



Province of Alberta

MUNICIPAL GOVERNMENT ACT

CITY OF CALGARY CHARTER, 2018 REGULATION

Alberta Regulation 40/2018

With amendments up to and including Alberta Regulation 187/2019

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Office Consolidation

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(Consolidated up to 187/2019)

ALBERTA REGULATION 40/2018

Municipal Government Act

CITY OF CALGARY CHARTER, 2018 REGULATION

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Interpretation

1(1) In this Regulation,

- (a) “Act” means the *Municipal Government Act*;
- (b) “City” means the City of Calgary;
- (c) “municipality” means a municipality as defined in the Act.

(2) A reference to a “city” in a provision of an enactment that is modified by this Regulation is to be read as a reference to the City of Calgary.

Establishment of charter

2 The City of Calgary Charter, 2018 is established by this Regulation.

Enactments continue to apply

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

Municipal Government Act**Modification of Act**

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

(2) Section 7 of the Act is to be renumbered as section 7(1), and

(a) in subsection (1),

(i) the following is added after clause (h):

(h.1) the well-being of the environment, including bylaws providing for the creation, implementation and management of programs respecting any or all of the following:

- (i) contaminated, vacant, derelict or under-utilized sites;
- (ii) climate change adaptation and greenhouse gas emission reduction;
- (iii) environmental conservation and stewardship;
- (iv) the protection of biodiversity and habitat;
- (v) the conservation and efficient use of energy;
- (vi) waste reduction, diversion, recycling and management;

(ii) in clause (i),

(A) subclause (ii) is to be read as follows:

(ii) for each offence, imposing imprisonment for not more than one year or a fine not exceeding

(A) \$100 000, in the case of an offence that is designated as an egregious offence under subclause (ii.1), or

(B) \$10 000, in the case of any other offence,

or both;

(B) the following is added after subclause (ii):

(ii.1) the designation, in accordance with subsection (2), of offences that are egregious offences for the purposes of subclause (ii)(A);

(b) the following is added after subsection (1):

(2) The council may designate an offence as an egregious offence for the purposes of subsection (1)(i)(ii)(A) if, in the opinion of the council, a maximum fine of \$10 000 would be

- (a) insufficient to deter others from committing the offence, due to the amount of profit that could potentially be realized as a result of committing the offence,
- (b) insufficient, having regard to the magnitude or extent of harm that the offence causes or may cause to the public or any person, or
- (c) insufficient, having regard to the inherent nature of the offence.

(3) In section 8 of the Act, the following is added after clause (d):

(e) reduce or stagger the hours within the hours specified under Schedule 3 of the *Gaming, Liquor and Cannabis Regulation* (AR 143/96) during which liquor may be sold or provided in licensed premises.

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

Bylaws may be passed for any municipal purpose

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

(5) In section 203 of the Act

(a) repealed AR 187/2019 s1;

(b) subsection (2)(d) is to be read as follows:

(d) its power with respect to taxes under section 347, except where the total amount to be cancelled, reduced, refunded or deferred under section 347(1)(a), (b) and (c) by the City in a taxation year does not exceed \$500 000, and

(5.1) Section 241(e) of the Act is to be read as follows:

(e) “debt limit” means the debt limit of the City;

(NOTE: Section 4(5.1) does not come into force until the City has obtained an external credit rating and established a debt limit policy and a debt servicing policy under section 244.1 of the Act. See AR 18/2019 s5(2).)

(6) Sections 242 and 243 of the Act do not apply to the City.**(7) Section 244 of the Act is to be read as follows:****Financial shortfall**

244 The City may project an operating deficit but the budget for the following year must provide for expenditures to cover the deficit over the next 3 years.

(7.1) The following is added after section 244:**Debt limit and debt servicing policies**

244.1(1) The council of the City must obtain an external credit rating and then establish a debt limit policy and a debt servicing policy.

(2) Before establishing a debt limit policy and a debt servicing policy under subsection (1), the council must hold a public hearing with respect to those policies in accordance with section 230 after giving notice of it in accordance with section 606.

(8) Sections 245 and 246 of the Act do not apply to the City.**(9) Section 247 of the Act is to be read as follows:**

Tax bylaws

247 The City may not pass a property tax bylaw or business tax rate bylaw in respect of a year unless the annual budget for that year has been adopted by the council.

(10) Section 248(3) of the Act does not apply to the City.

(11) In section 264 of the Act,

(a) in subsection (1),

(i) the reference to “A municipality” is to be read as a reference to “The City”;

(ii) clause (a) is to be read as follows:

(a) the loan or guarantee is made under subsection (2), (2.1) or (3),

(b) in subsection (2), the reference to “A municipality” is to be read as a reference to “The City”;

(c) the following is added after subsection (2):

(2.1) The council may make bylaws respecting the giving of loans and guarantees by the City

(a) to individuals for the purposes of ensuring or improving energy conservation or energy efficiency, or both, with respect to property, and

(b) for the purposes of developing affordable housing in accordance with Part 17.

(2.2) A bylaw under subsection (2.1) that authorizes the giving of loans

(a) must set out the maximum amount of money that may be loaned to a person under the bylaw,

(b) must set out, in general terms, the purpose for which money loaned under the bylaw is to be used,

(c) must set out the minimum rate of interest, the maximum term and the terms of repayment applicable to loans under the bylaw,

(d) must set out the source or sources of money that may be loaned to a person under the bylaw, and

(e) must be advertised.

(2.3) A bylaw under subsection (2.1) that authorizes the giving of guarantees

- (a) must set out the maximum amount of a loan that may be guaranteed under the bylaw,
- (b) must set out, in general terms, the purpose or purposes for which money borrowed under a loan guaranteed under the bylaw is to be used,
- (c) must set out the minimum rate of interest or the method by which the rate of interest is to be calculated, the maximum term and the terms of repayment applicable to loans guaranteed under the bylaw,
- (d) must set out the source or sources of money to be used to pay the principal and interest owing under loans guaranteed under the bylaw, if the municipality is required to pay those amounts under the guarantee, and
- (e) must be advertised.

(2.4) The City must not give a loan referred to in subsection (2.1)(a) to an individual unless the individual has executed a mortgage under section 102 of the *Land Titles Act* in respect of the loan, and the City must register the mortgage against the certificate of title for the property in respect of which the loan is given.

(d) subsection (3) is to be read as follows:

(3) Where the City intends to purchase gas from and become a shareholder of the designated seller within the meaning of section 30(1) of the *Gas Distribution Act*, SA 1994 cG-1.5 as it read on June 30, 1998, the City may make a loan to the designated seller as part of the capitalization of the designated seller by its shareholders.

(12) Section 269 of the Act is to be read as follows:

Financial year

269 The financial year of the City is the calendar year unless the council by resolution determines otherwise.

(13) Repealed AR 187/2019 s1.

(14) Section 294 of the Act is to be read as follows:

Right to enter on and inspect property

294(1) After giving reasonable notice to the owner or occupier of any property, an assessor may at any reasonable time, for the purposes of carrying out the duties and responsibilities of an assessor under Parts 9 to 12 and the regulations,

- (a) enter on and inspect the property,
- (b) request anything to be produced, and
- (c) make copies of anything necessary to the inspection.

(2) Information about a property's physical characteristics collected under this section and section 295 after the date referred to in section 289(2)(a) is admissible at an assessment complaint hearing.

(15) Repealed AR 187/2019 s1.

(16) In section 297 of the Act,

(a) subsection (2.1) is to be read as follows:

(2.1) A council may by bylaw divide class 2 into the sub-classes prescribed by the regulations, and if the council does so, subject to subsection (2.4), the assessor must assign one or more of the prescribed sub-classes to a property in class 2.

(b) the following is added after subsection (2.1):

(2.2) The council may by bylaw

- (a) establish a sub-class for derelict property within class 2 and define "derelict" for the purposes of the bylaw, or
- (b) establish a sub-class for contaminated property within class 2 and establish
 - (i) the characteristics or effects that amount to contamination for the purposes of the bylaw, and
 - (ii) the levels of contamination above which a property is to be considered as contaminated for the purposes of the bylaw,

or do both.

(2.3) A definition of “derelict” under subsection (2.2)(a) and any characteristics, effects or levels established by bylaw under subsection (2.2)(b) must apply generally across the City and must not be specific to sites or areas within the City.

(2.4) If the council

- (a) establishes a sub-class under subsection (2.2)(a) or (b), or
- (b) divides class 2 into the sub-classes prescribed by the regulations,

the assessor may, subject to subsections (2.5) to (2.7), assign that sub-class to a property in addition to or instead of assigning one or more of the sub-classes prescribed by the regulations to the property.

(2.5) A sub-class for derelict property must not be assigned to a property unless the property meets the definition of “derelict” in the bylaw and has been unoccupied for at least one year.

(2.6) A sub-class for contaminated property must not be assigned to a property unless there is evidence of contamination at or exceeding the level at which the property is to be considered as contaminated for the purposes of the bylaw.

(2.7) A sub-class for derelict or contaminated property must not be assigned to designated industrial property or machinery and equipment.

