



## **PLEASE NOTE**

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For more information concerning the history of this Act, please see the [Table of Public Acts](#).

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## CHAPTER S-9.1

### CITY OF SUMMERSIDE ACT

1. In this Act	Definitions
(a) “bylaw enforcement officer” means a bylaw enforcement officer designated under section 23.1;	bylaw enforcement officer
(a.1) “chief administrative officer” means the person appointed under subsection 22(1);	chief administrative officer
(b) “city” means the City of Summerside established under section 3;	city
(c) “council” means the council of the city;	council
(d) “interest in land” includes (i) an interest limited as to time or by condition or otherwise, (ii) an easement, profit or servitude, (iii) any right to, over or in respect of land that might be conferred by the owner of the land, whether or not that right, if conferred by the owner, could be asserted against a subsequent owner of the land, (iv) any restriction on the use of land that might be assumed by covenant or other agreement, whether or not the restriction, if assumed by the owner of the land, could be asserted against a subsequent owner thereof, and (v) the exclusive possession of land for a limited time or for a definite or indefinite period;	interest in land
(e) “mayor” means mayor of the city;	mayor
(f) “Minister” means the Minister of Finance;	Minister
(f.1) “municipal offence ticket” means a ticket that may be issued, pursuant to a bylaw made under subsection 70(3), in respect of an offence against a bylaw;	municipal offence ticket
(g) “ordinarily resident” has the same meaning as in the <i>Election Act</i> R.S.P.E.I. 1988, Cap. E-1;	ordinarily resident
(h) “prescribed” means prescribed by a bylaw under section 65 or 70;	prescribed
(i) “regulations” means regulations under section 73;	regulations
(j) “resident” means a person who has attained the age of eighteen years and is ordinarily resident within the boundaries of the city;	resident

street	(k) “street” means all the area within the boundary lines of every road, street, highway or right of way which is designed or intended for or used by the general public for the passage of persons and vehicles, and includes bridges, sidewalks, and drainage works, but does not include a controlled access highway designated under section 27 or an arterial highway designated under section 29 of the <i>Roads Act</i> R.S.P.E.I. 1988, Cap. R-15. 1994, c.59, s.1; 1995, c.38, s.1; 1997,c.20,s.3; 2000,c.5,s.3; 2009,c.73,s.2; 2010,c.31,s.3; 2012,c.17,s.2; 2012,c.28,s.2(2); 2015,c.28,s.3.
Purpose of this Act	<b>2.</b> The purposes of this Act are <ul style="list-style-type: none"> <li>(a) to amalgamate certain municipalities in the greater Summerside area;</li> <li>(b) to create a new municipality to be named the City of Summerside;</li> <li>(c) to provide for the government of the new municipality;</li> <li>(d) to make transitional provisions for the transfer of functions from the existing municipalities to the new municipality. 1994, c.59, s.2.</li> </ul>
City of Summerside	<b>3.</b> (1) There is established a municipality to be known as the City of Summerside comprising the existing municipalities, and parts of municipalities and unincorporated areas set out in Schedule 1.
Corporation	(2) The residents of the city are constituted a corporation with all the powers of a corporation set out in section 16 of the <i>Interpretation Act</i> R.S.P.E.I. 1988, Cap. I-8. 1994, c.59, s.3.
Electoral districts	<b>4.</b> Subject to the provisions of Schedule 2, the electoral districts of the city shall be determined by the council. 1994, c.59, s.4.

#### COUNCIL

Mayor and council	<b>5.</b> (1) The administration of the city is vested in a mayor and eight councillors elected in accordance with this Act, who collectively constitute the city council.
Governing body	(2) The council is the governing body of the city.
Remuneration and expenses	(3) Subject to the provisions of Schedule 2, the council may by bylaw provide for payment to the mayor and to councillors <ul style="list-style-type: none"> <li>(a) of annual salaries of such amounts as may be specified in the bylaw; and</li> <li>(b) such additional amounts, as may be set out in the bylaw, as allowances for expenses incidental to the discharge of their duties.</li> </ul>
Eligibility for office	(4) The qualifications for nomination and for holding office as a mayor or councillor of the city are that the nominee is

- (a) not less than eighteen years of age;
- (b) a Canadian citizen; and
- (c) ordinarily resident in the city for a period of six months preceding the date of the nomination.

(5) Where a mayor or councillor ceases to be ordinarily resident in the city, he or she shall, within thirty days thereof, vacate office. 1994, c.59, s.5. Residence

**6.** (1) Any person holding the office of mayor or councillor shall immediately become disqualified and shall cease to hold office if Disqualification

- (a) the person becomes a member of the Legislative Assembly or the Parliament of Canada;
- (b) the person becomes an employee of the city or holds any office or place of profit in the gift or disposal of the council;
- (c) the person is continuously absent from the city for more than three calendar months or is absent from the regularly scheduled meetings of the council for more than three successive calendar months without being thereto authorized by a resolution of the council, except when such absence is occasioned by illness; or
- (d) the person is convicted of an indictable offence punishable by imprisonment for five or more years or an offence under section 123 of the *Criminal Code* (Canada).

(2) The provisions of this section and section 5 shall not render ineligible or disqualify any person from being elected to and holding the office of mayor or councillor by reason of being a shareholder of any incorporated company or a volunteer firefighter in the municipality. 1994, c.59, s.6; 1999,c.19,s.2. Exception

#### TERM OF OFFICE

**7.** On the third Monday in November 2010 and on the third Monday in November in every fourth year thereafter, the mayor and councillors shall take office, and shall continue in office until their successors take office. 1994, c.59, s.7; 2006,c.26,s.1. Taking office

**8.** When any vacancy occurs in the council, the person elected to fill the vacancy shall serve out the remainder of the term of the person who vacated the position. 1994, c.59, s.8. Vacancies

**9.** The mayor shall appoint, from among the members of the council, a deputy mayor who shall act in the place of the mayor, in his or her absence or incapacity to act, and in so acting shall possess the same authority and power as if he or she were mayor. 1994, c.59, s.9. Deputy mayor

Vacancy	<b>10.</b> (1) If any vacancy occurs in the office of mayor or councillor, the persons qualified to vote shall, on a date to be fixed not later than twelve months after such vacancy, elect another duly qualified person to fill the vacancy in accordance with this Act and the regulations.
Date fixed by mayor or councillors	(2) The date for an election pursuant to subsection (1) shall be fixed (a) by the mayor, where the vacancy is in the office of councillor; or (b) by a majority of councillors, where the vacancy is in the office of mayor.
By-election	(3) If any vacancy occurs within twelve months before the date of the next general civic election, then a by-election to fill the vacancy need not but may be called. 1994, c.59, s.10; 2001,c.29,s.2.
Resignation of councillor	<b>11.</b> A person holding the office of councillor may resign office at any time by a written declaration to that effect and a councillor shall be elected for the electoral district for which the councillor so resigning was elected. 1994, c.59, s.11.
Leave of absence	<b>11.1</b> Any person holding the office of mayor or councillor shall be granted, for the purpose of running in a federal or provincial election, a leave of absence without remuneration, beginning when the person has filed nomination papers with the appropriate election official, and continuing until the end of the election. 2000,c.23,s.1.
<b>ELECTIONS</b>	
Election of mayor and councillors	<b>12.</b> The mayor and councillors shall be elected by secret ballot on the first Monday in November in every fourth year commencing on the first Monday in November, 2006. 1994, c.59, s.12; 2006,c.26,s.2.
Elections	<b>13.</b> Subject to section 14, the council shall prescribe electoral officers, procedures governing elections, the enumeration of electors and all other matters pertaining to elections including the creation of offences, and shall appoint electoral officers, returning officers and such poll clerks, scrutineers and other persons as may be necessary for the conduct of an election. 1994, c.59, s.13.
Qualifications of an elector	<b>14.</b> (1) The qualifications for an elector are that the elector is (a) not less than eighteen years of age; (b) a Canadian citizen; and (c) ordinarily resident in the city for a period of six months preceding the date of the election.
<i>Idem</i>	(2) Only qualified electors may vote in city elections.

(3) Every person who votes in a city election knowing that he or she is for any reason not qualified to do so is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding two years, or both.

