



March 16, 2018

Victoria Woodworth-Lynas
Legislative Renewal Director
Department of Municipal Affairs and Environment
PO Box 8700
St. John's, NL A1B 4J6 Canada

Dear Ms. Woodworth-Lynas

The following is a joint submission from the City of Corner Brook and the City of Mount Pearl to the Department of Municipal Affairs and Environment in response to your initiative to review municipal legislation.

The Cities welcome the opportunity to work with the Department of Municipal Affairs and Environment to take a fresh look at renewing our legislation.

Please do not hesitate to contact us if you have any questions or concerns.

Sincerely

JIM PARSONS
Mayor
City of Corner Brook

DAVE AKER
Mayor
City of Mount Pearl

1. Definition of Real Property

<p>City of Mount Pearl Act 2(h)</p>	<p>Reference: s.2(s) MA (Municipalities Act) – s.2(h) CMPA (City of Mount Pearl Act) The City of Mount Pearl would like to have s.2(h) CMPA replaced with s.2(5) MA wording so the CMPA is clear that structures on leased property and mobile homes can be charged property tax. (s) "real property" means (i) land or an interest arising from land, and includes land under water, (ii) land and buildings, structures, improvements, building service systems and storage facilities and fixtures erected or placed upon, in, over or under land or affixed to land, (iii) a building that is erected on land under a lease, licence or permit, but does not include the land upon which the building is erected, and (iv) a mobile home; <u>Current Wording Below</u> (h) "real property" means land or an interest arising from land and includes land under water and buildings, structures, improvements, machinery and fixtures erected or placed upon, in, over or under land or affixed to land.</p>
<p>City of Corner Brook Act Section 2(h)</p>	<p>Corner Brook legislation changed in 2016, see above.</p>

2. Frequency of Meetings

<p>City of Mount Pearl Act Section 31</p>	<p>Electronic means should specifically apply to committee meetings as well.</p>
<p>City of Corner Brook Act Section 31</p>	

3. Publication

<p>City of Mount Pearl Act Section 40</p>	<p>We believe that this section needs to be expanded to allow for greater flexibility and the use of modern communication vehicles. Regarding subsection 2, this should be clarified – current language is cumbersome.</p>
<p>City of Corner Brook Act Section 40</p>	

4. Dismissal

<p>City of Mount Pearl Act Section 83</p>	<p>s.83(1) of both Acts require Council to ratify a vote to dismiss its city manager and department heads one month after the initial vote. The Cities request that this requirement for ratification a month later be removed.</p>
<p>City of Corner Brook Act Section 83</p>	

5. Bonding

<p>City of Mount Pearl Act Section 89</p>	<p>We believe that this section is outdated and should be removed.</p>
<p>City of Corner Brook Act Section 89</p>	

6. Pension Scheme

City of Mount Pearl Act Section 90	We believe that this section should change as it is restricted to employees.
City of Corner Brook Act Section 90	Pension and group benefits <i>s. 72 MA – s.90-92 CCBA</i> The City would like to have the provisions of section 72 MA allowing for Council pensions added to current CCBA wording however the City would not want the wording in the MA that restricts the type of pension to defined contribution plans. The City would like to keep the provisions allowing Council to make regulations for pensions that are currently set out in section 91 CCBA.

7. Group Insurance

City of Mount Pearl Act Section 93	We believe that this section is too prescriptive.
City of Corner Brook Act Section 93	

8. Contents of Budget

City of Mount Pearl Act Section 103	In s.103(6) CMPA and CCBA, the Cities would like the approval of minister required for an operating fund reserve to be removed.
City of Corner Brook Act Section 103	

9. Capital Budget

City of Mount Pearl Act Section 118	<i>s.118 CCBA and CMPA</i> – The wording is outdated, the Cities request repeal of this section as the Board no longer exists and neither does the Municipal Grants Act.
City of Corner Brook Act Section 118	

10. Real Property Tax

City of Mount Pearl Act Section 135	Already changed in 2017.
City of Corner Brook Act Section 136	Minimum property tax <i>s.114 MA – s.136 CCBA</i> The City would also like a fifth category added for taxation of “vacant commercial property” so that a higher tax rate could apply to those properties and act as an incentive for property owners to keep these properties active. The City would like to have s. 114 MA replace s. 136(1) and 136(1.1) of the CCBA but would want to retain s.136(2) CCBA Minimum tax 114. A Council may, by resolution, establish different minimum annual real property taxes in a municipality for (a) residential property; (b) commercial property; (c) vacant land; and (d) land that has upon it a structure which