(c) **subsection (4)(b) and (c) are to be read as follows, except for the purposes of section 359 and Division 5 of Part 9 of the Act:**

- (b) “non-residential”, in respect of property, means property that is not classed by the assessor as farm land, machinery and equipment or residential;
- (c) “residential”, in respect of property, means
 - (i) property or a portion of a property currently used for permanent living accommodation,
 - (ii) a vacant property where permanent living accommodations is the primary permitted use for that land assigned as a land use designation

under a land use bylaw passed by a municipal council, or

- (iii) a property or a portion of a property where permanent living accommodations is a permitted or discretionary use assigned as a land use designation for that land under a land use bylaw passed by a municipal council if a development permit has been issued by the municipality or construction has commenced to build permanent living accommodations on the land,

but does not include

- (iv) a property or a portion of a property on which industry, commerce or farming operations currently take place, or
- (v) a vacant property that has more than one primary permitted use assigned as a land use designation under a land use bylaw passed by the council.

(d) the following is added after subsection (4):

(5) Where a property has been assigned as either class 1 or class 2 for the purposes of section 353(2)(a) and (b), the assessment roll for that property must show both assessment classifications.

(17) The following is added after section 316.1 of the Act:

**Division 4.1
Preparation of Supplementary
Assessment for Previous Farm Land**

Bylaw

316.2(1) If the City wishes to require the preparation of supplementary assessments for all or a part of a parcel of land that has ceased to be used for farming operations, the council must pass a supplementary assessment bylaw authorizing the assessments to be prepared for the purpose of imposing a tax under Part 10 in the same year.

(2) A bylaw under subsection (1) must apply to all parcels of land or parts of parcels of land that have ceased to be used for farming operations.

Supplementary assessment

316.3(1) A supplementary assessment for all or a part of a parcel of land that has ceased to be used for farming operations must reflect the market value of that parcel of land or part of the parcel of land, as the case may be, minus the agricultural use value of the same area, multiplied by the pro rata factor.

(2) For the purposes of subsection (1),

- (a) the market value of the parcel of land or the part of the parcel of land as of the valuation date is to be determined in accordance with the regulations,
- (b) the agricultural use value is the assessment of the parcel of land or the part of the parcel of land that is used for farming operations as determined in accordance with the regulations, and
- (c) the pro rata factor is equal to the number of months in a year after the date on which the parcel of land or the part of the parcel of land ceased to be used for farming operations, and includes the whole of the first month in which the parcel or part of the parcel ceased to be used for farming operations, divided by 12.

Supplementary assessment roll

316.4(1) Before the end of the year in which supplementary assessments are prepared under section 316.3, the City must prepare a supplementary assessment roll.

(2) A supplementary assessment roll must show, for each assessed parcel of land, the following:

- (a) the same information that is required to be shown on the assessment roll;
- (b) the date on which the parcel of land or part of the parcel of land ceased to be used for farming operations.

Supplementary assessment notices

316.5(1) Before the end of the year in which supplementary assessments are prepared under section 316.3, the City must

- (a) prepare a supplementary assessment notice for every assessed parcel of land shown on a supplementary assessment roll under section 316.4, and
- (b) send the supplementary assessment notices to the assessed persons.

(2) A supplementary assessment notice must show, for each assessed parcel of land, the following:

- (a) the same information that is required to be shown on the supplementary assessment roll;
- (b) the notice of assessment date;
- (c) a statement that the assessed person may file a complaint not later than the complaint deadline;
- (d) information respecting filing a complaint in accordance with the regulations.

(18) Section 318 of the Act is to be read as follows:

Preparation of equalized assessments

318(1) The Minister must prepare annually, in accordance with the regulation, an equalized assessment for each municipality.

(2) For the purposes of determining the equalized assessment of property that is taxable under section 317(a), only the assessment class for purposes of section 353(2)(b) is to be reflected in the assessment of property that is taxable.

(19) The following is added after section 325 of the Act:

Continuous bylaws

325.1 Bylaws enacted by the council under section 316.2 remain in force after the year in which they are enacted and apply in respect of subsequent years, until they are repealed by the council.

(20) Section 329 of the Act is to be renumbered as section 329(1) and the following is added after subsection (1):

- (2)** Where a property has been assigned as
- (a) class 1 - residential for purposes of section 353(2)(a), and
 - (b) class 2 - non-residential for purposes of section 353(2)(b),

the tax roll for that property must show both assessment classifications.

(21) In section 359 of the Act, subsection (2) is to be read as follows:

(2) In calculating the tax rate required to raise sufficient revenue to pay the requisitions, the City

- (a) must, notwithstanding any modification made by the *City of Calgary Charter, 2018 Regulation* use the assessment classes in section 297(4) to determine the total assessment of all property on which that tax rate is to be imposed, and
- (b) may include an allowance for non-collection of taxes at a rate not exceeding the actual rate of taxes uncollected from the previous year's tax levy as determined at the end of that year.

(22) Repealed AR 187/2019 s1.

(22.1) Section 396(4) of the Act is to be read as follows:

(4) If a sufficient petition objecting to the local improvement is not filed with the chief administrative officer within 30 days from sending the notices under subsection (1), the council may undertake the local improvement and impose the local improvement tax at any time in the 5 years following the sending of the notices.

(22.2) Section 396(5) of the Act is to be read as follows:

(5) When a council is authorized under subsection (4) to undertake a local improvement and

- (a) the project has not been started, or
- (b) the project has been started but is not complete,

the council may impose the local improvement tax for 2 years, after which the tax must not be imposed until the local improvement has been completed or is operational.

(23) Section 460.1 of the Act is to be read as follows:

Jurisdiction of assessment review boards

460.1(1) A local assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on

- (a) an assessment notice for
 - (i) residential property with 3 or fewer dwelling units, or
 - (ii) farm land,

or

- (b) a tax notice other than a property tax notice.

(2) Subject to section 460(14), a composite assessment review board has jurisdiction to hear complaints about any matter referred to in section 460(5) that is shown on an assessment notice for property other than property described in subsection (1)(a).

(24) In section 465 of the Act, the following is added after subsection (3):

(4) A document or thing produced pursuant to this section is admissible as evidence in the hearing of the complaint.

(25) The following is added after section 465 of the Act:

Order to allow entry and inspection

465.1(1) Where, in the opinion of a panel hearing a complaint in respect of property lying within the municipal boundaries of the City, a person has unreasonably refused to allow or has interfered with an assessor's entry on or inspection of the property, the panel may order the owner or occupier of the property to allow the assessor to enter and inspect the property and may suspend the hearing until the entry has been allowed and the inspection is complete.

(2) Information gathered during an inspection under subsection (1) is admissible as evidence in the hearing of the complaint.

(3) Where an order under subsection (1) is not complied with within 30 days after being made, the panel may dismiss the complaint.

(26) Repealed AR 187/2019 s1.

(27) The following is added before section 476.1 of the Act:

Consultation process regarding assessment complaints

476.01(1) This section applies only to assessments of

- (a) non-residential property, and
- (b) residential property with more than 3 dwelling units.

(2) The council may by bylaw establish

- (a) an assessment consultation period of 30 days between the valuation date and the date the assessment notice is sent, and
- (b) a complaint period of 30 days after the notice of assessment date.

(3) A bylaw made under subsection (2) must specify the notification process for the assessment consultation period and the information that an assessor may share with the assessed person during the consultation process, including, without limitation, information about the property.

(4) An assessment notice sent in respect of a property must stipulate the date by which a complaint must be made, which must be 30 days after the notice of assessment date.

(5) This section applies despite anything to the contrary in section 284(4), 309 or 316.1(1).

(28) The following is added after section 557 of the Act:

Affidavit evidence

557.1(1) In this section,

- (a) “parking enforcement system” means a system that is used to photograph a vehicle and identify the location of the vehicle using a global positioning system and record that data according to the date on which the photograph was taken;
- (b) “photograph” means a photograph taken by a bylaw enforcement officer, but does not include a photograph taken as part of a parking enforcement system.

(2) In any proceedings under which a person is charged with failing to comply with a provision of this Act, the *Traffic Safety Act* or a bylaw made under this Act or the *Traffic Safety Act*,

- (a) the evidence of a bylaw enforcement officer in respect of photographs taken for the purposes of establishing facts relating to that contravention may be given by affidavit,
- (b) an affidavit referred to in clause (a) must be sworn by the bylaw enforcement officer who took the photographs, and
- (c) an affidavit referred to in clause (a) is proof, in the absence of evidence to the contrary, as to the facts stated in the affidavit.

(3) In any proceedings in respect of a charge in respect of a vehicle that has been parked in a manner that does not comply with a parking bylaw made under the *Traffic Safety Act*,

- (a) the evidence of a bylaw enforcement officer involved in the installation, operation, use or testing of a parking enforcement system and the issuance of a violation ticket

in respect of that failure to comply may be given by affidavit, and

- (b) an affidavit referred to in clause (a) is proof, in the absence of evidence to the contrary, of the facts stated in the affidavit.