Offence

(4) No election shall be declared invalid for reason of non-compliance with this Act or as to the taking of the poll, or the counting of votes or by reason of any want of qualification of the person signing a nomination paper, or of any mistake in the use of a prescribed form if it appears to any tribunal having cognizance of the question that the election was conducted in accordance with the principles of this Act and the bylaws and that the non-compliance or mistake did not affect the result of the election. 1994, c.59, s.14.

Technical irregularity not to affect validity of election

**15.** (1) No employee of the city shall

Partisan activity by city employee

- (a) directly or indirectly use or seek to use the authority or official influence of his or her position to control or modify the political action of any person in any city election;
- (b) at any time take such part in political activities in any city election so as to impair his or her usefulness in the position in which he or she is employed; or
- (c) not proclaimed.

(2) The council may by bylaw establish a class of restricted employees who, by reason of their rank, position and the nature of their employment, are prohibited from engaging in partisan work in connection with any city election, including contributing, soliciting, receiving, or in any way dealing with any money for any candidate. 1994, c.59, s.15; 1995, c.38, s.2.

Restricted employees

**COUNCIL MEETINGS AND COMMITTEES**

**16.** The mayor and councillors shall before taking office take an oath in the form prescribed before such person as is designated in the bylaws. 1994, c.59, s.16.

Oath of office

**17.** (1) The council shall hold regular monthly meetings in each year on such day as the council may by resolution determine.

Meetings, general monthly

(1.1) Notwithstanding subsection (1), council may cancel a monthly meeting where the following conditions are met:

Exception

- (a) council passed a resolution to cancel the monthly meeting;
- (b) fifteen days notice of the cancellation is published in a local newspaper;
- (c) no two consecutive monthly meetings are cancelled; and

(d) at least ten regular monthly meetings are held in every calendar year.

- Special meetings (2) The council may hold special meetings at the call of the mayor, after three days notice thereof, and the mayor shall call a special meeting when so requested in writing by not less than half of the councillors.
- Emergency meeting (3) In the case of an emergency the mayor, or deputy or acting mayor in the absence of the mayor, may call an emergency meeting, without notice to the public, after a reasonable attempt is made to notify the councillor at the councillor's home and place of work.
- Quorum (4) The quorum at any meeting of the council is  
 (a) the mayor, or, in his or her absence, the deputy mayor; and  
 (b) at least one-half of the councillors then holding office.
- Absence of quorum (5) No business shall be conducted at any meeting of the council unless a quorum is present.
- Public attendance (6) Meetings of the council shall be open to the public.
- Voting (7) Each councillor has one vote and all matters and questions shall be determined by a majority vote of the councillors present.
- Tied vote (8) The mayor shall vote on any matter or question before the council only for the purpose of breaking a tie.
- Rules of procedure (9) The council may prescribe rules for the conduct of its meetings including attendance requirements for its members. 1994, c.59, s.17; 2000,c.23,s.2.
- Minutes **18.** The minutes of the proceedings of all meetings shall be entered in a book to be kept for that purpose, and shall be signed by the mayor or person acting in his or her stead at such meetings, and the minutes shall be open to the inspection of all persons qualified to vote in a city election. 1994, c.59, s.18.
- Committees **19.** (1) Subject to subsection (6), the mayor may appoint from among the members of the council any standing committees consisting of such number of persons as the mayor considers appropriate for  
 (a) the better transaction of the business before council; and  
 (b) the discharge of any duty within the scope of the committee's power.
- Special committees (2) The council may by resolution appoint special committees, chaired by a member of the council, for any particular purpose which shall report to the council on the matters committed to them.

(3) The council may appoint residents to serve on the special committees referred to in subsection (2). Members

(4) Meetings of committees may be held behind closed doors. Meetings

(5) The council may by resolution meet as a committee of the whole. Committee of the whole

(6) Every committee constituted pursuant to subsection (1) shall be subject in all things to the approval, authority, and control of council. Authority of council  
1994, c.59, s.19; 2000,c.23,s.3.

**20.** No mayor or councillor shall, subject to subsection 5(3), derive any profit or financial advantage from his or her position as a member of council and, where a member of council has any pecuniary interest in or is affected by any matter before the council, he or she shall declare the interest therein and abstain from the voting and discussion thereon. 1994, c.59, s.20. Conflict of interest

**POWERS**

**21.** (1) The council may provide Services,

- (a) administration of the city;
- (b) fire protection and other emergency services;
- (c) garbage and refuse collection and disposal;
- (d) street lighting;
- (e) recreation;
- (f) drainage, including the levying of charges upon adjoining landowners for improvements thereto;
- (g) sewage collection and treatment;
- (h) sidewalks, including the levy of charges upon adjoining land owners for improvements thereto;
- (i) streets, including parking and the regulation of traffic, and including, by resolution of council, the naming of streets, and the closure of streets on a temporary basis;
- (j) police protection, discipline of police officers, and all matters relating to law enforcement;
- (k) water supply, distribution and purification;
- (l) parks and open spaces;
- (m) community or regional development including tourism, industrial, commercial and housing development and promotion and assistance to community organizations and community development projects;
- (n) for the creation of a Summerside development commission;
- (o) building and development services;
- (p) land assembly for city purposes;
- (q) local libraries;



- (r) animal control;
- (s) signage control;
- (t) building and property standards control and including, after reasonable notice has been given to the property owner to bring the building up to standard, the provision for demolition of buildings not meeting the minimum required standards;
- (u) regulation of real property maintenance and protection of heritage property;
- (v) regulation of business practices;
- (w) public transportation;
- (x) tree preservation and protection;
- (y) a superannuation plan for the benefit of employees of the city and their dependants;
- (z) for the regulation of the discharge of firearms.
- (z.1) for the regulation of dangerous or unsightly properties;
- (z.2) for the maintenance of order in the city, and, in particular, for regulation of noise, loitering and public nuisances. 2000,c.23.s.4.

Exception (2) Notwithstanding subsection (1), the council may provide electric power and energy to the City of Summerside and surrounding area. 1994, c.59, s.21; 1996, c.41, s.1; 1999,c.12,s.2.

ADMINISTRATION

Administrator **22.** (1) The council shall appoint a chief administrative officer who is not a member of council and who shall be responsible for all administrative matters and the day to day administration of the city.

Dismissal (2) The council shall not dismiss the administrator except for just cause.

Functions (3) The chief administrative officer shall

- (a) be the senior policy adviser to the council;
- (b) attend all meetings of the council and record all resolutions, decisions and proceedings of the council;
- (c) keep the minutes, documents and financial records of the city and maintain a register containing the originals of all bylaws adopted by the council;
- (d) be the custodian of the corporate seal of the city;
- (e) notify all members of the council of meetings of the council;
- (f) collect and receive all money of the city;
- (g) open an account in the name of the city in a chartered bank or other financial institution approved by the council and deposit in that account all money received by the administrator on account of the city;
- (h) co-sign all cheques of the city with the mayor;

- (i) as soon as possible after the end of the fiscal year prepare a detailed statement of the finances of the city and submit it, when audited, to the council;
- (j) perform such other duties as the council may assign.

(4) The chief administrative officer may delegate his or her functions under subsection (3). 1994, c.59, s.22. Delegation

**23.** (1) The council may employ such staff or officers as are necessary for the provision of administrative and other services provided by the city. Officers and staff

(2) The officers and staff referred to in subsection (1) shall be responsible to and report to the chief administrative officer. Reporting

(3) The council may delegate functions to the chief administrative officer. 1994, c.59, s.23. Delegation of functions

**23.1** (1) The council may designate any bylaw enforcement officers it considers necessary and may define their duties and fix their remuneration. Bylaw enforcement officers

(2) For greater certainty, the council may designate a person as a bylaw enforcement officer for the city notwithstanding that the person is also a bylaw enforcement officer for another municipality. Designation by several municipalities

(3) For greater certainty, the bylaw enforcement officers of the city are responsible to and shall report to the chief administrative officer or his or her delegate. 2012,c.28,s.2(3). Reporting

**24.** (1) The council shall appoint an auditor who shall audit the financial statements of the city. Auditor

(2) The auditor shall be a person licensed as a public accountant or licensed to provide the services of a public accountant under the *Chartered Professional Accountants and Public Accounting Act* R.S.P.E.I. 1988, Cap. C-4.2. Qualifications

(3) The auditor shall, on or before March 15 in each year, make a report to the council on the financial statements of the city and shall state in his or her report whether, in his or her opinion, the financial statements referred to therein present fairly the financial position of the city and the results of its operations during the immediately preceding fiscal year, in accordance with generally accepted accounting principles applied on a basis consistent with that of the previous fiscal year. 1994,c.59,s.24; 2014,c.2,s.91. Report

**25.** The fiscal year of the city is the calendar year. 1994,c.59,s.25. Fiscal year

Copies to Minister **26.** The council shall on or before March 31 in each year submit to the Minister a copy of the financial statements of the city, the auditor's report, the approved budget for the current fiscal year and such other information as the Minister may require. 1994,c.59,s.26.

