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OF
NOVA SCOTIA
2023**

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IN FORCE ON A DAY TO BE FIXED BY
THE GOVERNOR IN COUNCIL BY PROCLAMATION

VOLUME Mul-Mut



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Revised Statutes of Nova Scotia
2023

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CHAPTER M-34

An Act to Promote and Preserve Multiculturalism

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Short title

1 This Act may be cited as the *Multiculturalism Act*. R.S., c. 294, s. 1.

Interpretation

2 In this Act,
“Advisory Committee” means the Multiculturalism Advisory Committee established by this Act;
“Cabinet Committee” means the Cabinet Committee on Multiculturalism established by this Act. R.S., c. 294, s. 2.

Purpose

3 The purpose of this Act is to promote multiculturalism in the Province by

- (a) encouraging recognition and acceptance of multiculturalism as an inherent feature of a pluralistic society;
- (b) establishing a climate for harmonious relations among people of diverse cultural and ethnic backgrounds without sacrificing their distinctive cultural and ethnic identities;
- (c) encouraging the continuation of a multicultural society as a mosaic of different ethnic groups and cultures. R.S., c. 294, s. 3.

Cabinet Committee on Multiculturalism

4 There is established, under the direction of the Minister of Communities, Culture, Tourism and Heritage, a Cabinet Committee on Multiculturalism composed of the Minister of Communities, Culture, Tourism and Heritage, the Minister charged with the administration of the *Human Rights Act* and the Ministers of

Education and Early Childhood Development, Labour, Skills and Immigration and Economic Development. R.S., c. 294, s. 4.

Function of Committee

5 The function of the Cabinet Committee is to recommend to the Governor in Council, after consultation with the Advisory Committee, a comprehensive strategy for the purpose of carrying out the intent and purpose of this Act. R.S., c. 294, s. 5.

Powers of Committee

6 The Cabinet Committee may carry out such activities as are necessary or desirable in order to fulfill its function, including

- (a) consulting and liaising with the Advisory Committee;
- (b) conducting studies and investigations;
- (c) issuing administrative directives to such ministers and to such departments, boards and agencies of the Province as it considers necessary for the purposes of this Act;
- (d) advising the Governor in Council on matters relating to the promotion and preservation of multiculturalism as a distinct feature of Nova Scotia society. R.S., c. 294, s. 6.

Multiculturalism Advisory Committee

7 (1) The Governor in Council may appoint a Multiculturalism Advisory Committee consisting of such number of persons and representing such cultural and ethnic groups as the Governor in Council considers advisable to review policies, programs and activities that relate to multiculturalism and to make recommendations to the Cabinet Committee as to what policy initiatives should be taken, general directions should be followed and co-ordination is desirable, in the opinion of the Advisory Committee, to carry out the intent and purpose of this Act.

(2) The Governor in Council may appoint one of the members of the Advisory Committee to chair meetings of the Committee.

(3) A member of the Advisory Committee shall receive such remuneration as the Governor in Council may determine, and must be reimbursed for reasonable expenses actually incurred in connection with the activities of the Committee.

(4) The Advisory Committee shall make an annual report to the Cabinet Committee on the activities of the Advisory Committee for each year. R.S., c. 294, s. 7.

Administration expenses

8 The costs and expenses incurred in the administration of this Act, including the expenses of the Cabinet Committee and the remuneration and expenses of the Advisory Committee, must be paid out of money appropriated by the Legislature for the Department of Communities, Culture, Tourism and Heritage

or, in the case of a minister of a department, out of money appropriated for that department. R.S., c. 294, s. 8.

CHAPTER M-35

An Act to Facilitate the Transfer of Pension Plans of Municipal and Other Authorities to the Public Service Superannuation Plan

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Short title

1 This Act may be cited as the *Municipal and Other Authorities Pension Plan Transfer Act*. 2016, c. 19, s. 1.

Interpretation

2 In this Act,

“Administrator” means the Administrator as defined in the *Public Service Superannuation Act*;

“authority” means

(a) a municipality, service commission, village or village commission as defined by the *Municipal Government Act*;

(b) a public-sector employer, other than a public-sector employer that is already an employer under the Superannuation Plan and does not maintain a pension plan separate from the Superannuation Plan or that is prescribed by the regulations as not being an authority;

(c) any legal entity that operates a body referred to in clause (a) or (b) or of which such a body is composed, or any association or other combination of such legal entities or bodies; or

(d) an entity prescribed by the regulations;

“designated plan” means a pension plan that is the subject of a transfer agreement;

“group agreement” means an agreement made under subsection 10(1);

“personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*;

“plan regulations” means the plan regulations as defined in the *Public Service Superannuation Act*;

“post-transfer employee” means, in respect of a transferring authority, a person who

(a) commences employment with the transferring authority on or after the transfer date;

(b) under the person’s terms of employment, is entitled or required to participate in a pension plan with the transferring authority; and

(c) is entitled under the transfer agreement to participate in the Superannuation Plan and satisfies the requirements of the Superannuation Plan for membership in the Superannuation Plan;

“public-sector employer” means a public-sector employer as defined in the *Public Services Sustainability (2015) Act*;

“superannuation allowance” means a superannuation allowance as defined in the *Public Service Superannuation Act*;

“Superannuation Fund” means the Superannuation Fund as defined in the *Public Service Superannuation Act*;

“Superannuation Plan” means the Pension Plan as defined in the *Public Service Superannuation Act*;

“survivor” means

(a) in respect of a retired member, a person who, under the designated plan, is or may become entitled to a pension or any other payment out of the pension fund of the designated plan in relation to the retired member; or

(b) in respect of a transferring non-retired member, a person who, under the Superannuation Plan, is or may become entitled to a survivor allowance in relation to the transferring non-retired member;

“survivor allowance” means a superannuation allowance as defined in the *Public Service Superannuation Act*;

“transfer” means the transfer of assets and liabilities of a designated plan under a transfer agreement;

“transfer agreement” means an agreement made under Section 5;

“transfer date” means the effective date of a transfer as prescribed by the transfer agreement;

“transferring active member” means, in respect of a designated plan, a person

(a) who is employed by the transferring authority immediately before the transfer date;

(b) who is included, or eligible to be included, in the designated plan immediately before the transfer date; and

(c) for whom a proportionate share of the designated plan's assets and liabilities is included in a transfer;

"transferring authority" means an authority that enters into a transfer agreement;

"transferring former member" means, in respect of a designated plan, a person

(a) who has ceased to be employed by the transferring authority before the transfer date;

(b) who is entitled to a deferred pension under the designated plan; and

(c) for whom a proportionate share of the designated plan's assets and liabilities is included in a transfer,

but does not include any person who has elected to transfer an amount equal to the commuted value of the person's deferred pension out of the designated plan in accordance with the *Pension Benefits Act*;

"transferring member" means, in respect of a designated plan, a transferring non-retired member or transferring retired member;

"transferring non-retired member" means a transferring active member or transferring former member;

"transferring retired member" means, in respect of a designated plan, a person

(a) who is in receipt of a pension under the designated plan immediately before the transfer date; and

(b) for whom a proportionate share of the designated plan's assets and liabilities is included in the transfer,

and, for greater certainty, includes the survivor of a retired member of the designated plan who died before the transfer date;

"Trustee" means the Trustee as defined in the *Public Service Superannuation Act*. 2016, c. 19, s. 2.

Conflict

3 Where there is a conflict between this Act or the regulations and any other enactment or any contract, agreement, plan, order or representation respecting a designated plan, this Act and the regulations prevail. 2016, c. 19, s. 3.

Supervision and management of Act

4 The Minister of Finance and Treasury Board is responsible for the supervision and management of this Act and the regulations. 2016, c. 19, s. 4.

Transfer agreement

- 5 The Trustee may enter into an agreement with an authority to
- (a) authorize the transfer, in whole or in part, of the assets and liabilities of a designated plan of the authority from the designated plan to the Superannuation Plan; and
 - (b) allow the transferring members of the designated plan, the survivors of the transferring members, the post-transfer employees of the transferring authority and the survivors of the post-transfer employees to participate in the Superannuation Plan in accordance with the Superannuation Plan and any modifications thereto made by the agreement. 2016, c. 19, s. 5.

Prerequisites

- 6 (1) Before entering into a transfer agreement, a transferring authority shall
- (a) make reasonable efforts to notify the active members, former members and retired members of the designated plan and the survivors of the deceased retired members about the proposed transfer and explain to them the implications of the proposed transfer; and
 - (b) cause a vote of the transferring members of the designated plan to be held and obtain support for the proposed transfer from a majority of all such transferring members casting a vote.
- (2) When determining whether to enter into a transfer agreement, a transferring authority shall act in accordance with the obligations of the administrator of the designated plan under Section 33 of the *Pension Benefits Act*, irrespective of whether the transferring authority is the administrator of the designated plan.
- (3) A transferring authority may not enter into a transfer agreement in relation to a partial transfer unless the transferring authority has determined that the transfer will not reduce the pension benefits, ancillary benefits and other benefits of any persons entitled to such benefits under the designated plan who will continue to be so entitled under the designated plan after the transfer date. 2016, c. 19, s. 6.

Content and effect

- 7 (1) A transfer agreement must
- (a) confirm that the transferring authority has complied with Section 6;
 - (b) provide for the transferring authority to be prescribed by the plan regulations as an employer within the meaning of the *Public Service Superannuation Act*;
 - (c) modify the application of the Superannuation Plan to
 - (i) the transferring members of the designated plan, including any transferring members who will have accrued pensionable service under both the designated plan and the Superannuation Plan before the transfer date, and

- (ii) the survivors of the transferring members, to the extent necessary to give effect to the transfer; and
 - (d) provide for the determination of the pensionable service and eligible service accrued by a transferring member of the designated plan, in respect of the employment of the transferring member by the transferring authority before the transfer, for the purpose of the Superannuation Plan.
- (2) A transfer agreement may
 - (a) impose obligations or liabilities on, or continue obligations or liabilities of, the transferring authority, in its capacity as the employer or former employer of the transferring members of the designated plan or as the administrator of the designated plan, in respect of the designated plan on and after the transfer date;
 - (b) require the transferring authority, the transferring non-retired members of the designated plan or the post-transfer employees of the transferring authority to make payments to the Superannuation Fund in addition to those required to be made under the Superannuation Plan by an employer or by employees; and
 - (c) provide for any other matter or thing the parties consider necessary or advisable to effectively carry out the transfer.
- (3) Where, in accordance with a transfer agreement, a transferring authority becomes an employer within the meaning of the *Public Service Superannuation Act*, Section 79 of that Act does not apply to the transferring members of the designated plan, the survivors of the transferring members, the post-transfer employees of the transferring authority or the survivors of the post-transfer employees.
- (4) For the purpose of subsection 46(1) of the *Public Service Superannuation Act*, the terms of the Superannuation Plan include the terms set out in this Act, the regulations and any transfer agreement entered into under Section 5.
- (5) As of the transfer date, the *Pension Benefits Act* ceases to apply to
 - (a) that portion of the designated plan and its pension fund that is the subject of the transfer agreement; and
 - (b) the transferring members of the designated plan and the survivors of the transferring members. 2016, c. 19, s. 7.

Transferring non-retired members and their survivors

- 8 (1) For greater certainty, on and after the transfer date,
- (a) the amount of an annual superannuation allowance to which a transferring non-retired member of a designated plan is entitled upon retiring must be determined in accordance with the plan regulations and is payable in accordance with the terms and limitations prescribed by the plan regulations; and

(b) the amount of an annual survivor allowance to which the survivor of a transferring non-retired member of the designated plan is entitled upon the death of the transferring non-retired member must be determined in accordance with the plan regulations and is payable in accordance with the terms and limitations prescribed by the plan regulations.

(2) For the purpose of the Superannuation Plan, the pensionable service and eligible service accrued by a transferring non-retired member of the designated plan must be determined in accordance with the transfer agreement. 2016, c. 19, s. 8.

Transferring retired members and their survivors

9 (1) On and after the transfer date,

(a) every transferring retired member of the designated plan is deemed to be a retiree within the meaning of the *Public Service Superannuation Act*;

(b) the amount and form of a superannuation allowance payable to the transferring retired member must be determined in accordance with the designated plan as it read immediately before the transfer date and is payable in accordance with the terms and limitations prescribed by the designated plan; and

(c) the amount of a superannuation allowance payable under clause (b) must be adjusted for cost of living in accordance with the Superannuation Plan, and not in accordance with the designated plan.

(2) On and after the transfer date,

(a) every survivor of a transferring retired member of the designated plan is deemed to be the survivor of a retiree within the meaning of the *Public Service Superannuation Act*;

(b) the amount of a survivor allowance payable to the survivor of a transferring retired member must be determined in accordance with the designated plan as it read immediately before the transfer date and is payable in accordance with the terms and limitations prescribed by the designated plan; and

(c) the amount of a survivor allowance payable under clause (b) must be adjusted for cost of living in accordance with the Superannuation Plan, and not in accordance with the designated plan.

(3) For the purpose of the Superannuation Plan, the pensionable service and eligible service accrued by a transferring retired member of the designated plan must be determined in accordance with the transfer agreement. 2016, c. 19, s. 9.

Group agreement

10 (1) A transferring authority may enter into an agreement respecting a transfer with

(a) a trade union or other employees' association that represents transferring non-retired members of the designated plan; or

(b) an association that represents transferring retired members of the designated plan.

(2) A group agreement may impose obligations or liabilities on, or continue obligations or liabilities of,

(a) the transferring authority in its capacity as

(i) the employer or former employer of the transferring members of the designated plan and post-transfer employees, or

(ii) the administrator of the designated plan; and

(b) the transferring non-retired members of the designated plan,

in respect of the designated plan on and after the transfer date.

(3) A group agreement may impose obligations or liabilities on, or continue obligations or liabilities of,

(a) the transferring authority in its capacity as

(i) the employer or former employer of the transferring members of the designated plan and post-transfer employees, or

(ii) the administrator of the designated plan;

(b) the transferring non-retired members of the designated plan; and

(c) the post-transfer employees of the transferring authority,

in respect of the Superannuation Plan on and after the transfer date. 2016, c. 19, s. 10.

Obligations and liabilities of transferring authority

11 (1) Subject to the transfer agreement and any applicable group agreement, on and after the transfer date, a transferring authority has no further or continuing obligations or liabilities in respect of the designated plan, or that portion of the designated plan, that is the subject of the transfer agreement in its capacity as

(a) the employer or former employer of the transferring members of the designated plan who transfer to the Superannuation Plan; or

(b) the administrator of the designated plan.

(2) Subject to the transfer agreement and any applicable group agreement, on and after the transfer date, the transferring authority

(a) is responsible for making only those payments to the Superannuation Fund that the transferring authority is required to make under the transfer agreement or under the Superannuation Plan as an employer; and

(b) for greater certainty, is not liable to make any supplementary payments for the purpose of meeting any underfunding in the Superannuation Plan. 2016, c. 19, s. 11.

Effect of transfer agreement or group agreement

12 Neither a transfer agreement nor a group agreement is, for the purpose of the *Pension Benefits Act*, a pension plan or an amendment to a pension plan. 2016, c. 19, s. 12.

Recourse solely to Superannuation Fund

13 Subject to the transfer agreement and any applicable group agreement, on and after the transfer date a transferring member or the survivor of a transferring member has recourse solely to the Superannuation Fund for any benefit or other payment under the designated plan or the Superannuation Plan. 2016, c. 19, s. 13.

Collection, use and disclosure of personal information

14 (1) For the purpose of facilitating the transfer and administering the Superannuation Plan on and after the transfer date, where the Trustee and a transferring authority have entered into, or are contemplating entering into, a transfer agreement,

- (a) the transferring authority may disclose to the Trustee
 - (i) personal information collected before the transfer date by the transferring authority in relation to the transferring members of the designated plan and the survivors of the transferring members, and
 - (ii) personal information collected on and after the transfer date by the transferring authority in relation to
 - (A) the transferring members of the designated plan and the survivors of the transferring members, and
 - (B) the post-transfer employees of the authority and the survivors of the post-transfer employees; and
- (b) the Trustee may collect and use the personal information disclosed to the Trustee by the transferring authority under clause (a),

regardless of whether the collection, use or disclosure occurs before, on or after November 10, 2016.

(2) Where the Trustee and a transferring authority have entered into, or are contemplating entering into, a transfer agreement, the transferring authority may transfer to the Trustee any record, including a record that contains personal information, in the transferring authority's possession that relates to the designated plan and is required by the Trustee to facilitate the transfer or the administration of the Superannuation Fund following the transfer.

(3) No action, grievance or claim lies against a transferring authority, the trustee or administrator of a designated plan, the Trustee, the Admin-

istrator, the Crown in right of the Province or any other person in relation to the collection, use or disclosure of personal information in accordance with subsection (1), regardless of whether the collection, use or disclosure occurs before, on or after November 10, 2016. 2016, c. 19, s. 14.

No action lies

15 (1) Subject to the transfer agreement and any applicable group agreement, no action, grievance or claim by a transferring member of a designated plan or the survivor of a transferring member lies against the transferring authority for any act or omission of the transferring authority in relation to the designated plan before the transfer date.

(2) No action, grievance or claim lies against a transferring authority, the trustee or administrator of a designated plan, a trade union or other employees' organization, the Trustee, the Administrator, the Crown in right of the Province or any other person for any act or omission that results in the breach of any other enactment or any contract, agreement, plan, order or representation respecting a designated plan, if the act or omission is authorized by this Act or the regulations. 2016, c. 19, s. 15.

Regulations

- 16 (1)** The Governor in Council may make regulations
- (a) prescribing any public-sector employer as not being an authority;
 - (b) prescribing any entity as an authority;
 - (c) defining any word or expression used but not defined in this Act;
 - (d) further defining any word or expression defined in this Act;
 - (e) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2016, c. 19, s. 16.

CHAPTER M-36

An Act to Prevent Conflict of Interest in the Conduct of Municipal Government

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Short title

1 This Act may be cited as the *Municipal Conflict of Interest Act*. R.S., c. 299, s. 1.

Interpretation

2 In this Act,

“council” means the council of a municipality;

“elector” means a person entitled to vote at a municipal election in the municipality;

“interest in common with electors generally” means a pecuniary interest in common with the electors within the area of jurisdiction of the municipality or local board or, where the matter under consideration affects only part of that area, an interest in common with the electors within that part;

“local board” means any board, commission, committee, body or local authority of any kind established to exercise or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or parts thereof or of two or more municipalities or parts thereof, or to which a municipality or municipalities are required to provide funds, and includes the Conseil scolaire acadien provincial;

“meeting” means a regular, special or emergency meeting of a municipality or local board and any committee thereof, and includes informal as well as formal meetings;

“member” means a member, in whatever capacity, of a council or a local board and, for the purposes of Sections 9 and 10, includes a former member;

“municipality” means a regional municipality, town or municipality of a county or district;

“senior officer” means the chair and vice-chair of the board of directors of a corporation, the president, vice-president, secretary, treasurer, managing director and general manager of a corporation and any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office;

“spouse” means either of a man and woman who

- (a) are married to each other;
- (b) are married to each other by a marriage that is voidable but that has not been voided by order of a court;
- (c) have gone through a form of marriage that is void and have cohabited within the preceding 12 months; or
- (d) are living together as husband and wife;

“substantial interest” means the direct or indirect beneficial ownership of, or the power to exercise control or direction over, equity shares of any corporation that carry more than 10% of the voting rights attached to all outstanding equity shares of the corporation. R.S., c. 299, s. 2; 1991, c. 6, s. 40; 1995-96, c. 1, s. 148; 2018, c. 1, Sch. A, s. 124.

