

PART XXI

GENERAL

Lawful direction to act and inspections

503 (1) Where a council, village commission, committee or community council or the engineer, the administrator or another employee of a municipality lawfully directs that anything be done and it is not done, the council, *village commission*, engineer, administrator or employee may cause it to be done at the expense of the person in default.

(2) No action shall be maintained against a municipality, *a village* or any agent, servant or employee of the municipality *or the village* for anything done pursuant to this Section.

(3) Where an inspection is required or conducted pursuant to a by-law or an enactment

(a) the inspector may enter in or upon land or premises at a reasonable time without a warrant;

(b) except in an emergency, the inspector shall not enter a room or place actually being used as a dwelling without the consent of the occupier, unless the entry is made in daylight hours and written notice of the time of the entry is given to the occupier at least twenty-four hours in advance;

(c) and where a person refuses to allow the inspector to exercise, or attempts to interfere or interferes with the inspector in the exercise of, a power granted pursuant to this Act, the inspector may apply to a judge of the Supreme Court of Nova Scotia for an order

(i) to allow the inspector entry to the building, and

(ii) restraining a person from further interference; and

(d) it is an offence to refuse access to an inspector or to interfere with an inspector in the exercise of a power granted pursuant to this Act.

No liability

504 (1) Where a municipality *or a village* inspects buildings or other property pursuant to this Act or another enactment, the municipality *or the village* and its officers and employees are not liable for a loss as a result of the manner or extent of an inspection or the frequency, infrequency or absence of an inspection, unless the municipality *or the village* was requested to inspect at appropriate stages, and within a reasonable time, before the inspection was required, and either the municipality *or the village* failed to inspect or the inspection was performed negligently.

(2) An inspection is not performed negligently unless it fails to disclose a deficiency or a defect that

(a) could reasonably be expected to be detected;
and

(b) the municipality *or the village* could have ordered corrected.

(3) Notwithstanding the *Limitation of Actions Act* or another statute, a municipality *or a village* and its officers and employees are not liable for a loss as a result of an inspection or failure to inspect, if the claim is made more than six years after the date of the application for the permit in relation to which the inspection was required.

(4) If a municipality *or a village* receives a certification or representation by an engineer, architect, surveyor or other person held out to have expertise respecting the thing being certified or represented, the municipality *or the village* and its officers and employees are not liable for any loss or damage caused by the negligence of the person so certifying or representing.

Offence and penalty

505 (1) A person who

(a) violates a provision of this Act or of an order, regulation or by-law in force in accordance with this Act;

(b) fails to do anything required by an order, regulation or by-law in force in accordance with this Act;

(c) permits anything to be done in violation of this Act or of an order, regulation or by-law in force in accordance with this Act; or

(d) obstructs or hinders any person in the performance of their duties under this Act or under any order, regulation or by-law in force in accordance with this Act,

is guilty of an offence.

(2) Unless otherwise provided in a by-law, a person who commits an offence is liable, upon summary conviction, to a penalty of not less than one hundred dollars and not more than ten thousand dollars and in default of payment, to imprisonment for a term of not more than two months.

(3) Every day during which an offence pursuant to subsection (1) continues is a separate offence.

(4) In addition to a fine imposed for contravening a provision of this Act, a regulation or a by-law of a municipality made pursuant to this Act, a judge may order the person to comply with the provision, order, regulation or by-law under which the person was convicted, within the time specified in the order.

(5) Any person who fails to comply with an order under subsection (4) is guilty of an offence.

Offence and penalty

506 A person who removes, defaces or makes illegible a notice or order posted pursuant to this Act is guilty of an offence and is liable, on summary conviction, to a penalty of not less than *one hundred dollars nor more than* five thousand dollars and in default of payment, to imprisonment for a period of not more than ninety days.

Cost of work is first lien

507 Where a council, village commission, committee or community council or the engineer, the administrator or another employee of a municipality lawfully causes work to be done pursuant to this Act, the cost of the work, with interest at the rate determined by the council, *or by the*

village commission, by by-law, by policy, from the date of the completion of the work until the date of payment, is a first lien on the property upon which, or for the benefit of which, the work was done.

Offence and penalty

508 Where no penalty is specified for the violation of this Act, a person who contravenes the provision is guilty of an offence and is liable, on summary conviction, to a penalty of not less than one hundred dollars and not more than five thousand dollars and in default of payment, to imprisonment for a period of not more than ninety days.

Service of notice by registered mail

509 ~~A notice required pursuant to this Act may be served on a person or body by mailing it by registered mail to that person at the latest address shown on the assessment roll.~~

509 (1) *Any notice, decision or other document required to be served pursuant to this Act may be served personally, by mailing it to the person at the latest address shown on the assessment roll, by electronic mail or by facsimile.*

(2) *A notice, decision or other document is deemed to have been served on the third day after it was sent.*

Service on clerk sufficient

510 Where notice is authorized or required to be served on a municipality or village, service on the clerk is sufficient service.