#### TAXATION AND FINANCE

Assessment of real property **27.** All real property within the boundaries of the city is liable to assessment pursuant to the *Real Property Assessment Act* R.S.P.E.I. 1988, Cap. R-4. 1994, c.59, s.27.

Rates **28.** (1) In addition to the rate or rates of municipal taxation levied under section 39, the council may levy rates on the basis of user or frontage charges.

Different rates (1.1) Where certain services are provided only in certain districts of the city or where the levels of service vary significantly from district to district, the council may, under section 39, determine a different rate of municipal taxation in respect of those districts, and where different rates are fixed, the council shall, three months prior to the start of the taxation year in which the different rates are to become effective notify the Provincial Tax Commissioner and send the Provincial Tax Commissioner a copy of the plan designating each tax district.

Notice (2) The city shall notify the Provincial Tax Commissioner of the rates of municipal taxation levied under this section or under section 36.

Six months' notice (2.1) Notwithstanding subsection (1.1), in the case of a change to the boundaries of the city, the council shall provide six months' notice to the Provincial Tax Commissioner for the purposes of subsections (1.1) and (2).

Lien (3) All rates constitute a lien on the real property on which it is levied until payment is made, which has priority over every claim, privilege or encumbrance of every person, except the Crown, against that property. 1994, c.59, s.28; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3; 2016,c.45,s.27(2).

Water and sewerage, corporation **29.** (1) Where the council determines to provide within the city sewage collection and treatment or water distribution and purification pursuant to clause 21(g) or (k) it shall make a bylaw

- (a) prescribing the name, composition and functions of a corporation to construct, manage, maintain and operate the utility in accordance with the *Water and Sewerage Act* R.S.P.E.I. 1988, Cap. W-2;
- (b) requiring the corporation to maintain separate accounts and to prepare an annual financial statement.

- (2) A corporation established pursuant to subsection (1) is hereby constituted a body corporate. Body corporate
- (3) A corporation established pursuant to subsection (1) may levy such user rates or frontage charges as may be approved by the council. 1994, c.59, s.29. User rates and frontage charges
- 30.** Where rates are levied by the city or a corporation established pursuant to section 29 for water or sewerage services by means of frontage charges, the maximum frontage of any parcel of land in respect of which rates may be levied is one hundred feet if the parcel qualifies for a farm assessment under the *Real Property Assessment Act* R.S.P.E.I. 1988, Cap. R-4. 1994, c.59, s.30. Maximum frontage upon which rate may be levied
- 31.** For the purposes of this Act, a person along whose lands run sewer or water mains shall be deemed to receive services notwithstanding that such sewer or water mains are not physically connected by lateral lines to any residence, building or other structure situate upon the lands of that person. 1994, c.59, s.31. Service deemed to be received
- 32.** The council shall annually fix and determine the rates to be paid by users of electric power and energy supplied by the public utility owned by the city. 1994, c.59, s.32. Electric utility
- 33.** User rates or frontage charges under sections 29 and 32 constitute a lien on the real property on which they are levied until payment is made, which has priority over every claim, privilege or encumbrance of every person, except the Crown, against the property. 1994, c.59, s.33. Lien for water, sewerage and electricity
- 34.** All taxes, rates and charges bear interest from the due date at the rate prescribed for real property tax pursuant to the *Real Property Tax Act* R.S.P.E.I. 1988, Cap. R-5. 1994, c.59, s.34. Interest
- 35.** The council may impose license fees upon any person carrying on any business in the city. 1994, c.59, s.35. License and other fees
- 36.** Subject to section 38, the council is responsible for the financial management of the city and shall determine the rate of municipal taxation necessary to provide services in the city. 1994, c.59, s.36. Financial management
- 36.1** (1) In this section, Definitions

  - (a) “accommodation” means the provision of lodging in a tourism establishment; accommodation
  - (b) “operator” means the operator of a tourism establishment; operator
  - (c) “purchase price” means the price for which accommodation is purchased, including the price in money, the value of services purchase price

rendered and other consideration accepted by the operator in return for the accommodation provided, but does not include the goods and services tax;

tourism  
accommodation  
levy

(d) “tourism accommodation levy” means the tourism accommodation levy imposed pursuant to this section;

tourism  
establishment

(e) “tourism establishment” means a tourism establishment, as defined in the *Tourism Industry Act* R.S.P.E.I. 1988, Cap. T-3.3.

Tourism  
accommodation  
levy

(2) The council may impose a levy, to be known as the tourism accommodation levy, on any person who, for a daily charge, fee or remuneration purchases accommodation at a tourism establishment in the city.

Rate

(3) The tourism accommodation levy shall be at such rate as may be set by the council.

Tourism  
establishments  
affected

(4) The tourism accommodation levy may be imposed, as the council may determine, on the purchase of accommodation

(a) at every tourism establishment in the city; or

(b) at only those tourism establishments in the city that have the minimum number of rental units prescribed by bylaw.

Use of tourism  
accommodation  
levy

(5) The council shall use the tourism accommodation levy imposed and collected pursuant to this section to promote the city as a tourist destination.

Grants

(6) Without restricting the generality of subsection (4) and notwithstanding any other enactment, the council may pay such portion of the tourism accommodation levy collected by way of a grant as the council considers appropriate to any organization formed to promote the city as a tourist destination, whether such organization is non-profit or otherwise.

Operator deemed to  
be agent

(7) Where the tourism accommodation levy is imposed, pursuant to this section, on the purchase of accommodation at a tourism establishment in the city, the operator of the tourism establishment is deemed to be an agent of the city for the purpose of collecting the tourism accommodation levy and remitting it to the city, and as such the operator shall, in accordance with subsection (8), collect the tourism accommodation levy from the purchaser and remit it to the city.

Collection of levy

(8) The tourism accommodation levy, whether the price is stipulated to be payable in cash, on terms, by instalments or otherwise, shall be collected at the time of the purchase on the total amount of the purchase price and shall be remitted to the city at the times and in the manner established by bylaw made pursuant to subsection (9).

(9) The council may make such bylaws as it considers necessary to implement a tourism accommodation levy and, without limiting the generality of the foregoing, may pass a bylaw to

- (a) determine, pursuant to subsection (4), which tourism establishments in the city are required to impose and collect the tourism accommodation levy;
- (b) provide for the forms and records to be maintained by an operator and the information to be recorded therein;
- (c) provide for
  - (i) the method of the collection of the tourism accommodation levy by the city and the remittance of the tourism accommodation levy by an operator, and
  - (ii) any other conditions or requirements affecting the collection and remittance of the tourism accommodation levy;
- (d) provide for the rate of the tourism accommodation levy that is to be collected including, if so prescribed, a minimum and maximum levy;
- (e) provide for the method by which a purchase price may be attributed to accommodations that are sold as part of a combination of accommodations, meals and specialized goods or services;
- (f) provide for the inspection and audit of records maintained by the operator;
- (g) provide for the imposition of interest charges and penalties for the failure by an operator to collect or remit the levy as required by the bylaw;
- (h) establish the times at which, and the manner in which, operators are to remit the tourism accommodation levy to the city. 2006,c.12,s.3; 2013,c.19,s.3(2).