Indirect pecuniary interest

3 A member has an indirect pecuniary interest in any matter

- (a) if the member or the member’s nominee
 - (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its shares to the public,
 - (ii) has a substantial interest in, or is a director or senior officer of, a corporation that offers its shares to the public, or
 - (iii) is a member of a body, whether incorporated or not, that has an interest in any matter in which the council or local board is concerned; or
- (b) if the member is a partner of or associated in a joint venture with a person, or is in the employ of a person or body, whether incorporated or not, that has an interest in any matter in which the council or local board is concerned. R.S., c. 299, s. 3.

Deemed pecuniary interest

4 The pecuniary interest of

- (a) the spouse of a member;
- (b) any child, parent or sibling of a member or the member’s spouse;
- (c) the spouse of the persons referred to in clause (b); and

(d) any other person who normally resides in the same home as the member,

is, if known to the member or of which the member reasonably should have known, deemed to also be a pecuniary interest of the member. R.S., c. 299, s. 4.

Act does not apply

5 This Act does not apply to any interest in any matter that a member may have

- (a) as an elector;
- (b) by reason of being entitled to receive any service, commodity or other benefit offered by the municipality or local board in like matter and subject to the like conditions as are applicable to persons who are not members;
- (c) by reason of purchasing or owning a debenture or other security issued by the municipality or local board;
- (d) by reason of having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to the member in like manner as such a deposit is or may be returnable to other electors;
- (e) by reason of being eligible for election or appointment to fill a vacancy, office or position in the council or local board where the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position;
- (f) by reason of being eligible for appointment, or having been appointed, by the council to a local board;
- (g) by reason only of being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board;
- (h) by reason of having been appointed by the council or local board to a board, committee or other body;
- (i) with respect to any allowance, honorarium, remuneration, salary or benefit to which the member is or may be entitled by reason of being a member or by reason of having been appointed, by the council or local board, to a local board or other board, committee or other body;
- (j) by reason of having a pecuniary interest that is an interest in common with electors generally;
- (k) by reason only of an interest that is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member. R.S., c. 299, s. 5; 1995-96, c. 1, s. 149.

Interested member at meetings

6 (1) Where a member, either on the member's own behalf or while acting for, by, with or through another, has any direct or indirect pecuniary interest in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member shall

- (a) as soon as practicable after the commencement of the meeting disclose the interest and the general nature thereof;

- (b) withdraw from the member's place as member and
 - (i) in the case of a closed meeting, leave the room in which the meeting is held for the duration of the consideration of the matter, and
 - (ii) in the case of a meeting that is open to the public, either leave the room in which the meeting is held or remain in that part of the room set aside for the general public for the duration of the consideration of the matter;
- (c) refrain from taking any part in the consideration or discussion of the matter and from voting on any question relating to the matter; and
- (d) refrain from attempting in any way, whether before, during or after the meeting, to influence the decision of the council or local board with respect to the matter.

(2) Where the member was not present at a meeting at which a matter in which the member, either on the member's own behalf or while acting for, by, with or through another, has any direct or indirect pecuniary interest was the subject of consideration, the member shall disclose the interest at the next meeting the member attends, and the provisions of subsection (1) apply to the member in respect of the matter.

(3) A member shall comply with this Section in respect of any matter in which the member intends to obtain a pecuniary interest, either on the member's own behalf or while acting for, by, with or through another. R.S., c. 299, s. 6.

Recording of declaration of interest

7 (1) Every declaration of interest and the general nature thereof disclosed pursuant to Section 6 must be recorded in the minutes of the meeting by the clerk of the municipality or by the secretary of the local board, as the case may be.

(2) The person acting as secretary of any meeting, or the chair of the meeting if there is no secretary, shall record every disclosure of interest and the general nature thereof in a central record of disclosure.

(3) Every municipality and local board shall keep a central record of disclosure, which must be open to inspection by any elector without fee at all reasonable times. R.S., c. 299, s. 7.

Reduced quorum

8 (1) Where, by reason of this Act, a council or local board lacks a quorum to consider any particular matter, then, notwithstanding the provisions of any Act or other provision establishing the number of members to constitute a quorum, for the purposes of considering and acting on the matter, a quorum is one third of the council or local board or two members thereof, whichever is greater.

(2) Where, by reason of this Act, a council or local board lacks a quorum pursuant to subsection (1) to consider any particular matter, the council or local board may apply to a judge of the Supreme Court of Nova Scotia for an order authorizing the council or local board to consider and act on the matter.

(3) The judge may, by order, prescribe the terms and conditions pursuant to which the council or local board may consider and act on the matter, and may direct that certain of the members may participate in the consideration of the matter and that certain members may not, as to the judge seems just.

(4) Participation in the consideration of any matter in which a member has a direct or indirect pecuniary interest pursuant to an order of a judge is not a contravention of this Act. R.S., c. 299, s. 8; 1993, c. 47, s. 6.

Application to determine if member in contravention

9 (1) The Attorney General or an elector may apply to a judge of the Supreme Court of Nova Scotia for a determination of whether a member has contravened the provisions of this Act.

(2) An application must be made by originating notice (application *inter partes*) pursuant to the rules of the Supreme Court.

(3) The application must state the grounds on which it is believed that a contravention of this Act may have occurred.

(4) An application must be made within 60 days after the fact comes to the attention of the applicant that the member may have contravened this Act.

(5) No application may be made pursuant to this Section more than 10 years after the date of the alleged contravention of this Act. R.S., c. 299, s. 9.

Penalties

10 (1) Where the judge determines that a member has contravened this Act, the judge shall declare the seat of the member vacant and direct that the vacancy be filled in the manner prescribed by law, but if the judge determines that the contravention was committed as a result of inadvertence or good faith error in judgment the judge may relieve against such forfeiture of office.

(2) The member found to have contravened this Act is not qualified to fill the vacancy so created.

(3) Where the judge determines that a member has contravened this Act, the judge may

(a) disqualify the member from being a member of the council or local board, or any council or local board, for a period of not more than 10 years; and

(b) where the contravention has resulted in personal financial gain, require the member to make restitution.

(4) Where the contravention has been made for the purpose of personal financial gain, the judge shall impose a penalty of not more than \$25,000 or, in default of payment thereof, imprisonment for a term of not more than 12 months. R.S., c. 299, s. 10.

Appeal

11 (1) An appeal lies from the decision of the judge to the Nova Scotia Court of Appeal in accordance with the rules of court.

(2) No steps may be taken to fill the seat of a member who has been found to contravene this Act until after the expiration of the time limited for appeal or, if an appeal is brought, until after the appeal has been finally determined. R.S., c. 299, s. 11.

Inquiry

12 (1) Where the council or local board by resolution requests that inquiry be made into or concerning

(a) any matter mentioned in the resolution and relating to an alleged malfeasance, breach of trust or other misconduct on the part of a member, an officer or other official, an employee or agent of the municipality or local board, or any person having a contract therewith, in relation to the duties or obligations of such person to the municipality or local board;

(b) any allegation that a member has contravened the provisions of this Act; or

(c) any matter connected with the good government of the municipality or local board or the conduct of any part of the public business thereof,

the Attorney General shall appoint a judge or some other suitable person to make the inquiry.

(2) The person so appointed shall, with all convenient promptitude, enter upon the inquiry and upon the conclusion thereof, report to the Attorney General and to the council or local board the result of the inquiry and the evidence taken thereon.

(3) The person appointed has, for the purpose of inquiry, all the powers of a commissioner under the *Public Inquiries Act*.

(4) Such person is entitled to receive and must be paid such fees as may be fixed and paid by the Attorney General.

(5) The council or board may engage and pay counsel to represent the municipality or local board and may pay all proper witness fees to persons summoned to give evidence at the instance of the municipality or local board.

(6) Any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question, may be represented by counsel. R.S., c. 299, s. 12.

Voidable proceedings where Section 6 contravened

13 (1) The contravention of Section 6 of this Act does not of itself invalidate any proceedings in respect of any matter, but the proceedings in respect of the matter are voidable on application to a judge of the Supreme Court of Nova Scotia at the instance of the municipality or of the local board within two years after the matter was authorized by the council or local board.

(2) In determining whether any proceedings should be declared void under subsection (1), the judge shall give due consideration to the effect of such declaration on innocent third parties. R.S., c. 299, s. 13.

Certain proceedings only under this Act

14 Proceedings to declare a seat vacant or to disqualify a member by reason of conflict of interest, or to require a member to make restitution where a contravention of this Act has resulted in personal financial gain, may be had and taken only under the provisions of this Act. R.S., c. 299, s. 14.

CHAPTER M-37

An Act Respecting the Provision of Correctional Services and Facilities by Municipalities

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Short title

1 This Act may be cited as the *Municipal Corrections Act*. R.S., c. 103, s. 1.

Interpretation

2 In this Act,
“committal order” means a court order for the committal of a person to a correctional facility or a federal penitentiary;

“correctional facility” means a jail, prison, correctional centre, facility or place designated or established pursuant to this Act for the custody of offenders but does not include a lock-up facility;

“custody” means detention, physical care or control pursuant to a committal order or an arrest;

“lock-up facility” means a police or court facility for the custody of an offender upon arrest, pending a transfer to a correctional facility or pending a court hearing;

“municipality” means a regional municipality, a town or a municipality of a county or district;

“prescribed” means prescribed by the regulations. R.S., c. 103, s. 3; 2005, c. 37 s. 96.

PART I

CORRECTIONS

Interpretation of Part

3 In this Part,

“Minister” means the Minister of Justice;

“municipality” includes a board or commission of the municipality, and includes a regional authority or joint expenditure board of which the municipality is a member. R.S., c. 103, s. 4; 2010, c. 37, s. 44; 2011, c. 56, s. 1.

Supervision of Part

4 The Minister has the general supervision and management of this Part. R.S., c. 103, s. 5.

Authority of Minister and municipalities

5 (1) With the approval of the Governor in Council, a member of the Executive Council may enter into an agreement with a municipality respecting the takeover of correctional facilities and, without limiting the generality of the foregoing, respecting the conveyance, reconveyance or leasing of correctional facilities;

(2) A municipality has all necessary power and authority to carry out the agreement referred to in subsection (1) and, notwithstanding any other special or general Act, may convey or lease real property pursuant to subsection (1) without the consent of the Minister of Municipal Affairs and Housing. R.S., c. 103, s. 12; 2005, c. 37, s. 96.

Inspection of lock-ups

6 (1) The Minister, or a person authorized by the Minister to act on the Minister’s behalf, may at any time inspect a lock-up facility.

(2) Where the Minister or person authorized by the Minister inspects a lock-up facility and, in the opinion of the Minister or the person so authorized, the lock-up facility does not meet prescribed standards, the Minister or

person so authorized may make recommendations to the municipality operating the lock-up facility for changes to make the lock-up facility comply with the standards.

(3) Where the Minister or a person authorized by the Minister makes recommendations pursuant to subsection (2) and those recommendations are not implemented within a reasonable time having regard to the nature of the recommendations, the Minister or person authorized by the Minister may close the lock-up facility or implement the recommendations, or both.

(4) Where the Minister or a person authorized by the Minister closes a lock-up facility pursuant to subsection (3), the Minister or person so authorized shall transfer all persons detained in the lock-up facility to a correctional facility, or to the lock-up facility of a municipality with the agreement of the municipality operating the lock-up facility to which the persons are transferred, until the lock-up facility is reopened and upon such transfer to a correctional facility such persons are and are deemed to be inmates of the correctional facility for the purpose of this Part.

(5) Where the Minister or person authorized by the Minister transfers persons to a correctional facility or a lock-up facility pursuant to subsection (4), the municipality operating the lock-up facility from which the persons are transferred shall reimburse the Minister, and where applicable the municipality operating the lock-up facility to which the persons are transferred, for all expenses or costs incurred to transfer the persons or resulting from the transfer.

(6) Where the Minister or person authorized by the Minister implements recommendations in respect of a lock-up facility in accordance with subsection (3), the municipality operating the lock-up facility shall reimburse the Minister for all expenses or costs incurred to implement the recommendations. R.S., c. 103, s. 20.

Municipal lock-up

7 Every municipality shall provide a lock-up facility for the municipality or enter into an agreement with the Minister for the provision by the Minister of the services of a correctional facility for a lock-up facility. R.S., c. 103, s. 21; 2005, c. 37, s. 96.

Regulations

8 (1) The Governor in Council may make regulations

- (a) respecting the operation, management, supervision, administration and inspection of lock-up facilities;
- (b) defining any word or expression used in this Act and not defined in this Act;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. R.S., c. 103, s. 22; 2005, c. 37, s. 96; 2011, c. 56, s. 1.

PART II

MUNICIPAL CONTRIBUTION

Interpretation of Part

9 In this Part,

“dwelling unit” means a dwelling unit as defined by the *Municipal Grants Act*;

“fiscal year” means the fiscal year of the Province;

“Minister” means the Minister of Municipal Affairs and Housing;

“uniform assessment” means uniform assessment as calculated pursuant to the *Municipal Grants Act*. R.S., c. 103, s. 24.

Supervision of Part

10 The Minister has the general supervision and management of this Part. R.S., c. 103, s. 25.

Total municipal contributions

11 The total annual municipal corrections contribution for the fiscal year commencing April 1, 2012, and subsequent fiscal years is the same contribution as for the fiscal year commencing April 1, 2010. R.S., c. 103, s. 26; 1990, c. 19, s. 36; 1994-95, c. 7, s. 16; 2008, c. 2, s. 3; 2011, c. 8, s. 4.

Annual municipal contribution

12 Each municipality shall pay in each fiscal year an annual municipal corrections contribution equal to its contribution for the fiscal year calculated pursuant to Section 13. R.S., c. 103, s. 27.

Calculation of contribution

13 A municipality’s annual municipal corrections contribution is the sum of

(a) 50% of the total annual municipal corrections contribution divided by the total uniform assessment for all municipalities multiplied by the uniform assessment for the municipality; and

(b) 50% of the total annual municipal corrections contribution divided by the total number of dwelling units for all municipalities multiplied by the number of dwelling units in the municipality. R.S., c. 103, s. 28.

Payment

14 (1) A municipality shall pay its annual municipal corrections contribution in four equal, quarterly instalments in April, July, October and January of each fiscal year.

(2) Any amount owing to the Province by a municipality is a first charge on the municipality’s entitlement to a grant pursuant to the *Municipal Grants Act*. R.S., c. 103, s. 30.

Payment of debt charges

15 (1) In this Section, “debt charges” means the principal and interest, other than arrears of principal and interest, on debentures issued or other borrowings incurred by a municipality for any purpose related to the capital costs of construction of correctional centres and county jails.

(2) On April 1, 1986, and in accordance with an agreement entered into pursuant to subsection 5(1), the Province shall assume the payment of all debt charges.

(3) Where a correctional facility is returned to a municipality, the Province shall cease the payment of debt charges in respect of the facility.

(4) Where the Province leases a building or facility or part thereof or land from a municipality for a correctional facility, the Province shall pay the portion of the debt charges applicable to the leased space during the life of the lease. R.S., c. 103, s. 31.

Regulations

16 (1) The Governor in Council may make regulations

(a) defining any word or expression used in this Part and not defined herein;

(b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. R.S., c. 103, s. 32.

PART III**GENERAL****For greater certainty**

17 For greater certainty, every contract, conveyance, act or proceeding entered into, executed, done or taken to give effect to the takeover of correctional facilities by the Crown in right of the Province is deemed to be valid and have force and effect and be binding upon every person affected by it to the same extent as if Chapter 6 of the Acts of 1986 were enacted prior to the time the contract, conveyance, act or proceeding was entered into, executed, done or taken. R.S., c. 103, s. 33.

CHAPTER M-38

An Act Respecting Municipal Elections

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Short title

- 1** This Act may be cited as the *Municipal Elections Act*. R.S., c. 300, s. 1.

Interpretation and application

- 2 (1)** In this Act, unless the context otherwise requires,
“advance polling day” means
(a) the Tuesday immediately preceding ordinary polling day; and
(b) one other day fixed by the council by resolution that is either
(i) Thursday, the ninth day before ordinary polling day, or
(ii) Saturday, the seventh day before ordinary polling day;
“at an election” includes the four weeks immediately preceding ordinary polling day;
“candidate” means
(a) before the close of nominations on nomination day, a person who declared or is declared by others, with the person’s consent, to be a candidate; and
(b) after the close of nominations on nomination day, a person who has been nominated as a candidate;
“chief administrative officer” means the chief administrative officer of a municipality;
“clerk” means the clerk of a municipality;
“corrupt practice” means an act or omission in connection with an election in respect of which an offence is provided under the *Criminal Code* (Canada), or that is declared to be a corrupt practice by this Act or any other Act or is recognized as such by law;
“council” means the council of a municipality;
“councillor” means a mayor, warden or council member;
“deputy returning officer” means a person appointed under this Act to preside over a polling station;
“election” means an election held pursuant to this Act;
“election officer” means the clerk, the returning officer, the registrar of voters and every deputy returning officer, poll clerk, enumerator and revising officer appointed pursuant to this Act;

“elector” means a person qualified to vote at an election, whether or not the person’s name is on a list of electors;

“electoral district” means a district for the election of a member of a school board;

“enumerator” means a person appointed under this Act to enumerate the electors;

“judge” means, in the case of a recount, a judge of the Provincial Court or of the Supreme Court and, in the case of the controverted elections provisions, a judge of the Supreme Court;

“level access”, in respect of any premises, means premises that are so located that a person may reach the premises from the street or roadway and enter the premises without going up or down any step, stairs or escalator;

“Minister” means the Minister of Municipal Affairs and Housing;

“municipality” means a regional municipality, town or county or district municipality;

“nomination day” means, in the case of a regular election, the second Tuesday in September in a regular election year and, in the case of any other election, the fourth Tuesday preceding ordinary polling day;

“oath” includes affirmation and statutory declaration;

“ordinarily resident” means ordinarily resident as defined by Section 16;

“ordinary polling day” means, in the case of a regular election, the third Saturday in October in a regular election year and, in the case of any other election, the Saturday fixed for the election;

“parental accommodation” means a leave of absence by a councillor due to

- (a) the pregnancy of the councillor;
- (b) the birth of a child of the councillor; or
- (c) the adoption of a child by the councillor;

“poll clerk” means a person appointed under this Act to assist a deputy returning officer;

“polling district” includes a ward or a town that is not divided into wards;

“polling division” means one of the parts into which a polling district is divided for the purpose of better taking the vote;

“prescribed” means prescribed pursuant to this Act;

“printing” includes words written, painted, engraved, lithographed, photographed or represented or reproduced by any mode of representing or reproducing words in a visible form;

“Provincial Court” means the Provincial Court of Nova Scotia;

“regular election” means the election in which all councillors are to be elected;

“regular election year” means 2000 and every fourth year thereafter;

“respondent” means any person whose election or return is complained of by a proceeding under this Act;

“school board” means the Conseil scolaire acadien provincial;

“seal” means a seal made of some substantial material, having a serial number imprinted thereon, and furnished by the returning officer to seal a ballot box;

“special election” means an election held pursuant to Section 13 to fill a vacancy on the council;

“Supreme Court” means the Supreme Court of Nova Scotia;

“voter” means a person who has voted at an election under this Act.