	<p>(i) is not used for residential purposes, and (ii) does not exceed the square meterage area prescribed by the municipality.</p> <p>Real property tax 136. (1) The Council shall impose an annual tax, to be known as "the real property tax" on the owners of real property within the City. (1.1) For the purpose of establishing real property tax, there may be imposed in respect of real property used for residential purposes one rate of tax and in respect of commercial property, another rate of tax. (2) Where there are 2 or more owners of real property within the City, the City clerk may designate 1 of those owners to be the owner for the purposes of the imposition and collection of the real property tax.</p>
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11. Tax Exempt Property

City of Mount Pearl Act 141	We believe legislative exemptions for taxation (Crown, church, etc.) should be removed.
City of Corner Brook Act 142	

12. Business Tax

City of Mount Pearl Act Section 144	We believe this section is too prescriptive, is mandatory, is primarily property based taxation. Replace with permissive language, and provide options for commercial realty tax in its place. Income based is best for business, and so a municipal share of corporate income tax should be considered as another alternative, as well as a share of HST generated and paid by businesses for which the City provided a market.
City of Corner Brook Act Section 145	

13. Poll Tax

City of Mount Pearl Act Section 150, 151, 152	<p><i>s.128(1) MA – s.153(1) CCBA and s. 152(1) CMPA</i> The Cities would like to have the words "and addresses" from MA s.128(1) added to s. 153(1) CCBA and s. 152(1) CMPA <i>s.128(4) MA – s.153 (4) CCBA / s.152(4) CMPA</i> The Cities would like to have the wording from s.128(4) MA added to s.153(4) CCBA / s.152(4) CMPA, allowing garnishment of arrears and interest outstanding from prior years of poll tax. <i>Municipalities Act:</i> Employer's duty 128. (1) An employer in a municipality shall, on demand of the Council, give to that Council within 2 weeks of the demand the names and addresses of its employees and the dates on which their employment began. CCBA and CMPA Employer's duty</p>
City of Corner Brook Act Section 151, 152, 153	

	<p>153CCBA/152CMPA. (1) An employer in the City shall, on demand of the Council, deliver to the Council within 2 weeks of the demand the names of its employees and the dates on which their employment began.</p> <p>(4) Where a person has been employed in a municipality for not fewer than 90 days in total during the financial year of the Council, or, where a person is ordinarily resident in the municipality, the Council may demand that the person's employer deduct the poll tax for the current year and arrears and interest on arrears of poll tax for previous years, from that person's wages and that employer shall forward the tax, arrears and interest collected to the Council within the time limit specified by the Council unless the person obtains a certificate from the clerk stating that the person is exempt from the payment of the poll tax or has made other payment arrangements with the Council.</p> <p>(4) Where a person has been employed in the City for not less than 3 months in a financial year of the Council, or where a person is ordinarily resident in the City and the Council so demands, the person's employer, whether in or outside the City, shall deduct the poll tax for the current year from that person's wages and shall forward the tax so collected immediately to the Council, unless the employee who is exempt from payment of the poll tax obtains a certificate from the clerk to that effect.</p>
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14. Lien

<p>City of Mount Pearl Act Section 159</p>	<p>The current Acts only provide a 6 year lien for property taxes (s.159(2) CMPA and s.160(2) CCBA) and is also restricted by the Limitations Act to a period of 6 years to commence action for collection of taxes (debt) generally. The Cities request a longer period of time for both collection and lien. The City of St. John's Act section 281(1) provides 12 years to commence legal action. We request the same wording be added to the CMPA and CCBA and also the lien provision applicable to property taxes be extended to at least 12 years as well.</p>
<p>City of Corner Brook Act Section 160</p>	