Action brought in corporate name

511 An action brought by or against a municipality or village shall be brought by or against it in its corporate name.

Limitation of Actions Act

512 (1) For the purpose of the *Limitation of Actions Act*, the limitation period for an action or proceeding against a municipality or village, the council, a council member, a village commissioner, an officer or

employee of a municipality or village or against any person acting under the authority of any of them, is twelve months.

(2) Subsection (1) applies, with all necessary changes, to a service commission and a board, commission, authority, agency or corporation of a municipality or a board, commission, authority, agency or corporation jointly owned or established by municipalities or villages.

(3) No action shall be brought against any parties listed in subsection (1) or (2) unless notice is served on the intended defendant at least one month prior to the commencement of the action stating the cause of action, the name and address of the person intending to sue and the name and address of that person's solicitor or agent, if any.

No liability

513 (1) A municipality or village, and its officers and employees, are not liable for

(a) failure to provide a service or the manner in which a service is provided, unless the municipality or village fails to meet a standard of care to be determined having regard to financial, economic, personnel, social, political and other factors or constraints in the circumstances, including whether the service is a volunteer or partly volunteer service;

(b) failure to maintain a public place, that is subject to the direction, control and management of the municipality or village, in a reasonable state of repair, unless the municipality or village has actual or constructive notice of the state of disrepair and fails to take steps to remedy or otherwise deal with the state of disrepair within a reasonable time;

(c) failure to enforce a by-law, unless the decision not to enforce the by-law is not made in good faith.

(2) Where an overflow of water from a sewer, drain, ditch or watercourse is a consequence of snow, ice or rain, a municipality or village is not liable for a loss as a result of the overflow.

No liability

514 A municipality or village, and its officers and employees, are not liable for damages caused

- (a) directly or indirectly, by
 - (i) the operation, maintenance, repair, breaking or malfunction of wastewater facilities, a stormwater system or a water system, or
 - (ii) interference with the supply of water through a water system,

unless the damages are shown to be caused by the negligence of the municipality or village or its officers or employees;

(b) by the discharge of sewage or water into premises from a municipal sewer unless the discharge was caused by the improper construction, or neglect in the maintenance of, the sewer or a failure to remedy a matter that was known, or reasonably should have been known, to the municipality or village and should reasonably have been repaired; or

(c) in any case, where this Act or the by-laws of the municipality or village have not been complied with by an owner or previous owner of the property.

No liability

515 (1) Where a municipality or village operates a utility or provides a service, it is not liable for a loss as a result of the breakage of a pipe, conduit, pole, wire, cable or a part of the utility or service or the discontinuance or interruption of a service or connection by reason of

- (a) accident;
- (b) disconnection for non-payment or non-compliance with a term or condition of service; or
- (c) necessity to repair or replace a part of the utility or service.

(2) A municipality or village is not liable for nuisance as a result of the construction or operation of a work, if the nuisance could not be avoided by any other practically feasible method of carrying out the work.

Right of indemnity

516 Where a municipality or village is found liable for damages as a result of the unsafe condition of a street or sidewalk, or of a nuisance or encumbrance on it, the municipality or village has a right of indemnity for all such damages, and for costs and expenses incurred in connection therewith, against any person whose act or omission caused the street or sidewalk to be unsafe or caused the nuisance or encumbrance.

Right of indemnity

517 (1) Where a municipality is found liable for damages as a result of the unsafe condition of a street, bridge or sidewalk that was transferred to it by Her Majesty in right of the Province, it has a right of indemnity for all such damages, and for costs and expenses incurred in connection therewith, against Her Majesty.

(2) Subsection (1) does not apply to a street, bridge or sidewalk

(a) reconstructed or substantially rebuilt or repaired by the municipality; or

(b) after ten years from the date on which it was transferred to the municipality.

Requirement to consult with Union

518 The Minister shall consult with the executive of the Union of Nova Scotia Municipalities respecting any proposed amendment to this Act.

Requirement to notify Union

519 (1) The Minister shall notify the Union of Nova Scotia Municipalities at least one year prior to the effective date of any legislation, regulation or administrative action undertaken by or on behalf of the Government of the Province that would have the effect of decreasing the

revenue received by municipalities in Nova Scotia or increasing the required expenditures of municipalities in Nova Scotia.

(2) Subsection (1) does not apply with respect to any legislation, regulation or administrative action applying to the Province generally and not mainly to municipalities.

Regulations

520 (1) The Minister may make regulations

(a) defining any term used, but not defined, in this Act;

(b) prescribing forms and procedures for the purpose of this Act;

(c) altering forms set out in this Act;

(d) [for] the effective administration of this Act;
and

(e) [for] the collection, standardization, maintenance and sharing of information related to the subdivision and development of land.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.