(2) Subject to the *Education (CSAP) Act*, this Act shall, with necessary changes, apply to the election of any member of a school board as if such member were a councillor. R.S., c. 300, s. 2; 1990, c. 38, s. 1; 1991, c. 6, s. 41; 1994, c. 26, s. 1; 1995-96, c. 1, s. 150; 1998, c. 18, s. 568; 2003, c. 9, s. 2; 2007, c. 46, s. 1; 2011, c. 68, s. 1; 2018, c. 1, Sch. A, s. 125; 2018, c. 17, s. 11.

Municipal Elections Officer

3 (1) The Governor in Council shall appoint a person as the Municipal Elections Officer.

(2) The Municipal Elections Officer may

(a) issue to returning officers such instructions as the Municipal Elections Officer considers necessary to assist in the effective execution of this Act;

(b) perform such other duties as are prescribed by or under this Act. R.S., c. 300, s. 3; 2007, c. 46, s. 2.

Returning officer and assistant returning officer

4 (1) Each council shall appoint a returning officer, who may be the clerk, another municipal employee or another person who is not a municipal employee, to conduct all regular and special elections required under this Act.

(2) A council may appoint one or more assistant returning officers who shall assist the returning officer in carrying out the returning officer’s duties and who shall act in the place and in the stead of the returning officer when the returning officer is absent or at the request of the returning officer.

(3) A council shall appoint the returning officer for a regular election on or before March 15th of the regular election year.

(4) A council may delegate its powers of appointment pursuant to this Section to the clerk or chief administrative officer.

(5) The returning officer and the assistant returning officer shall, before entering upon the duties of office, take an oath in prescribed form. R.S., c. 300, s. 4; 1994, c. 26, s. 2; 2003, c. 9, s. 3; 2011, c. 68, s. 2.

Returning officer for school board election

5 (1) Where an electoral district of a school board member contains the whole or part of more than one municipality, the returning officers of the municipalities within or partly within the electoral district shall designate one of themselves to be the returning officer for the school board election.

(2) Where the returning officers are unable to agree on the designation, the Municipal Election Officer shall designate one of the returning officers to be the returning officer for the school board election.

(3) A returning officer designated pursuant to this Section is responsible for accepting nominations, arranging for ballots to be printed, conducting the official addition of votes and determining the disposition of each candidate's deposit. R.S., c. 300, s. 5; 2011, c. 68, s. 3.

Duties of returning officer

6 The returning officer shall

- (a) exercise general direction and supervision over the administrative conduct of all elections;
- (b) appoint such enumerators, revising officers, deputy returning officers, poll clerks and other election officers as are necessary;
- (c) appoint substitute election officers to act in the stead of election officers who cannot act by reason of death, sickness, conflict of interest, resignation or other cause;
- (d) fix such polling places as are required for the various polling districts;
- (e) instruct the election officers in the effective execution of their duties;
- (f) require election officers to conduct themselves with fairness and impartiality and in compliance with this Act; and
- (g) do all other acts required for holding elections in conformity with this Act. R.S., c. 300, s. 6; 1994, c. 26, s. 3.

Substitute election officers

7 (1) The returning officer may appoint and instruct substitute election officers in anticipation of requirements.

(2) A substitute election officer appointed pursuant to subsection (1) need not be resworn before entering upon the substitute election officer's duties as directed by the returning officer when the need arises. R.S., c. 300, s. 7.

Disqualification as and oath of election officer

8 (1) The returning officer shall not appoint as an election officer any person who has in the 10 years preceding ordinary polling day been convicted of a corrupt practice or of bribery.

(2) Except where otherwise provided by this Act, every election officer shall, before entering upon the duties of the election officer's office, take the oath in prescribed form. R.S., c. 300, s. 8.

Polling divisions

9 (1) On or before March 31st in a regular election year, the returning officer shall divide the polling districts in the municipality into such divisions for purpose of better taking the vote as the returning officer considers necessary, and shall forthwith report the divisions to the council.

(2) In dividing the polling districts into divisions, the returning officer shall take into consideration

(a) geographical and other factors that may affect the convenient conduct of an election;

(b) the desirability of the territorial limits of the divisions conforming as nearly as possible with those established for the last federal, provincial or municipal election;

(c) the incorporation, where practical, of approximately 700 electors in a division; and

(d) the desirability of incorporating a hospital, a sanatorium, a home for the aged, a licensed nursing home or an institution for the care and treatment of chronic diseases into a division.

(3) Notwithstanding clause (2)(c), the returning officer may designate a multiple unit residential building of any size as a separate polling station.

(4) Notwithstanding subsection (2), the returning officer shall establish a separate polling division for each home for the aged approved and each nursing home licensed under the *Homes for Special Care Act* and in which 10 or more electors reside.

(5) Where, by reason of an established practice or other special circumstances, it is more convenient to establish a polling division containing substantially more than 700 electors and to divide the list of electors for the polling division between two or more polling stations, the returning officer may establish a polling division that contains as nearly as possible some multiple of 700 electors.

(6) It is not necessary to divide a polling district into divisions if, in the opinion of the returning officer, it is not necessary or desirable to do so, and in such cases the polling district is one polling division.

(7) The divisions of a polling district for an election are those established by the returning officer pursuant to this Section or, where the returning officer has not prescribed new divisions or changes in the existing divisions, the divisions are those established for the last municipal election.

(8) A copy of the description of each polling district and polling division in the municipality must be kept in the municipal office where it must be open to public inspection during regular office hours.

(9) In an advertisement required by this Act, it is not necessary to set out the metes and bounds of any polling district or polling division and a general description by which the area can be readily identified is sufficient. R.S., c. 300, s. 9.

Regular election date

10 The election of councillors must be held on the third Saturday in October in the year 2000 and on the third Saturday in October in every fourth year thereafter. R.S., c. 300, s. 10; 1998, c. 18, s. 568.

Election in each polling and electoral district

11 An election must take place in and for each polling district and electoral district. R.S., c. 300, s. 11; 1994, c. 26, s. 4.

Term of office

12 Except as herein otherwise provided, each councillor holds office from the time when the councillor takes the councillor's oath of office until the councillor's successor is sworn into office or, where there is no successor, until the meeting at which the successor would have been sworn into office if there was a successor. R.S., c. 300, s. 12; 1994, c. 26, s. 5.

Special election

13 (1) Subject to subsection (3), within four weeks after a vacancy occurs on a council because

(a) an insufficient number of candidates are nominated to fill the vacancies at a regular or special election; or

(b) a councillor dies, resigns, becomes disqualified or forfeits office,

the council or, where there is no council, the Minister shall name a day for a special election to fill the vacancy and, where no regular meeting of the council is to be held within that time, the clerk shall call a special meeting for the purpose.

(2) Subject to subsection (3), within four weeks after a vacancy occurs on a school board because

(a) an insufficient number of candidates are nominated to fill the vacancies at a regular or special election; or

(b) a member dies, resigns, becomes disqualified or forfeits office,

the school board or, where there is no school board, the Minister of Education and Early Childhood Development shall name a day for a special election to fill the vacancy and, where no regular meeting of the school board is to be held within that time, the superintendent shall call a special meeting for that purpose.

(3) No special election may be held for a vacancy on a council within the six months preceding ordinary polling day for a regular election, unless otherwise determined by the Minister or the council.

(4) Notwithstanding subsection (2), but subject to subsection (5), where the municipal returning officer is to be the returning officer for the special

election of the school board member, the municipal returning officer shall provide the school board or the Minister of Education and Early Childhood Development with the dates that the returning officer is able to act as returning officer for the special election and the school board or the Minister shall select the day for the special election from the dates that the returning officer provides.

(5) The day fixed for the special election must be a Saturday not more than 11 weeks after the meeting of the council at which the day was named.

(6) Nomination day for a special election must be the fourth Tuesday preceding ordinary polling day.

(7) Where the vacancy referred to in subsection (1) is in the office of mayor, the nomination day for the office of mayor must be the fifth Thursday preceding ordinary polling day.

(8) Where a vacancy is created in the council by virtue of a councillor being nominated for mayor pursuant to subsection (7), the nomination day for the vacancy must be as provided in subsection (6).

(9) A special election must be conducted as nearly as may be in accordance with the provisions governing regular elections.

(10) A councillor elected at a special election holds office from the time when the councillor takes the councillor's oath of office until the councillor's successor is sworn into office or, where there is no successor, until the meeting at which the successor would have been sworn into office if there was a successor. R.S., c. 300, s. 13; 1994, c. 26, s. 6; 2003, c. 9, s. 5; 2007, c. 46, s. 3; 2008, c. 54, s. 13.

Qualifications of elector

14 Subject to the other provisions of this Act, every person who

- (a) is of the full age of 18 years on the first advance polling day;
- (b) is a Canadian citizen on the first advance polling day;
- (c) has been ordinarily resident in the Province for a period of six months immediately preceding the first advance polling day; and
- (d) is ordinarily resident in the municipality or in an area annexed to the municipality and has been so since immediately before the first advance polling day,

is entitled to be registered on the list of electors and to vote. R.S., c. 300, s. 14; 1994, c. 26, s. 7; 2015, c. 47, s. 1.

Disqualified persons

15 The following persons are not entitled to be registered on the list of electors or to vote:

- (a) the returning officer;
- (b) a person serving a sentence in a penal or reform institution;
- (c) a person who has been convicted of bribery under this Act in the six years preceding ordinary polling day. R.S., c. 300, s. 15; 1994, c. 26, s. 8.

Ordinarily resident

16 (1) A person is ordinarily resident in the place where the person lives and to which, whenever absent, the person intends to return.

(2) A person may be ordinarily resident in only one place at a time.

(3) A person does not cease to be ordinarily resident in a place by leaving the place for a temporary purpose only.

(4) Where a person usually sleeps in one place and has meals or is employed in another place, the person is ordinarily resident in the place where the person sleeps.

(5) Where a person has temporary residential quarters, those quarters are considered to be the place in which the person is ordinarily resident only if the person has no other place the person considers as that person's ordinary place of residence.

(6) Where a person is being provided with food, lodging or other social services by a shelter, hostel or similar institution, the person is ordinarily resident in the shelter, hostel or institution.

(7) Where the rules set out in subsections (1) to (6) are not sufficient to determine the place where a person is ordinarily resident, the place where the person is ordinarily resident must be determined by the appropriate election officer with reference to all the facts of the case.

(8) A person who, on the first advance polling day,

(a) is a student;

(b) is ordinarily resident in a polling district or polling division other than that of the person's family home; and

(c) is qualified as an elector,

may elect to be included on the list of electors in one or the other of the polling divisions, but not both, and is deemed to be ordinarily resident in that polling division.

(9) A person is not ordinarily resident in a residence that is generally occupied by the person only between the beginning of May and the end of October but that is generally unoccupied between the beginning of November and the end of April unless the person does not have another residence in the Province where the person resides between the beginning of November and the end of April.
2011, c. 68, s. 4; 2015, c. 47, s. 2.

Eligibility as councillor

17 (1) Except as otherwise provided in this Act, every person is qualified to be elected as councillor who

(a) is a Canadian citizen of the full age of 18 years at the time of nomination;

(b) has been ordinarily resident in the municipality or in an area annexed to the municipality for a period of six months preceding nomination day, and continues to so reside;

(c) has obtained a certificate in the prescribed form from the clerk, treasurer, collector or other official having knowledge of the facts that, as of nomination day, the charges that are liens on the person's property and the taxes due to the municipality by the person have been fully paid or all instalments or interim payments that are due as of nomination day have been paid; and

(d) is not disqualified under this Act.

(2) A councillor who is otherwise qualified is eligible for re-election. R.S., c. 300, s. 17; 1998, c. 18, s. 568; 2003, c. 9, s. 7; 2003 (2nd Sess.), c. 5, s. 1; 2011, c. 68, s. 5.

Interpretation of Sections 19 and 20

18 (1) A person who accepts or holds office or employment in the service of a municipality or any utility, board, commission, committee or official of the municipality is, for the purpose of Sections 19 and 20, an employee of the municipality.

(2) For the purpose of subsection (1), volunteer service as a member of a board or committee of the municipality does not constitute accepting or holding office or employment in the service of a municipality.

(3) A reference to the chief administrative officer of a municipality is, for the purpose of Sections 19 and 20, a reference to the clerk of the municipality if there is no chief administrative officer of the municipality. 2000, c. 9, s. 20; 2019, c. 35, s. 1.

Nomination and service of employee as councillor

19 Notwithstanding Section 20 of the *Municipal Government Act*, an employee of a municipality, other than the chief administrative officer, may be nominated and serve as a councillor if the person is on a leave of absence pursuant to Section 20. 2000, c. 9, s. 20; 2003, c. 9, s. 8.

Leave of absence

20 (1) A person who is an employee of a municipality, other than the chief administrative officer, and who intends to become a candidate shall take a leave of absence beginning not later than the day the person becomes a candidate.

(2) A person who

(a) is required by subsection (1) to take a leave of absence;

or

(b) intends to become a candidate and wishes a leave of absence beginning sooner than required by the required leave of absence,

shall apply for a leave of absence to the chief administrative officer of the municipality and the leave of absence must be granted.

(3) Where the person withdraws as a candidate and, before the election, notifies the chief administrative officer of the municipality of the person's intention to return to work, the person may return to the position the person held

immediately before the leave of absence commenced two weeks after the notice is given, or at such other time as is agreed to by the person and the chief administrative officer.

(4) A leave of absence granted to a person pursuant to subsection (2) terminates on the day the successful candidate in the election is declared elected unless, on or before the day immediately before ordinary polling day, the person notifies the chief administrative officer of the municipality that the person wishes the leave of absence to be extended for such number of days, not exceeding 90, as the person states in the notice and in such case the leave of absence terminates as stated in the notice.

(5) A person on a leave of absence granted pursuant to subsection (2) to be a candidate in an election and who is an unsuccessful candidate in the election may return to the position in the employment of the municipality that the person held immediately before the leave of absence commenced.

(6) The leave of absence of a person who is a successful candidate is extended from ordinary polling day of the election at which the person was elected until two weeks after the latest of

- (a) the resignation of the person from council, if the resignation occurs before the next election;
- (b) the date nominations close for the next election, if the person is not officially nominated as a candidate in the next election; or
- (c) declaration day for the next election, if the person is not declared elected in the next election.

(7) Where the person is elected for the second time, the leave of absence granted to that person pursuant to subsection (2) terminates on the day the person is declared elected for the second time and the person ceases to be an employee of the municipality or to hold office for all purposes, including entitlement to all employee or office-related benefits.

(8) Notwithstanding Section 20 of the *Municipal Government Act*, a person who is not re-elected at the second election held during the leave of absence granted to that person pursuant to subsection (2) may, when the leave of absence expires pursuant to subsection (6), return to the position in the employment of the municipality that the person held immediately before the leave of absence commenced or, where that position has been filled or eliminated, to an equivalent position.

(9) Where a leave of absence is granted pursuant to subsection (2), the person to whom the leave of absence is granted must not be paid, but the person, upon application to the chief administrative officer of the municipality at any time before the leave of absence commences, is entitled to

- (a) pension credit for service as if the person were not on a leave of absence; and
- (b) medical and health benefits, long-term disability coverage and life insurance coverage, or any one or more of them, if the person pays both that person's and the municipality's, utility's,

board's, commission's, committee's or official's share of the cost.
2000, c. 9, s. 20.

Disqualification for councillor nomination

- 21 (1)** No person is qualified to be nominated as councillor who
- (a) is a member of the House of Commons or Senate of Canada;
 - (b) is a member of the House of Assembly;
 - (c) is a village commissioner;
 - (d) is a member of the council of another municipality;
 - (e) is a judge of the Nova Scotia Court of Appeal, the Supreme Court or the Provincial Court;
 - (f) accepts or holds office or employment in the service of the municipality, or any utility, board, commission, committee or official thereof, to which any salary, fee, wages, allowance, emolument, profit or other remuneration of any kind is attached, for so long as the person holds or is engaged in the office or employment, unless the person is on a leave of absence granted pursuant to subsection 20(2), but this disqualification does not apply in respect of an office or employment
 - (i) as a volunteer firefighter with a municipal fire fighting organization,
 - (ii) as a volunteer member of a board or committee of the municipality,
 - (iii) with a school board, or
 - (iv) with a joint body of two or more municipalities to which the municipality appoints at least one representative and to which the municipality provides funding; or
 - (g) has been convicted of any corrupt practice or bribery contrary to this Act within five years preceding nomination day.

(2) During a special election, no person is qualified to be nominated as councillor who is a member of a school board. R.S., c. 300, s. 18; 1994, c. 26, s. 9; 1999 (2nd Sess.), c. 13, s. 1; 2000, c. 9, s. 21; 2003, c. 9, s. 9; 2011, c. 68, s. 6.

Disqualification to serve as councillor

- 22 (1)** No person is qualified to serve as councillor who
- (a) is a member of the House of Commons or Senate of Canada;
 - (b) is a member of the House of Assembly;
 - (c) is a village commissioner;
 - (d) is a member of the council of another municipality;
 - (e) is a judge of the Nova Scotia Court of Appeal, the Supreme Court or the Provincial Court;

(f) accepts or holds office or employment in the service of the municipality, or any utility, board, commission, committee or official thereof, to which any salary, fee, wages, allowance, emolument, profit or other remuneration of any kind is attached, for so long as the person holds or is engaged in the office or employment, unless the person is on a leave of absence granted pursuant to subsection 20(2), but this disqualification does not apply in respect of an office or employment

(i) as a volunteer firefighter with a municipal fire fighting organization,

(ii) as a volunteer member of a board or committee of the municipality,

(iii) with a school board, or

(iv) with a joint body of two or more municipalities to which the municipality appoints at least one representative and to which the municipality provides funding; or

(g) has been convicted of any corrupt practice or bribery contrary to this Act within five years preceding nomination day.

(2) Notwithstanding subsection (1), a councillor who is elected to the House of Assembly or the House of Commons or who is appointed to the Senate of Canada or as a judge of the Supreme Court or a judge of the Provincial Court shall resign the councillor's office within 30 days of such election or appointment. R.S., c. 300, s. 18; 1994, c. 26, s. 9; 1999 (2nd Sess.), c. 13, s. 1; 2000, c. 9, s. 21; 2003, c. 9, s. 9; 2011, c. 68, s. 6.

Councillor convicted of indictable offence

23 Where a person who is a councillor is convicted of an indictable offence that is punishable by imprisonment for a maximum of more than five years, the person ceases to be a councillor. 1999 (2nd Sess.), c. 13, s. 1.