15. Occupied Residential Property

<p>City of Mount Pearl Act Section 160</p>	<p>Our current Acts prevent sale of property while it is being used as a full-time residence by the owner (s.160 CMPA and 161CCBA). This results in significant revenue loss to the City. There are a number of residents who are essentially "judgment proof" in the sense that they have no other income/assets to garnish and so even if the City undertakes the expense of bringing civil suit and obtaining a judgement against the property owner, there is no avenue for enforcement of</p>
<p>City of Corner Brook Act Section 161</p>	

	<p>the judgement. The result is taxes remain unpaid year after year, often accumulating to tens of thousands of dollars. Upon death of the property owner, the City (if it can complete a tax sale despite the other issues as stated above relating to clear title and other encumbrances) will only retrieve a minute fraction of the outstanding taxes on tax sale (partially due to the 6 year limitation (see par 18 below). The result is that the loss of revenue from these properties creates an inequity among residents of the City in that those who diligently pay must be charged an increased rate due to the loss of revenue from these delinquent properties. The Cities request this provision be repealed.</p>
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16. Error in Tax Sale Procedure

City of Mount Pearl Act Section 161.7	<p>The Cities' current Acts suggest we need to resell (s.162.7 CCBA, s.161.7CMPA) if there is an error in tax sale procedure. The Cities seek provision that an error in tax sale procedure does not invalidate the procedure, similar to the wording of section 12 of the Expropriation Act. Without this provision, the Cities carry significant risk of liability for a lengthy period of time. We have on occasion had property owners or descendants of same allege that a tax sale procedure from many years ago was faulty and tracing back the procedural record is at a minimum time consuming for staff and at times impossible to piece together.</p>
City of Corner Brook Act Section 162.7	

17. Regulations

City of Mount Pearl Act Section 202	<p>We believe this section is too prescriptive and there is a need to generalize or have a "catch all" section.</p>
City of Corner Brook Act Section 202	

18. Grants and Loans

City of Mount Pearl Act Section 206	<p>Grants for charitable causes s.99(1.1)MA – s.206 (CCBA and CMPA) The Cities would like the broader authority to provide grants for philanthropic purposes as set out in the MA, but the current wording of the CCBA and CMPA provision also allows the Cities to provide loans, not just grants, and the Cities would want to keep this authority to provide loans for these purposes.</p>
City of Corner Brook Act Section 206	

19. Response to Emergencies

City of Mount Pearl Act	Not applicable.
City of Corner Brook Act Section 215	<p>s.183MA –s.215 CCBA the City would like to replace the CCBA provision with the MA wording. Fire department 183. A Council may establish, operate and maintain a fire department composed entirely or partly of</p>

	<p>volunteer members or of paid employees, and acquire or provide a fire hall, fire alarm system, fire engines, hydrants and other apparatus and appliances for the purpose of fire fighting, fire prevention and responding to and providing emergency services for other emergencies that may be authorized by the Council, either inside or outside the municipality's boundaries.</p> <p>Fire department</p> <p>215. The Council may establish, operate and maintain a fire department composed of paid employees and acquire or provide a fire hall, fire alarm system, fire engines, hydrants and other apparatus and appliances for the purpose of fire fighting and the prevention of fire and other emergencies and responding and providing emergency services for other emergencies as may be authorized by the minister, either inside or outside the City's boundaries.</p> <p>The City of Corner Brook provides emergency services outside its municipal boundaries such as fire, hazardous materials, and motor vehicle accidents. While the City has agreement with the Province for reimbursement of costs pertaining to hazardous materials, when the City responds to motor vehicle accidents and fires outside the City it has no ability to recoup those costs. The City requests amendment to section s. 215 to provide the City with the ability to charge a fee to recipients of fire and emergency services that the City provides outside its municipal boundaries and to non-resident recipients of emergency services provided within the municipal boundary. This section should also remove the requirement of ministerial approval for the City to provide these services.</p> <p>The City also seeks amendment of the Fire Protection Services Act (FPSA). The City is experiencing significant delays in undergoing the process set out in this Act to close structures that are considered by our Fire Chief to be fire hazards. The City's fire chief has requested but has not been designated as a local assistant under section 6 of the Act and as such he has no authority to issue orders and the process can take months whereas the City of St. John's, due to the specialized provision of s.35(1) of the FPSA is able to deal with life and safety issues expeditiously. The City requests either similar provision as s.35 for the City of Corner Brook Fire Department or amendment to section 6 such that the Fire Commissioner does not have discretion ("may") to designate local assistants but "shall" designate the fire chief and deputy fire chief of either certain named municipalities or "shall" designate any municipal fire chief who applies and meets a</p>
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	specified list of qualifications required to be competent as a local assistant.
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20. Order Not Obeyed