**37.** The estimates and budget of the city shall be fixed on or before March 31 in each year. 1994, c.59, s.37. Budgets

**38.** The council shall not project a deficit in its estimates or budget for any year in respect of expenditures other than capital expenditures. 1994, c.59, s.38. Deficit budgeting

**39.** Following approval of the estimates for any year and after crediting the probable revenue from all sources other than taxes, the council shall by resolution levy a rate or rates of municipal taxation sufficient to raise the sum required to defray projected expenditures of the city for that year. 1994, c.59, s.39. Rates

**40.** The council shall cause any surplus in the general fund at the end of a fiscal year to be transferred to the general fund for the next fiscal year or to a reserve fund. 1994, c.59, s.40. Surplus

Interim expenditure **41.** During the period from the end of a fiscal year until approval of the estimates for the next fiscal year, the council shall not incur expenditures except those necessary for the day to day administration of the city. 1994, c.59, s.41.

#### RESERVE FUND

Reserve fund **42.** (1) The council may by bylaw establish one or more reserve funds in the name of the city for any municipal purpose.

*Idem* (2) The council shall specify in its bylaw establishing a reserve fund  
 (a) the purpose for which the reserve fund is established; and  
 (b) the criteria and conditions governing withdrawals from the reserve fund. 1994,c.59,s.42; 2000,c.23,s.5; 2016,c.45,s.27(3).

#### BORROWING

Long term borrowing for capital projects **43.** (1) Subject to subsection (2), the council may borrow money by way of loan or the issue of debentures for capital, operating or other expenditures.

Borrowing limit (2) Except as may be authorized by the Lieutenant Governor in Council for special projects or in exceptional circumstances, the council may not borrow money for capital expenditures if the result of the borrowing would be to increase the debt of the city to an amount in excess of ten per cent of the current assessed value of real property in the city or such other amount as the Lieutenant Governor in Council may determine.

Exception (2.1) For greater certainty, the calculation of debt for the purposes of subsection (2) shall not include the debt of the City of Summerside Electric Utility.

Signatories etc. of debentures etc. (3) Security documents issued under subsection (1) or section 44 shall be signed, issued and reissued in such manner as may be prescribed. 1994, c.59, s.43; 2000,c.23,s.6; 2009,c.80,s.2.

Short term or interim financing **44.** Nothing in section 43 precludes the council from borrowing money from a savings institution on an interim basis in relation to capital expenditure or on a short term basis to finance current operating expenditures. 1994, c.59, s.44.

#### LIABILITY FOR DAMAGES

Indemnity for unsafe sidewalk etc. **45.** In all cases where the city may be held liable for damages sustained in consequence of the unsafe condition of, or nuisance or encumbrance on, city property, it shall have a right to indemnity from, and have a

remedy against, the person or corporation by whose act or conduct the property was rendered unsafe, or by reason of whose act or conduct the damage or injury arose. 1994, c.59, s.45.

**46.** (1) In no case shall the city be liable for damages sustained in consequence of the unsafe condition of the street or sidewalk or from a nuisance or encumbrance on the sidewalks, squares or streets of the city, unless a notice in writing of the claim for such damages be given to the chief administrative officer by the party injured within ninety days from the time when the cause of action arose. Notice of claim  
within three months

(2) Except as provided in subsection (1), all actions against the city shall be commenced within six months next after the cause of action arises. 1994, c.59, s.46. Limitation period,  
general

**47.** In no case unless for gross misfeasance shall the city or any person, by reason only of any bylaw of the city compelling removal of snow and ice from the sidewalks, be held liable for damages for any occurrence upon any streets, sidewalk, square or crossing, or other public place in the city, attributable to the existence of any condition of snow, ice, sleet or rainfall or to any action of frost or to any condition resulting from change of weather or season; and no undertaking, continuance, cessation or interruption by the city of any active or enforcing measures for general safety or convenience shall in any way prejudice the city's non-liability under this section. The city is not liable for any damage caused by a decision related to the system of inspections, examinations, evaluations and investigations including a decision relating to their frequency and the manner in which they are carried out. 1994, c.59, s.47. Gross misfeasance  
re snow removal  
etc.

**48.** In no case except for gross misfeasance shall the city be liable to the owners or occupiers of adjoining property for damages to the adjoining property occasioned by the grading, building up or cutting down of any street, land, alleyway or sidewalk. 1994, c.59, s.48. Action affecting  
adjoining property

**48.1** (1) In this section, "sewer" includes any sanitary or storm sewer, or combination of sanitary or storm sewers, drain, ditch, or watercourse that is Sewer

- (a) the property, in whole or in part, of the city; or
- (b) located within the city.

(2) The city shall not be liable for loss or damage suffered by any person by reason of the discharge or overflow of water or effluent from a sewer, unless the discharge or overflow is shown to be directly due to the negligence of the city or one of its employees. 2000,c.23,s.7. Limitation of  
liability

**49.** The city, the mayor, any councillor and any officer or employee of the city acting under the authority of this Act are not liable for any loss Good faith



or damage suffered by any person by reason of anything in good faith done or omitted to be done in the exercise or purported exercise of any powers or duties under the authority of this Act. 1994, c.59, s.49; 2012,c.28,s.2(4).

#### EXPROPRIATION

- Expropriation for public works etc. **50.** (1) The council may, in accordance with the provisions of this Act, expropriate any land, or any interest in land in the city that it may consider expedient for a public work or other public purpose, and, in particular
- (a) for use as a public parking area;
  - (b) for use as a water line, sewer line or a combined sewer-water line area;
  - (c) to provide sites for any public building or project;
  - (d) to provide sites for publicly assisted rental housing;
  - (e) for development or re-development;
  - (f) for use as streets, drains, sewers and watercourses.
- Water lines etc. (2) Clause (1)(b) applies in respect of land within 24 kilometres of the city. 1994, c.59, s.50; 1995, c.38, s.3.
- Majority for expropriation resolution **51.** The expropriation of land or any interest in land shall be made only upon a resolution of the council at a regular meeting and upon a vote of two-thirds of the councillors and after notice of such resolution having been given at the last regular meeting of the council. 1994, c.59, s.51.
- Notice of intention to expropriate **52.** The resolution referred to in section 51, shall be entitled “Notice of Intention to Expropriate” and shall set forth
- (a) a general description of the lands;
  - (b) the nature of the interest intended to be expropriated;
  - (c) an indication of the public work or other public purpose for which the interest is required;
  - (d) a statement that it is intended that the interest be expropriated by the city upon the registration and filing in the office of the Registrar of Deeds of a legal description of the said lands and a survey plan thereof. 1994, c.59, s.52.
- Power of entry to survey land **53.** After the passing of any resolution intending the expropriation of land or an interest in land, a person authorized by the council shall have the power to enter upon the land proposed to be expropriated and make a survey thereof. 1994, c.59, s.53.
- Filing in registry **54.** (1) A certified copy of the resolution referred to in section 51, the survey plan and a legal description of the land, signed by a qualified land surveyor, the mayor and the chief administrative officer, with the

corporate seal of the city affixed, shall be filed and registered in the office of the Registrar of Deeds and such land or interest in land, upon the filing and registration of such resolution, plan and description, shall thereupon become vested in the city for the purposes set out in the resolution.

(2) Where a resolution, survey plan or legal description registered pursuant to this section contains any omission, mis-statement or erroneous description, a corrected resolution, survey plan or legal description may be registered, which shall be deemed to relate back to the day the original resolution, survey plan or description was registered.

Errors

(3) A resolution registered under this section is not invalid by reason only that it does not set forth the nature of the interest intended to be expropriated and, in such case, the interest intended to be expropriated includes all the interest in the land to which the resolution relates. 1994, c.59, s.54.

Failure to identify interest

**55.** Any land or interest in land expropriated in accordance with the provisions of this Act and upon becoming vested in the city pursuant to the operation of section 54, may be conveyed, leased, assigned or otherwise legally transferred by the city to any other person in order to better effect the intended purpose of the expropriation. 1994, c.59, s.55.

Conveyance of expropriated interest

**56.** All buildings, structures, or erections of all types on the land so expropriated may be removed and disposed of by the city and the proceeds thereof shall belong to the city. 1994, c.59, s.56.

Buildings etc.

