

1972

c 190 The City of Sarnia Act, 1972 (No. 1)

Ontario

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CHAPTER 190

An Act respecting the City of Sarnia

*Assented to April 27th, 1972**Session Prorogued December 15th, 1972*

WHEREAS The Corporation of the City of Sarnia, herein^{Preamble}
 called the Corporation, hereby applies for special
 legislation in respect of the matters hereinafter set forth;
 and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent
 of the Legislative Assembly of the Province of Ontario, enacts
 as follows:

1. The council of the Corporation may pass by-laws to pay^{Authority}
 for and provide, either at all times or within specified times, ^{to pass}
 free transportation or transportation at reduced fares upon ^{by-laws}
 the public bus transportation in the City of Sarnia to those ^{re bus}
 residents of the City of Sarnia who are recipients of benefits ^{fares}
 under the *Old Age Security Act* (Canada), the benefits pro-^{R.S.C. 1970,}
 vided by the Government of Ontario or the Government of ^{C. 9-6}
 Canada, or by any other Government either within Canada or
 elsewhere, on the basis of advanced age, or to any class of such
 residents, or to those residents who are in receipt of benefits
 provided by the Government of Ontario or the Government
 of Canada, or by any other Government either within Canada
 or elsewhere, by reason of blindness or any other physical
 handicap or any mental handicap, and to provide in such by-law
 or by-laws for paying for such transportation or for the making
 of grants to Sarnia Transit Company Limited or to such other
 person, corporation or commission as may be providing public
 bus transportation in the City of Sarnia to cover the cost of
 providing such transportation.

2.—(1) In this section,

Interpre-
 tation

- (a) "Corporation" means The Corporation of the City of Sarnia;
- (b) "inspector" means the person or persons from time to time designated by the council of the Corporation to enforce the provisions of a by-law passed under this section;

- (c) "non-residential property" means a building or structure or part of a building or structure not occupied in whole or in part for the purposes of human habitation, with the land and premises appurtenant thereto, and all outbuildings, fences or erections thereon or therein;
- (d) "order" means a notice of violation and order to demolish or repair a non-residential property pursuant to a by-law passed under this section;
- (e) "owner" includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, or a vendor of such land under an agreement for sale who has paid any municipal taxes thereon after the effective date of the agreement, or the person for the time being receiving instalments of the purchase price of the land or premises in connection with which the word is used sold under an agreement for sale whether on his own account or as agent or trustee for any other person or who would so receive the instalments of the purchase price if such land or premises were sold under an agreement for sale;
- (f) "repair" includes taking the necessary action to bring any non-residential property to the standards;
- (g) "standards" means the standards for the maintenance and improvement of the physical condition and for the fitness for occupancy prescribed by a by-law passed under this section.

Authority to
pass by-laws

- (2) The council of the Corporation may pass by-laws,
 - (a) for providing standards for non-residential property or any class or classes thereof within the municipality or within any defined area or areas and for prohibiting any person from using, permitting to be used, renting or offering to rent any such non-residential property that does not conform to the standards;
 - (b) for requiring the owner of any non-residential property and, to the extent that he is made responsible by the lease or agreement under which he occupies the property, the occupant thereof to repair and maintain the non-residential property in accordance with the standards or demolish the whole or any part of the non-residential property;

(c) for appointing one or more inspectors for the administration and enforcement of the by-laws; and

(d) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section except by such persons and under such circumstances as may be prescribed therein.

(3) Where the owner of any non-residential property is unable to pay the expenses of making same conform to the standards required by the by-law, the Corporation may advance money to or for the benefit of such owner to the extent necessary to pay such expenses. Loans for repairs to non-residential property

(4) The Corporation shall have a lien upon the non-residential property in respect of which an advance as provided in subsection 3 is made for the amount of such advance together with interest thereon at a rate to be fixed from time to time by the council but which shall not exceed one-half of 1 per cent above the current long-term borrowing rate of the Corporation and the amount of such advance with the interest thereon shall be repayable to the Corporation by the owner of such non-residential property on such terms and conditions and over such period not to exceed twenty years as the council may prescribe in the same manner and at the same time as the municipal real property taxes in respect of the said non-residential property. Lien

(5) Notwithstanding subsection 4, upon the non-residential property ceasing to be owned by the owner to or for whose benefit the advance was made, the amount of the advance and the interest thereon in their full remaining balance may, at the option of the Corporation become immediately due and payable and may be collected in the same manner as real property taxes. Option of Corporation

(6) A certificate of the clerk of the municipality setting out the amount advanced or to be advanced to or for the benefit of any owner under the provisions of subsection 3 or setting out the amount expended or to be expended by or on behalf of the Corporation under the authority of subsection 7, including the rate of interest thereon, together with a description of the non-residential property in respect of which any such amount was advanced or expended, or is to be advanced or expended, sufficient to identify the said non-residential property shall be registered in the proper registry office or land titles office against the said non-residential property upon proof by affidavit of the signature of the clerk, and upon payment in full to the Corporation of any such amount advanced Certificate of lien for registration

or expended and the interest thereon, a certificate of the said clerk showing such repayment shall be similarly registered and the non-residential property shall thereupon be freed from liability in respect of the amount advanced or expended and the interest thereon and from the lien arising therefrom.