(4) A copy of an affidavit made under this section must

- (a) be served on the defendant at that person's address for documents at least 30 days before the trial date, and
- (b) contain the City's address for documents,

and the affidavit is deemed to have been received on the day it was sent.

(5) An affidavit made under this section is not admissible in court unless the applicable requirements of this section have been met.

(6) The defendant may notify the City of the defendant's intent to cross-examine the bylaw enforcement officer who made the affidavit.

(7) A notice under subsection (6)

- (a) must be sent to the City's address for documents as indicated on the copy of the affidavit sent by the City under subsection (4), and
- (b) must be received by the City no later than 14 days before the trial date.

(8) When the defendant makes an initial appearance to answer the summons or offence notice, the defendant must provide an address for documents, which must be

- (a) an Alberta mailing address, or
- (b) an electronic mailing address.

(9) If the defendant fails to provide an address for documents, or if the defendant provides no notice to the City under subsection (6), a justice shall

- (a) on application by a prosecutor, admit the affidavit referred to in this section in evidence,
- (b) prohibit the defendant from cross-examining the bylaw enforcement officer who made the affidavit, and

- (c) proceed to conduct the trial.

(28.1) The following is added before section 607 of the Act:

Modification of requirements for advertising

606.2(1) Subject to this section, the City may by bylaw modify any or all of the advertising requirements set out in sections 421(1), 436.12(1) and 534(2).

(2) If a bylaw under subsection (1) modifies section 421(1), the reference in section 421(4) to “the advertisement referred to in subsection (1)(a)” is to be read as a reference to “the advertisement referred to in the bylaw”.

(3) If a bylaw under subsection (1) modifies section 436.12(1), the reference in section 436.12(3) to “the advertisement referred to in subsection (1)” is to be read as a reference to “the advertisement referred to in the bylaw”.

(4) If a bylaw under subsection (1) modifies section 534(2), the bylaw must provide that every owner of land that abuts the land on which the public work or structure is situated be provided a notice that

- (a) identifies the public work or structure,
- (b) gives the date of completion, and
- (c) states that claims for compensation under this section must be received within 60 days after the notice is published in accordance with the bylaw.

(29) Repealed AR 187/2019 s1.

(29.1) The following is added before section 609 of the Act:

Electronic notice

608.2 Despite sections 608 and 692, the council may by bylaw

- (a) establish a process for giving notice of a proposed bylaw under section 692(1)(f) by electronic means where the proposed amendment to the statutory plan or land use bylaw would affect more than 500 parcels of land, and
- (b) specify the information that must be included in the notice.

(30) The following is added after Part 16 of the Act:

Part 16.1

Climate Change Mitigation and Adaptation Plans

Definitions

615.3 In this Part,

- (a) “climate change adaptation plan” means a plan under section 615.5;
- (b) “climate change mitigation plan” means a plan under section 615.4.

Climate change mitigation plan

615.4(1) The City must, in accordance with this section, establish a plan for the purpose of addressing and mitigating the effects of climate change.

(2) A climate change mitigation plan must establish requirements for regular public reporting respecting

- (a) initiatives undertaken by the City for the purpose of
 - (i) improving the energy efficiency of City-owned buildings, facilities and fleets of vehicles,
 - (ii) developing and encouraging the development of renewable electricity, and
 - (iii) mitigating the effects of climate change,
- (b) the greenhouse gas emission levels of City-owned buildings, facilities and fleets of vehicles,
- (c) any actions taken
 - (i) for a purpose referred to in clause (a), or
 - (ii) to reduce the emission levels referred to in clause (b),during the period to which the report relates, and any progress made during that period,
and
- (d) the manner in which the City has taken matters referred to in clauses (a), (b) and (c) into account in making decisions during the period to which the report relates.

- (3) A climate change mitigation plan may contain any provisions or address any matters that the City considers necessary or desirable for a purpose referred to in subsection (1).
- (4) A climate change mitigation plan must be adopted by a resolution of the council.
- (5) A climate change mitigation plan must be reviewed no later than 5 years after it is established and at least once every 5 years thereafter.
- (6) The results of a review must be advertised and public participation must be provided for in accordance with the City's public participation policy.
- (7) On completion of a review, and after taking the public response into consideration, a climate change mitigation plan may be updated as the council considers appropriate.
- (8) A climate change mitigation plan that is established or updated under this section must be published on the City's website or made publicly available in another manner that the City considers likely to bring it to the attention of substantially all residents of the City.
- (9) The City must establish its first climate change mitigation plan on or before December 31, 2020.

Climate change adaptation plan

615.5(1) In this section,

- (a) "exposure" means the extent to which a system is exposed to significant climatic variations or other effects of climate change;
 - (b) "risk" means the combination of the probability of an effect of climate change and the severity of its possible consequences;
 - (c) "systems" includes human, animal and plant life, environmental ecosystems and resources, roadways, buildings and other infrastructure, human livelihoods, services and economic, social and cultural activities;
 - (d) "vulnerability" means the degree to which a system is susceptible to, and would be unable to cope with, climatic variations or other effects of climate change.
- (2) The City must, in accordance with this section, establish a plan for adapting to effects of climate change.

- (3)** A climate change adaptation plan must
- (a) be based on an assessment of the exposure, risk and vulnerability of systems within the City to effects of climate change over the short, medium and long term,
 - (b) set out or summarize the assessment referred to in clause (a), and
 - (c) identify actions that will be taken to address the effects referred to in clause (a).
- (4)** Actions identified under subsection (3)(c) may include actions to be taken respecting
- (a) asset management,
 - (b) use of climate-resilient infrastructure,
 - (c) stormwater management,
 - (d) flood preparedness,
 - (e) City-owned and City-operated energy and utility cables,
 - (f) water and sanitation,
 - (g) public safety,
 - (h) health and social resilience,
 - (i) biodiversity management,
 - (j) invasive species, or
 - (k) any other matter the council considers appropriate.
- (5)** In addition to the matters referred to in subsection (3), a climate change adaptation plan may address any other matters as the council considers appropriate.
- (6)** A climate change adaptation plan must be adopted by a resolution of the council.
- (7)** A climate change adaptation plan must be reviewed no later than 5 years after it is established and at least once every 5 years thereafter.
- (8)** The results of a review must be advertised and public participation must be provided for in accordance with the City's public participation policy.

(9) On completion of a review, and after taking the public response into consideration, the council may update the climate change adaptation plan as the council considers appropriate.

(10) A climate change adaptation plan that is established or updated under this section must be published on the City's website or made publicly available in another manner that the City considers likely to bring it to the attention of substantially all residents of the City.

(11) The City must establish its first climate change adaptation plan on or before December 31, 2020.

(31) In section 616 of the Act,

(a) the following is added after clause (h):

(h.01) "inclusionary housing" means the provision of dwelling units or land, or money in place of dwelling units or land, for the purpose of affordable housing as a condition of subdivision approval or of being issued a development permit;

(b) clause (h.1) does not apply to the City;

(NOTE: Section 4(31)(b) comes into force on the coming into force of section 91(d) of the Modernized Municipal Government Act. See AR 18/2019 s5(3).)

(c) the following is added after clause (j):

(j.01) "joint use and planning agreement" means an agreement under section 670.01;

(d) clause (j.1) does not apply to the City;

(NOTE: Section 4(31)(d) comes into force on the coming into force of section 1(55) of An Act to Strengthen Municipal Government. See AR 18/2019 s5(4).)

(e) clause (dd) is to be read as follows:

(dd) "statutory plan" means

- (i) an intermunicipal development plan,
- (ii) a municipal development plan,
- (iii) an area structure plan,
- (iv) an area redevelopment plan, and

- (v) an additional statutory plan under section 635.1 adopted by the City under Division 4;

(32) Section 617(b) of the Act is to be read as follows:

- (b) to maintain and improve the quality of the physical environment within which patterns of human settlement are situated within the boundaries of the City, including the promotion of environmental sustainability and stewardship,

(33) The following is added after section 635 of the Act:

Additional statutory plans

635.1(1) The City may by bylaw adopt one or more additional statutory plans.

(2) An additional statutory plan referred to in subsection (1) must

- (a) indicate the name of the statutory plan,
- (b) describe the contents of the statutory plan, and
- (c) indicate how the statutory plan is consistent with the City's other statutory plans.

(3) An additional statutory plan referred to in subsection (1) must be consistent with

- (a) any intermunicipal development plan in respect of land that is identified in both the statutory plan and the intermunicipal development plan,
- (b) any municipal development plan,
- (c) any area structure plan in respect of land that is identified in both the statutory plan and the area structure plan, and
- (d) any area redevelopment plan in respect of land that is identified in both the statutory plan and the area redevelopment plan.

(34) Section 636(1)(h) is to be read as follows:

- (h) in the case of an area structure plan or an additional statutory plan adopted by the City under section 635.1, where the land that is the subject of the plan is adjacent to an Indian reserve or Metis settlement, notify the Indian band or Metis settlement of the plan preparation and

provide opportunities for that Indian band or Metis settlement to make suggestions and representations.

(35) In section 640 of the Act,

(a) subsections (1) and (2) are to be read as follows:

Land use bylaw

640(1) A City land use bylaw may prohibit or regulate and control the use and development of land and buildings in the City in any manner the council considers necessary.