Councillor ceasing to be ordinarily resident in municipality

24 (1) A councillor who ceases to be ordinarily resident in the municipality ceases to be qualified to serve as a councillor.

(2) Notwithstanding subsection (1), where a councillor has the approval of council, the councillor may be ordinarily resident outside the municipality but within the Province for one period of not more than six months in a term. R.S., c. 300, s. 18; 1998, c. 18, s. 568; 2004, c. 7, s. 21.

Office vacated due to absence

25 (1) A councillor who, without leave of the council, is absent from three consecutive regular meetings of the council thereby vacates the councillor's office, and the office must be declared vacant by the council, whether or not the councillor has vacated the councillor's office.

(2) Subsection (1) does not apply where the councillor is absent for 52 or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of a birth or adoption. R.S., c. 300, s. 18; 2018, c. 17, s. 12.

Councillor nominated for mayor

26 A councillor who is nominated to fill a vacancy in the office of mayor where a special election is required thereby vacates the councillor's office as councillor. R.S., c. 300, s. 18.

Acting as councillor while disqualified

27 Any person who acts or sits as a councillor after becoming disqualified is liable to a penalty of not more than \$500 for each day that the person so acts or sits. R.S., c. 300, s. 18.

Application to school board

28 Sections 21 to 27 do not apply to a school board. 1991, c. 6, s. 41.

Disqualification ceases

29 Where, at any time after any person has become disqualified by virtue of this Act, the witnesses, or any of them, on whose testimony such person has so become disqualified, are convicted of perjury with respect to such testimony, the person may move a judge to order, and the judge shall, upon being satisfied that such disqualification was procured by reason of perjury, order that such disqualification thenceforth ceases and determines, and the same ceases and determines accordingly. R.S., c. 300, s. 20; 2000, c. 9, s. 22.

Preliminary list of electors

30 Prior to July 31st in a regular election year, the returning officer shall prepare a preliminary list of electors for each polling division. R.S., c. 300, s. 21.

Basis for preliminary list of electors

31 (1) By April 15th in a regular election year, the council may, by resolution, provide that the returning officer

- (a) conduct an enumeration;
- (b) use the lists of electors used in the most recent federal or provincial election, or in an election held pursuant to this Act; or
- (c) use any permanent register of electors established and maintained for use in a federal or provincial election,

as the basis for the preliminary list of electors for all or part of the municipality.

(2) Where a special election is to be held, the returning officer may

- (a) conduct an enumeration;
- (b) use the list of electors prepared in the most recent federal or provincial election, or in an election held pursuant to this Act; or
- (c) use any permanent register of electors established and maintained for use in a federal or provincial election,

as the basis for the preliminary list of electors for all or part of the municipality.

(3) Where a federal or provincial election, or an election pursuant to this Act, has not been held but it is to be held on a day not fewer than six weeks prior to ordinary polling day, the lists prepared for use in that election may be used as provided in this Section. 2003, c. 9, s. 11.

Provision of list of or permanent register of electors by Chief Electoral Officer

32 (1) The Chief Electoral Officer for the Province shall not provide a list of electors or permanent register of electors to a returning officer until the council of the municipality or the school board, as the case may be, has entered into an agreement with the Chief Electoral Officer that protects the privacy and security of the information supplied and any required fee has been paid to the Chief Electoral Officer.

(2) An agreement entered into pursuant to subsection (1) may contain provisions that require the return to the Chief Electoral Officer for the Province of the revisions made to the preliminary list of electors by the revising officer for the municipality or school board, as well as information respecting electors who were added to the final list of electors pursuant to this Act.

(3) The Chief Electoral Officer for the Province may transfer the information received pursuant to subsection (2) to the Chief Electoral Officer for Canada for the purpose of updating information in the National Register of Electors with respect to the Province. 2000, c. 9, s. 24; 2003, c. 9, s. 13; 2015, c. 47, s. 4.

Registrar of voters

33 (1) The council may, on or before May 1st in a regular election year, appoint a registrar of voters on the recommendation of the returning officer.

(2) The registrar of voters shall oversee the conduct of the enumeration, ensure that the enumerators carry out their duties and otherwise assist the returning officer in the preparation of the preliminary list of electors.

(3) The registrar of voters shall, before entering upon the duties of the registrar's office, take the oath in prescribed form.

(4) Where the council does not appoint a registrar of voters, the returning officer shall carry out the duties of the registrar of voters and, in such an event, subsection (3) does not apply. R.S., c. 300, s. 22; 1994, c. 26, s. 11.

Enumerators

34 (1) The returning officer shall appoint a sufficient number of enumerators to complete an enumeration of the electors residing in each polling district or polling division within a polling district.

(2) The returning officer or registrar of voters shall provide the enumerators with a detailed and accurate description of the polling division for which the enumerators have been appointed.

(3) An enumerator shall, before entering upon the duties of the enumerator's office, take the oath in prescribed form.

(4) A returning officer may for cause dismiss and replace an enumerator, and may appoint an enumerator in the place of one who resigns, dies or becomes incapacitated or may direct a substitute enumerator to act.

(5) Upon request in writing signed by the returning officer, an enumerator so replaced shall forthwith give up the enumerators' index sheets and other papers that the enumerator has received as an enumerator to the person designated by the returning officer. R.S., c. 300, s. 23.

Duties of enumerator

35 (1) The enumerators shall, on or before May 31st, or the date set by the returning officer and approved by council, whichever is later, in a regular election year, proceed to ascertain the full name and particulars of every person qualified to vote in an election in each polling division for which they have been appointed.

(2) The enumerators shall visit each dwelling place, including nursing homes, senior citizens' homes, rooming houses and homes for the aged, in the polling divisions for which they have been appointed for the purpose of obtaining the names and particulars of all qualified electors.

(3) The enumerators shall visit at least a second time each dwelling place in their divisions from which they were unable to obtain the names of all qualified electors.

(4) Where the enumerators are unable to obtain the names and particulars by the visits, they may obtain them from any other reliable sources of information available to them.

(5) Where, on a visit to a dwelling place, the enumerators are unable to communicate with any person from whom they could secure the names and particulars of the qualified electors residing at the dwelling place, the enumerators shall leave at that dwelling place a notification card, as prescribed by the returning officer, on which must be stated

- (a) the purpose of the enumeration; and
- (b) the name, telephone number and office address of the returning officer or, where one has been appointed, the registrar of voters for the municipality. R.S., c. 300, s. 24; 2003 (2nd Sess.), c. 5, s. 2; 2007, c. 46, s. 4.

Index sheets

36 (1) The enumerators shall register on index sheets in prescribed form or in such other manner as may be determined by the returning officer

- (a) the name of each elector under the given names and surname by which the elector is known in the polling division;
- (b) the birthdate of each elector; and
- (c) the address of each elector.

(2) There must be separate index sheets kept for each polling division within a polling district.

(3) The enumerators shall take all necessary precautions and care to ensure that their index sheets, when completed,

(a) contain the correct name and particulars of every qualified elector in the polling division;

(b) do not contain the name of a person who is not qualified; and

(c) do not duplicate any names. R.S., c. 300, s. 26; 2003 (2nd Sess.), c. 5, ss. 3, 4.

Delivery of index sheets

37 Not later than June 10th, or the date set by the returning officer and approved by council, whichever is later, the enumerators shall

(a) complete the certificate in prescribed form on the last page of the index sheets; and

(b) deliver to the returning officer or registrar of voters the index sheets completed as prescribed or determined. R.S., c. 300, s. 27; 2007, c. 46, s. 6.

Obstruction of enumerator

38 Every one who impedes or obstructs an enumerator in the performance of duties under this Act is guilty of an offence against this Act. R.S., c. 300, s. 28.

Additional enumerators

39 Where the enumerators have left off a substantial number of persons from the preliminary list of electors, the returning officer or registrar of voters may

(a) appoint additional enumerators to register the names omitted from the list and add the same;

(b) deduct the cost of such additional enumerators from the fees otherwise payable to the enumerators who omitted the names. R.S., c. 300, s. 29.

Refusal to be enumerated

40 (1) Notwithstanding any other provision of this Act, a person may refuse to be enumerated.

(2) Where a person refuses to be enumerated, the enumerator shall record the address of that person and the fact that the person refused to be enumerated.

(3) A record made pursuant to subsection (2) must not be included in the index or any list of electors.

(4) A record made pursuant to subsection (2) must not be available for public inspection and must not be included with the amended list of electors provided to the candidates pursuant to Section 62.

(5) A record made pursuant to subsection (2) must be given to the registrar of voters or returning officer by the enumerators on returning the index

sheets, and the returning officer may give the record to the revising officer but the enumerator shall not otherwise disclose the content of the record. 1994, c. 26, s. 12; 2015, c. 47, s. 3.

Checking of index book and printing of preliminary list

41 (1) Upon receipt of the enumerators' index book the returning officer or registrar of voters shall

(a) ensure that the provisions of this Act respecting enumeration have been complied with; and

(b) where the provisions have not been complied with, either

(i) correct any mistakes of a clerical nature on the index sheets and initial the same, or

(ii) have the enumerators who prepared the index sheets, or any other persons appointed by the returning officer or registrar of voters as enumerators, re-enumerate all or any of the electors in the polling division, or otherwise comply with the provisions of this Act respecting enumeration.

(2) The returning officer, or registrar of voters if one has been appointed, shall arrange the names of the persons shown on the index sheets as corrected in alphabetical order according to surname or by civic address, if that has not been done by the enumerators, and shall transmit a copy of the preliminary list of electors so prepared for each polling division to the printer. R.S., c. 300, s. 31; 1994, c. 26, s. 13; 2003, c. 9, s. 14; 2003 (2nd Sess.), c. 5, s. 5.

Revising officer

42 (1) The returning officer shall appoint a revising officer for each polling district in the municipality to conduct the revision of the preliminary list of electors.

(2) The returning officer may appoint one revising officer to conduct the revision for more than one polling district, or for all polling districts.

(3) The registrar of voters may be appointed as a revising officer.

(4) Where the returning officer does not appoint a revising officer, the returning officer shall act as the revising officer. R.S., c. 300, s. 33.

Public notice of preparation of list

43 (1) After the preliminary lists of electors have been prepared, the returning officer or the registrar of voters shall give notice by at least two insertions in a newspaper circulating in the municipality that the preliminary lists of electors have been prepared.

(2) The notice must set out the fact that the lists have been prepared, how a person can check if the person's name is on the list and how, when and where the revising officer will receive applications for amendments to the lists.

(3) It is not necessary to insert a separate notice with respect to the preliminary list of electors for each polling district or polling division if the information required by subsection (2) is clearly set out with respect to each polling district or polling division.

(4) In addition to the notice referred to in subsection (1), the returning officer or the registrar of voters shall, where directed by the council, give additional notification that the preliminary lists of electors have been prepared by

- (a) distributing flyers to households;
 - (b) mailing cards to voters;
 - (c) providing for advertisements, as directed by the council.
- R.S., c. 300, s. 34; 1994, c. 26, s. 14; 2003 (2nd Sess.), c. 5, s. 7; 2007, c. 46, s. 7.

Duties of revising officer

44 (1) The revising officer shall

- (a) add to the list of electors the name of every person that the revising officer is satisfied is entitled to be registered on the list;
- (b) strike off the list of electors the name of every person proved not to be entitled to be registered;
- (c) strike a person's name from the list of electors if that person requests the revising officer to do so; and
- (d) correct errors of name or address on the list of electors.

(2) Every revising officer shall dispose of all matters coming before the revising officer in a manner not inconsistent with this Act, and except as otherwise provided, may prescribe or confirm such procedure as to notice, evidence or otherwise as in the revising officer's judgement is fair and reasonable, according to the circumstances, and in case any matter or thing respecting the revising of lists under this Act is not specifically provided for in this Act, the revising officer shall deal with the same on principles of equity and justice. R.S., c. 300, s. 35; 1994, c. 26, s. 15.

Application for amendment to list of electors

45 (1) A person may apply for an amendment to the list of electors by telephone, in writing or in person.

(2) An application must be sufficiently detailed to allow the revising officer to determine whether the information can be verified from other sources available to the revising officer and, if the revising officer determines that this is not possible, then the applicant is required to appear personally and make an application accompanied by a declaration under oath, administered by the revising officer, of the facts that support the application, and the application may be in the prescribed form or to like effect.

(3) Any person making a false statement in a declaration is guilty of an offence.

(4) Any person inducing or coercing a person to make a false statement in any declaration is guilty of a corrupt practice and is liable to a fine of

not less than \$1,000 nor more than \$10,000, or to imprisonment for a term of not less than 90 days or more than 12 months, or to both. R.S., c. 300, s. 36; 1994, c. 26, s. 16.

Attendance of witness and peace officer

46 (1) A revising officer may require witnesses to attend before the revising officer to give evidence on behalf of any applicant, and failure to attend when so summoned is an offence against this Act.

(2) A revising officer may require the attendance of a peace officer to keep order during the sittings. R.S., c. 300, ss. 35, 37.

Correction of error in particulars

47 An error in the name and particulars of an elector appearing on a list of electors may be corrected by a revising officer at the sittings

(a) on the application of the elector or the elector's agent; or

(b) by the revising officer on the revising officer's own initiative,

and the revising officer shall enter the particulars of the correction in the record of revisions. R.S., c. 300, s. 37.

Correction of polling district or polling division

48 (1) Where the revising officer is made aware of the fact that one or more names on the list of electors for a polling district or polling division should properly be on the list of electors for another polling district or polling division, the revising officer may, on the revising officer's own initiative, strike off the names of the electors on the first mentioned list of electors, enter them on the last mentioned list of electors and advise the returning officer or registrar of voters.

(2) The revising officer shall notify the elector of the particulars of a transfer made pursuant to subsection (1) by written notice sent by registered mail. R.S., c. 300, s. 37.

Striking name from list of electors

49 (1) No person may be struck off the list of electors unless the applicant has given the person notice of the application to strike off the person's name by personal service or by registered mail addressed to the person's last known mailing address, and either proof of service or proof of mailing is given to the revising officer, except that

(a) where the person is present at the sitting of the revising officer, it is not necessary to prove that the person was notified and the person's case must be dealt with as if the person had been properly notified, whether the person was or not; and

(b) where the revising officer is satisfied that the person is dead, it is not necessary to provide notification to any person.

(2) The revising officer may strike the name of a person from a list of electors if the person applies in person during the sittings to have the person's own name struck off the list of electors. R.S., c. 300, ss. 35, 37.

Amended list of electors

50 (1) On or before the date chosen by the council on the advice of the returning officer, the revising officers shall furnish the returning officer or registrar of voters with a list of electors consisting of the preliminary lists of electors together with the amendments that they have made to the lists as a result of their sittings.

(2) When subsection (1) has been complied with, the returning officer shall

(a) amend the list of electors furnished by the revising officers by removing the birthdate information and amending and correcting the list of electors in accordance with the returning officer's powers and duties pursuant to subsection (3);

(b) transmit the list of electors as amended pursuant to clause (a) to the printer for printing; and

(c) retain a copy of the amended list of electors for each polling division.

(3) Upon being furnished with the list of electors and continuing until the day on which the revised list of electors is completed and certified, the returning officer may exercise the same powers and has the same duties as a revising officer and Sections 44 to 49 apply with necessary changes to the amendment and correction of the list of electors or the amended list of electors by the returning officer in the same manner as they apply to the amendment and correction of the preliminary lists of electors by a revising officer. R.S., c. 300, s. 38; 2003, c. 9, s. 16; 2003 (2nd Sess.), c. 5, s. 8; 2015, c. 47, s. 5.

Revised list

51 (1) The revised list of electors must be completed and certified pursuant to subsection (4) on and not before the day that is three days before the first advance polling day.

(2) Until the completion of the revised list, the returning officer shall amend and correct the amended list of electors in accordance with the returning officer's powers and duties pursuant to subsection 50(3).

(3) The revised list of electors for each polling division must include a description of the polling division.

(4) The returning officer or registrar of voters shall stamp a certificate, to the effect that the revised list of electors is correct and as to the number of sheets in the list, on the facing sheet of the revised list of electors for each polling division and the list so certified must be used by deputy returning officers in any election.

(5) The revised list of electors must be the list of electors to be used at each polling station. 2015, c. 47, s. 10.

Division of revised list

52 (1) Where the revised list of electors for a polling division contains the names of more than 700 electors, the returning officer shall

(a) provide two or more polling stations for the polling division to allow, as nearly as possible, an equal number of electors, not exceeding 1,000, to vote at each polling station; and

(b) in the prescribed manner, divide the revised list of electors for the polling division into as many separate lists as required for the taking of the vote at each polling station.

(2) Notwithstanding subsection (1), where an election is only for the office of a member of a school board, the returning officer may consolidate some or all of the polling divisions in the polling district into one polling division. 2015, c. 47, s. 10; 2019, c. 35, s. 4.

Advertisement for nominations

53 (1) The returning officer shall advertise that nominations for the offices for which an election is to be held may be filed on nomination day.

(2) The notice must specify the date of nomination day, the address of the office of the returning officer and the times during which nominations may be filed as set out in this Act.

(3) The notice must be inserted at least twice, not less than seven nor more than 14 days apart, the second insertion to precede nomination day by at least seven days, in a newspaper circulating in the municipality, and must also be posted in at least two public locations in each polling district. R.S., c. 300, s. 42.

Nominations

54 (1) Every candidate for the office of councillor must be nominated by not less than five persons whose names appear on the amended list of electors and who are qualified to vote at the election of a councillor for the polling district.

(2) Every candidate for the office of mayor must be nominated by not less than five persons whose names appear on the amended list of electors and who are qualified to vote at the election of the mayor.

(3) Every candidate for the office of school board member must be nominated by not less than five persons whose names appear on the amended list of electors and who are qualified to vote at the election of the school board member. R.S., c. 300, s. 43; 2003, c. 9, s. 19; 2015, c. 47, s. 7.

Form and filing of nomination

55 (1) A nomination must be in writing in prescribed form or to the like effect.

(2) A nomination must be filed at the office of the returning officer between the hours of 9:00 a.m. and 5:00 p.m. on the second Tuesday in September.

(3) Notwithstanding subsection (2), a nomination may be filed by appointment with the returning officer during the seven business days immediately preceding nomination day.

(4) No nomination is valid or may be accepted by the returning officer unless it has been completed and is signed by the candidate.

(5) The returning officer shall not accept a nomination unless there is attached to the nomination paper a certificate in the prescribed form of the clerk, treasurer, collector or other official having knowledge of the facts that the charges that are liens on the person's property due by the person to the municipality and the taxes due by the person to the municipality have been fully paid or all instalments or interim payments that are due as of nomination day have been paid.

(6) Subsection (5) does not apply with respect to a candidate for election to a school board.

(7) The returning officer shall not accept the nomination of a person who the returning officer knows is not qualified under this Act to be elected.

(8) The returning officer shall not accept a nomination unless it contains the consent and oath of the candidate or the candidate's official agent in prescribed form.

(9) Where a deposit is required, the returning officer shall not accept a nomination unless it is accompanied by the deposit of

- (a) legal tender of Canada;
- (b) a certified cheque or demand drawn on a chartered bank, trust company or credit union and payable to the municipality; or
- (c) a postal money order or chartered bank draft payable to the municipality.