**57.** If the city fails to arrive at an agreement with the owner of any land or interest in land expropriated as to the compensation to be paid by the city or if the owner or any parties interested in the land is or are under disability or incapable in law of entering into an agreement or is or are absent from the province, or if any doubt or dispute exists or arises either as to the ownership of the land or as to the apportionment of the compensation money among the parties interested or having or asserting any claim or interest therein, then and in any and all such cases, the council shall, by resolution, determine what amount the city considers it should pay for such land and the chief administrative officer shall mail by registered letter a copy of such resolution to the owners or other parties interested in the lands who are within the province and whose names and addresses are known to the chief administrative officer, offering such amount as stated in the resolution as compensation for the interest expropriated. 1994, c.59, s.57.

Compensation

**58.** If the owner or any party interested in the land fails or refuses to accept the sum so offered, within twenty days of the receipt of the offer,

Resolution of disputes

or, if the owner or any party interested in the land is absent from the province or is under disability, or for any reason incapable in law of entering into an agreement regarding compensation money or executing the proper discharge therefor, or, if any doubt or dispute exists or arises whether as to the ownership of the land or as to the apportionment of the compensation money among the parties interested or having or asserting any claim or interest therein, then and in any and all such cases, the amount of the compensation money, the parties to whom the same shall be payable and the allotment and disposal thereof among the parties found to be entitled thereto, shall be determined by the Supreme Court upon proceedings to be instituted by the city for that purpose. 1994, c.59, s.58.

Application to  
Supreme Court

**59.** The proceedings shall be commenced by application to the Supreme Court to be signed by the mayor and chief administrative officer setting out

- (a) the resolution of the council for the expropriation of the land and the date thereof together with a description of the land and the date on which the resolution, survey plan and description were filed and registered in the office of the Registrar of Deeds;
- (b) persons who at such date had any estate or interest in the land and the particulars of the estate or interest and any charge, lien or encumbrances to which it was subject, so far as is known;
- (c) the resolution indicating the sum of money which the city is willing and ready to pay as the compensation for the land and the date thereof;
- (d) any other facts material to the determination of the question involved in the proceeding and as set forth in the application. 1994, c.59, s.59.

Questions to be  
determined

**60.** The application shall be deemed and taken to be the institution of suit against the persons named therein and shall request the court to determine the proper compensation money to be paid and to make findings as to the persons entitled to compensation and the allotment of the money among those entitled. 1994, c.59, s.60.

Procedures

**61.** The application shall be dealt with in accordance with the rules of court and the court may determine any matters of procedure not otherwise provided for in the rules of court. 1994, c.59, s.61.

City takes free of  
claims and interests

**62.** Upon final disposition of an application by the court the city shall be free and discharged from all claims, interests, rents, charges, annuities, liens, judgments, mortgages or any other encumbrance upon the land or property or other debts or claims whatsoever. 1994, c.59, s.62.

**63.** Where at any time before any compensation is paid in respect of land or an interest in land expropriated, the council determines that the land or interest in land is not or is no longer required by the city, it may by resolution, abandon the interest expropriated, a certified copy of such resolution shall thereupon be filed or registered in the office of the Registrar of Deeds and the abandoned land or interest in land shall thereupon vest in and revert to the respective owners of each part of the land or interest in land at the time of expropriation. 1994, c.59, s.63.

Abandonment of expropriation by resolution

LAND ACQUISITION

**64.** The city may acquire by purchase or otherwise any lands or areas within or outside the boundaries of the city, the acquisition of which the council considers to be of advantage to the city, and to hold, use, lease, sell, encumber or otherwise dispose of the same in the discretion of the council. 1994, c.59, s.64.

Acquisition otherwise than by expropriation

STREETS

**64.1** All public streets and all sewers, drains and ditches located within the boundaries of the city are vested in the city and the council shall have full control over them. 1995, c.38, s.4.

Streets etc., vested in city

**64.2** (1) The council shall have the supervision and general control over the laying out, opening, altering, building, improving, maintenance and repair of all streets in the city.

Repair, etc.

(2) No person shall, without the approval of the council,  
 (a) open or authorize the opening of any street; or  
 (b) permit the interconnection of a street or proposed street with another street.

Condition *re* costs

(3) Prior to granting approval, the council shall ensure that all costs associated with such opening or interconnection are or will be paid for by the person benefitting therefrom or authorizing the opening or interconnection.

Agreement

(4) The council may  
 (a) enter into agreements with a person respecting the construction of streets and the payment of costs related to such construction;  
 (b) make its approval subject to such conditions as it sees fit, including a condition requiring the conveyance of the street to the city.

Construction cost borne by person requesting access

(5) Where an access to a street has been requested by a person, and the cost thereof has been determined and made known to that person before the work is undertaken, the council may impose, charge, and collect the

Closure of access

cost associated with the construction, improvement, or intensification of the use of any access to the person benefitting therefrom.

Recovery of costs (6) Where the costs imposed are charged under subsection (5) and remain unpaid for a period of thirty days, the council may close or remove the access, and charge the cost of the closure or removal to the person benefitting from the access.

Width (7) Where the person to whom costs have been charged under subsection (5) are not paid, the council may commence a proceeding in the Supreme Court for the recovery of such costs and charges. 1995,c.38,s.4.

Discontinuance **64.3** All streets laid out after the coming into force of this section shall be laid out at a minimum width of 50 feet. 1995, c.38, s.4.

Alternative access **64.4** (1) Where in the opinion of the council a street or any portion of a street is not required for use by the public, it may cause such street or portion thereof to be discontinued

(a) by recording in the registry office for Prince County a plan thereof together with a certificate to the effect that such street or portion thereof is discontinued; or

(b) by recording in the registry office a certificate to the effect that such street or portion thereof is discontinued, which certificate shall describe that street or portion thereof in relation to property owners, property lines and existing highways or roads with sufficient particularity to enable the identification of that street or portion thereof

and thereupon that street or portion thereof ceases to be a street.

(2) Where the discontinuance of a street or portion thereof would isolate any property from a highway or road or where buildings are located along the land abutting a highway or road, the council shall not cause such street or portion thereof to be discontinued unless in its opinion adequate access to a highway or road is provided.

Cessation of public right of way (3) Where a street or portion thereof is discontinued under this section, all rights of the public to pass over the discontinued street or portion thereof cease. 1995, c.38, s.4.

Obstruction **64.5** (1) No person shall cause any obstruction or make any encroachment upon any street or obstruct or encroach upon any sewers, drains, ditches, watercourse or public easement upon or leading to, from or across any street.

(2) The council may remove any obstructions referred to in subsection (1) at the expense of the person causing or being responsible for the obstruction. 1995, c.38, s.4. Removal of obstruction

## BYLAWS

**65.** (1) The council may make bylaws that are considered expedient and are not contrary to this or any other Act or regulations for the peace, order and good government of the city, the provision of municipal services within the city, the exercise of any powers under section 21, city elections, and any other matter within the jurisdiction of the city. Bylaws

(1.1) The council may make bylaws respecting the application of non-domestic pesticides for the control of landscape pests, including bylaws that establish rules for the application of non-domestic pesticides for the control of landscape pests that are more restrictive than those provided for in the *Pesticides Control Act* R.S.P.E.I. 1988, Cap. P-4 and its regulations, and may prohibit the application of specified non-domestic pesticides for the control of landscape pests in addition to those prohibited in the regulations under that Act. Bylaws respecting use of certain pesticides

(1.2) For greater certainty, a council shall not make a bylaw under subsection (1.1) that relates to the application of pesticides Idem

- (a) for the management of pests that transmit human diseases or affect agriculture or forestry;
- (b) on golf courses;
- (c) to buildings or inside buildings;
- (d) on land used for agriculture, forestry or transportation; or
- (e) on land used for public utilities or pipelines unless the public utility or pipeline is vested in the municipality.