(2) A City land use bylaw

- (a) must divide the City into districts of the number and area the council considers appropriate;
- (b) must prescribe, except in respect of any direct control districts designated pursuant to section 641,
 - (i) the use or uses of land or buildings that are permitted in one or more districts as specified in the bylaw, with or without conditions, or
 - (ii) the use or uses of land or buildings that may, at the discretion of the development authority, be permitted in one or more districts as specified in the bylaw, with or without conditions,or both;
- (c) must establish a method of making decisions on applications for development permits and issuing development permits for any development, including provision for
 - (i) the types of development permit that may be issued,
 - (ii) applying for a development permit,
 - (iii) processing an application for, or issuing, cancelling, suspending or refusing to issue, a development permit,
 - (iv) the conditions that are to be attached, or that the development authority may attach, to a development permit, either generally or with respect to a specific type of permit,
 - (v) how long any type of development permit remains in effect,

- (vi) the discretion that the development authority may exercise with respect to development permits, and
- (vii) any other matters necessary to regulate and control the issue of development permits that to the council appear necessary.

(b) the following is added after subsection (2):

(2.1) Despite subsections (1) and (2), in the event of a conflict or inconsistency between a land use bylaw respecting the development of buildings within a specified area around an airport and a regulation made under section 693, or between a land use bylaw and a regulation made under section 694 of the Act, the regulation prevails to the extent of the conflict or inconsistency.

(2.2) The City may, in its land use bylaw, make any or all of the following modifications to the *Subdivision and Development Regulation* (AR 43/2002) for the purposes of applying that Regulation to the City:

- (a) a modification to the definition of “food establishment” in the Regulation;
- (b) a modification adding a definition of “hospital” to the Regulation;
- (c) a modification adding a definition of “school” to the Regulation.

(c) in subsection (4)

(i) the following is added after clause (r):

(r.1) inclusionary housing;

(ii) clause (s) does not apply to the City;

(NOTE: Section 4(35)(c)(ii) comes into force on the coming into force of section 100(b) of the Modernized Municipal Government Act. See AR 18/2019 s5(5).)

(d) the following is added after subsection (4):

(4.1) A land use bylaw that provides for inclusionary housing must include provisions

- (a) respecting the circumstances in which inclusionary housing may be required to be provided as a

- condition of subdivision approval or a development permit,
- (b) respecting the circumstances in which inclusionary housing must or may be required to be provided in the form of money in place of land or dwelling units,
 - (c) respecting the number of dwelling units, the amount of land or the amount of money in place of dwelling units or land that may be required to be provided as inclusionary housing,
 - (d) respecting the offsets, if any, that the City must or may provide to an applicant that provides inclusionary housing in the form of dwelling units or land,
 - (e) respecting the purposes for which inclusionary housing provided in the form of money may be used,
 - (f) respecting the ownership of inclusionary housing provided in the form of dwelling units or land and the circumstances, if any, in which the dwelling units or land may be sold,
 - (g) defining “affordable housing” for the purposes of the land use bylaw and section 616(h.01),
 - (h) respecting the use and management by the City of dwelling units, land and money provided as inclusionary housing and for the operation of affordable housing the City provides by using the dwelling units, land or money, including provisions respecting the extent, if any, to which the City may delegate the responsibility for the use, management and operation and respecting the persons, if any, to whom the responsibility may be delegated,
 - (i) respecting the minimum period, if any, during which dwelling units or land provided as inclusionary housing or acquired by using money provided as inclusionary housing must be used to provide affordable housing,
 - (j) respecting requirements for the council to report to the public annually for the receipt and use of all inclusionary housing received since the last report or the coming into force of this section, whichever is later, and

- (k) respecting any other matter the council considers necessary.

(4.2) A land use bylaw must not allow inclusionary housing to be required as a condition of subdivision approval or a development permit if the applicant is a management body under the *Alberta Housing Act* or is acting on behalf of the Crown in right of Alberta or Canada.

(4.3) A land use bylaw must not allow inclusionary housing to be required as a condition of a development permit where inclusionary housing was provided to meet a condition of subdivision approval for the same parcel of land or any portion of it, unless the development permit changes the density or intensity of use of the land or portion.

(4.4) A land use bylaw must not allow inclusionary housing, or any proceeds from the disposal of inclusionary housing, to be used for any purpose other than the provision of affordable housing as defined in the bylaw.

(35.1) Subject to subsection (35.2), section 648 of the Act is to be read as follows:

Off-site levy

648(1) The council for the City may by bylaw

- (a) provide for the imposition and payment of a levy, to be known as an off-site levy, in respect of land that is to be subdivided, developed or redeveloped,
- (b) define the infrastructure for which an off-site levy will be imposed,
- (c) establish the method that will be used to determine the degree that the land that is to be subdivided, developed or redeveloped benefits from each type of infrastructure identified, and
- (d) authorize the collection of an off-site levy as a condition of
 - (i) a subdivision approval,
 - (ii) a development permit, or
 - (iii) a development agreement.

- (2) A bylaw may not impose an off-site levy on land owned by a school board that is to be developed for a school building project within the meaning of the *Education Act*.
- (3) An off-site levy under this section may only be used to pay
- (a) the capital cost of the infrastructure forming the subject of the off-site levy,
 - (b) the capital cost of the land required for or in connection with the infrastructure, and
 - (c) the interest cost of borrowing to finance the capital costs in subsections (a) and (b), if any.
- (4) An off-site levy under this Part may be collected only once for each purpose that is the subject of a development permit or subdivision application.
- (5) Despite subsection (4), an off-site levy may be collected more than once for each purpose that is the subject of a development permit or subdivision application for an intensification of use or in an area defined in an area redevelopment plan for the incremental burden, as defined by the City by bylaw, imposed on existing infrastructure for which an off-site levy was previously imposed.
- (6) If an off-site levy is collected under subsection (5), a redevelopment levy under section 647 may not be collected for the same purpose.
- (7) Nothing in this section prohibits the collection of an off-site levy in instalments or otherwise over time.
- (8) An off-site levy collected under this section, and any interest earned from the investment of the levy,
- (a) must be accounted for separately for each type of infrastructure authorized by bylaw under subsection (1) and any land required in connection with that type of infrastructure, and
 - (b) must be used only for the specific purpose authorized by the bylaw referred to in subsection (1).
- (9) If, after January 1, 2018 and before the coming into force of this section, a fee or other charge was imposed on a developer by the City pursuant to a bylaw or resolution, a condition of a subdivision approval, a condition of a development permit or under a development agreement entered into between the City and the developer, that fee or charge is deemed

- (a) to have been imposed under a bylaw authorized in subsection (1), and
- (b) to have been validly imposed and collected effective from the date the fee or charge was imposed.

(10) If, after January 1, 2018 and before the coming into force of this section, a fee or other charge was imposed on a developer by the City pursuant to a development agreement entered into by the developer and the City for one or more purposes described in subsection (2) or (2.1) of section 648, as it applied to the City before this section came into force, that fee or charge is deemed

- (a) to have been imposed pursuant to a bylaw under this section, and
- (b) to have been validly imposed and collected effective from the date the fee or charge was imposed.

(11) If, after January 1, 2018 and before the coming into force of this subsection, a bylaw was made that purported to impose a fee or other charge on a developer for a purpose described in subsection (2) or (2.1) of section 648, as it applied to the City before this section came into force,

- (a) that bylaw is deemed to have been valid and enforceable to the extent that it imposed a fee or charge for a purpose described in subsection (2) or (2.1) of section 648, as it read before this section came into force, and
- (b) any fee or charge imposed pursuant to the bylaw before the coming into force of this subsection is deemed to have been validly imposed and collected effective from the date the fee or charge was imposed.

(12) The council of the City must, on or before December 31, 2019, amend Bylaw 2M2016 to include as an off-site levy the Community Services Charges as outlined in Schedule C to Bylaw 2M2016.

(13) Sections 230, 606, 606.1 and 648.001 and section 9 of the *City of Calgary Charter, 2018 Regulation (AR 40/2018)* do not apply when the City amends Bylaw 2M2016 to include as an off-site levy the Community Services Charges as outlined in Schedule C to Bylaw 2M2016.

(35.2) Subsection (35.1) does not apply in respect of an intermunicipal off-site levy provided for by the City of Calgary and any other municipality under section 648.01 of the Act.

(35.3) The following is added after section 648 of the Act:

Consultation

648.001(1) In this section, “stakeholder” means any person that will be required to pay an off-site levy when the bylaw is passed, or any other person the City considers is affected.

(2) The City must consult in good faith with stakeholders prior to making a final determination on defining and addressing existing and future infrastructure requirements.

(3) The City must consult in good faith with stakeholders when determining the methodology on which to base an off-site levy.

(4) Prior to passing or amending a bylaw imposing an off-site levy, the City must consult in good faith on the calculation of the off-site levy with stakeholders in the benefitting area where the off-site levy will apply.

(5) During consultation under subsections (2), (3) and (4), the City must make available to stakeholders on request any assumptions, data or calculations used to determine the off-site levy.

