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c 108 The City of Thunder Bay Act, 1977

Ontario
CHAPTER 108

An Act respecting the City of Thunder Bay

Assented to December 16th, 1977

WHEREAS The Corporation of the City of Thunder Bay, herein called the Corporation, represents that for the purpose of constructing one or more pedestrian promenades as part of a redevelopment plan under section 22 of The Planning Act, the council of the Corporation requires powers in addition to any which it may have under any general or special Act; and whereas the Corporation hereby applies for special legislation for such purpose; 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. In this Act,

(a) “enclosed or covered pedestrian promenade” includes a pedestrian promenade which is,

(i) wholly or partly enclosed, or

(ii) wholly or partly covered;

(b) “highway” includes a common and public highway, a street, lane, sidewalk, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, intended for or used by the general public for the passage of vehicular or pedestrian traffic;

(c) “occupant” means any person or persons over the age of eighteen years in possession of the land, building, structure or premises in connection with which the word is used;

(d) “owner” includes the person for the time being managing or receiving the rent of the land, building, structure 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, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property;

(c) "pedestrian promenade" means a pedestrian promenade established under this Act.

2. (1) Notwithstanding any general or special Act, the council of the Corporation, for the purpose of carrying out a redevelopment plan under section 22 of The Planning Act, may pass by-laws for,

(a) establishing all or any part of any highway under the jurisdiction of the Corporation solely or principally as a pedestrian promenade;

(b) regulating or prohibiting the access to and the use of a pedestrian promenade by persons or vehicles or any class thereof except to such extent or for such period or periods of time as may be specified;

(c) permitting the obstruction of any highway established as a pedestrian promenade in such manner and to such extent as the by-law may provide;

(d) subject to The Building Code Act, 1974, constructing, maintaining and operating pedestrian promenades;

(e) subject to The Building Code Act, 1974, enclosing or covering, wholly or partly, a pedestrian promenade;

(f) requiring the owner of any land abutting, or of any building or structure situate on land abutting a pedestrian promenade to permit the installation or attachment of any structure or thing required to enclose or cover, wholly or partly, a pedestrian promenade, on or to the land, building or structure of such owner;

(g) authorizing the Corporation to enter into agreements with the owners of lands, buildings, or structures abutting a pedestrian promenade for the construction, maintenance, use and operation of such pedestrian promenade and such agreements when registered on the title of the land shall run with the land to the benefit of the Corporation;
(h) requiring the owners of the whole or any part of any building or structure situate on lands abutting an enclosed or covered pedestrian promenade to provide and maintain in or for the building or structure or part thereof, such heating, ventilating, air conditioning, fire sprinkler, fire alarm and fire prevention and control systems and facilities as the by-law may require and regulating the time and manner of operation of such systems;

(i) regulating and controlling the construction, maintenance and use of all doors, windows and other openings to an enclosed or covered pedestrian promenade whether from a highway abutting the pedestrian promenade or from lands or from buildings or structures situate on lands abutting the pedestrian promenade;

(j) regulating the exchange of air, heat, sound, odour and light between an enclosed or covered pedestrian promenade and buildings or structures situate on lands abutting the pedestrian promenade;

(k) prohibiting the occupancy or use of the whole or any part of any building or structure that does not comply with, or is used in a manner contrary to, the by-law;

(l) prohibiting access to an enclosed or covered pedestrian promenade from lands, buildings and structures abutting thereon in respect of which there is a contravention of a by-law enacted pursuant to clause g, h, i, j or k or for reasons of safety;

(m) entering into leases and licensing agreements respecting areas in or on a pedestrian promenade with such persons, and for such purposes as the council of the Corporation considers appropriate including purposes otherwise prohibited, regulated or governed by by-laws passed pursuant to The Municipal Act, R.S.O. 1970, c. 264, and upon such terms as the council of the Corporation may deem desirable; and

(n) prohibiting persons from soliciting or importuning in or on a pedestrian promenade others to travel in or employ any vehicle or vessel, or to go to any motel, hotel, tourist home, restaurant, auction, game, exhibition, display, theatre, show or other place for the lodging, reception, refreshment, amuse-
(2) A by-law passed for the purposes of clause h, i, j or k of subsection 1 shall be deemed to have been passed pursuant to section 36 of *The Planning Act* and subsections 1 and 4 to 23 of the said section 36 apply, with all necessary modifications, to any such by-law.

3.—(1) A by-law passed pursuant to this Act may provide, with the approval of the Ontario Municipal Board, that the capital cost of any enclosed or covered pedestrian promenade or any part thereof or any operating deficit in the previous year or any part thereof shall be levied as a special rate against the lands in a defined area within the redevelopment area that in the opinion of the council of the Corporation derive special benefit therefrom, provided the by-law shall have appended thereto a schedule establishing the portion of the cost that shall be levied against each parcel of land in the defined area.

(2) Where a by-law includes provision for a special rate pursuant to subsection 1, the entire costs chargeable to lands in the defined area shall be apportioned among all the parcels by any or all or any combination of the following methods,

(a) in accordance with the benefits accruing to a parcel of land from the establishment or operation of the enclosed or covered pedestrian promenade;

(b) in the proportion that the assessment of each parcel of land bears to the total assessment of the parcels in the defined area;

(c) by an equal special rate per foot of frontage of the parcels of land abutting directly on the enclosed or covered pedestrian promenade, according to the extent of their respective frontages thereon.

(3) Where the council of the Corporation is of the opinion that any parcel of land has not benefitted from the establishment of an enclosed or covered pedestrian promenade to the same extent as other parcels within a defined area, the council of the Corporation may, in the by-law levying the costs, exempt such parcel from the special rate or make a reduction in the amount of the costs that would otherwise be levied against that parcel.

(4) The council of the Corporation may by general by-law or by a by-law applicable to the particular pedestrian promenade prescribe the terms and conditions upon which
persons whose lands are specially charged may commute for a payment in cash the special rate imposed thereon in respect of the capital costs of a pedestrian promenade.

(5) The net revenue derived from the operation of the enclosed or covered pedestrian promenade shall be used firstly to reduce any special rate levied under subsection 1 to be made against the lands in a defined area in the proportion that the special rate made against each parcel of land bears to the total special rate.

(6) Where, subsequent to the effective date of the by-law imposing a special rate pursuant to subsection 1, the council of the Corporation is of the opinion that,

(a) the special benefit derived from the enclosed or covered pedestrian promenade by a parcel of land in the defined area has increased or decreased from that shown in the by-law;

(b) a parcel of land in the defined area has begun to derive or has ceased to derive a special benefit from the enclosed or covered pedestrian promenade; or

(c) a parcel of land outside the defined area has begun to derive a special benefit therewith,

the council of the Corporation may at any time and from time to time by a by-law, passed with the approval of the Ontario Municipal Board,

(d) reapportion the balance of the costs mentioned in subsection 1 so that such costs shall be apportioned against each parcel of land that, in the opinion of the council of the Corporation, derives such special benefit; and

(e) redefine the area in the municipality that, in the opinion of the council of the Corporation, contains the lands that derive a special benefit from the enclosed or covered pedestrian promenade.

(7) The special rates imposed under this section shall be deemed to be taxes, and the provisions of The Municipal Act as to the collection and recovery of taxes and the proceedings that may be taken in default of payment thereof, apply.

4. Part XXI of The Municipal Act applies to a by-law enacted pursuant to section 2.
5. This Act comes into force on the day it receives Royal Assent.

6. The short title of this Act is *The City of Thunder Bay Act, 1977*. 