(1.3) In subsections (1.1) and (1.2), “pest” means a pest as defined in the *Pest Control Products Act* (Canada). Definition

(2) A bylaw made under this Act may create an offence for the contravention of a provision of any bylaw, may prescribe penalties not exceeding a fine of \$5,000 for such an offence, and may prescribe a means of enforcement for such an offence. Penalties

(2.1) For greater certainty, a bylaw made under this Act may create an offence for each day that the contravention of a provision of a bylaw continues. Continuing offence

(3) A bylaw may be enforced and the breach thereof may be restrained by application by the city to the Supreme Court and the judge may grant any one or more of the following remedies: Remedies for breach of bylaw

- (a) a declaration that an act engaged in or about to be engaged in by a person is or will be a breach of any bylaw;
- (b) an injunction restraining any person from breaching or continuing to breach any such bylaw;
- (c) an order directing any person to comply with the requirements of any such bylaw and directing that compliance be carried out under the supervision of a named person;
- (d) such other order as the court or judge may determine.
- Entry on lands (4) Where a landowner fails to comply with a written notice given pursuant to a bylaw regarding dangerous and unsightly premises, council may, by resolution, authorize any person to enter on the landowner's premises for the purpose of carrying out the terms of the notice.
- Dangerous premises (5) Where, in the opinion of the council, there exist reasonable and probable grounds that immediate danger to the life or safety of any person exists by reason of a dangerous or dilapidated building, the chief administrative officer, supported by a resolution of council, may authorize any person to enter on the premises where the building is located in order to
- (a) repair or demolish the building; or
- (b) evict any person inhabiting the building.
- Costs (6) Any reasonable costs incurred by the city pursuant to subsections (4) or (5) shall, until payment is made, constitute a lien having priority over every claim, privilege, or encumbrance of any person except the Crown on the real property subject to notice to the property owner. 1994, c.59, s.65; 2000, c.23, s.8; 2012, c.28, s.2(5); 2014, c.6, s.3(2).
- Adoption of codes **65.1** The council may, and has always been able to, make bylaws under this Act that
- (a) adopt by reference, in whole or in part, and with such changes as the council considers appropriate, any code or standard made by any recognized technical organization; and
- (b) require compliance with any code or standard so adopted. 2012, c.28, s.2(6).
- Procedure **66.** (1) A bylaw is made if
- (a) it is read and formally approved by a majority of the councillors on two occasions at meetings of the council held on different days;
- (b) after being read a second time it is formally adopted by resolution of the council; and
- (c) it is signed by the mayor and the chief administrative officer, and formally declared to be passed, and sealed with the corporate seal of the city. 1994, c.59, s.66.

- (2) Any bylaw authorized by this Act may delegate administrative acts and the exercise of authority and discretion under the bylaw to
- Delegation
- (a) the mayor;
  - (b) any committee constituted by council;
  - (c) the chair of any committee constituted by council; or
  - (d) any official of the city. 2000,c.23,s.9.
- 67.** Where a bylaw is made under section 66
- Record of bylaws
- (a) the minutes of the meeting shall record the name of the bylaw and the fact that it is passed;
  - (b) a copy of the bylaw bearing the signature of the mayor and the chief administrative officer and engrossed with the city seal shall be entered in the register of bylaws maintained by the chief administrative officer;
  - (c) a copy of the bylaw certified by the chief administrative officer and bearing the city seal shall be filed with the Minister within 21 days of the day on which the bylaw was passed. 1994,c.59,s.67; 2016,c.45,s.27(4).
- 68.** The register of bylaws of the city shall be available for public inspection at the office of the city during its business hours. 1994,c.59,s.68.
- Inspection of register
- 69.** A copy of any bylaw, written, printed or otherwise reproduced, and under the seal of the city, certified to be a true copy by the chief administrative officer or the mayor, shall be received in evidence as proof of its making and of its contents without further proof in any court nor shall any further proof be required of the official character of the signatory of his or her signature or of the seal of the city. 1994,c.59,s.69.
- Evidence
- 70.** (1) An offence against a bylaw shall be prosecuted
- Prosecution of offences against bylaws
- (a) in accordance with the *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9;
  - (b) in the case of a traffic offence or ticket, in accordance with a bylaw passed pursuant to subsection (2); or
  - (c) in the case of an offence against a bylaw for which a municipal offence ticket may be issued, in accordance with this section and any bylaw made under subsection (3).
- (2) The council may make bylaws
- Form etc. of ticket summons prescribed
- (a) prescribing the form of traffic ticket to be used for the purpose of laying an information and issuing a summons as provided under clause (1)(b);
  - (b) authorizing the use of any word or expression on a traffic ticket to designate an offence under any bylaw regulating traffic made under this Act;



- (c) prescribing the manner in which an information may be laid and a summons may be issued by a traffic ticket;
- (d) prescribing the manner in which a summons issued by a traffic ticket may be delivered to the person charged with an offence, whether by personal service or otherwise, and the means by which delivery of such a summons may be proved;
- (e) providing that a summons issued by a traffic ticket may be endorsed with a notice that the person to whom the summons is directed may pay out of court a specified penalty by signing a form of guilty plea, as prescribed by bylaw, that upon receipt of the summons with a guilty plea affixed thereon a provincial court judge or justice of the peace appointed under the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25 may convict the person to whom the summons is directed of the offence described in the summons, and that a signature affixed to the prescribed form which purports to be the signature of the person to whom the summons is directed is proof that it is the signature of that person; and
- (f) respecting any other matter relating to the use of a traffic ticket.

Municipal offence  
ticket bylaws

- (3) Subject to section 70.1, a council may make bylaws
  - (a) authorizing the issuance of a municipal offence ticket for an offence against a bylaw;
  - (b) authorizing the use of any word or expression on a municipal offence ticket to designate an offence against a bylaw;
  - (c) authorizing and providing for the payment of a penalty out of court for any offence against a bylaw charged in a municipal offence ticket;
  - (d) respecting forms, including the form of a municipal offence ticket; and
  - (e) respecting any other matter relating to the use of a municipal offence ticket.

*Summary Proceedings Act*,  
application

- (4) The following provisions of the *Summary Proceedings Act*, as amended from time to time, apply with the necessary changes to proceedings to determine if a person has committed an offence against a municipal bylaw for which a municipal offence ticket may be issued:
  - (a) sections 3 to 5;
  - (b) section 6.1;
  - (c) section 7;
  - (d) subsections 10(1), (4) to (9) and (11);
  - (e) sections 11 and 12.

Modifications

- (5) In applying the provisions of the *Summary Proceedings Act*, the following words and expressions therein have the following meanings:

- (a) “enactment” means, unless the context indicates otherwise, a bylaw; enactment
  - (b) “issuing officer” and “officer” mean a person referred to in subsection (7); issuing officer and officer
  - (c) “offence under an enactment” means an offence against a bylaw; offence under an enactment
  - (d) “offence under any provision of an enactment designated by the regulations” means an offence against a provision of a bylaw that is designated, by a bylaw made under subsection (3), as an offence in respect of which a municipal offence ticket may be issued; offence under any provision of an enactment designated by the regulations
  - (e) “ticket” means a municipal offence ticket; ticket
  - (f) “word or expression authorized by the regulations to designate an offence” means a word or expression authorized by a bylaw made under subsection (3) to designate an offence. word or expression authorized by the regulations to designate an offence
- (6) A municipal offence ticket shall be issued in the form prescribed by the bylaws and shall include provision for the information, the summons and a record for the person who issues the ticket. Form and contents of ticket
- (7) A bylaw enforcement officer, or any other person having responsibility for the enforcement of a provision of a bylaw, who has reasonable and probable grounds to believe and does believe that one or more persons have committed an offence against a bylaw for which a municipal offence ticket may be issued, may issue a municipal offence ticket. Issuance
- (8) Every municipal offence ticket information shall be signed, and sworn to before a justice of the peace or a provincial court judge, by the bylaw enforcement officer or other person who issues the municipal offence ticket. 1994, c.59, s.70; 2012,c.28,s.2(7). Execution of a municipal offence ticket information
- 70.1** A bylaw made under subsection 70(3) may authorize the issuance of a municipal offence ticket for an offence against a bylaw only if the bylaw relates to Bylaws enforceable by municipal offence tickets
- (a) animal control;
  - (b) dangerous or unsightly premises; or
  - (c) noise or public nuisance control. 2012,c.28,s.2(7).