Annual report

648.002(1) The City must provide full and open disclosure of all the off-site levy costs and payments.

(2) The City must report on the off-site levy annually and include in the report the details of all off-site levies received and utilized for each type of infrastructure within each benefitting area.

(3) Any report referred to in subsection (2) must be in writing and be publicly available in its entirety.

(35.4) Section 648.1 of the Act does not apply to the City.

(35.5) In section 650(1) of the Act,

(a) the following is added after clause (f):

(f.1) to provide for inclusionary housing in accordance with the land use bylaw;

(b) clause (g) does not apply to the City.

(NOTE: Section 4(35.5)(b) comes into force on the coming into force of section 106 of the Modernized Municipal Government Act. See AR 18/2019 s5(6).)

(36) The following is added after section 651.2 of the Act:

Affordable housing agreements

651.3(1) The City may enter into an agreement with the registered owner of a parcel of land respecting one or more of the following:

- (a) subject to subsection (3), the use and occupancy of residential housing units that are or will be located on the land;
- (b) the form of tenure of the residential housing units;
- (c) the availability of the residential housing units to classes of persons described in the agreement;
- (d) the administration and management of the residential housing units, including, without limitation, the manner in which the units are to be made available to persons within the classes referred to in clause (c);
- (e) amounts of rents, lease payments and sale prices that may be charged in respect of the residential housing units and the rates at which these may be increased over time.

(2) Subject to this section, the agreement may contain any other terms and conditions the parties consider necessary or appropriate.

(3) An agreement under this section is unenforceable to the extent of any conflict with applicable use or density provisions of the City's land use bylaw.

(4) The term of an agreement under this section must not exceed the expected lifespan of the building, as agreed on by the parties and specified in the agreement at the time it is first entered into, or 40 years, whichever is shorter.

(5) Any amendment to an agreement under this section must be agreed to in writing by the City and the person who, at the time of the amendment, is the registered owner of the parcel of land.

(6) An agreement under this section creates an interest in favour of the City in the land that is the subject of the agreement, and the interest is deemed to be a condition running with and capable of being legally annexed to the land.

(7) Despite the *Land Titles Act* or any other enactment, the City may register a caveat under the *Land Titles Act* in respect of an agreement under this section.

(8) A caveat registered pursuant to subsection (7)

- (a) shall be registered against the certificate of title to the parcel of land
 - (i) that is the subject of the agreement, and
 - (ii) that was issued to the person who entered into the agreement with the City,

and

- (b) may be discharged only by the City or an order of a court.

(9) Despite the *Land Titles Act* or any other enactment, after registration of a caveat under subsection (7), the agreement, including any amendments made in accordance with subsection (5), is binding according to its terms on all persons subsequently acquiring an interest in the parcel of land that is the subject of the agreement.

(36.1) In section 655(1)(b) of the Act,

(a) the following is added after subclause (vi);

- (vi.1) to provide for inclusionary housing in accordance with the land use bylaw;

(b) subclause (vii) does not apply to the City.

(NOTE: Section 4(36.1)(b) comes into force on the coming into force of section 110 of the Modernized Municipal Government Act. See AR 18/2019 s5(7).)

(37) Repealed AR 187/2019 s1.

(37.1) The following is added after section 670 of the Act:

Joint use and planning agreements

670.01(1) Where on the coming into force of this section a school board is operating within the municipal boundaries of the City, the City must, within 3 years after this section comes into force, enter into an agreement under this section with the school board.

(2) Where after the coming into force of this section a school board commences operating within the municipal boundaries of the City, the City must, within 3 years after the school board commences operating in the City, enter into an agreement under this section with the school board.

(3) An agreement under this section must be in writing and must contain provisions

- (a) establishing a process for discussing matters relating to
 - (i) the planning, development and use of school sites on municipal reserves, school reserves and municipal and school reserves in the municipality,
 - (ii) transfers under section 672 or 673 of municipal reserves, school reserves and municipal and school reserves in the municipality,
 - (iii) disposal of school sites,
 - (iv) the use of municipal reserves, school reserves and municipal and school reserves for a purpose referred to in subsection (4),
 - (v) the servicing of school sites on municipal reserves, school reserves and municipal and school reserves in the municipality, and
 - (vi) the use of school facilities, municipal facilities and playing fields on municipal reserves, school reserves and municipal and school reserves in the municipality, including matters relating to the maintenance of the facilities and fields and the payment of fees and other liabilities associated with them,
- (b) respecting how the municipality and the school board will work collaboratively,
- (c) establishing a process for resolving disputes, and
- (d) establishing a time frame for regular review of the agreement,

and may, subject to this Act, the regulations, the *Education Act* and the regulations under that Act, contain any other provisions the parties consider necessary or advisable.

(4) A joint use and planning agreement may contain provisions providing for uses of municipal reserves that are or have been in use for school board purposes, school reserves and municipal and school reserves that the parties agree provide a public benefit that is compatible with school board purposes.

(5) A joint use and planning agreement may be amended from time to time as the parties consider necessary or advisable.

(6) In this section, “school site” includes the land in which a school board has an interest as a registered owner and any buildings or other improvements located on the land.

(37.2) Section 670.1 of the Act does not apply to the City.

(NOTE: Section 4(37.2) comes into force on the coming into force of section 1(64) of An Act to Strengthen Municipal Government to the extent that that Act adds the new section 670.1 to the Municipal Government Act. See AR 18/2019 s5(8).)

(37.3) The following is added after section 671(2)(d) of the Act:

- (e) a purpose provided for under section 670.01(4) in a joint use and planning agreement.

(37.4) In section 672 of the Act,

(a) subsection (3) is to be read as follows:

(3) Despite subsection (2), the City may by bylaw require the whole or any portion of the school reserve, municipal and school reserve or municipal reserve referred to in subsection (1) to be designated as community services reserve, in which case the Registrar must, on receipt of a copy of the bylaw and, where only a portion of the school reserve, municipal and school reserve or municipal reserve or portion is to be designated as community services reserve, a survey plan on which the portion is outlined,

- (a) issue a new certificate of title for the reserve land or portion with the designation of community services reserve, which must be identified by a number suffixed by the letters “CSR”, and
- (b) issue a new certificate of title for the remaining land, if any, with the designation of municipal reserve, which must be identified in accordance with section 665(2)(a).

(b) subsection (5) does not apply to the City;

(37.5) In section 680 of the Act, in subsection (2)

(a) the following is added after clause (a.1):

- (a.11) must comply with the inclusionary housing provisions, if any, of the land use bylaw;

(b) clause (a.2) does not apply to the City;

(NOTE: Section 4(37.5)(b) comes into force on the coming into force of section 123(a) of the Modernized Municipal Government Act. See AR 18/2019 s5(9).)

(37.6) In section 687 of the Act, in subsection (3)

(a) the following is added after clause (a):

(a.001) must comply with the inclusionary housing provisions, if any, of the land use bylaw;

(b) clause (a.01) does not apply to the City;

(NOTE: Section 4(37.6)(b) comes into force on the coming into force of section 129 of the Modernized Municipal Government Act. See AR 18/2019 s5(10).)

(38) In section 692 of the Act

(a) in subsection (1), the following is added after clause (d):

(d.1) a proposed bylaw to adopt an additional statutory plan under section 635.1,

(b) the following is added after subsection (5):

(5.1) Where an amendment to a land use bylaw to change the district designation of a parcel of land would affect more than 500 parcels of land, subsection (4) does not apply but

- (a) the City must give written notice to the assessed owner of every parcel of land for which the district designation would be changed,
- (b) the notice must contain the information described in section 606(6), and
- (c) if the notice does not contain the information described in subsection (4)(a) it must indicate where that information may be obtained.

(5.2) The City may make the information referred to in subsection (5.1)(c) available on its website or by any other method that the City considers likely to bring the information to the attention of substantially all owners of affected parcels of land.

(c) the following is added after subsection (6):

(6.01) Despite subsection (1), but subject to subsection (5), a bylaw referred to in subsection (1)(f) may be amended without giving notice in accordance with section 606 if notice of the proposed amendment is given in accordance with a bylaw under section 608.2.

(38.1) Section 694(1)(j) does not apply to the City.

(NOTE: Section 4(38.1) comes into force on the coming into force of section 131(a)(iii) of the Modernized Municipal Government Act. See AR 18/2019 s5(11).)

(39) The following is added after section 708.52 of the Act:

Part 17.3 Administrative Penalties

Purpose

708.53 The purpose of this Part is to give the City the authority to process and resolve parking and transit contraventions of its bylaws using an administrative penalty system.

Definitions

708.54 In this Part,

- (a) “administrative penalties bylaw” means a bylaw establishing a system of administrative penalties as described in section 708.56;
- (b) “appellant” means a person who files an appeal;
- (c) “hearing officer” means a hearing officer appointed under the administrative penalties bylaw as a hearing officer;
- (d) “notice” means a notice of administrative penalty under section 708.57;
- (e) “tribunal” means the administrative tribunal established by bylaw made under this Part.