(10) The nomination paper may contain an appointment by the candidate of the candidate's official agent. R.S., c. 300, s. 44; 2000, c. 9, s. 27; 2003, c. 9, s. 20; 2007, c. 46, s. 10; 2019, c. 35, s. 3.

Deposit

56 (1) Every nomination paper must be accompanied by a deposit of \$200, but the council may by bylaw specify that a lesser deposit, or no deposit, is required.

(2) Upon the removal of all advertising material within seven days after ordinary polling day and the filing of an affidavit of the candidate in prescribed form confirming the removal, or to the like effect, with the clerk, and upon return of all copies of the amended lists of electors in the candidate's possession, including any electronic copies of the list provided to the candidate, or the deletion or destruction of any electronic copies, the clerk shall

- (a) refund the deposit to a candidate who was elected or who polled at least half of the number of votes polled by the successful candidate; or
- (b) refund half of the deposit to a candidate who polled less than half of the number of votes polled by the successful candidate.

(3) Where a candidate dies before the close of the poll, the clerk shall refund the whole of the deposit to the candidate's official agent or personal representative.

(4) Where no more than the number of candidates authorized to be elected are officially nominated and as a result no poll is granted, upon the filing of the affidavit referred to in subsection (2), the clerk shall refund the whole of the deposit to the candidate or the candidate's official agent.

(5) A candidate who fails to file an affidavit or to return all the candidate's copies of the list of electors within seven days after the date of the election forfeits the candidate's deposit refund. R.S., c. 300, s. 51; 2003, c. 9, s. 23; 2007, c. 46, s. 12; 2015, c. 47, s. 11.

Deposit by school board candidate

57 (1) A candidate seeking election to a district school board in an electoral district located in more than one municipality is required to make only one deposit with the candidate's nomination paper.

(2) Where the municipalities have determined different amounts for a candidate's deposit, the larger or largest amount determined by the municipalities is the amount of the deposit.

(3) Where the whole or part of the deposit made by a candidate is forfeited, the amount forfeited must be divided equally between or among the municipalities. R.S., c. 300, s. 52.

Nomination by agent

58 (1) A candidate who is absent from the municipality may, by letter, telegram, cable or other form of written communication, name an agent and authorize the agent to complete the nomination paper and the certificate attached thereto on the candidate's behalf.

(2) The agent shall cause the authorization to be filed with the returning officer before the nomination paper is filed. R.S., c. 300, s. 45; 1994, c. 26, s. 18.

Validity of nomination

59 A nomination is not invalid by reason only that

(a) a person who signed it has signed the nomination paper of another candidate;

(b) a person who signed it is not qualified to do so, provided five persons qualified have signed it; or

(c) the name and address of a person, as it appears on the nomination paper, differs from that appearing on the list of electors, when the returning officer is satisfied with the person's identity. R.S., c. 300, s. 46.

Nomination for one office

60 No candidate may be nominated for more than one office of councilor or school board member in the same election. R.S., c. 300, s. 47.

Official agent

61 (1) A candidate shall, on becoming a candidate, file with the clerk or the secretary of a school board an appointment of official agent or a declaration that the candidate will personally act as the official agent.

(2) An appointment of official agent filed pursuant to this Section must be accompanied by an oath of office in the prescribed form sworn by the official agent.

(3) A candidate who has filed a declaration that the candidate will personally act as the official agent may subsequently appoint an official agent at any time before close of nominations.

(4) A candidate, at any time before ordinary polling day, by writing delivered to the returning officer, may dismiss the candidate's official agent and appoint another.

(5) A candidate who has not filed an appointment of official agent is deemed to be personally acting as the official agent. 1998, c. 18, s. 568; 2007, c. 46, s. 14; 2011, c. 68, s. 8.

Acceptance of nomination

62 (1) Where the returning officer is satisfied that all requirements of this Act have been complied with, the returning officer shall sign the receipt on the nomination paper and transmit the deposit, if any, to the clerk and provide the candidate or the candidate's official agent with a copy of the amended list of electors entitled to vote for the office for which the candidate has been nominated.

(2) The signing of the receipt on the nomination paper by the returning officer is evidence that the candidate has been officially nominated.

(3) A returning officer may not reject a nomination paper after the returning officer has signed the receipt on the nomination paper.

(4) Once signed by the returning officer, a nomination paper is open to inspection by the public, but must not be photocopied or otherwise reproduced for members of the public. R.S., c. 300, s. 48; 2003, c. 9, s. 21; 2015, c. 47, s. 8.

Change of particulars

63 (1) Before 4:00 p.m. of the day after nomination day, a candidate, or the candidate's official agent, may direct the returning officer in writing to change the particulars of the name and address of the candidate that appears in the nomination.

(2) Where the returning officer is satisfied that the particulars, as changed, correspond to those by which the candidate is known in the district, the returning officer shall attach the direction to the nomination paper and amend it accordingly. R.S., c. 300, s. 49.

Withdrawal of candidate

64 Before 4:00 p.m. of the day after nomination day, a candidate may appear in person or by the candidate's official agent before the returning officer and

file with the returning officer a declaration signed by either of them that the candidate withdraws as a candidate, whereupon the candidate is deemed not to have been nominated and the candidate's deposit is forfeited. R.S., c. 300, s. 53.

Notice of poll

65 (1) As soon as may be after nomination day, the returning officer shall cause a notice to be published in a newspaper circulating in the municipality setting out

- (a) the purpose of the election;
- (b) the names of the candidates and the offices they seek;
- (c) the names of the candidates who have been acclaimed and the offices to which they have been acclaimed;
- (d) the date of election day and of advance polling day, and the hours of polling at each;
- (e) the location of the various polling places; and
- (f) a statement that the descriptions of each of the polling divisions in the municipality may be inspected at the municipal office during regular office hours.

(2) In addition to the notice referred to in subsection (1), the returning officer shall give notice

- (a) by flyers distributed to households;
- (b) by mailing cards to voters; or
- (c) in any manner approved by council. R.S., c. 300, s. 50; 2007, c. 46, s. 11.

Death of candidate

66 (1) Where a candidate dies before the close of nominations on nomination day, the candidate is deemed not to have been officially nominated.

(2) Where a candidate dies between the close of nominations and the close of the poll, the returning officer shall

- (a) revoke the grant of the poll; and
- (b) fix the date of a new polling day, which must be a Saturday not more than 45 days and not less than 36 days from the date of the death of the candidate.

(3) After revoking the grant of the poll, the returning officer shall again proceed to call nominations for the election and

- (a) a person, other than the candidate who died, nominated before the revocation of the grant of the poll, is deemed to have been duly nominated without having to be again nominated on the new nomination day; and
- (b) the list of electors prepared for the election that was postponed must be used at the postponed election, and the election must be conducted as if it were a special election under this Act.

(4) Nomination day in an election held pursuant to this Section is the fourth Tuesday preceding ordinary polling day. R.S., c. 300, s. 54; 2003, c. 9, s. 24.

Contributions to candidate or association

67 (1) In this Section and Section 69,

“agent” means the official agent of a candidate and, where the candidate is acting as official agent, includes the candidate, and, in the case of an association, means the person appointed by the association to act as agent;

“association” means an association of one or more people established to, a trust established for or a fund established to further the election of the candidate;

“contributions” means services, money or other property donated to an association or a person to support the political purposes of an association or candidate, but does not include personal services or the use of a vehicle volunteered by a person and not provided as part of that person’s work in the service of an employer;

“spouse” means a person married to another person and, for the purpose of this Section, includes persons who, not being married to each other, live together as if they are spouses and have done so for at least one year.

(2) An association shall appoint an agent for the purpose of this Section and shall file the appointment with the clerk or the secretary of the school board.

(3) Contributions to a candidate or association must be made only to the agent.

(4) All contributions to a candidate must be deposited in a separate account and be dealt with separately from the candidate’s personal funds.

(5) The agent shall record the full name and residential or business address, other than a post office box address unless that is the only address available, of each contributor together with the amount of the contribution.

(6) An agent shall not accept an anonymous contribution in any amount and, where any anonymous contribution cannot be returned to the contributor, it must be remitted to the treasurer of the municipality or school board.

(7) No person shall contribute to any association or candidate funds not beneficially belonging to the person or funds that have been given or furnished to that person by another person for the purpose of contributing those funds unless the person to whom the funds beneficially belong is identified as the contributor or unless the person contributing the funds is the spouse of the person to whom the funds beneficially belong. 1998, c. 18, s. 568.

Disclosure statement

68 (1) Within 60 days after ordinary polling day in an election, every candidate and agent of an association shall file with the clerk of the municipality or the secretary of the school board a disclosure statement.

(2) A disclosure statement must show the full name and residential or business address, other than a post office box unless that is the only address available, of each contributor whose contributions received during the period since the previous election exceed \$50 in total and the amount of the total contributions by that contributor.

(3) Where a trust or fund is established to further the goals of a candidate or association and the trust or fund is not controlled by an association or candidate, the names of contributors to the trust or fund must be disclosed when a transfer is made from the trust or fund to either an association or candidate.

(4) Where a contribution or gift of goods or services is made to a candidate or association for the purpose of sale or auction, the value of the contribution is the dollar value at which those goods or services are sold or auctioned.

(5) A candidate who is not nominated is not required to file a disclosure statement.

(6) Subject to subsection (5), every candidate who fails to file a disclosure statement within 60 days after ordinary polling day, or who files a false disclosure statement, is guilty of an offence. 1998, c. 18, s. 568; 2003, c. 9, s. 22; 2015, c. 47, s. 9.

Right to examine statement

69 (1) Any person may examine a disclosure statement respecting contributions to a candidate.

(2) Disclosure statements must be available for examination at any time during regular office hours.

(3) A person who examines a disclosure statement may obtain a copy of that statement upon payment of the reasonable cost of copying the statement.

(4) The disclosure statement must be as nearly as may be in the form prescribed by the Minister. 1998, c. 18, s. 568.

Right of entry to campaign

70 A candidate or candidate's representative may enter any apartment building or other multiple residence during reasonable hours for the purpose of lawfully campaigning. 2003, c. 9, s. 25.

Obstruction of lawful campaigning

71 It is an offence to obstruct a candidate or a candidate's representative in lawfully campaigning. 2003, c. 9, s. 25.

Display of election advertising by tenant

72 (1) No landlord or person acting on the landlord's behalf may prohibit a tenant from displaying election advertising posters on the premises leased by the tenant and no condominium corporation or any of its agents may prohibit the owner of a condominium unit from displaying election advertising posters on the premises of that person's unit.

(2) Notwithstanding subsection (1), a landlord, person, condominium corporation or agent referred to in that subsection may set reasonable conditions relating to the size or type of election advertising posters that may be displayed on the premises and may prohibit the display of election advertising posters in common areas of the building in which the premises are found. 2003, c. 9, s. 25.

Failing to remove advertising material

73 Every candidate who fails to remove all advertising material from public places after ordinary polling day and within seven days after notice is served upon the candidate by the clerk by registered mail is guilty of an offence. R.S., c. 300, s. 51.

Election by acclamation

74 Where only one candidate or only the number of candidates authorized by law to be elected to represent the polling district are officially nominated within the time fixed for that purpose, the returning officer shall so inform the clerk, who shall declare the candidate or candidates duly elected at the first meeting of the council after ordinary polling day or, in the case of a special election where holding a poll is no longer necessary, at the first meeting after being so informed. R.S., c. 300, s. 55; 2003, c. 9, s. 26.

Grant of poll

75 (1) Where more candidates than the number required to be elected for the polling district are officially nominated, the returning officer shall grant a poll for the taking of the votes of the electors.

(2) The returning officer shall grant a poll for the determination of any matter that the council has directed the returning officer to put before the electors. R.S., c. 300, s. 56.

Hours of poll

76 (1) On ordinary polling day the poll must be opened for the taking of votes at the hour of 8:00 a.m. and be kept open until the hour of 7:00 p.m.

(2) Notwithstanding subsection (1), where voting at a polling station on an ordinary polling day is interrupted by an emergency and the returning officer is satisfied that a substantial number of electors will not be able to vote if the voting hours at the polling station are not extended, the returning officer shall

(a) extend the voting hours at the polling station for the period necessary to give the electors a reasonable opportunity to vote, so long as the polling station does not close later than midnight on the same day; and

(b) give notice of the extended polling hours in such manner as the returning officer considers appropriate. R.S., c. 300, s. 57; 2019, c. 35, s. 5.

Deputy returning officer and poll clerk

77 (1) Not later than the eighth day before ordinary polling day, the returning officer shall appoint a deputy returning officer and a poll clerk for each polling station in the municipality.

(2) The deputy returning officers and poll clerks shall, before entering upon the duties of their offices, subscribe to the oath in prescribed form in the poll book.

(3) The returning officer may

(a) dismiss and replace a deputy returning officer or poll clerk for cause;

(b) either

(i) require a substitute deputy returning officer or poll clerk to act in the place of one who resigns, dies or becomes incapacitated, or

(ii) appoint a deputy returning officer or poll clerk in the place of one who resigns, dies or becomes incapacitated.

(4) When a deputy returning officer dies, becomes incapacitated or fails to act and another person has not been appointed in the deputy returning officer's stead, the poll clerk shall act as the deputy returning officer and appoint a poll clerk.

(5) Where a deputy returning officer votes at the polling place to which the deputy returning officer has been appointed to act, the poll clerk may administer to the deputy returning officer any of the oaths required by law to be taken by an elector who intends to vote. R.S., c. 300, ss. 58, 59.

Polling stations

78 (1) The returning officer shall secure for each polling division in the municipality suitable premises for one or more polling stations

(a) within the polling division;

(b) where the returning officer is unable to secure suitable premises for a polling station within the polling division, then within an adjacent polling division; or

(c) where there is a central polling place in the municipality where the polling stations of some or all of the polling divisions in the municipality may be conveniently centralized, then within the centralized polling place.

(2) A polling station must be in premises with level access and must contain an adequately lighted compartment where an elector may mark the elector's ballot paper in secrecy.

(3) Where it is found unpractical to hold a poll in the place originally designated, it must be held in another polling station as near as practical to the original polling station, and thereupon the returning officer shall on polling day cause notices to be affixed at or near the polling station first designated stating the new location of the polling station. R.S., c. 300, s. 60.

Identification of polling station

79 A polling station must bear the number of the polling division, and where there is more than one polling station for a polling division, the number must be followed by the initial letter of the surnames of the first and last electors on the list of electors for the polling station, such as Polling Station No. (A. to K.) or as the case may be. R.S., c. 300, s. 61.

Voting compartment contents

80 Throughout the hours of polling, the voting compartment in a polling station must contain a suitable surface on which to mark the ballots and a pencil or pen. R.S., c. 300, s. 62; 2003, c. 9, s. 27.

Mobile polling stations

81 (1) Notwithstanding Section 76, the returning officer may establish a mobile polling station to be located in a hospital, a sanatorium, a home for the aged, a licensed nursing home or an institution for the care and treatment of chronic diseases, including a polling division required to be established pursuant to subsection 9(4), for such period of time between 8:00 a.m. and 7:00 p.m. of ordinary polling day as the returning officer determines is necessary to give electors resident therein an opportunity to vote.

(2) A ballot box may be used for more than one mobile polling station.

(3) Notwithstanding subsection 95(2), an elector resident in an institution in which a mobile polling station is established may vote at the mobile polling station.

(4) A deputy returning officer for a mobile polling division must be issued an official list of electors for each polling division in which the mobile polling station is to be located.

(5) The mobile polling station is deemed to be closed at 7:00 p.m., at which time the deputy returning officer shall return with the ballot box to a location chosen by the returning officer to perform the duties imposed on the deputy returning officer by Sections 120 to 127. 1994, c. 26, s. 19.

Ballot boxes

82 (1) The returning officer shall obtain such number of ballot boxes as the returning officer considers are required for each polling station in the municipality.

- (2) Ballot boxes must be
- (a) of uniform size and shape;

- (b) made of a durable material;
- (c) furnished with seals; and
- (d) constructed with a slit or narrow opening on the top, so that the ballot papers may be deposited but the ballots cannot be withdrawn without unsealing the box.

(3) Where the returning officer fails to furnish ballot boxes to a deputy returning officer for a polling station, or a box that was furnished has been lost or destroyed, the deputy returning officer shall procure or cause to be made sufficient ballot boxes for the polling station. R.S., c. 300, s. 64.

Ballot papers

83 (1) Where a poll is required, the returning officer shall cause to be printed ballot papers in sufficient quantity to supply all polling stations.

(2) A ballot paper must be in prescribed form and have on the front thereof

(a) at the top of the ballot the title “Election for Mayor” or “Election for Councillor” or “Election for School Board Member”, as the case may be;

(b) immediately below the title the warning “vote for one candidate only” or “vote for not more than (the number of candidates to be elected) candidates”, as the case may be; and

(c) following a substantial space, the names or names by which they are commonly known of the candidates with given names followed by surnames, arranged alphabetically in order of their surnames and, where necessary, their given names.

(3) No title, honour, decoration or degree may be included with a candidate’s name on the ballot.

(4) On the back of each of the stub and the counterfoil must be printed a serial number, which must be the same on both.

(5) The ballot paper must be printed with the title, warning and names of candidates and a small circular space immediately to the right of the name of each candidate, appearing in the colour of the paper.

(6) The returning officer may determine the form of the ballot paper, including the quality, weight, colour and size of the ballot paper.

(7) All ballot papers must, subject to subsection (8),

(a) be of the same description and as nearly alike as possible;

(b) have a counterfoil and a stub with lines of perforations between the ballot form and the counterfoil and between the counterfoil and the stub; and

(c) be bound in books containing 25, 50 or 100 ballot papers, according to the requirements of the polling stations.

(8) The returning officer shall ensure that the ballot for mayor, the ballot for councillor, the ballot for school board member and any other ballot required be of different colours of paper. R.S., c. 300, ss. 66, 67; 1994, c. 26, s. 21; 2003 (2nd Sess.), c. 5, s. 11; 2007, c. 46, s. 13; 2015, c. 47, s. 12.

Ballot boxes and other materials at polling stations

84 (1) Not later than 10:00 p.m. on the day before polling day, the returning officer shall furnish to each deputy returning officer for the polling station to which the deputy returning officer has been appointed a ballot box with seals and, sealed in the ballot box,

(a) ballot papers for each office for which an election is to be held and each question to be voted on for at least 10% more than the number of electors on the revised list of electors of the polling station;

(b) a statement showing the number of ballot papers supplied with their serial numbers;

(c) pencils or pens to permit the electors to mark their ballot papers;

(d) at least two copies of directions to electors in prescribed form;

(e) a copy of this Act and of the instructions prescribed by the returning officer;

(f) a copy of the revised list of electors for use at the polling station;

(g) a poll book;

(h) a seal to seal each ballot box at the opening of the poll, a seal to seal each ballot box after the ballots are counted and one additional seal for each ballot box to be used at the polling station; and

(i) other materials and supplies authorized or furnished by the returning officer.