SIGNATURES

**71.** The mayor or chief administrative officer may sign his or her name to any cheque, bond, order, debenture or other document on behalf of the city by means of a facsimile stamp of his or her signature. 1994, c.59, s.71. Signature by facsimile

## OFFENCES

Offence and penalty	<p><b>72.</b> (1) Every person who contravenes any provision of this Act, any bylaw or regulation made under this Act for which no other penalty is specifically provided is guilty of an offence and liable on summary conviction</p> <p style="padding-left: 40px;">(a) on a first conviction, to a fine not exceeding \$5,000 or imprisonment for a term not exceeding two years, or both;</p> <p style="padding-left: 40px;">(b) on a subsequent conviction, to a fine of not more than \$500 for each day upon which the contravention has continued after the day on which he or she was first convicted or imprisonment for a term not exceeding two years, or both. 1994, c.59, s.72.</p>
Limitation period	<p>(2) Any prosecution for an offence under subsection (1) may be instituted within one year after the time when the contravention occurred.</p>
Obstruction	<p><b>72.1</b> (1) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this Act or a bylaw made under this Act.</p>
Offence	<p>(2) Every person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine not less than \$200 and not more than \$5,000. 2012,c.28,s.2(8).</p>
Limitation period	<p><b>72.2</b> Any prosecution for an offence under subsection 72.1(1) or for an offence against a bylaw may be instituted within one year after the time when the contravention occurred. 2012,c.28,s.2(8).</p>
Fines	<p><b>72.3</b> Except as otherwise provided in an agreement entered into by the city with the Province concerning the collection of fines, every fine imposed for a contravention of a provision of this Act or of a bylaw of the municipality, is an amount owing to the city. 2012,c.28,s.2(8).</p>
Regulations	<p><b>73.</b> The Lieutenant Governor in Council may make regulations and, in particular, for the effective transition to the government of the City of Summerside from administration under the Acts repealed by section 74 to administration under this Act. 1994, c.59, s.73.</p>
Repeals	<p><b>74.</b> Repeals. 1994, c.59, s.74.</p>
Consequential amendments	<p><b>75.</b> The Acts set out in Column I of Schedule 3 are amended as set out in Column II of that Schedule. 1994, c.59, s.75.</p>
Transitional provisions	<p><b>76.</b> (1) This Act shall have effect subject to the transitional provisions set out in Schedule 2.</p>

(2) Notwithstanding subsection (1) or any other provision of law, employment matters shall be determined on the basis of equity and

Saving for accrued and other rights of non-union employees

(a) the accrued rights of employees in respect of sick leave, vacation leave and pension rights shall be recognized by the new City of Summerside as if the employee had remained an employee of one of the existing municipalities;

(b) for the purposes of hiring, promotion, transfer, demotion, lay off, permanent reduction of the work force and recall only, length of service with one of the municipalities referred to in Schedule 1 shall be a determining factor, whether or not the employee was a member of the bargaining unit;

(c) the Minister may appoint a person to resolve any dispute arising out of attribution of length of service and that person shall have the powers necessary to resolve the dispute.

(3) In this section and Schedule 2 references to employees and existing employees of existing municipalities include employees and existing employees of sewerage and water utilities of those municipalities. 1994,c.59,s.76; 1995,c.38,s.5.

Employees of sewerage and water utilities

**SCHEDULE 1****CITY OF SUMMERSIDE**

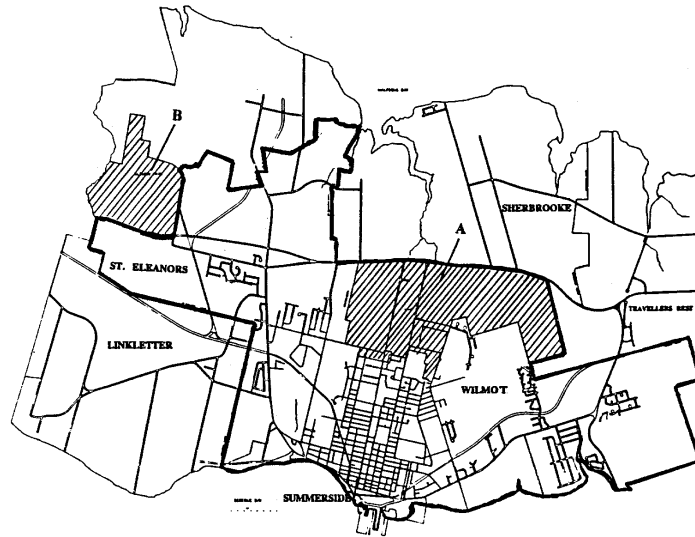
The City of Summerside comprises the areas that, on the day immediately preceding the date on which this Act is proclaimed to come into force, were within the boundaries of the following municipalities:

Town of Summerside

Community of Wilmot

those portions of the Community of Sherbrooke described as in Exhibits A and B;

and all of the Community of St. Eleanors except that portion described in Exhibit B all of which is identified on map 1 and Exhibit A attached hereto.

**MAP 1****CITY OF SUMMERSIDE**

Description:

All the land, and lands covered by water, within the boundaries of the former municipalities of:

**Town of Summerside**

**Community of Wilmot**

and

All the land, and lands covered by water, within a portion of the former Community of Sherbrooke

**A - Community of Sherbrooke (included portion)**

and

All the land, and lands covered by water, within the former **Community of St. Eleanors** except that which is in the exempted portion.

**B - Community of St. Eleanors (exempted portion)**

**EXHIBIT B**

**Community of St. Eleanors (exempted portion)**

That portion of the Community of St. Eleanors that is bounded and described as follows:

Commencing at a point where the Western boundary of the main entrance road to Slemon Park intersects the Northern boundary of Highway 2;

Thence in a Western direction along the Northern boundary of Highway 2 to a point where the Western boundary of the former Community of St. Eleanors intersects the Northern boundary of Highway 2;

Thence in a Northern direction along the Western boundary of the former Community of St. Eleanors and in a Eastern direction along the Northern boundary of the former Community of St. Eleanors to a point where the Northern boundary of the former Community of St. Eleanors intersects the Western boundary of the main entrance road to Slemon Park;

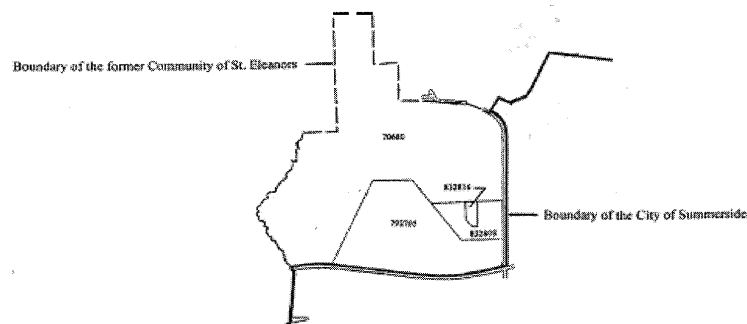
Thence in an Eastern direction across the entrance road and perpendicular to the entrance road boundaries to a point on the Eastern boundary of the main entrance road to Slemon Park;

Thence in a Southern direction along the Eastern boundary to a point where the boundary intersects the Northern boundary of Highway 2;

Thence in a Western direction to place of commencement.

**Property numbers** 70680, 792705, 832808, 832816

### Map of exempted portion



## SCHEDULE 2

### TRANSITIONAL PROVISIONS

1. The provisions of this Schedule have effect subject to any regulations made under section 73 for the purposes of the effective transition from the government of the Town of Summerside and the municipalities set out in Schedule 1 under the existing Acts to government under this Act.
2. On April 1, 1995
  - (a) the boundaries of the City of Summerside are established as provided under this Act;
  - (b) the existing boundaries are altered as set out in Schedule 1 and the existing councils of the Town of Summerside and the municipalities, except Sherbrooke, set out in Schedule 1 and the Summerside Water and Sewerage Commissioners are dissolved;
  - (c) the assets and liabilities of the municipal areas, communities and parts thereof located within the boundaries of the City of Summerside as established by this Act or as modified by this Act are transferred to the city;
  - (d) the provisions of section 33 of the *Interpretation Act* apply and all bylaws made and having effect in the areas referred to in Schedule 1 shall continue to have effect until they are revoked or others made in their stead;
  - (e) any debentures or security documents issued by a municipality referred to in Schedule 1 or a utility within a municipality shall

continue to have effect with the substitution of the City of Summerside for the issuing authority;

(f) repealed by 1995, c.38, s.6;

(g) any reference in any enactment or other document to the Town of Summerside shall be construed as a reference to the City of Summerside;

(h) all existing employees of the municipalities referred to in Schedule 1 and sewerage, water or electric utilities (excluding Maritime Electric) shall become employees of the city.

