a) "assessor" means

- (i) a person appointed pursuant to *The Municipal Government Act*, *The Improvement Districts Act 1965* or *The Special Areas Act, 1964* to make an assessment in a municipal district, or
- (ii) a member of the staff of the Chief Provincial Assessor;

(4) *The Pipe Line Act, 1958* is amended as to section 2, subsection (1), clause (b) by striking out the words "Part VII of *The City Act* or Part VIII of *The Town and Village Act*" and by substituting the words "Part 6 of *The Municipal Government Act*."

(5) *The New Towns Act* is amended

(a) as to section 2

- (i) by striking out of clause (b) the words "Part V of *The Town and Village Act, 1952*" and by substituting the words "*The Municipal Election Act*",
- (ii) by striking out clause (f) and by substituting the following:
 - (f) "town" means a town within the meaning of *The Municipal Government Act*;

(b) as to section 6, subsection (6) by striking out the words "*The Town and Village Act, 1952*," and by substituting the words "*The Municipal Election Act*",

(c) as to section 10, subsection (1) by striking out the words "section 20 of *The Town and Village Act, 1952*," and by substituting the words "section 17 of *The Municipal Government Act*",

(d) as to section 12

- (i) by striking out of subsection (2) the words "the appropriate municipal Act," and by substituting the words "*The Municipal Government Act*",
- (ii) by striking out of subsection (3) the words "section 22 of *The Town and Village Act*" and by substituting the words "section 17 of *The Municipal Government Act*",

(e) as to section 15 by striking out the words "by *The Town and Village Act, 1952*",

(f) as to section 18, clause (b) by striking out the words "*The City Act*," and by substituting the words "*The Municipal Government Act*",

- (g) as to section 26 by striking out the words "*The Town and Village Act, 1952*," and by substituting the words "*The Municipal Government Act or The Municipal Election Act*,".
- (6) *The Public Health Act* is amended as to section 20 by striking out the words "*The City Act or The Town and Village Act*" wherever they occur and by substituting the words "*The Municipal Government Act*".
- (7) *The Improvement Districts Act, 1965* is amended
 - (a) as to section 42, subsection (1) by striking out the words "enact to be done under *The Town and Village Act*" and by substituting the words "or resolution enact to be done under *The Municipal Government Act*",
 - (b) as to section 52
 - (i) by striking out of subsection (1) the words "subject to subsection (2)",
 - (ii) by striking out subsection (2).
- (8) *The Agricultural Service Board Act* is amended
 - (a) as to section 8 by striking out the words "*The Municipal District Act*," and by substituting the words "*The Municipal Government Act*",
 - (b) as to section 10, subsection (3) by striking out the words ", subject in the case of a municipal district or county to section 252 of *The Municipal District Act*".
- (9) *The Soil Conservation Act* is amended as to section 10, subsection (3) by striking out clause (b) and by substituting the following:
 - (b) may collect the amount of the expenditures as a tax upon the land from the owner or occupier and be recovered in any of the modes available in *The Municipal Taxation Act* and *The Tax Recovery Act*, for the recovery of a municipal tax.
- (10) *The Public Utilities Board Act* is amended as to section 28, subsection (3) by striking out the words "410 of *The City Act*, clause (b) of subsection (2) of section 350 of *The Town and Village Act* or clause (b) of subsection (5) of section 296 of *The Municipal District Act*" and by substituting the words "271 of *The Municipal Government Act*".
- (11) *The Local Authorities Board Act* is amended
 - (a) as to section 71 by striking out the word "urban" wherever it occurs,
 - (b) as to section 72 by striking out subsection (1),
 - (c) as to section 82, clauses (b) and (c) by striking out the words "*The City Act*, *The Town and Village Act*, or *The Municipal District Act*, or as the case may be," and by substituting the words "*The Municipal Government Act*",

- (d) by striking out sections 124, 125, 126 and 127.
- (12) *The Public Highways Development Act* is amended
 - (a) as to section 7 by striking out the words “sections 300 to 302 of *The Town and Village Act*” wherever they occur and by substituting the words “sections 220 to 222 of *The Highway Traffic Act*”,
 - (b) as to section 17, subsection (3) by striking out clause (b) and by substituting the following:
 - (b) provide that, as of a specified effective date, the by-laws of a rural municipality, town or village under sections 220 to 222 of *The Highway Traffic Act* are, in relation to the secondary road, to be in accordance with the agreement.
 - (c) as to section 21, subsection (2) by striking out the words “*The City Act*” and by substituting the words “*The Municipal Government Act*”,
 - (d) as to section 35, clause (a) by striking out the words “*The Municipal District Act*” and by substituting the words “*The Municipal Government Act*”.
- (13) *The Municipalities Additional Borrowings Powers Act* is amended as to section 10 by striking out subsection (1) and by substituting the following:

10. (1) A municipality borrowing money under this Act is governed by the provisions of *The Municipal Government Act* pertaining to debenture borrowing except in the case of a municipal hospital district situated within a National Park which is governed by the provisions of *The Alberta Hospitals Act*.

433. This Act repeals and replaces

- (a) *The City Act*,
- (b) *The Town and Village Act*,
- (c) *The Municipal District Act*,
- (d) *The Early Closing Act*, and
- (e) *The Houses of Public Accommodation Act*.

434. This Act comes into force on the first day of June, 1968.