(2) The returning officer shall at the time referred to in subsection (1) supply such additional number of ballot boxes for the polling station as the returning officer considers are required, and shall record on the inside front cover of the poll book the number of ballot boxes supplied to the polling station.

(3) The format of the poll book must be as prescribed.

(4) A deputy returning officer is responsible for the election materials and supplies received from the returning officer and shall prevent any person from having unlawful access to them.

(5) The use of each seal provided pursuant to subsection (1) must be recorded on the inside front cover of the poll book, and the extra seal must, where unused, be sealed in the ballot box after the ballots have been counted.

(6) Subject to Section 102, a ballot box may not be removed from the polling station during the hours the poll is open and until the votes have been counted. R.S., c. 300, s. 68; 2015, c. 47, s. 13.

Persons permitted in polling station

85 (1) In addition to the deputy returning officer, poll clerk and an elector intending to vote thereat, only the following persons are permitted to be in the polling station while the poll remains open:

- (a) the candidates;
- (b) the returning officer;
- (c) the assistant returning officer;
- (d) one agent for each candidate, upon delivering the agent's appointment in prescribed form to the deputy returning officer and taking an oath in prescribed form in the poll book;
- (e) the official agent of a candidate, unless the official agent is the candidate;
- (f) a peace officer, if authorized by the returning officer or the deputy returning officer; and
- (g) any person necessarily present in order to comply with any other Section of this Act.

(2) The returning officer may prescribe and supply a badge or other form of identification for all election officers and agents entitled to be in a polling station, but no such badge or other form of identification may indicate for which candidate a person is acting as agent. R.S., c. 300, s. 69; 1994, c. 26, s. 22; 2003, c. 9, s. 29.

Agents at polling stations

86 (1) A candidate officially nominated or the candidate's official agent may appoint by prescribed form one or more agents to represent the candidate at each polling station.

(2) An agent may leave from and return to a polling station from time to time while the polling station is open.

(3) Only one agent for each candidate is entitled to remain in the polling station at any one time while the polling station is open.

(4) Upon exhibiting the appointment to the deputy returning officer and without taking an oath, the official agent, other than a candidate acting as official agent, may represent a candidate in any polling station in the same manner as, and in addition to, an agent. R.S., c. 300, s. 71; 2003, c. 9, s. 30.

Candidate as official agent

87 A candidate may act as official agent. 2003, c. 9, s. 31.

Transfer certificate

88 (1) Not later than 5:00 p.m. on the Wednesday before ordinary polling day, a returning officer or an assistant returning officer shall, upon the production of a duly completed declaration in prescribed form, issue a transfer certificate in prescribed form to any of the following persons whose name appears on the

list of electors for a polling division in the municipality and who has not voted at the advance poll for the polling division:

- (a) a candidate;
- (b) an agent appointed by a candidate to act in a polling station, other than where the agent's name appears on the list of electors, who produces a duly completed appointment and declaration in prescribed form;
- (c) a deputy returning officer or poll clerk who has been appointed to act at a polling station other than where the deputy returning officer's or poll clerk's name appears on the list of electors; or
- (d) an elector with a physical disability that prevents the elector from voting at a polling station if the elector's name appears on the list of electors.

(2) A transfer certificate issued pursuant to subsection (1) permits the elector to vote

- (a) at another polling station within the polling district; or
- (b) at the polling station in another polling district within the municipality.

(3) In the case of a transfer certificate issued pursuant to clause (2)(b), the transfer certificate permits the elector to vote for only those offices or matters for which the elector could have voted at the polling station where the elector's name appears on the list of electors.

(4) A returning officer or assistant returning officer who issues a transfer certificate shall

- (a) complete the certificate in triplicate;
- (b) consecutively number each certificate in the order of its issue;
- (c) deliver the original certificate to the elector;
- (d) transmit a copy of the certificate to the deputy returning officer of the polling station where the name of the person to whom the certificate has been issued appears on the list of electors; and
- (e) keep a copy of the certificate in the returning officer's or deputy returning officer's headquarters where it must be kept available for public inspection at all reasonable times. R.S., c. 300, ss. 73, 74; 1994, c. 26, ss. 23, 24; 2011, c. 68, s. 9.

Right to vote by proxy

89 Subject to Section 90, an elector may vote by a proxy voter if the elector is on the list of electors and will be unable to vote at a polling station because of illness, physical disability or absence from the municipality. 1994, c. 26, s. 25.

Proxy paper

90 (1) Between the day after nomination day and 5:00 p.m. of Friday the eighth day before ordinary polling day, the returning officer shall issue a proxy paper in prescribed form upon

(a) the elector or proxy voter delivering in person the application for a proxy vote, duly completed, to the returning officer;

(b) the returning officer being satisfied that the elector is within a class of electors described in Section 89;

(c) the returning officer being satisfied that

(i) the elector and proxy voter are each on the amended list of electors, or

(ii) where the elector's polling division is a home for the aged approved or a nursing home licensed under the *Homes for Special Care Act*, the proxy voter is a child, grandchild, sibling, parent, grandparent, or spouse of the elector and is of voting age; and

(d) the returning officer being satisfied that

(i) a proxy paper has not been issued by the returning officer to another person to act as proxy voter for the elector, and

(ii) the proxy voter has not been previously appointed a proxy for any other elector, other than for an elector who is a child, grandchild, sibling, parent, grandparent, or spouse of the proxy voter.

(2) The application must be in prescribed form, and must show

(a) the name of the elector;

(b) the elector's number on the list of electors;

(c) the reason for applying for a proxy vote, which must be because of

(i) absence from the municipality on the advance polling days and the ordinary polling day, or

(ii) inability to attend at the polling station because of illness or physical disability; and

(d) the name of the person who is to act as proxy voter for the elector, the number of the proxy voter on the voter's list, if applicable, and the relationship of the elector to the proxy voter, where applicable.

(3) A returning officer shall complete each proxy paper in triplicate and

(a) deliver the original to the elector, or proxy voter, who appears before the returning officer;

(b) retain a copy together with the application for proxy vote, referred to in clause (1)(a), where they must be available for

public inspection at all reasonable times until 5:00 p.m. on the third day before ordinary polling day; and

(c) transmit a copy to the deputy returning officer of the polling station if the name of the elector appears on the list of electors. R.S., c. 300, ss. 76, 77; 1994, c. 26, ss. 26, 27; 2003, c. 9, s. 32; 2015, c. 47, s. 14.

Where discrepancy with list of electors

91 Subject to Section 90, where a list of electors contains a name and address that correspond so closely to the name and address of the elector appointing a proxy voter or the proxy voter that the returning officer is satisfied that the entry is intended to refer to the elector or proxy voter, the returning officer shall issue the proxy paper with the particulars in it conforming to the entries on the list of electors. R.S., c. 300, s. 78.

Cancellation of proxy paper

92 An elector may return a proxy paper to the returning officer for cancellation no later than 5:00 p.m. of Friday the eighth day before ordinary polling day, and, subject to Section 90, where a proxy paper is returned to the returning officer for cancellation, the elector may appoint another elector to act as the elector's proxy voter, and the returning officer shall issue another proxy paper. R.S., c. 300, s. 79; 1994, c. 26, s. 28.

Offences respecting proxy

93 A person who

- (a) knowing that the person is not qualified to vote by proxy, has or attempts to have a proxy paper issued;
- (b) knowing that the person who appointed the person a proxy voter is not qualified to vote by proxy, has or attempts to have a proxy paper issued to the person as a proxy voter for such person;
- (c) knowingly makes a false statement in the application for a proxy vote;
- (d) votes as proxy voter on behalf of another, knowing that the elector is deceased; or
- (e) votes as proxy voter on behalf of another while the person is not the proxy voter named in the proxy paper,

is guilty of an offence. R.S., c. 300, s. 80; 1994, c. 26, s. 29.

Procedures before opening of polling station

94 (1) During the 15 minutes prior to the opening of a polling station, the deputy returning officer, in full view of the poll clerk, candidates and agents who are present, shall

- (a) cause the directions to electors referred to in subsection 84(1) to be posted in a conspicuous place outside of and near to the polling station and in a conspicuous place in the voting compartment of the polling station;

(b) count the ballot papers and permit any candidate or agent who is present to inspect and count them; and

(c) open the ballot box, ascertain that it is empty, seal it, and place it on a table in full view of all present, where it must remain sealed until the close of the poll.

(2) During the 15 minutes prior to the opening of a polling station, or so soon thereafter as is practicable, and in the presence of the poll clerk, candidates or agents who are present, the deputy returning officer shall affix uniformly the deputy returning officer's initials, either entirely with ink of one colour or entirely with black lead pencil, in the space provided for that purpose on the back of the ballot papers, without taking them from the bound or stitched books. R.S., c. 300, s. 81; 2003 (2nd Sess.), c. 5, s. 12.

Voting entitlement and restrictions

95 (1) An elector may vote once for mayor, once for councillor, once for each school board member to be elected for which the elector is qualified to vote and once on each other matter for which a poll has been granted.

(2) Unless the elector has been issued a transfer certificate, an elector may vote only at the polling station for the polling division in which the elector resides on ordinary polling day.

(3) An elector may not vote at more than one polling station in a municipality on ordinary polling day. R.S., c. 300, s. 82; 2003, c. 9, s. 33; 2003 (2nd Sess.), c. 5, s. 13.

Procedures during polling hours

96 At the hour fixed for opening a polling station and during polling hours, the deputy returning officer shall

(a) admit into the polling station each elector who has not already voted at the polling station and see that electors are not impeded or otherwise interfered with;

(b) have the elector who is before the deputy returning officer declare the elector's name and address;

(c) where the elector is qualified to vote, have the poll clerk enter the name and address of the elector in the poll book;

(d) draw a line through the name of the elector on the official list of electors;

(e) detach the ballot papers from the bound or stitched stubs;

(f) fold each ballot paper so that, when folded, the deputy returning officer's initials can be seen without unfolding it;

(g) direct the elector to return the ballot papers, when marked, folded as shown with the counterfoil attached; and

(h) subject to subsection 97(1), deliver the ballot papers to the elector. R.S., c. 300, s. 83; 2011, c. 68, s. 10.

Oath of qualification

97 (1) Where required by the deputy returning officer, poll clerk or agent representing a candidate present at the polling station, an elector shall, before receiving the ballot papers, take an oath of qualification in prescribed form before the deputy returning officer, and a check mark must be placed under the words “sworn or affirmed” opposite the name of the elector in the poll book.

(2) Where the elector refuses to take the oath, the elector is not permitted to vote and erasing lines must be drawn through the elector’s name on the official list of electors and in the poll book and a check mark must be placed under the words “refused to swear or affirm” in the poll book.

(3) An elector who refuses to take the oath referred to in subsection (1) must not receive a ballot paper, or be permitted to vote or be again admitted to the polling station.

(4) Any deputy returning officer who receives the vote of an elector who, upon being requested to do so, refuses to take the oath referred to in subsection (1) is guilty of an offence. R.S., c. 300, s. 83; 2003 (2nd Sess.), c. 5, s. 14; 2007, c. 46, s. 15.

Explanation of method of voting

98 A deputy returning officer may explain the proper method of voting to an elector, and shall do so if the elector so requests. R.S., c. 300, s. 84.

Marking and deposit of ballot paper

99 (1) An elector, on receiving ballot papers, shall

(a) proceed into the voting compartment and there mark each ballot paper by marking a cross, an “X”, a check mark or a line, with a pencil or pen within the small circular space on the ballot in which the colour of the paper appears at the right of and opposite the name of the candidate, or candidates if more than one are to be elected, for whom the elector intends to vote;

(b) refold the ballot paper in the same manner as the elector received it so that the initials and the printed serial number on the counterfoil can be seen without unfolding it; and

(c) return and hand the ballot papers so folded to the deputy returning officer.

(2) The deputy returning officer shall, for each ballot paper delivered to the elector, without unfolding it, ascertain by examination of the initials and the serial number that it is the same ballot paper as that delivered to the elector, and where it is the deputy returning officer shall, in full view of the elector and all others entitled to be present in the polling place, remove the counterfoil therefrom and destroy it, and

(a) return the ballot paper to the elector to deposit in the ballot box; or

(b) in full view of the elector and all others present, deposit the ballot paper in the ballot box,

whereupon the elector shall leave the polling place.

(3) A deputy returning officer shall not inquire or see for whom the elector intends to vote. R.S., c. 300, s. 85; 2011, c. 68, s. 11; 2015, c. 47, s. 15.

Elector requiring assistance

100 (1) Where an elector is unable to vote in the manner prescribed by Section 99 because the elector is blind, unable to read or has a physical disability that prevents the elector from marking the ballot, the elector may vote by a friend and the deputy returning officer shall

(a) require the elector to take an oath in prescribed form that the elector is incapable of voting without assistance;

(b) require the friend of the elector to take an oath in prescribed form that the friend has not previously acted as a friend for any other elector in the election, other than an elector who is a child, grandchild, sibling, parent, grandparent or spouse of the friend of the elector, that the friend will mark the ballot as requested by the elector and will keep secret the choice of the elector; and

(c) permit the friend of the elector to accompany the elector into the voting compartment and mark the elector's ballot.

(2) Where the elector requests assistance, the deputy returning officer may act as the friend of the elector but is not required to take the oath referred to in clause (1)(b).

(3) Where an elector has the elector's ballot marked by a friend pursuant to this Section, the poll clerk shall enter in the poll book opposite the elector's name

(a) the reason why the ballot was so marked;

(b) the name of the person who marked the ballot; and

(c) the fact that the oaths were taken.

(4) Except as provided in this Section, no person is permitted to enter the voting compartment while an elector is in the act of marking the elector's ballot.

(5) A candidate may not act as a friend of an elector who is not a child, grandchild, sibling, parent, grandparent, or spouse of the candidate. R.S., c. 300, s. 86; 1994, c. 26, s. 30; 2003, c. 9, s. 34.

Interpreter

101 (1) Where a deputy returning officer does not understand the language spoken by an elector and is satisfied that the elector does not understand the procedure that the elector must follow to cast the elector's vote, the deputy returning officer shall, where possible, obtain an interpreter who, after taking the oath in prescribed form in the poll book, shall be the means of communication between the deputy returning officer and the elector with reference to all matters required to enable the elector to vote.

(2) The elector must not be allowed to vote until an interpreter is obtained. R.S., c. 300, s. 87.

Inability of patient to go to polling station

102 Where a polling station has been established in a hospital, a sanatorium, a home for the aged, a licensed nursing home or an institution for the care and treatment of chronic diseases, the deputy returning officer and poll clerk, while the polling station is open, may

- (a) suspend temporarily the voting in the polling station;
- (b) post a notice in the polling station setting out the time at which voting will be resumed; and
- (c) accompanied by an officer of the institution, and not more than one agent of each candidate, if any, carry the ballot box, poll book, ballot papers and other necessary election documents from room to room in the institution and take the votes of patients unable to present themselves at the polling station who are qualified to vote in the polling station. R.S., c. 300, s. 88; 1994, c. 26, s. 31.

Cancelled ballot paper

103 Where an elector has inadvertently dealt with a ballot paper so that it should not be used,

- (a) the elector shall return it to the deputy returning officer; and
- (b) the deputy returning officer shall
 - (i) without showing it to any other person, write the word “cancelled” upon the back of it and place it in an envelope, and
 - (ii) deliver another ballot paper to the elector. R.S., c. 300, s. 89.

Declining to vote

104 An elector who received a ballot paper and declines to vote shall return the ballot paper to the deputy returning officer, who, without showing it to any person, shall mark “cancelled” upon the back of it and place it in an envelope, and the elector must not be given another ballot paper. R.S., c. 300, s. 90.

No removal of ballot

105 (1) No person who receives a ballot paper from the deputy returning officer shall take the ballot paper out of the polling place.

(2) Any person who takes a ballot paper out of the polling place contrary to subsection (1) is guilty of an offence and shall forfeit the person’s right to vote.

(3) Where a ballot paper is taken out of the polling place contrary to subsection (1) or if an elector declines to vote, the deputy returning officer shall make a note of the facts in the column of the poll book entitled “remarks” opposite the name of the elector. R.S., c. 300, s. 91.

Error in particulars on revised list

106 (1) Where an elector applies for a ballot paper in a name and address that correspond so closely with a name and address on the revised list of electors so as to make it appear probable to the deputy returning officer that the

entry in the revised list was intended to refer to the elector, the elector may receive a ballot paper and vote if

- (a) the elector takes an oath in prescribed form in the poll book; and
 - (b) where required by the deputy returning officer, the poll clerk or an agent representing a candidate who is present, the elector takes the oath prescribed for the purpose of Section 97 in the poll book.
- (2)** The poll clerk shall enter in the poll book
- (a) the correct name and address of the elector;
 - (b) the taking of the oath referred to in clause (1)(a); and
 - (c) where required, the taking of the oath referred to in clause (1)(b). R.S., c. 300, s. 92; 2003 (2nd Sess.), c. 5, s. 15; 2007, c. 46, s. 16; 2015, c. 47, s. 16.

Impersonated elector

107 (1) An elector who applies for a ballot paper after another person has voted as such elector may receive a ballot paper and vote if

- (a) the elector produces evidence of identification and residence satisfactory to the deputy returning officer, in the presence of those candidates or agents representing candidates as are present in the polling station;
- (b) the elector takes the oath in prescribed form in the poll book; and
- (c) where required by the deputy returning officer, the poll clerk or an agent representing a candidate who is present, the elector takes the oath prescribed for the purpose of Section 97 in the poll book.

(2) The poll clerk shall enter in the poll book, opposite the name of the elector, that the elector

- (a) voted on a second ballot paper issued under the same name;
- (b) took the oath referred to in clause (1)(b); and
- (c) where required, took the oath referred to in clause (1)(c). R.S., c. 300, s. 93; 2003 (2nd Sess.), c. 5, s. 16; 2007, c. 46, s. 17.

Record of poll

108 A poll clerk shall enter in the poll book, on the record of poll in prescribed form

- (a) the name and address and the number on the revised list of electors of each elector who applies to vote, with a consecutive number being prefixed to the elector's name in the appropriate column of the poll book;

(b) a check mark under the words “voted for mayor”, “voted for councillor”, “voted for school board” and “voted for other” if a poll has been granted and opposite the name of the voter, as soon as the ballots are deposited in the ballot box;

(c) a check mark under the words “sworn or affirmed” and opposite the name of an elector to whom an oath is administered, with a note indicating the nature of the oath;

(d) a check mark under the words “refused to swear or affirm” and opposite the name of an elector who refuses to take an oath when the elector is legally required to do so;

(e) a check mark under the word “transfer” and the certificate number opposite the name of an elector who votes under a transfer certificate;

(f) a check mark under the word “added” and opposite the name of an elector who has been added to the list of electors pursuant to Section 112; and

(g) any other entries that the deputy returning officer may direct or are required by this Act. R.S., c. 300, s. 94; 2003, c. 9, s. 35; 2003 (2nd Sess.), c. 5, s. 17; 2015, c. 47, s. 17.