2.1 (1) For the avoidance of doubt, the projected expenditures of the city upon which the rate or rates of municipal taxation for the fiscal year 1995 shall be based shall include

(a) the expenditures of the existing municipalities for the period January 1, 1995, to March 31, 1995;

(b) the expenses incurred by the council incidental to the transition to this Act; and

(c) the projected expenditures of the city for the period April 1, 1995, to December 31, 1995.

(2) For fiscal year 1995, the council may

(a) maintain the 1994 rates of municipal taxation for the period January 1, 1995, to March 31, 1995, for those portions of the city which were former municipalities or parts thereof, and fix a separate rate or rates of taxation for the city for the period April 1, 1995, to December 31, 1995; or

(b) fix a blended rate or rates of taxation applicable for the period January 1, 1995, to December 31, 1995.

3. (1) The Minister responsible for government reform shall appoint a body of persons including civil servants and residents of the areas referred to in Schedule 1 to manage the transition.

(2) The Lieutenant Governor in Council shall, following consultation with the body appointed pursuant to subsection (1), exercise the powers of the council set out in section 4 and section 13 of the Act for the first election to be held.

(3) Notwithstanding section 12 of the Act, the first election of the council shall be held on October 3, 1994.

4. Subject to subsection 76(2), the council, in consultation with the body referred to in paragraph 3, and trade unions representing the employees of the City of Summerside and the other municipalities referred to in Schedule 1, and the representatives of employees with no union representation, shall develop a process for



(a) the determination of appropriate bargaining units;  
(b) the negotiation of the terms and conditions applicable to employment by the City of Summerside as reconstituted pursuant to this Act, including successor rights, job security and seniority;  
(c) the expedited resolution of disputes; and  
(d) the determination of transitional and jurisdictional matters,  
but, if the parties are unable to agree on a process for the resolution of disputes, such disputes shall be resolved by an arbitrator appointed by the Minister and such arbitrator shall have final and binding authority.

4.1 (1) Where the parties to the process provided for in section 4 agree on a method for the expedited resolution of disputes, the Minister may pay, or contribute to, the remuneration and expenses of the mediator-arbitrator to a maximum amount to be determined by the Lieutenant Governor in Council.

(2) The Minister may appoint a person to facilitate an agreement or agreements among the parties on the matters outlined in clauses 4(a) to (d).

(3) Where an arbitrator is appointed pursuant to section 4, the Minister may order that the remuneration and expenses of the arbitrator be paid by the parties in such proportions as the Minister may determine.

(4) An arbitrator may

- (a) make a final and binding award on any of the issues referred to in clause 4(a), (b) or (d);
- (b) issue interim or final awards;
- (c) determine and adopt such rules and procedures as he or she considers appropriate.

(5) An award, decision, interim order, direction, declaration, or ruling of the arbitrator is final and binding, and shall not be questioned, challenged, or reviewed by the Labour Relations Board (Prince Edward Island) or in proceedings before any court, and no order shall be made, processed, or entered, or proceedings taken in any court, whether by way of an application for judicial review or otherwise, to question, review, prohibit, or restrain the arbitrator, or any of his or her proceedings.

(6) For greater certainty, it is declared that

- (a) the Labour Relations Board has no jurisdiction over the matters described in clauses 4(a) to (d);
- (b) subsection 7(2), sections 12 to 18, section 20, section 38 and subsections 39(2) to (6) of the *Labour Act* do not apply to the city, a sewerage and water utility, or any of their employees.

(7) Subsection (6) ceases to have effect on such date as the Lieutenant Governor in Council may determine.

(8) References to an arbitrator in subsections (4) and (5) include a mediator-arbitrator appointed in accordance with a method agreed upon by the parties for the expedited resolution of disputes.

5. (1) For the purposes of an effective transition with respect to employment and following consultation with the trade unions and representatives of employees with no union representation the council shall establish a workforce adjustment program.

(2) Provided that qualified persons are available, the staff or officer positions shall be filled by competition among the employees of the existing municipalities affected by this Act.

(3) Notwithstanding subsection (2), there may be an open competition for the selection of the chief administrative officer and the appointment shall be made on the basis of the merit principle.

6. Until April 1, 1995, or such time as the transitional arrangements made under this Act cease to have effect, whichever is the earlier date the following matters shall require the approval of the Minister:

- (a) the sale of any assets or assumption of liabilities;
- (b) the setting or amending of any tax rates;
- (c) the purchase of any capital assets other than for maintenance purposes;
- (d) any new estimates or budgets or amendments to any existing estimates or budgets;
- (e) new bylaws or amendments to existing bylaws;
- (f) new official plans or amendments to existing official plans;
- (g) new subdivisions of land or amendments to existing subdivisions of land;
- (h) new contracts or amendments to existing contracts.

7. For the first elections to be held "ordinarily resident" or "resident", for the purposes of clause 5(4)(c), subsections 5(5) and 14(1) of the Act means resident within the boundaries of the city as set out in Schedule 1.

8. Notwithstanding clause 2(b) and subsection 15(5) of the *Municipalities Act* R.S.P.E.I. 1988, Cap. M-13, the Lieutenant Governor in Council may, by order published in the Gazette, extend the term of office of any or all councils of the municipalities listed in Schedule 1.

9. Notwithstanding section 38, a council or a municipal utility corporation may incur a deficit in its estimates or budget in respect of its

expenditures, not exceeding five per cent of its real property assessment on January 1, 1994.

10. The council may, during the period from its first election to the time of taking office, incur expenses incidental to the transition to this Act and those expenses shall be expenses of the city.

11. Notwithstanding any other provision of the Schedule, it is the duty of a council or any water, sewerage or electric utility (excluding Maritime Electric) which has jurisdiction or the government of the province to continue to provide services in the same manner as before this Act comes into force until the services are provided by the council for the city under this Act and their assets and liabilities are taken over by the city.

12. Notwithstanding subsection 5(3), the Lieutenant Governor in Council shall establish the salaries and allowances of the mayor and councillors until the transitional arrangements under this Act cease to have effect.

13. (1) There shall be elections held in accordance with the *Municipalities Act* in the communities of Linkletter and Sherbrooke on March 6, 1995, with the new council taking office on April 1, 1995.

(2) Notwithstanding subsection (1), the election held in accordance with the *Municipalities Act* in the community of Sherbrooke on April 11, 1995, is ratified and confirmed, and the next election for the Community of Sherbrooke shall take place in accordance with section 48 of that Act.

14. Notwithstanding any provision of the *Municipalities Act*, the Council of a community that will be dissolved in consequence of the reorganization effected by this Act is not required to hold an annual meeting in March, 1995.

15. In respect of the City of Summerside, the references in subsections 8.(2) and (2.1) of the *Real Property Tax Act* to March 31 shall in relation to the calendar year 1995 be deemed to be references to April 30.

1995, c.38, s.6

**SCHEDULE 3**

**CONSEQUENTIAL AMENDMENTS**

*Column I*

*Area Industrial Commission Act*  
R.S.P.E.I. 1988, Cap. A-20

*Dog Act*  
R.S.P.E.I. 1988, Cap. D-13

*Highway Traffic Act*  
R.S.P.E.I. 1988, Cap. H-5

*Municipal Boundaries Act*  
R.S.P.E.I. 1988, Cap. M-11

*Municipalities Act*  
R.S.P.E.I. 1988, Cap. M-13

*Trustee Act*  
R.S.P.E.I. 1988, Cap. T-8

*Column II*

Section 13 is amended by the deletion of the word "Town" and the substitution of the word "City" and by the deletion of the words "or Town".

Clause 1(i) is amended by the deletion of the word "Town" and the substitution of the word "City".

Subsection 136(4) is amended by the deletion of the word "Town" and the substitution of the word "City".

Clause 1(a) is amended by the deletion of the word "Town" and the substitution of the word "City".

Clause 11(b) is amended by the deletion of the word "Town" and the substitution of the word "City".

Schedule 1 is amended by the deletion under the heading Villages of the words "St. Eleanors" and "Wilmot".

Clause 2(1)(e) is amended by the deletion of the word "Town" and the substitution of the word "City".