Division 1 Administrative Penalties

Authority to impose administrative penalties

708.55 The City may, in accordance with this Part, issue notices and require administrative penalties to be paid in respect of

- (a) a contravention of a bylaw made by the City pursuant to section 708.56(1),
- (b) riding a transit vehicle without
 - (i) valid proof of payment, or
 - (ii) tendering payment,

or

- (c) entering or remaining in a restricted fare area without valid proof of payment.

Bylaw must be passed

708.56(1) The City may issue notices and require administrative penalties to be paid only if it first passes an administrative penalties bylaw that

- (a) establishes contraventions in respect of the parking of vehicles,
- (b) designates transit vehicles and restricted fare areas for the purposes of section 708.55,
- (c) establishes administrative penalty amounts for each contravention, which must not exceed \$1000, either
 - (i) as a combination of a base amount and an additional amount for one or more factors set out in the bylaw, or
 - (ii) as a total amount,
- (d) designates the employees or a class of employees of the City who may issue notices subject to any conditions determined by the council, and provide for the means of identification of those employees,
- (e) sets the period within which a person may pay the administrative penalty or file an appeal, subject to section 708.61(2),
- (f) establishes an appeal tribunal consisting of hearing officers for the purposes of hearing appeals of administrative penalties,
- (g) provides for the appointment of hearing officers, including their qualifications,
- (h) provides for the manner and form for the filing of appeals,
- (i) establishes rules of procedure for the hearing of appeals, including procedures to allow the appellant
 - (i) to obtain all of the City's evidence with respect to the administrative penalty,
 - (ii) to respond to the City's evidence,
 - (iii) to answer all allegations made against the appellant,

(iv) to attend the appeal in person if the appellant so requests and pays the requisite fee, and

(v) to be represented by a lawyer or other agent,

and

(j) establishes procedures to return the appeal fee, if any, to the appellant if the appellant's appeal is successful.

(2) An administrative penalties bylaw may also provide for the following:

- (a) factors that provide for additional amounts of administrative penalties under subsection (1)(c)(i);
- (b) an early payment discount for administrative penalties;
- (c) compassionate grounds on which a hearing officer is authorized to cancel a notice under section 708.71;
- (d) further information to be contained on a notice in addition to the information required under section 708.57(2);
- (e) alternative methods of service for the purposes of section 708.6(1)(d);
- (f) the charging of a single fee as may be required under section 708.66;
- (g) alternative administrative measures that a hearing officer may require in lieu of payment of an administrative penalty.

Notice of administrative penalty

708.57(1) A designated employee may complete and issue a notice of administrative penalty to a person against whom a designated bylaw contravention is alleged.

(2) A notice must set out the following information:

- (a) the provision of the bylaw the person has contravened;
- (b) a brief description of the nature of the contravention identified under clause (a);
- (c) the amount of the administrative penalty imposed;
- (d) the date the notice is issued;
- (e) the date by which the administrative penalty must be paid or appealed;

- (f) a statement describing the right of a person on whom the administrative penalty is imposed to appeal the administrative penalty, how the appeal is to be made and the date by which the appeal must be filed;
- (g) any further information required by bylaw.

(3) A notice must be issued to a named person unless it is issued for a bylaw respecting the parking of a vehicle, in which case the notice must set out the vehicle's licence plate if it has one or, if it does not, the vehicle's identification number.

(4) Where a designated employee serves a notice by personal delivery, the designated employee must, on request by the person served with the notice, produce identification provided by the City.

Vehicle owner liable

708.58 When a notice respecting the parking of a vehicle is delivered in accordance with section 708.6, the owner of the vehicle indicated in the records of the Registrar of Motor Vehicle Services under the *Traffic Safety Act* is liable to pay the administrative penalty set out in the notice.

Limitation period

708.59 A notice must not be issued more than 2 years from the date on which the contravention for which it is issued is alleged to have occurred.

Delivery of notice of administrative penalty

708.6(1) A notice must be delivered in one of the following ways:

- (a) by personal delivery;
- (b) if the notice is in respect of the parking of a vehicle, by leaving the notice on the vehicle;
- (c) by mailing a copy of the notice by regular mail to the person's address as shown on the records of the Registrar of Motor Vehicle Services under the *Traffic Safety Act* or as shown in the records of an official of a jurisdiction other than Alberta who is registrar of motor vehicles or performs a function for that jurisdiction similar to the function that the Registrar of Motor Vehicle Services performs for Alberta;
- (d) any other method of delivery provided for in the administrative penalties bylaw.

(2) Where a notice is left on a vehicle in accordance with subsection (1)(b), the notice is deemed to have been delivered to the vehicle owner of the vehicle on the day it is left.

(3) Where a notice is mailed to a person in accordance with subsection (1), that notice is, in the absence of evidence to the contrary, deemed to have been served on the person on the 7th day from the date of mailing, except that if the notice is mailed to an address outside Alberta, that notice is, in the absence of evidence to the contrary, deemed to have been served on the person on the 14th day from the date of mailing.

Responding to penalty notice

708.61(1) A person to whom a notice is delivered may, within the period set by the administrative penalties bylaw and in accordance with the instructions on the notice,

- (a) pay the administrative penalty, or
- (b) file an appeal.

(2) The period to respond to a notice under subsection (1) must not be less than 21 days after the date the notice is delivered in accordance with section 708.6.

Protection from prosecution

708.62 A person who pays an administrative penalty in respect of a contravention shall not be charged with an offence in respect of the same act or omission that is described in the notice.

Division 2 Administrative Tribunal

Establishment of tribunal

708.63(1) Where an administrative tribunal is established by an administrative penalties bylaw, the council shall appoint an appropriate number of hearing officers.

(2) A hearing officer appointment must

- (a) be for a term of not less than 3 years, and
- (b) establish the remuneration and benefits to be paid to the hearing officer for the duration of the term.

(3) A hearing officer is eligible to be reappointed.

(4) Where the council is appointing hearing officers, it must consider appointments that

- (a) avoid perception of patronage or conflicts of interest or bias,
- (b) encourage diversity and competency, and

- (c) are likely to result in consistency in decision making.
- (5)** The council shall not appoint a former City employee at any time before the expiry of one year after the person ceases to be employed by the City.
- (6)** One hearing officer must be designated by the council as the chief hearing officer, for a term determined by the council.
- (7)** The chief hearing officer may designate another hearing officer to be the deputy chief hearing officer to act during the chief hearing officer's absence or incapacity, and the deputy chief hearing officer has all of the powers of the chief hearing officer.
- (8)** The chief hearing officer may
- (a) designate hearing officers to hear cases,
 - (b) administer the tribunal, directing the administrative work of the tribunal, and
 - (c) report to the council on the activities of the tribunal.
- (9)** A hearing officer may resign from being a hearing officer by giving a written notice signed by the hearing officer that includes the effective date of the resignation to
- (a) the chief hearing officer, in the case of a hearing officer other than the chief hearing officer, or
 - (b) the chief administrative officer of the City, in the case of the chief hearing officer.
- (10)** Subject to subsection (12), where a hearing officer's term ends and the hearing officer has not made a decision or an order in a matter fully heard by the hearing officer, the former hearing officer may, within 3 months after the end of the term, continue to make decisions and orders as if the former hearing officer were still a hearing officer, and such decisions and orders have the same effect as if made by a hearing officer.
- (11)** Hearing officers are independent of the chief administrative officer and may not exercise any of the powers of hearing officers until they take the oath set out in section 2 of the *Oaths of Office Act*.
- (12)** Hearing officers may not be dismissed except
- (a) by the chief hearing officer, in the case of a hearing officer other than the chief hearing officer, or
 - (b) by the council, in the case of the chief hearing officer,

for conduct unbecoming a hearing officer.

(13) It is conduct unbecoming a hearing officer for a hearing officer

- (a) to hear an appeal filed by an appellant to which the hearing officer has a familial or close personal relationship,
- (b) to perform work for the City as an employee or contractor other than as a hearing officer,
- (c) to receive any compensation from the City other than remuneration and benefits as a hearing officer,
- (d) to work in any other field or receive compensation that conflicts or appears to conflict with the responsibility to be an impartial hearing officer, or
- (e) to otherwise act, or fail to act, in a way such that public confidence in the tribunal would be undermined if the person continued to hold the position of a hearing officer.

Staff

708.64 The City may designate staff to work for the tribunal.

Filing appeal

708.65(1) Where an appeal is filed, an appellant must ensure

- (a) the appeal is in the form and contains the content required by the administrative penalties bylaw,
- (b) the appellant provides an address for service, which must be either
 - (i) a municipal mailing address in Alberta, or
 - (ii) an electronic mailing address,

and

- (c) if required by the administrative penalties bylaw, the required fee is paid.

(2) Where an appeal does not meet the requirements of subsection (1), a hearing officer may, without a hearing, dismiss the appeal, or require the appellant to complete the appeal in accordance with the requirements of subsection (1) within a period of time set by the hearing officer.