Use of additional ballot box

109 (1) Where at any time during the conduct of the poll the deputy returning officer considers it necessary to use an additional ballot box, the deputy returning officer shall seal the opening in the top of the ballot box then being used with a paper seal that bears the initials of the deputy returning officer, poll clerk and such of the candidates and agents who are present and choose to affix their initials.

(2) The ballot box so sealed shall remain in full view of the deputy returning officer, poll clerk and candidates and agents who are present until the ballots are counted.

(3) The deputy returning officer shall, in full view of the poll clerk, candidates and agents who are present, open the additional ballot box, ascertain that it is empty, seal it and place it on a table in full view of all present, where it shall remain sealed until the close of the poll. R.S., c. 300, s. 95; 2003 (2nd Sess.), c. 5, s. 18.

Voting at closing hour of polling station

110 At the hour for the closing of the polling station, a deputy returning officer shall

(a) cause the name of all electors then in, or actually present at and awaiting admission to, the polling station to be listed; and

(b) keep the polling station open a sufficient time to enable the electors to vote,

but no elector, other than those whose names are so listed, is permitted to vote after the closing hour. R.S., c. 300, s. 96.

Who may vote at polling station

111 Subject to Section 114, a person may vote at a polling station on ordinary polling day if

- (a) the person's name is on the revised list of electors used at the polling station;
- (b) the person's name is not on the revised list of electors used at the polling station, but the person complies with Section 112;
- (c) the person delivers to the deputy returning officer of the polling station the original transfer certificate authorizing the person to vote at that polling station; or
- (d) the person delivers to the deputy returning officer of the polling station where the person's name is on the revised list of electors the original transfer certificate. R.S., c. 300, s. 97; 2015, c. 47, s. 18.

Elector not on revised list

112 (1) A person whose name is not on the revised list of electors used at a polling station may vote at the polling station on ordinary polling day if the person swears to and signs an oath in prescribed form in the poll book.

(2) The deputy returning officer shall thereupon place the person's name in the poll book and, with that person's consent, upon the revised list of electors and permit that person to vote.

(3) The poll clerk shall record any objection to the receipt of the ballot raised by any agent or elector representing a candidate in the poll book. R.S., c. 300, s. 98; 1994, c. 26, s. 32; 2000, c. 9, s. 28; 2007, c. 46, s. 18; 2015, c. 47, s. 19.

Procedure for proxy voter

113 (1) An elector may vote by proxy on ordinary polling day if the elector's proxy voter

- (a) appears before the deputy returning officer of the polling station where the name of the elector appears on the official list of electors;
- (b) delivers to the deputy returning officer the proxy paper in prescribed form, issued by the returning officer pursuant to Section 90; and
- (c) swears to and signs the affidavit of proxy voter in prescribed form in the poll book,

whereupon the deputy returning officer shall issue a ballot paper to the proxy voter who shall vote in the name of the elector.

(2) The poll clerk shall enter in the poll book opposite the name of the elector, a check mark under the words "by proxy".

(3) An elector who has received a proxy paper may not vote other than through that elector's proxy voter. R.S., c. 300, s. 99; 1994, c. 26, s. 33.

Disqualification of voter

- 114** A person may not vote at a polling station on ordinary polling day if
- (a) the person refuses to take the oath referred to in subsection 97(1), clause 106(1)(b) or clause 107(1)(c) in the poll book upon being requested to do so;
 - (b) the deputy returning officer has received the list of persons who voted at the advanced polling station, referred to in Section 130, from the returning officer certifying that the elector has voted at the advance poll;
 - (c) subject to clause 111(d), the deputy returning officer has received the transfer certificate referred to in Section 88 from the returning officer certifying that the elector has received a transfer certificate entitling the elector to vote at another polling station; or
 - (d) the person fails to comply with Section 111. R.S., c. 300, s. 100.

Secrecy

- 115** Every person in attendance at a polling station, or at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting, and shall not at any time communicate or attempt to communicate any information obtained at such polling station or counting as to the candidate for whom an elector voted. R.S., c. 300, s. 101.

Prohibited activity respecting vote

- 116** (1) A person is guilty of an offence who, directly or indirectly,
- (a) at or about a polling station, interferes or attempts to interfere with an elector while the elector is marking a ballot paper, or otherwise attempts to ascertain the name of the candidate for whom an elector is about to vote or has voted;
 - (b) communicates information about the manner in which a ballot paper has been marked in the person's presence in a polling station;
 - (c) induces or endeavours to induce a voter to show the voter's ballot paper so as to make known the name of the candidate for or against whom the voter has cast the voter's vote; or
 - (d) communicates information obtained in a polling station as to the candidate for whom an elector at the polling station is about to vote or has voted.
- (2) A person is guilty of an offence who, except for the purpose of permitting an elector to vote,
- (a) openly declares in a polling station for whom the person intends to vote or has voted; or
 - (b) shows the person's ballot paper to permit the name of the candidate for whom the person has voted to be known. R.S., c. 300, s. 102.

Disclosure in a proceeding unnecessary

117 No person may in any proceedings be required to state for whom the person has voted in an election. R.S., c. 300, s. 103.

Order to inspect used ballot paper

118 (1) No person may inspect any used ballot papers in the custody of the clerk or an election officer except under order of a judge, which may be granted upon satisfactory evidence on oath that the inspection or production of the ballot paper is required for the purpose of maintaining a prosecution for an offence in relation thereto, or for the purpose of taking proceedings under this Act to contest an election or return or to conduct a recount.

(2) The order must state the time and place for inspection of such papers and must name the persons to be present at such inspection, and is subject to such conditions as the judge thinks expedient. R.S., c. 300, s. 104.

Authority of election officers

119 Every returning officer and deputy returning officer, during the hours a polling station is open or while the votes are being counted,

- (a) have all the rights, privileges and immunities of a constable;
- (b) may order a constable or any person present to aid the returning officer or deputy returning officer in maintaining peace and good order at an election;
- (c) may arrest, or cause to be arrested by verbal order to a constable or peace officer, any person disturbing the peace and good order at the election or disobeying an order of the returning officer or deputy returning officer and may cause such person to be imprisoned in a jail or lock-up or a convenient place in the polling district until any time not later than one hour after the time fixed for the closing of the poll;
- (d) may order from the polling place a person who is in an intoxicated condition, who disturbs the peace and good order at the election or who obstructs the voting, and such a person when once removed is not permitted to re-enter the polling place;
- (e) may order from the polling place anyone who is not entitled to be in the polling place;
- (f) may order from the polling place or any area that is within 200 feet of the polling place anyone who is loitering or soliciting votes in the polling place or any area that is within 200 feet of the polling place. R.S., c. 300, s. 105; 1994, c. 26, s. 34.

Record of poll

120 At the close of the poll, and in the presence of the poll clerk, candidates and agents who are present, the deputy returning officer shall, in the order set forth below,

- (a) complete the record of poll, referred to in Section 108, in the poll book by
 - (i) counting the number of voters recorded thereon as having voted, and

- (ii) by writing after the last entry: "The number of electors who voted at this election in this polling station is (state the number)" and signing it;
- (b) open the envelope containing the cancelled ballot papers and
 - (i) count them,
 - (ii) mark the number on the front of the envelope, and
 - (iii) return them to the envelope and seal and initial it;
- (c) count the unused ballot papers undetached from the books of ballot papers and
 - (i) mark the number on the front of an envelope, and
 - (ii) place them, together with the stubs of all used ballot papers, in the envelope and seal and initial it; and
- (d) complete entries respecting the number of blank ballots received from returning officer, the number of ballots from advance poll and the total ballots to be accounted for on a statement of poll in prescribed form in the poll book for each matter for which a poll has been granted. R.S., c. 300, s. 106; 2003, c. 9, s. 36.

Separation and count of ballots

121 (1) After completing the first three entries on each statement of poll, the deputy returning officer shall, in the presence and in full view of the poll clerk, candidates and agents who are present, open all ballot boxes used at the polling station and proceed to separate the ballots according to the matter for which a poll was granted.

(2) The deputy returning officer shall then, in the presence and in full view of the poll clerk, candidates and agents who are present, proceed to count the votes by

- (a) giving a tally sheet in prescribed form in the poll book to the poll clerk and to those other persons present at the poll who so request;
- (b) after each person present is given full opportunity to examine a ballot, decide whether the ballot should be rejected or counted; and
- (c) where the ballot is to be counted, call out the vote and have it entered on the tally sheets.

(3) The ballots for the election of a mayor, if any, must be counted first, followed by the ballots for councillor, followed by the ballots for school board members and followed by such other ballots as may be in use in the order prescribed by the returning officer, and no ballots may be counted until the preceding ballots have been counted and the statement of poll has been completed in respect of them.

(4) The candidates and agents present may be present for the count at only one polling station and may not move from polling station to polling station. R.S., c. 300, s. 107; 2003, c. 9, s. 37.

Rejection of ballot

122 In counting the votes, the deputy returning officer shall reject all ballots

- (a) that have not been supplied by the deputy returning officer;
- (b) that have not been marked for any candidate;
- (c) on which votes have been given for more candidates than are to be elected;
- (d) that have not been marked with a cross, an “X”, a check mark or a line made with a pencil or pen;
- (e) that have not been marked within the circular space on the ballot paper at the right of the name of a candidate;
- (f) that have been so marked to render it uncertain for which candidate or candidates the voter has voted; or
- (g) upon which there is any writing or mark by which the voter can be identified, or that has been so torn, defaced or otherwise dealt with by the voter that the voter can thereby be identified,

but no ballot may be rejected only by reason of any word, letter or mark written or made or omitted to be written or made on it by the deputy returning officer or only by reason that the cross, the “X”, the check mark or the line is partially outside the circular space, if there is no uncertainty for which candidate or candidates the voter has voted. R.S., c. 300, s. 108; 1994, c. 26, s. 35; 2007, c. 46, s. 19; 2011, c. 68, s. 12.

Objections

123 (1) Where, during the counting of the votes, a candidate or candidate’s agent objects to any ballot found in the ballot box or to the rejection of any ballot by the deputy returning officer, the deputy returning officer shall take a note of the objection and shall decide any question arising out of the objection.

(2) Every objection must be numbered and a corresponding number must be placed on the back of the ballot and initialed by the deputy returning officer.

(3) Where a ballot is rejected, the deputy returning officer shall endorse on the back of the ballot “rejected” and shall initial the endorsement.

(4) Where a ballot is rejected and any objection is made to the decision, the deputy returning officer shall further endorse the ballot “rejection objected to” and shall initial the endorsement. R.S., c. 300, s. 109.

Irregular ballot

124 Where, in the course of counting the ballots, a ballot is found with the counterfoil attached or without the initials of the deputy returning officer affixed thereto, a deputy returning officer shall, in the presence of any person present in the polling station,

- (a) after carefully concealing the number on the counterfoil and without examining it personally, remove and destroy the counterfoil; or

(b) where satisfied that the ballot is one that was supplied by the deputy returning officer, affix the deputy returning officer's initials to the ballot and count the vote on the ballot, unless the deputy returning officer determines that it should be rejected for another reason. R.S., c. 300, s. 110.

Statement of poll and sealing of ballot box

125 (1) After counting the votes, a deputy returning officer shall complete the statement of poll in prescribed form in the poll book for each matter for which a poll was granted in a sufficient number of copies for the purpose of this Section, sign them and have the poll clerk and such of the persons present who desire to do so sign them.

(2) The deputy returning officer shall then, in the case of each matter for which a poll was granted,

(a) where the ballots are to be marked for only one candidate or matter, place the ballots in separate envelopes for each candidate or matter;

(b) where the ballots are to be marked for more than one candidate or matter, place the ballots in one envelope;

(c) place all rejected ballots in a separate envelope;

(d) write on each envelope the contents and number of ballots enclosed and the serial number of the seal used to seal the ballot box;

(e) sign and seal the envelopes; and

(f) instruct the poll clerk, and such of the persons present who desire to do so, to sign the envelopes across the flap of the envelope in such a way that the envelopes cannot be opened without disturbing the signatures.

(3) The deputy returning officer shall thereupon place all the envelopes containing the ballots that have been counted, the ballots that have been rejected, the unused ballot papers, the cancelled ballot papers, the list of electors, the list of objections and any other documents used at the poll, except the poll book, in the ballot box and shall seal the ballot box and seal the narrow opening on the top of the ballot box.

(4) The deputy returning officer shall deliver a copy of the statement of poll to each candidate or agent representing a candidate who is present and requests it, and shall leave one copy in the poll book. R.S., c. 300, s. 111; 2003 (2nd Sess.), c. 5, s. 19.

Return of ballot box and poll book

126 (1) After counting the votes and sealing the ballot box, the deputy returning officer shall forthwith deliver the ballot box and the poll book to the returning officer.

(2) Where, owing to illness or other cause, the deputy returning officer is unable to deliver the box and poll book to the returning officer, the deputy returning officer shall instruct the poll clerk to do so, and the poll clerk shall deliver them to the returning officer. R.S., c. 300, s. 112.

Poll book inadvertently sealed in ballot box

127 Where the deputy returning officer or poll clerk inadvertently seals the poll book or the statement of poll in the ballot box, the box may be opened in the presence of the returning officer, the poll book or the statement of poll may be removed and the box must be resealed forthwith. R.S., c. 300, s. 113.

Advance poll

128 (1) The returning officer shall establish an advance poll or polls at a convenient place or places within the municipality, in premises that permit convenient access thereto by an elector with a physical disability.

(2) Notwithstanding Section 78, a returning officer may provide polling stations for an advance poll established under subsection (1) at one or more of the following polling places:

- (a) within the polling division;
- (b) where the returning officer is unable to secure suitable premises for a polling station within the polling division, within an adjacent polling division; and
- (c) within a centralized polling place.

(3) Notwithstanding that the poll is not in the polling division in which an elector is ordinarily resident, the elector may vote at a polling place established under clause (2)(c) if the elector is identified as one of the electors permitted to cast ballots at the advance poll identified in the notice required under subsection (10).

(4) An elector may not vote at more than one polling station on advance polling day.

(5) The returning officer may act as deputy returning officer at an advance polling station, in which case there is no need to take the oath referred to in subsection 8(2), and the assistant returning officer may act as poll clerk.

(6) Any elector who expects to be unable to vote on ordinary polling day may vote at an advance poll.

(7) An advance poll must be held on

(a) Tuesday, the fourth day before ordinary polling day;
and

(b) one other day fixed by council, by resolution, which must be either

(i) Thursday, the ninth day before ordinary polling day, or

(ii) Saturday, the seventh day before ordinary polling day.

(8) Council may delegate its authority to fix a day pursuant to clause (7)(b) to the returning officer.

(9) On advance polling day the poll must be opened for the taking of votes at 12:00 noon and be kept open until 8:00 p.m.

(10) The returning officer shall cause notice of the advance polls to be published in a newspaper circulating in the municipality before the first advance poll day.

(11) The notice of the advance polls must set out

(a) the dates of the advance polling days and the hours of polling;

(b) the location of the advance polling stations and the polling divisions to be served by each; and

(c) the electors permitted to cast ballots at the advance poll. R.S., c. 300, s. 114; 1994, c. 26, s. 36; 2003, c. 9, s. 38; 2003 (2nd Sess.), c. 5, s. 20; 2007, c. 46, s. 20; 2011, c. 68, s. 13; 2019, c. 35, s. 6.

Procedure at and materials for advance poll

129 (1) Except as herein provided, the advance poll must be held in the manner prescribed in this Act for an ordinary poll.

(2) The returning officer shall, before the poll is opened, deliver to each deputy returning officer, a correct copy of the list of electors for the polling district or districts to which the deputy returning officer has been appointed to act and a poll book in which to record the names of the voters.

(3) Upon the close of voting the deputy returning officer shall, in the presence of the candidates or their agents, seal the opening in the top of the ballot box with a paper seal upon which are affixed the initials of the deputy returning officer, poll clerk and such of the candidates and agents who are present and who choose to do so.

(4) Where voting is to take place at a polling station location on more than one advance poll day, the same ballot box, poll book and other materials may be used at the polling station, and the seal over the opening on the top of the ballot box may be opened on the second advance poll day so that ballots may be inserted during polling hours.

(5) The unused ballots and stubs must be placed in an envelope upon which the deputy returning officer has endorsed the deputy returning officer's signature and the serial number of the seal used for sealing the ballot box, and the poll clerks shall, and any candidate or candidate's agent may, affix their signatures across the flap of the envelope in such a way that the envelope cannot be opened without disturbing the signatures.

(6) The poll book, the envelope containing the unused ballots and stubs and the envelope containing the cancelled ballot papers must be securely fastened to the ballot box.

(7) The deputy returning officer shall, where required by the returning officer, deliver the ballot box or boxes used at the advance polling station and all other materials to the returning officer.

(8) Where the returning officer does not require the ballot box or boxes and other materials to be delivered to the returning officer, the deputy returning officer shall keep the same secure until after the close of the poll on ordinary polling day.

(9) A ballot box used at an advance polling station must not be opened until the counting of the votes takes place at the close of the poll on ordinary polling day, and during this time the ballot box must remain in the custody of the returning officer or deputy returning officer, as the case may be. R.S., c. 300, s. 116.

List of persons who voted at advance poll

130 At the close of an advance poll the deputy returning officer shall complete a list of persons who voted at the advance polling station in prescribed form and forthwith deliver to the returning officer the completed list. R.S., c. 300, s. 117.

Procedure for counting advance poll votes

131 (1) Where fewer than 10 persons from any polling district served by an advance polling station voted for candidates for any one office at that advance polling station, the ballots must be counted as prescribed in Section 132 and in all other cases the ballots from an advance polling station must be counted as prescribed by Section 133.

(2) Notwithstanding subsection (1), where there are fewer than 10 votes for any school board office only at an advance polling station, the returning officer may direct that the ballots be counted as prescribed by Section 133 or 137. R.S., c. 300, s. 118; 1994, c. 26, s. 37; 2000, c. 9, s. 29.

Counting where fewer than 10 voters

132 (1) During the hours when the polls are open on ordinary polling day at the time and place prescribed by the returning officer, the deputy returning officer, in the presence of the poll clerks, candidates and agents who are present, shall

- (a) open the ballot box;
- (b) without looking at the front of the ballots, separate the ballots cast for councillors or school board members for each polling district;
- (c) place the ballots in separate envelopes for each polling district;
- (d) place in the same envelopes a number of ballots cast for mayor or other person to be elected at large;
- (e) seal the envelopes and indicate the number of ballots for each office on the outside of the envelope;
- (f) sign and request the poll clerk and such of the candidates and agents who choose to do so to sign across the seal of each envelope;
- (g) deliver the envelopes to the polling stations designated by the returning officer.

(2) Where an envelope is delivered to a polling station pursuant to subsection (1), the deputy returning officer shall thereupon, in full view of the poll clerks, candidates and agents who are present, and the deputy returning officer who delivered the envelope, without opening the ballot box, place the ballots from the envelope individually into the ballot box.

(3) Where ballots from an advance polling station have been added to ballots cast at an ordinary poll, the deputy returning officer shall note the number of additional ballots provided from the advance polling station in the statement of poll completed in prescribed form in the poll book. R.S., c. 300, s. 119.

