

Local Regulation and Jurisdictional Scan

In general, all provinces regulate air quality through general references to substances or air contaminants that are discharged, and several municipalities, including Saskatoon, make specific reference to odours in certain circumstances.

Regulation of Odour in Saskatchewan and Saskatoon

In Saskatchewan:

The Environmental Management and Protection Act, 2010 is enforced by the Environmental Protection Branch of the Ministry of Environment and prohibits the discharge of substances into the environment in an amount that may cause an adverse effect.

“Substance” is defined as:

“any solid, liquid, particulate or gas that:

- (i) is capable of becoming dispersed in or discharged into the environment; or
- (ii) is capable of becoming transformed in the environment into matter described in subclause (i)”.

“Adverse effect” is defined as:

“impairment of or damage to the environment or harm to human health, caused by any chemical, physical or biological alteration or any combination of any chemical, physical or biological alterations”.

The Cities Act permits cities to regulate, by bylaw, “nuisances, including property, activities or things that affect the amenity of a neighbourhood” but does not specifically make any reference to odours.

In Saskatoon, certain bylaw provisions that relate to odour either directly or indirectly, include the following:

Bylaw No. 8175, Property Maintenance & Nuisance Abatement Bylaw, 2003, states:

- “5. No person shall cause or permit a nuisance to occur or remain on any property owned by that person.”

“Nuisance” is defined as:

- “(i) a condition of property; or
- (ii) a thing;
that affects or may affect the amenity of a neighbourhood or the safety, health and welfare of people in the neighbourhood, ...”

Bylaw No. 9844, The Waste Bylaw, 2022, states:

- “19. (1) No person shall transport or cause to be transported in the City any offal from slaughterhouses or butcher shops, or any swill or waste of an offensive nature unless the part of the vehicle containing the waste is:
- (a) watertight;
 - (b) constructed in such manner that it is impossible for any part of the contents to escape;
 - (c) covered so that flies cannot come in contact with the contents; and
 - (d) constructed in such a manner that offensive odours cannot escape.
- (2) No person shall allow any vehicle transporting waste referred to in subsection (1) to stand in any street longer than is absolutely necessary, and in any case for more than thirty minutes, except in the case of an emergency.”

Bylaw No. 8770, Zoning Bylaw, 2009, contains a number of provisions dealing with odours:

Section 4.7.4 requires consideration on discretionary use applications of safeguards against odour affecting nearby properties.

Section 5.29(2)(o) prohibits home based businesses creating odour that extends beyond the boundaries of the property containing the home based business.

Section 5.38(2)(c) prohibits live/work units creating odour that extends beyond the boundaries of the property containing the home based business.

B6, IL1, IL2, IL3, IB, MX1, and MX2 districts list as prohibited uses all uses of land, buildings and industrial process that may be noxious or injurious, or constitute a nuisance beyond the boundaries of the subject site by reason of the production or emission of, among other things, odour.

Section 11.5 IH – Heavy Industrial District states that “The purpose of the IH District is to facilitate economic development through industrial activities that may have the potential for creating nuisance conditions during the normal course of operations.”

Jurisdictional Scan

Alberta – The *Environmental Protection and Enhancement Act* prohibits the release of substances into the environment that do or may cause a significant adverse effect.

“Adverse effect” is defined as:

“impairment of or damage to the environment, human health or safety or property”.

Edmonton – The *Community Standards Bylaw* states:

- “38.6 (1) A person shall not engage in any activity that creates odour, emission, smoke, vapour, dust or other airborne matter that is reasonably likely to disturb another individual.
- (2) A person shall not cause or permit property they own or occupy to be used so that any odour, emission, vapour, dust or other airborne matter from the property is reasonably likely to disturb another individual.
- (3) In determining if any odour, emission, smoke, vapour, dust or other airborne matter is reasonably likely to disturb another individual, the following criteria may be considered, but is not limited to:
- (a) the type, frequency, intensity or duration of the odour, emission, smoke, vapour, dust or other airborne matter;
 - (b) the time of day and day of the week;
 - (c) the weather and ambient conditions;
 - (d) the proximity to neighbouring properties;
 - (e) the nature and use of the surrounding area; and
 - (f) the effects of the odour, emission, smoke, vapour, dust or other airborne matter.
- 38.7 (1) A person may be found guilty of a contravention of section 38.6 whether or not the air quality, particulate level, or odour is measured.
- (2) In the absence of evidence to the contrary, if the source of the odour, emission, smoke, vapour, dust or other airborne matter is originating from private property or from an activity taking place on private property, the person registered pursuant to the *Land Titles Act* RSA 2000, c L-4, as the owner of the private property is deemed to be the person causing, permitting or engaging in the activity that is creating the odour, emission, smoke, vapour, dust or airborne matter.”

Calgary – The *Community Standards Bylaw* states:

- “42. A Person shall not engage in any activity that is likely to allow smoke, dust or other airborne matter that may disturb any other Person to escape the Premises without taking reasonable precautions to ensure that the smoke, dust or other airborne matter does not escape the Premises.”

British Columbia – The *Environmental Management Act* prohibits the introduction of waste into the environment in a manner or quantity as to cause pollution.

“Waste” is defined as including “air contaminants” which is further defined as a substance that is introduced into the air and that:

- “(a) injures or is capable of injuring the health or safety of a person,
- (b) injures or is capable of injuring property or any life form,
- (c) interferes with or is capable of interfering with visibility,
- (d) interferes with or is capable of interfering with the normal conduct of business,
- (e) causes or is capable of causing material physical discomfort to a person, or
- (f) damages or is capable of damaging the environment”

The *Community Charter* allows municipalities to regulate odour that is “liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public”.

Greater Vancouver Regional District – The *Air Quality Management Bylaw* uses the same definition of “air contaminant” as the *Environmental Management Act* and states:

- “5. Subject to section 7, no person may in the course of conducting an industry, trade or business of whatsoever kind or nature discharge or allow or cause the discharge of any air contaminant.”

Section 7 lists a number of exceptions such as where the discharge is in accordance with the terms of a permit.

Kelowna – The *Good Neighbour Bylaw* prohibits owners or occupiers of property in residential areas from causing or permitting any odour which is “liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public”.

Surrey – The *Prohibition of Nuisances Bylaw, 1996* prohibits fouling or contaminating “the atmosphere through the emission of smoke, dust, gas, sparks, ash soot, cinders, fumes or other effluvia”.

Manitoba – The *Environment Act* defines “pollutant” as including any odour that “interferes with or is likely to interfere with the comfort, well being, livelihood or enjoyment of life by a person” and prohibits the unauthorized release of pollutants.

The Municipal Act (and The City of Winnipeg Charter for Winnipeg) permits municipalities to create bylaws respecting activities or things that are or could become a nuisance which includes odours.

Winnipeg – The Neighbourhood Liveability Bylaw prohibits nuisance conditions from existing on property.

“Nuisance” is defined as:

“any condition, matter, thing or activity, other than a noise or sound regulated by Part 5 (Noise Control), which causes undue annoyance or offence to a reasonable individual of ordinary sensitivity occupying adjacent properties or dwelling units or living in the neighbourhood”.

Ontario – The Environmental Protection Act prohibits the discharge of contaminants into the environment in an amount, concentration or level in excess of the prescribed amount.

“Contaminant” is defined as including any odour resulting from human activities that causes or may cause an adverse effect.

“Adverse effect” is defined as one or more of:

- “(a) impairment of the quality of the natural environment for any use that can be made of it,
- (b) injury or damage to property or to plant or animal life,
- (c) harm or material discomfort to any person,
- (d) an adverse effect on the health of any person,
- (e) impairment of the safety of any person,
- (f) rendering any property or plant or animal life unfit for human use,
- (g) loss of enjoyment of normal use of property, and
- (h) interference with the normal conduct of business.”

The Municipal Act, 2001 permits municipalities to prohibit and regulate with respect to odour.

Elliot Lake – The Nuisance Bylaw prohibits the emission of odours that would be generally identified by a reasonable person as an objectionable odour in a public place.