City of Mount Pearl Act Section 239	When the Cities incur the cost of demolition of old sheds/buildings that are not in compliance with the occupancy and maintenance regulations or our building by-law, the City's remedy is to pursue the cost as a civil debt. This is rarely a realistic option to recoup costs as in most instances where a property owner is delinquent it is because they do not have the financial ability to remediate their property. The Cities request section 239 to be amended to provide that demolition costs become a lien against the property and requests that the tax sale provision section 162.8(1) be amended to provide that any sums owed to the City under section 239 may also be deducted by the City Clerk from money received on tax sale of the property.
City of Corner Brook Act Section 239	

21. Regulations

City of Mount Pearl Act Section 242	We believe that in this case the requirement is prescriptive instead of enabling or permissive.
City of Corner Brook Act Section 242	

22. Animals Other Than Dogs and Dog Control

City of Mount Pearl Act Sections 263 and 264	The CCBA and the CMPA sections 263 and 264 are very restrictive for control of animals in the City. There is no provision allowing the Cities to limit the number of dogs on a property. There is also no ability to euthanize and/or sell animals that are repeatedly roaming or whose owner has an excessive number of animals. If the owner claims the animal(s) and pays the impound fee the City has no option but to return the animal(s) to the owner. The Cities seek broader power to enact animal and dog by-laws.
City of Corner Brook Act Sections 263 and 264	

23. Regulations

City of Mount Pearl Act Section 280.3	We believe that this section is too restrictive and needs to be expanded to all City regulations.
City of Corner Brook Act Section 280.3	

24. Expropriation

City of Mount Pearl Act Part VIII Expropriation Sections 281 et al	The City of Mount Pearl believes that this is an onerous process. We believe that this should be reviewed to update and improve efficiencies, while protecting due process.
City of Corner Brook Act Section 281 et al	Under section 281 of the CCBA and CMPA, the City requires ministerial approval to expropriate. This creates unnecessary delays. The City requests addition

	<p>of provisions akin to sections 101, and 281-303 of City of St. John's Act so Council can authorize its own expropriations.</p> <p>There are provisions in the CCBA and CMPA, URPA, Expropriations Act etc. requiring the City to advertise in the local newspaper. This can be very costly, particularly where land surveys and legal descriptions are required. The City would like the ability to post on its website rather than having to advertise in local newspaper or at a minimum to be able to advertise a small reference in the newspaper referring anyone interested in the matter to retrieve further details on the City's website.</p>
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25. Ministerial Approval

City of Mount Pearl Act – Throughout	We would like to update the Act to remove mandatory requirements for Ministerial approval and replace with permissive if there is reluctance to relinquish Ministerial control in its entirety (e.g., The Minister may ...).
City of Corner Brook Act – Throughout	

26. Mandatory Requirements

City of Mount Pearl Act – Throughout	Throughout the Act we would like to replace mandatory requirements (shall) with authoritarian language (may) when it is reasonable to do so.
City of Corner Brook Act – Throughout	

27. Mandatory and Prescriptive Timelines

City of Mount Pearl Act – Throughout	We would like to remove or relax mandatory prescriptive timelines and publication requirements, such as public processes, notices of motions, forms of communication, etc., provided that we are also given the ability to set such timelines and requirements through regulation.
City of Corner Brook Act – Throughout	

28. Violation Notices

City of Mount Pearl Act – Throughout	We would like to expand and generalize authority to issue violation notices to any regulations within Council authority.
City of Corner Brook Act – Throughout	

29. Adverse Possession

City of Mount Pearl Act	<p>The City of Mount Pearl would like s.201.5 MA added to the CMPA as there is no current equivalent provision.</p> <p><i>Adverse possession abolished</i> <i>201.5 Notwithstanding a law or practice to the contrary, no period of possession of lands that are owned by a municipality counts for the purpose of conferring upon a person an interest in the lands so possessed.</i></p>
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30. Law Enforcement Enter Property