Power of
corporation
to repair or
demolish

(7) If the owner or occupant of a non-residential property fails to demolish the non-residential property or to repair in accordance with an order as confirmed or modified, the Corporation in addition to all other remedies,

- (a) shall have the right to demolish or repair the non-residential property accordingly and to do any work on adjoining property necessitated by such demolition or repair, and for those purposes with its servants and agents from time to time to enter in and upon the non-residential property and adjoining property;
- (b) shall not be liable to compensate such owner, occupant or any other person by reason of anything done by or on behalf of the Corporation under the provisions of this subsection; and
- (c) shall have a lien for any amount expended by or on behalf of the Corporation under the authority of this subsection, together with interest thereon at a rate to be fixed in the manner provided in subsection 4 upon the non-residential property in respect of which such amount was expended, and the certificate of the clerk of the municipality as to such amount shall be final, and such amount shall be deemed to be taxes and may be added to the collector's roll to be collected in one year or to the proper collectors' rolls to be collected by instalments over a period of not more than five years and the amount or each instalment may be collected in the same manner as municipal real property taxes.

Enforcement

R.S.O. 1970,
c. 284

(8) Notwithstanding any other Act, a by-law passed under the authority of this section shall be enforceable in the same manner as a by-law passed under the authority of *The Municipal Act*, and any such by-laws may impose penalties of not more than \$1,000, exclusive of costs, upon every person who contravenes any provision of this section or of any by-law passed under the authority of this section.

Notice to
mortgagees
and others

(9) Before proceeding under subsection 3, the Corporation shall notify the mortgagee, vendor under agreement for sale or other encumbrancer appearing on the registered title by registered letter, specifying wherein the said non-residential property, building or premises are defective and if the defects

are not remedied within one month from such notification, then the provisions of subsection 3 apply.

(10) For the enforcement of any by-law passed under the authority of this section, the inspector and any person acting under his instructions shall have the same right to enter, inspect and examine any non-residential property or premises as an inspector under section 87 of *The Public Health Act*, and sections 87, 116 and 117, subsections 2 and 3 of section 118 and section 119 of the said Act shall, *mutatis mutandis*, apply.

Power of
inspector
to enter
upon non-
residential
property

R.S.O. 1970,
c. 377

(11) Where a conviction has been recorded against any person in respect of a non-residential property that does not conform to a by-law passed under the authority of this section, or where the owner or occupant of a non-residential property fails to demolish the non-residential property or to repair in accordance with an order as confirmed or modified, the inspector may order that such non-residential property be closed and remain closed, and prohibit its use as a non-residential property until the condition has been rectified, provided that notice thereof is given forthwith to the owner or to an adult person in the non-residential property, and in addition the inspector may give such notice to occupants and prospective occupants by posting signs or placards on the premises or by such other method as he considers necessary.

Powers to
close non-
residential
property and
prohibit its
use

(12) A by-law passed under the authority of this section may authorize an official named in the by-law to issue a certificate as to what proceedings, if any, are being taken as of the date of the certificate, and the amount of money advanced pursuant to the provisions of this section or the provisions of any by-law to provide for the safety of buildings, and may authorize the collection of a fee for the issue of any such certificate.

Progress
certificates
authorized

(13) If after inspection the inspector is satisfied that in some respect any non-residential property violates the standards he may make an order, in which case he shall serve or cause to be served upon the registered owner of the non-residential property and all persons shown by the records of the registry office, the land titles office and the sheriff's office to have an interest therein and all occupants known to him over the age of eighteen years, a copy of the order, and notwithstanding the foregoing, any by-law passed pursuant to this section may be enforced in accordance with subsection 8, provided that the inspector has sent or caused to be sent a copy of such order to the owner of the non-residential property against whom such proceeding is taken by prepaid registered mail to his last known address.

Notice of
violation

Contents
of order

(14) The order shall contain,

- (a) a description of the non-residential property sufficient to identify and locate it;
- (b) the particulars of the violation and the time in which the demolition or repair to bring the non-residential property to the standards is to be made;
- (c) the final date for giving notice of appeal, if any, from the order; and
- (d) the form of notice of appeal which shall be annexed to the order and which shall show the place to which the notice of appeal must be sent.