- (3) A hearing officer may dismiss an appeal without a hearing where
- (a) the notice of appeal is not substantially complete, including instances where the appellant has not provided an address for service,
 - (b) the notice of appeal is not filed in time,
 - (c) the filing fee is not paid, if it is required by the administrative penalties bylaw, or
 - (d) the subject-matter of the appeal is not properly before the tribunal.

Appeal fee

708.66(1) The City may, by bylaw, establish a fee for filing an appeal, holding a hearing, or any other service related to an appeal.

(2) The City must establish only one fee for any or all services provided under subsection (1).

(3) The amount of the fee may not exceed \$50.

Procedure on appeal

708.67 Subject to this Part, an appeal must proceed in accordance with the procedures set out in the administrative penalties bylaw.

Affidavit evidence

708.68(1) In this section,

- (a) “parking enforcement system” means a system that is used to photograph a vehicle and identify the location of the vehicle using a global positioning system and record that data according to the date on which the photograph was taken;
- (b) “photograph” means a photograph taken by a bylaw enforcement officer, but does not include a photograph taken as part of a parking enforcement system.

(2) Where permitted by bylaw under section 708.56(1), in a hearing of an appeal of an administrative penalty issued under section 708.55, the evidence of a designated employee

- (a) in respect of photographs taken, or
- (b) involved in the installation, operation, use or testing of a parking enforcement system,

for the purposes of establishing facts relating to the contravention for which the administrative penalty was issued, may be given by affidavit.

(3) An affidavit referred to in subsection (2) must be sworn by the designated employee who took the photographs.

(4) An affidavit referred to in subsection (2) is, in the absence of evidence to the contrary, proof as to the facts stated in the affidavit.

(5) A copy of an affidavit made for use under this section must

- (a) be served on the appellant at that person's address for service at least 30 days before the hearing date, and
- (b) contain the City's address for service,

and the affidavit is deemed to have been received on the day it was sent.

(6) An affidavit made under this section is not admissible in a hearing unless the applicable requirements of this section have been met.

(7) The appellant may notify the municipality of the appellant's intent to cross-examine the designated employee who made the affidavit.

(8) A notice under subsection (7) must be

- (a) sent to the municipality's address for service as indicated on the copy of the affidavit sent by the municipality under subsection (5), and
- (b) received no later than 14 days before the hearing date.

(9) If the appellant does not provide a notice to the municipality under subsection (8), and the hearing officer has not otherwise dismissed the appeal under section 708.65(3), a hearing officer shall

- (a) on application by the City, admit the affidavit referred to in this section in evidence,
- (b) prohibit the appellant from cross-examining the designated employee who made the affidavit, and
- (c) proceed to conduct the hearing.

Failure to decide

708.69 If an appeal is filed and not heard within 6 months and the delay is not caused by the appellant, the administrative penalty must be cancelled.

Jurisdiction

708.7(1) The tribunal may hear and decide all matters respecting procedure and jurisdiction relating to an appeal.

(2) For greater certainty, the tribunal may not hear any matter relating to

- (a) an appeal filed after the deadline for filing an appeal,
- (b) the registration of a vehicle, or
- (c) the issuance of an operator's licence.

(3) The tribunal is a "decision maker" for the purposes of section 11 of the *Administrative Procedures and Jurisdiction Act*.

Decision re penalty

708.71(1) After an appeal, the hearing officer must

- (a) order that the administrative penalty set out in the notice is due and payable to the municipality within the time determined by the hearing officer,
- (b) order that a reduced penalty is immediately due and payable to the municipality within the time determined by the hearing officer, if there are grounds for doing so in accordance with the administrative penalties bylaw,
- (c) cancel the penalty notice if, in the hearing officer's opinion,
 - (i) the contravention did not occur as alleged,
 - (ii) the notice does not comply with section 708.57 or any other requirement under this Part, or
 - (iii) a compassionate ground for cancellation authorized under the administrative penalties bylaw exists,

or

- (d) order that an alternative administrative remedy is to be performed by a particular date, if the bylaw provides for an alternative remedy, failing which the administrative penalty must be paid by the date set by the hearing officer.

- (2) The decisions and orders of the tribunal must be issued in writing, and a copy must be given to the appellant and to the municipality.
- (3) Reasons of the tribunal may be issued orally or in writing.
- (4) A party to an appeal may ask the tribunal for written reasons at the time of the decision.
- (5) The chief hearing officer may publish decisions, orders and reasons of the tribunal in any manner the chief hearing officer considers appropriate.
- (6) No costs may be awarded against any person in respect of an appeal.

Fee if appeal successful

708.72(1) If the administrative penalties bylaw requires a person filing an appeal to pay a fee, the hearing officer must order the fee to be refunded if the appellant is successful in the appeal.

- (2) An appellant is successful in an appeal when
 - (a) the circumstances in section 708.71(1)(c) or (d) have occurred, or
 - (b) the administrative penalty is cancelled pursuant to section 708.69.

Enforcement

708.73(1) If an administrative penalty is not paid within 15 days after the date that it becomes due and payable to the City, the City has the right to enforce payment of the amount in default in accordance with this section.

- (2) The City may file a certificate of default in a court of competent jurisdiction and, once filed, the certificate is deemed to be an order of the court and may be enforced in the same manner as an order of the court.
- (3) One certificate of default may be filed with the court in respect of 2 or more administrative penalties imposed on the same person.
- (4) If, after a certificate of default has been filed with the court, every penalty to which the certificate relates is paid in full, the City must
 - (a) notify the court in writing, and
 - (b) if a writ of enforcement has been filed with a sheriff, notify the sheriff in writing.

Restriction of services

708.74 Notwithstanding anything in this Act, where a person has not paid an administrative penalty levied against that person, the Registrar of Motor Vehicle Services under the *Traffic Safety Act* may, in respect of that person, refuse to perform that function or service or to issue, renew or otherwise deal with any motor vehicle document or other document until the administrative penalty is paid.

Judicial review

708.75(1) An application for judicial review of a hearing officer's decision, act or order must be filed and served not later than 60 days from the date of the decision, act or order.

(2) If an application for judicial review is made under subsection (1), the Court of Queen's Bench may stay the hearing officer's decision, act or order until the Court makes a decision on the application.

(3) Notice of an application for judicial review of a decision referred to in subsection (1) must be given to

- (a) the tribunal, and
- (b) all parties to the hearing before the tribunal other than an applicant for the judicial review.

(4) If a potential applicant for judicial review of a tribunal decision makes a written request for materials to the tribunal for the purposes of the application, the tribunal must provide the materials requested within 21 days from the date on which the written request is served.

(5) Where a tribunal decision is the subject of an application for judicial review, the tribunal must, within 30 days from the date on which the tribunal is served with the application, forward to the clerk of the Court of Queen's Bench the certified record of proceedings prepared under Part 3 of the *Alberta Rules of Court*.

(6) All decisions of the Court of Queen's Bench arising from judicial review proceedings relating to the tribunal's decisions, acts and orders, including transcripts of oral decisions of the Court, must be served on the Minister by the applicant for judicial review.

(7) No hearing officer is liable for costs by reason of or in respect of a judicial review under this Part.

Funds collected from administrative penalties

708.76 All funds collected from administrative penalties must be deposited in the City's general revenue fund.

Collection and use of information

708.77 Any information that is collected by the City under this Part may be used by the City for any purpose referred to in section 3.

AR 40/2018 s4;18/2019;56/2019;187/2019

Modification of regulations

5(1) This section modifies regulations under the Act as they are to be read for the purposes of being applied to the City.

(2) In the *Community Organization Property Tax Exemption Regulation (AR 281/98)*, in section 17, the following is added after subsection (3):

(4) Despite subsection (3), the council may by bylaw waive the application requirement under subsection (1) in respect of a property for the number of consecutive taxation years specified in the bylaw, which must not exceed 5 consecutive taxation years.

(2.1) *The City of Calgary Debt Service Limit Exception Regulation (AR 165/2011)* does not apply to the City.

(2.2) *The Debt Limit Regulation (AR 255/2000)* does not apply to the City.

(NOTE: Section 5(2.1) and (2.2) do not come into force until the City has obtained an external credit rating and established a debt limit policy and a debt servicing policy under section 244.1 of the Act. See AR 18/2019 s5(2).)

(3) In the *Matters Relating to Assessment Complaints Regulation, 2018*,

(a) the following is added after section 1:

Disclosure period

1.1(1) For the purposes of section 5(2)(a), the disclosure period is the period commencing on the day the clerk gives the notifications under section 4(c) and ending on the day that is 7 days before the hearing date.

(2) Where the application of subsection (1) would result in a disclosure period consisting of an uneven number of days, the first half of the disclosure period, as referred to in section 5(2)(a), is to be lengthened by one day.

(3) For the purposes of section 9(2)(a), the disclosure period is the period commencing on the day the clerk gives the notifications under section 8(d) and ending on the day that is 14 days before the hearing date.

(4) Where the application of subsection (3) would result in a disclosure period consisting of an uneven number of days, the first half of the disclosure period, as referred to in section 9(2)(b), is to be lengthened by one day.