City of Mount Pearl Act	The CCBA and CMPA provide power to enter properties for water/sewer work, roads etc., but not for general by-law enforcement purposes. We require provision to enter upon properties to inspect such as is set out in s.45 of the City of St John's Act.
City of Corner Brook Act	

31. Liability Provisions

City of Mount Pearl Act	The CCBA and CMPA issue building permits, occupancy permits, and conduct inspections, but our Act has no limitation of liability provisions. We request addition of provisions akin to the City of St. John's Act sections 390 (5) and 361.
City of Corner Brook Act	

32. Create Bylaws

City of Mount Pearl Act	The CCBA and CMPA provide limited authority to create by-laws. We would like broader authority akin to the provisions set out in s.389 and 29 of the City of St. John's Act.
City of Corner Brook Act	

33. Conditional Occupancy Permits

City of Mount Pearl Act	There is nothing in the CCBA and CMPA or Occupancy and Maintenance Regulations under the Urban and Rural Planning Act authorizing conditional occupancy permits to be issued. The Cities seek provision similar to section 406 of the City of St. John's Act so that it can issue conditional occupancies and require provision of bonds from the property owners.
City of Corner Brook Act	

34. Fines for Violations

City of Mount Pearl Act	The CCBA and CMPA are severely restricted in establishment of fines for violations of its by-laws. If the City wishes to proceed by ticket both the type of matters that may be ticketed and the fines for those tickets are set by the Violation Notice Regulations established by the Province. The Cities would like authority to decide what matters may proceed by ticket and to prescribe its own fine amounts. The Cities request repeal of the Violation Notice Regulations (with resulting amendments to the CCBA and CMPA) and addition of wording to the CCBA and CMPA akin to s.33 of the City of St. John's Act.
City of Corner Brook Act	

35. Business Tax

City of Mount Pearl Act	Business tax has often been challenging to collect from incorporated entities, particularly those that dissolve and/or file bankruptcy but then the business continues to operate (or “re-opens”) with the same directors under a different corporate name. The Province has already extended directors liability to sums owed under the Workplace Health Safety and Compensation Act (section 118.1) and the Cities would like to see similar provisions imposing director’s liability for sums owed to municipalities.
City of Corner Brook Act	

36. Minimum Standard of Appearance

City of Mount Pearl Act	The Cities would like to have the ability to create by-laws for minimum standards of appearance of buildings, sanitation, maintenance etc. The occupancy and maintenance regulations set out a very minimal standard and the Cities would like to require stricter standards both as a whole for the City and in certain areas. We have had some interest from developers in creating subdivisions that would cater to a desire for more exclusive neighbourhoods and the Cities have had to advise that we would be unable to enforce any such standards. Presently it would be left to developers to impose restrictive covenants on the properties and to set up their own board/corporation that would need to exist in perpetuity to oversee and bring civil action on breaches of covenants which is not an attractive option to developers. In light of the Sun Life Assurance Co. of Canada v. St. John’s (City) 2006 NLCA 62 decision from the NL Court of Appeal this would require amendment to the Urban and Rural Planning Act.
City of Corner Brook Act	

37. Power to Buy and Sell Land

City of Mount Pearl Act	The CCBA and CMPA are silent regarding the City’s power to buy and sell land for non-municipal purposes. The Cities have proceeded historically on the presumption that these powers are included in our status as corporate entities but would like clarification by addition of provision to buy and sell land for non-municipal purposes akin to sections 92 and 93 of the City of St. John’s Act.
City of Corner Brook Act	

38. Alternate Forms of Tax Revenue

City of Mount Pearl Act	<p>The CCBA and CMPA are very restrictive in the types of taxation/levy/fees/fines the Cities can impose. The Cities would generally like more flexibility to create alternate forms of revenue. One example would be to charge a hotel room levy/accommodation tax. The Mayor of Corner Brook has already communicated with the Minister in relation to a proposed amendment to the City of Corner Brook Act to allow the City to obtain this source of revenue. The Cities request amendment to the Acts to allow imposition of a hotel room levy/accommodation tax. Another issue that has recently been raised is creation of a plastic bag ban. The Cities would like to be able to charge and establish fine payments for retail stores that provide plastic bags to its customers.</p>
City of Corner Brook Act	