Substituted
service

(15) If the inspector is unable to locate or serve the owner or any other person on whom he desires to serve an order or where it is ascertained that the owner or any such person is not within Ontario, the inspector may send or cause to be sent by prepaid registered mail a copy of such order addressed to such owner or other persons at his or their last known address and he may place a placard containing the terms of the order in a conspicuous place on the property, and the sending of the copy of the order and the placing of the placard shall be deemed to be sufficient service of the order on the owner or other persons.

Duty of
owner or
occupant
on receipt
of notice

(16) When an order has been served in accordance with this section, unless he has given notice of appeal in accordance with this section or, when an order has been sent by prepaid registered mail, the owner and the occupant, if he is liable, shall carry out the repair or demolition within the time and in the manner specified in the order.

Appeal

(17) When the owner or occupant who has been served in accordance with this section is not satisfied that the non-residential property should be demolished or that the repair ordered is necessary to bring the existing conditions up to the standards, he may give notice of appeal to the non-residential standards appeal committee by returning the notice of appeal in the form annexed to the order to the clerk of the municipality within fifteen days after service of the order on him as herein provided, and, in the event that no notice of appeal is given, the order shall be deemed to have been confirmed.

Decision
on appeal

(18) Where notice of appeal is given in accordance with this section, after affording a reasonable opportunity to every person on whom an order has been served to make such representations as he sees fit, and after inspecting the non-residential

property, in the presence of any such person if so requested by him in writing, the committee shall have the powers and functions of the inspector and may confirm the order to demolish or repair or may modify or discharge it, provided that nothing herein shall authorize the committee to permit a breach of any by-law passed hereunder.

(19) Any person or corporation affected by a decision of ^{Appeal to judge} the non-residential standards appeal committee may appeal the decision to a judge of the county court of the County of Lambton by so notifying the clerk of the Corporation in writing and by applying for an appointment within fifteen days after notice of the decision has been given, and

- (a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;
- (b) the appointment shall be served in the manner prescribed at least one month before the day appointed for the hearing of the appeal; and
- (c) the judge on such appeal has the same powers and functions as the non-residential standards appeal committee.

(20) The order as deemed to have been confirmed pursuant ^{Effect of decisions} to subsection 17 or as confirmed or modified by the non-residential standards appeal committee or, in the event of an appeal to the judge pursuant to subsection 19, as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order, as so confirmed or modified.

(21) When an order has been served in accordance with ^{Registration of order} subsection 13 or 15, the order may be registered in the proper registry office or registered as a caution in the proper land titles office, and, when so registered all conveyances, mortgages, leases or other dispositions of the land to which the order applies and all interests acquired under any such conveyances, mortgages, leases or dispositions shall be subject to such order as confirmed or modified, and such order shall be an encumbrance on the land.

(22) When the requirements of the order have been satisfied ^{Discharge of order} the city clerk shall deliver to any interested person a certificate that the order has been so satisfied, and such certificate may be registered in the same manner as the order and shall operate as a discharge thereof.

Non-residential
standards
appeal
committee

(23) When the council of the Corporation has passed a by-law under this section it shall constitute and appoint a non-residential standards appeal committee composed of five persons as the council considers desirable.

Term of
office

(24) Members of the committee shall hold office for three years and until their successors are appointed, and are eligible for re-appointment, and, when a member ceases to be a member before the expiration of his term, the council shall appoint another person for the unexpired portion of his term.

Chairman

(25) The committee may elect its own chairman and vice-chairman who shall preside in the absence of the chairman.

Secretary

(26) The committee may appoint a secretary.

Quorum

(27) Three members of the committee are a quorum.

Procedure

(28) The committee may adopt its own rules of procedure.

Notice

(29) The committee, before hearing an appeal, shall give notice of the hearing and, after hearing an appeal, of the result thereof, in such manner and to such persons as the committee considers proper.

Oaths

(30) The chairman and vice-chairman of the committee may administer oaths.

Remunera-
tion

(31) The members of the committee may be paid such remuneration as the council provides.

Furnishing
of copy of
order

(32) No person shall sell, mortgage, lease or agree to sell, mortgage or lease any non-residential property in respect of which an order has been served under this section or any by-law passed hereunder without first having furnished any proposed purchaser, mortgagee, lessee with a true copy of such order.

Owner's
right of
entry

(33) Every owner shall have the right to enter and repair any non-residential property pursuant to an order, notwithstanding anything contained in or resulting from a lease or agreement pursuant to which possession of the non-residential property has been given to another person.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. This Act may be cited as *The City of Sarnia Act, 1972*.