(b) in section 5(2)(a), the portion preceding subclause (i) is to be read as follows:

(a) the complainant must, before the first half of the disclosure period elapses,

(c) in section 9(2)(a), the portion preceding subclause (i) is to be read as follows:

(a) the complainant must, before the first half of the disclosure period elapses,

(3.1) In the *Off-site Levies Regulation (AR 187/2017)*, the following is added after section 1:

Application to City

1.1(1) Subject to subsections (2) and (3), this Regulation does not apply to the City of Calgary.

(2) Where any infrastructure that is defined by the City of Calgary in a bylaw made under section 648 of the Act includes infrastructure or land required to connect or improve the connection of a municipal road to a provincial highway, sections 3(5) and 3.1 continue to apply to the City.

(3) This Regulation applies to the City of Calgary in respect of an intermunicipal off-site levy provided for by the City of Calgary and any other municipality under section 648.01 of the Act.

(4) In the *Subdivision and Development Regulation (AR 43/2002)*,

(a) the following is added after section 4(5):

(6) Despite anything in this section, the City may, in its land use bylaw, vary or add to the subdivision application requirements set out in this section.

(b) section 7 is to be read as section 7(1), and the following is added after subsection (1):

(2) In addition to the considerations described in subsection (1)(a) to (i), the subdivision authority must consider any other matter provided for in the City's land use bylaw, for the purposes of this section.

(c) section 12(5) is to be read as follows:

(5) The City may by bylaw authorize a subdivision authority or a development authority to vary the requirements contained in subsections (2) to (4).

(5.1) If no bylaw under subsection (5) authorizes a subdivision authority or a development authority to vary the requirements contained in subsections (2) to (4), the requirements may be varied by the subdivision authority with the written consent of the Deputy Minister of Environment and Parks.

(d) section 13(5) is to be read as follows:

(5) The City may by bylaw authorize a subdivision authority or a development authority to vary the requirements contained in subsections (1) to (4).

(5.1) If no bylaw under subsection (5) authorizes a subdivision authority or a development authority to vary the requirements contained in subsections (1) to (4), the requirements may be varied by the subdivision authority with the written consent of the Deputy Minister of Environment and Parks.

AR 40/2018 s5;18/2019

Traffic Safety Act

Modification of Traffic Safety Act

6(1) This section modifies the *Traffic Safety Act* as it is to be read for the purposes of being applied to the City.

(2) In section 13 of the *Traffic Safety Act*, the following is added after subsection (2):

(3) Nothing in this Act prohibits the council from making a bylaw allowing for variable speed limit signage, as defined in the bylaw, with respect to a highway under its direction, control and management.

(3) The following is added after section 13 of the *Traffic Safety Act*:

Specific powers of the City

13.1(1) Despite anything to the contrary in this Act or the regulations, the council may make bylaws in respect of the following matters:

- (a) the use of cross bike treatments, particularly when cyclists are exiting multi-use pathways and entering a highway;
- (b) the use of cycle tracks on the left side of a highway beyond providing space for left turns;
- (c) the use of separate hand signals for cyclists;
- (d) signage requirements in respect of cyclists;
- (e) requirements for drivers to allow adequate space for cyclists;
- (f) parking adjacent to painted curbs.

(2) A bylaw made pursuant to subsection (1) must identify any provision of the Act and the regulations that the bylaw is modifying.

(4) The following is added after section 106 of the *Traffic Safety Act*:

Exception

106.1(1) Despite section 106(c), the council may by bylaw establish a speed limit for a highway located within an urban area that is different from the speed limit referred to in section 106(c).

(2) A bylaw made under subsection (1) must provide for the giving of public notice of a speed limit for a highway located within an urban area before the speed limit becomes effective.

Other Enactments

Modification of other Acts

7(1) This section modifies those Acts referred to in this section as they are to be read for the purposes of being applied to the City.

(1.1) In the *Education Act*,

- (a) *section 1(1)(n.2) does not apply to the City;*
- (b) the following is added after section 53:

Joint use and planning agreements

53.01(1) In this section,

- (a) “joint use and planning agreement” means an agreement under section 670.01 of the *Municipal Government Act*, as added to that Act

by the *City of Calgary Charter, 2018 Regulation* (AR 40/2018) pursuant to section 141.5(3) of that Act;

- (b) “municipal reserve”, “municipal and school reserve” and “school reserve” have the meanings given to them in section 616 of the *Municipal Government Act*.

(2) Where on the coming into force of this section a board is operating within the municipal boundaries of the City, the board must, within 3 years after this section comes into force, or if the Minister extends that period under subsection (4), within the extended period, enter into a joint use and planning agreement with the City.

(3) Where after the coming into force of this section a board commences operating within the municipal boundaries of the City, the board must, within 3 years after it commences operating in the City, or if the Minister extends that period under subsection (4), within the extended period, enter into a joint use and planning agreement with the City.

(4) The Minister may extend the 3-year period under subsection (2) or (3) in respect of all boards or one or more specified boards.

(5) More than one board may be a party to a joint use and planning agreement.

(6) A joint use and planning agreement may be amended from time to time as the parties consider necessary or advisable.

(c) section 53.1 does not apply to the City.

(NOTE: Section 7(1.1)(a) and (c) come into force on the coming into force of section 2(2) and (3) of the Red Tape Reduction Implementation Act, 2019.)

(2) In the Safety Codes Act, in section 66, the following is added after subsection (3):

(4) Notwithstanding subsection (1), the City may make bylaws relating to environmental matters, including, without limitation, matters relating to energy consumption and heat retention, but only to the extent those bylaws are consistent with all regulations made under this section and section 65.01 and all codes declared in force by those regulations.

(3) Repealed AR 187/2019 s1.

(4) **Section 26(3) of the *Weed Control Act* does not apply to the City.**

AR 40/2018 s7;18/2019;187/2019

Modification of other regulations

8(1) This section modifies those regulations referred to in this section as they are to be read for the purposes of being applied to the City.

(2) In the *Permit Regulation* (AR 204/2007), in section 26, the following is added after clause (c):

- (c.1) the undertaking for which the permit would be or has been issued does not meet the requirements of a bylaw made under section 66(4) of the Act,

(3) In the *Use of Highway and Rules of the Road Regulation* (AR 304/2002),

(a) the following is added after section 42:

Yielding to transit buses

42.1(1) A person driving a vehicle on a roadway shall, on overtaking a municipal transit bus, yield the right of way to the municipal transit bus if

- (a) the municipal transit bus displays a sign requiring the driver of a vehicle to yield to the municipal transit bus,
- (b) the municipal transit bus driver has signalled an intention to move left into the roadway by turning on the bus's left turn signal, and
- (c) it is reasonably safe for the person driving the vehicle to yield the right of way.

(2) Subsection (1) applies if, at the point on the roadway where the driver of the vehicle overtakes the municipal transit bus, the applicable speed limit is not more than 60 kilometres per hour.

(3) Despite subsection (1), a municipal transit bus driver must not move a bus into the roadway unless it is reasonably safe to do so.

(b) section 46(1) and (2) are to be read as follows:

Angle parking**46(1)** When

- (a) a sign indicates that angle parking is permitted or required, and
- (b) parking guidelines are visible on the roadway,
a person may only park a vehicle with the vehicle's sides between and parallel to any 2 of the guidelines and
- (c) a wheel of the vehicle not more than 500 millimetres from the curb or edge of the roadway, and
- (d) the vehicle angled in the direction of travel authorized for the traffic lane that is adjacent to the lane on which the vehicle is parked.

(2) When

- (a) a sign indicates that angle parking is permitted or required, and
- (b) no parking guidelines are visible on the roadway,
a person may only park a vehicle with the vehicle's sides at an angle of between 30 and 60 degrees to the curb or edge of the roadway and
- (c) a wheel of the vehicle not more than 500 millimetres from the curb or edge of the roadway, and
- (d) the vehicle angled in the direction of travel authorized for the traffic lane that is adjacent to the lane on which the vehicle is parked.

(4) Section 9(4) of the *Weed Control Regulation* (AR 19/2010) does not apply to the City.

General**Public hearing requirement**

9(1) The council must, before giving second reading to a proposed bylaw under the authority provided by sections 4 to 8, hold a public hearing in respect of the proposed bylaw in accordance with section 230 of the Act, after giving notice of it in accordance with section 606 of the Act.

(2) Notwithstanding subsection (1), there is no requirement for a public notice or hearing for any bylaw made under section 4(4).

Publication requirement

10(1) All bylaws made under the authority provided by sections 4 to 8 must be published on the City’s website within 30 days after being passed.

(2) A bylaw referred to in subsection (1) has no effect until after it is published.

(3) When publishing a bylaw under subsection (1), the City must state on its website the date on which the bylaw is being published and, in the absence of evidence to the contrary, that date is deemed to be the date the bylaw was published.

(4) The title of a bylaw referred to in subsection (1) must include the words “Charter Bylaw”.

(5) For greater certainty, this section does not apply in respect of a consolidation of bylaws under section 69 of the Act.

Coming into force

11(1) Subject to subsection (2), this Regulation has application on and after January 1, 2018.

(2) Section 8(3)(b) has application on and after a day to be specified in a bylaw of the City under the *Traffic Safety Act*.



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