Counting in other cases

133 At the close of the poll on ordinary polling day, the deputy returning officer for each advance polling station shall, at the place where the advance poll was held or at the office of the returning officer and in full view of the poll clerks, candidates and agents who are present,

- (a) open the ballot box;
- (b) count the votes; and
- (c) perform all the other duties required of a deputy returning officer in charge of a polling station. R.S., c. 300, s. 120.

List of persons voting at advance polling station

134 A returning officer shall

- (a) keep in the returning officer's headquarters the list delivered of persons who voted at the advance polling station, referred to in Section 130, where it must be available for inspection by candidates or candidates' official agents at all reasonable times; and
- (b) cause a copy of the list to be transmitted, before the opening of the poll on ordinary polling day, to the deputy returning officer of each polling station. R.S., c. 300, s. 121; 2003 (2nd Sess.), c. 5, s. 21.

Revised list following advance poll

135 A returning officer shall, on the revised list of electors to be used at each polling station, cause a line to be drawn through the names of all electors who voted at the advance poll and add to the list the names of electors who voted at the advance poll whose names do not appear on the list together with the notation "voted at advance poll". R.S., c. 300, s. 122; 2015, c. 47, s. 21.

Voter not on list appearing at advance poll

136 (1) A person whose name is not on the revised list of electors for the polling district in which the person resides may personally appear for the purpose of voting at the advance poll.

(2) The deputy returning officer shall administer an oath in prescribed form.

(3) When the person has taken the oath, the deputy returning officer shall thereupon place the person's name in the poll book and, with the per-

son's consent, add the person's name to the revised list of electors and permit the person to vote. R.S., c. 300, s. 123; 2000, c. 9, s. 30; 2015, c. 47, s. 22.

Counting where fewer than 10 voters for school board

137 (1) Where fewer than 10 persons vote for the election of a school board member at any polling station, at the close of the poll the deputy returning officer, in the presence of the poll clerks, candidates and agents who are present, shall

- (a) open the ballot box;
- (b) without looking at the front of the ballots, separate the ballots cast for school board members;
- (c) place the ballots for school board members in separate envelopes for each school board;
- (d) prepare a partial statement of poll for the school board election setting out the number of people who voted for the school board, the number of ballots and the reconciliation of ballots, and include the partial statement in the envelope;
- (e) seal the envelopes and indicate the number of ballots for each office on the outside of the envelope;
- (f) sign and request the poll clerk and such of the candidates and agents who choose to do so to sign across the seal of each envelope;
- (g) deliver the envelopes to the returning officer.

(2) Where the returning officer is not the returning officer for the school board election, the returning officer shall deliver the envelopes to the returning officer for the school board election.

(3) Where an envelope is delivered to a returning officer for a school board election pursuant to subsection (1) or (2), the returning officer may appoint a counting officer to count the ballots in all envelopes delivered to the returning officer pursuant to subsection (1) or (2).

(4) Where the returning officer for the school board election does not appoint a counting officer pursuant to subsection (3), the returning officer shall carry out the duties of the counting officer.

(5) The counting officer, prior to the official addition of the votes, at a time and place designated by the returning officer and made known to the candidates, in the presence of the candidates and agents who are present, shall

- (a) open all envelopes;
- (b) intermingle ballots from all of the different envelopes containing ballots for candidates for the same office;
- (c) count the votes;
- (d) prepare a partial statement of poll with respect to ballots counted;

(e) perform all other duties of a deputy returning officer in charge of a polling station. 1998, c. 18, s. 568; 2000, c. 9, s. 31; 2007, c. 46, s. 21.

Security of ballot box

138 Upon receipt of a ballot box, a returning officer shall

(a) where the seal is not in good order, affix a further seal without removing the existing one, and record its condition; and

(b) take every precaution for the safe-keeping of the ballot box and for preventing any person from having unlawful access to it. R.S., c. 300, s. 124.

Official addition

139 (1) The official addition of the votes must be held by the returning officer at the returning officer's headquarters commencing at 10:00 a.m. on Tuesday, the third day after ordinary polling day.

(2) On the official addition of the votes, a returning officer shall, in the presence of the candidates and agents who are present, ascertain the number of votes cast for each candidate in each polling station in the electoral district by obtaining the information

(a) from the statement of the poll in the poll book; or

(b) where the statement of the poll in the poll book is not available, from the statement of the poll in the possession of the deputy returning officer, a candidate or an agent, but the correctness of the statement must be verified upon oath by the deputy returning officer or poll clerk. R.S., c. 300, s. 125.

Procedure if statement of poll unavailable

140 (1) Where the statement of the poll cannot be obtained for a polling station, the returning officer may ascertain the number of votes cast for each candidate

(a) from the endorsements on envelopes in the ballot box that contain the ballots cast for the candidates;

(b) from the deputy returning officer, the poll clerk or any other person; or

(c) from such evidence as the returning officer is able to obtain.

(2) The returning officer, in the performance of the returning officer's duties under subsection (1),

(a) may summon any person to appear before the returning officer at a day and hour to be named by the returning officer and to bring all necessary papers and other documents;

(b) shall give notice of the proceedings, and of the day and hour thereof, to the candidates or their official agents; and

(c) may examine on oath any person respecting the matter in question.

(3) A person refusing or neglecting to attend on the summons of a returning officer issued under this Section is guilty of an offence. R.S., c. 300, s. 126.

Resealing of ballot box

141 Where a ballot box is opened for the purpose of ascertaining the number of votes cast for the candidates, a returning officer, on returning the documents to the ballot box, shall seal the ballot box with a seal. R.S., c. 300, s. 127.

Completion of official addition

142 At the conclusion of the official addition of the votes, a returning officer shall

- (a) complete a recapitulation sheet in prescribed form for each matter for which a poll was granted;
- (b) transmit, by personal delivery or registered mail to each candidate or candidate's official agent, a copy of the recapitulation sheet;
- (c) transmit to the clerk by personal delivery or registered mail
 - (i) a copy of the recapitulation sheet, and
 - (ii) where a statement of a poll was not obtained for a polling station, a statement of how the returning officer ascertained the number of votes cast for each candidate at that polling station; and
- (d) where the returning officer has not already done so, transmit to the clerk the deputy returning officers' accounts, the poll clerks' accounts, the assistant returning officer's account, the owners' of polling stations accounts, the accounts of other election officers and the returning officer's own account in the forms prescribed by council. R.S., c. 300, s. 128; 1994, c. 26, s. 38.

Declaration of elected candidate

143 (1) Where a poll is held, the clerk shall, at the first regular or special meeting of the council after the time for applying for a recount has expired, declare elected the candidate, or candidates if more than one is to be elected, having the largest number of votes with the term of office of each candidate from each polling district where there has been no application made pursuant to this Act for a recount of the ballots cast in that polling district.

(2) Where there has been a recount, the clerk shall, at the first regular or special meeting of the council after the recapitulation sheet has been received from the judge, declare elected the candidate, or candidates if more than one, having the largest number of votes according to the recapitulation sheet, with the term of office of each candidate. 1994, c. 26, s. 39.

Automatic recount

144 (1) Where, upon the calculation by the returning officer of the total number of valid votes cast for each candidate, it appears that an equality of votes exists for two or more candidates for any office, and the addition of one vote

would entitle any of such candidates to be declared elected to such office, the returning officer shall file an affidavit with the clerk of the Supreme Court or of the Provincial Court setting out the facts, and upon filing the affidavit the returning officer shall apply to a judge of the Supreme Court or of the Provincial Court for a recount.

(2) At least three days prior to an application, the returning officer shall serve a copy of the application and a copy of the affidavit upon the clerk and upon the candidates who may be affected thereby. R.S., c. 300, s. 130; 2011, c. 68, s. 14.

Application for recount

145 (1) At any time within 10 days after ordinary polling day, the clerk, where authorized by the council, any candidate or any elector, may apply to a judge of the Supreme Court or of the Provincial Court for a recount of all the ballots cast in any polling district or in all polling districts, and for any or all of the offices to be filled or questions to be decided.

(2) An application must be filed with the clerk of the court and must be accompanied by a deposit in the sum of \$200 in legal tender or a certified cheque or money order as security for costs of the recount. R.S., c. 300, s. 131; 2008, c. 24, s. 1; 2011, c. 68, s. 15.

Dismissal of application for recount

146 (1) A judge may refuse to conduct a recount and order that the application be dismissed if the judge determines that

- (a) the application is frivolous or vexatious; or
- (b) it would not be in the interest of justice to conduct the recount.

(2) Upon ordering that the application be dismissed, the judge may order costs against the applicant.

(3) The deposit of \$200 may not be paid out by the clerk of the court without an order of the judge. 2011, c. 68, s. 16.

Notice of time and place of recount

147 (1) Upon receiving an application for a recount, the judge shall appoint a time and place to recount all ballots cast and cause notice in writing to be given to the clerk, the returning officer and the candidates who may be affected thereby and to such other persons as the judge may direct, of the time and place at which the judge will proceed to recount the same, such time to be not more than 30 days after the date of the application.

(2) The judge may direct that service of notice of the time and place of the recount be substitutional, or be made by mail, or by posting or in any other manner. R.S., c. 300, s. 132.

Transfer of recount application

148 Where an application has been made to a judge pursuant to subsection 145(1), and the judge determines that the recount can be completed sooner by

another judge in either the Provincial Court or the Supreme Court, and where the judge decides that it is appropriate to do so, the judge may, by order, transfer the matter to that other judge. R.S., c. 300, s. 132; 2011, c. 68, s. 17.

Materials and persons at recount

149 (1) The returning officer shall attend throughout the proceedings at the place and time appointed for the recount with the sealed ballot boxes and poll books used at the election, and shall hold or dispose of them according to the directions of the judge.

(2) In addition to the returning officer, the clerk of the court and the judge, the following persons may be present at the recount:

- (a) the applicant;
- (b) the clerk;
- (c) the municipality's solicitor;
- (d) the candidates and their solicitors or agents; and
- (e) any person authorized by the judge. R.S., c. 300, s. 133; 2011, c. 68, s. 18.

Recount procedure

150 (1) At the time and place appointed, the judge shall proceed to open the ballot boxes and to recount all the ballot papers contained therein.

(2) A recount must, so far as practical, proceed continuously as directed by the judge.

(3) The judge shall examine the ballot papers and recount the votes.

- (4)** Any ballot paper
- (a) that was not supplied by the deputy returning officer;
 - (b) that has not been marked for any candidate;
 - (c) on which votes have been given for more candidates than are to be elected for the office in question;
 - (d) that has not been marked with a cross, an "X", a check mark or a line made with a pencil or pen;
 - (e) that has not been marked within the circular space on the ballot paper at the right of the name of a candidate;
 - (f) that has been so marked to render it uncertain for which candidate or candidates the voter has voted; or
 - (g) upon which there is any writing or mark by which the voter can be identified, or that has been so torn, defaced or otherwise dealt with by the voter so that the voter can thereby be identified,

is void and may not be counted, but no ballot may be rejected only by reason of any word, letter or mark written or made or omitted to be written or made on it by the deputy returning officer or only by reason that the cross, the "X", the check mark or

the line is partially outside the circular space, if there is no uncertainty for which candidate or candidates the voter has voted.

(5) The judge shall make a note of any objection made by a candidate or by a candidate's agent to a ballot paper, and shall decide any question arising out of the objection, and the decision of the judge thereon is final.

(6) The judge shall then count the votes given for each candidate upon the ballot papers not rejected, and shall make up a written statement, in words as well as in figures, of the number of votes given for each candidate and of the number of ballot papers rejected and not counted by the judge, and the statement shall be made under the several heads following:

- (a) the names of candidates;
- (b) number of votes for each candidate;
- (c) ballot papers rejected as marked for more candidates than were to be elected;
- (d) ballot papers rejected as having upon them a writing or mark by which the voter can be identified or as torn, defaced or otherwise dealt with by the voter so that the voter can thereby be identified; and
- (e) ballot papers rejected as unmarked or from which it was impossible to determine for whom the ballot was cast. R.S., c. 300, ss. 134, 135; 1994, c. 26, s. 40; 2011, c. 68, s. 19.

Procedure on completion of recount

151 (1) Upon the completion of the recount, or as soon as the judge can ascertain the result of the voting, the judge shall seal up all the ballot papers in separate packets and return each packet to the proper ballot box, and shall forthwith certify the result to the clerk, who shall, at the next regular or special meeting of the council, declare elected the candidate, or candidates if more than one is to be elected, having the highest number of votes and the candidate or candidate's term of office.

(2) Upon the completion of the recount, the judge shall return the ballot boxes and other documents relating to the election to the returning officer. R.S., c. 300, s. 136.

Costs

152 (1) At the conclusion of a recount, the judge may make such order as the judge sees fit respecting costs, including the disposition of money deposited as security for costs.

(2) Where, in the opinion of the judge, the conduct of the election was such as to create a reasonable doubt that the results were fairly determined, the judge may order costs against the municipality, but no such order may be made without first giving the municipality an opportunity to be heard.

(3) The deposit of \$200 may not be paid out by the clerk of the court without an order of the judge. R.S., c. 300, s. 137.

Equality of votes

153 (1) For the purpose of this Section, “lot” means the method of determining the successful candidate by placing the names of the candidates on equal size pieces of paper placed in a box and one name being drawn by a person chosen by the clerk.

(2) Where the recapitulation sheet received from the judge shows that an equality of votes exists for two or more candidates for any office, and the addition of one vote would entitle one or more of the candidates to be declared elected, the clerk shall determine the candidate or candidates to be declared elected, by lot. R.S., c. 300, s. 138.

Fees and expenses

154 (1) The council shall, by resolution, make a tariff of fees and expenses to be paid to any person for the person’s services and expenses under this Act and may similarly revise and amend the tariff and provide for a method of rendering and verifying accounts for payment.

(2) The council may delegate its authority to make, revise and amend the tariff of fees and expenses and provide for a method of rendering and verifying accounts for payment pursuant to subsection (1) to the clerk or chief administrative officer.

(3) Where it appears to the council that the fees and expenses provided for by the tariff are not sufficient remuneration for services required to be performed or expenses to be incurred, or that a claim for any necessary services performed or expenses incurred is not covered by the tariff, it may authorize the payment of such compensation for the services or expenses as is considered just and reasonable.

(4) All reasonable and necessary fees and expenses incurred under this Act must be paid by the clerk out of the funds of the municipality upon the production of proper accounts, within the limits specified in the tariff or specially authorized by council, and such sums are sums required for the ordinary lawful purposes of the municipality. R.S., c. 300, s. 139; 2011, c. 68, s. 20.

Responsibility for election materials

155 (1) All ballot boxes, ballots, poll books, lists of voters, recapitulation sheets and unused election supplies must be returned to the returning officer, who is responsible for their safe-keeping and their delivery to a judge if required.

(2) The poll books must be open for inspection for 21 days after ordinary polling day, but must not be photocopied or otherwise reproduced for members of the public.

(3) The ballot boxes must remain sealed for 25 days after ordinary polling day unless otherwise ordered by a judge.

(4) Where an election is not contested under this Act and where a recount is not requested or required, 25 days after ordinary polling day the returning officer shall open the ballot boxes and dispose of their contents and all unused elec-

tion supplies, with the exception of the poll books, lists of voters and recapitulation sheets, which must be transmitted to the clerk. R.S., c. 300, s. 140; 2003, c. 9, s. 40.

Retention of election materials

156 Where an election is not contested under this Act, the clerk or the secretary of a school board shall retain the poll books, lists of voters, recapitulation sheets, disclosure statements and such other materials and documents as may be prescribed by regulation for at least one year, but, where an election is contested, the clerk or the secretary of a school board shall retain them until the time for appeal has expired or for one year, whichever is longer. R.S., c. 300, s. 141; 2011, c. 68, s. 21; 2015, c. 47, s. 24.

Final list of electors

157 (1) The returning officer shall create a final list of electors, consisting of the revised list of electors together with any revisions made pursuant to Section 112 or 136 and including the birthdate information for each elector whose name appears on the list.

(2) The final list of electors is the list of electors for the municipality until new lists have been prepared and revised. 2015, c. 47, s. 20.

To whom final list is to be given

158 (1) Within 60 days of ordinary polling day, the final list of electors must be given by the municipality to the Chief Electoral Officer for the Province for the purpose of preparation of a provincial list of electors or a permanent register of electors, and the giving of the list of electors to the Chief Electoral Officer is an election purpose within the meaning of Section 159.

(2) The final list of electors may be given by the municipality to the Chief Electoral Officer of Canada for the purpose of preparation of a federal list of electors or a permanent register of electors, and the giving of the list of electors to the Chief Electoral Officer is an election purpose within the meaning of Section 159.

(3) The final list of electors may be given by a municipality to a village for the purpose of preparation of a village list of electors, and the giving of the list of electors to the village is an election purpose within the meaning of Section 159. 2015, c. 47, s. 23.

List of electors used for election purposes only

159 A list of electors must be used for election purposes only and for no other purpose and, in particular, must not be open for inspection, disposed of or sold. 2015, c. 47, s. 20.

Validity of list of electors

160 The validity of a list of electors is not affected by

(a) failure to appoint any official within, at, on or before the time limited by this Act;

(b) failure to complete any list of electors or do any thing within, at, on or before the time limited by this Act;

- (c) failure of any official to take any oath required by this Act; or
- (d) the inclusion on any list of electors of one or more names not authorized to be contained therein, or the omission from any list of one or more names that should have been included therein,

unless in any such case a court finds that the irregularity may have affected the result of an election at which the list of electors was used. 2015, c. 47, s. 20.

Method of public notice

161 Where an election officer is by this Act authorized or required to give a public notice and no special mode of notification is provided, the notice may be by advertisement, placard, handbill or by such other means of communication as the election officer considers will best effect the intended purpose. R.S., c. 300, s. 142.

Name of person for whom published, broadcast or distributed

162 (1) Every advertisement having reference to an election that is printed, published, broadcast or distributed, either electronically or in hard copy, must indicate the name of the person on whose behalf the advertisement is printed, published, broadcast or distributed.

(2) For greater certainty, where a candidate, the candidate's official agent or any other person acting on behalf of the candidate causes an advertisement having reference to an election to be printed, published, broadcast or distributed, either electronically or in hard copy, the advertisement must indicate that it is printed, published, broadcast or distributed, as the case may be, on behalf of the candidate.

(3) A person who prints, publishes, broadcasts or distributes an advertisement referred to in subsection (1) that does not comply with subsection (1) is guilty of an offence. 2007, c. 46, s. 23; 2011, c. 68, s. 22.

Time Definition Act

163 The hours of the day specified in any part of this Act must be determined in accordance with the *Time Definition Act*. R.S., c. 300, s. 144.

Calculation of period of time

164 (1) Where in this Act it is provided that any act or thing must be done or carried out before a specified day, the time within which that act or thing must be done or carried out does not include the specified day.

(2) Where pursuant to this Act the time specified for the doing or carrying out of any act or thing expires on a Sunday or holiday, the time for the doing or carrying out of that act or thing expires on the first preceding day that is not a Sunday or holiday.

(3) Where pursuant to this Act the day specified for the doing of any act or thing falls on a Sunday or holiday, that act or thing must be done on the next following day that is not a Sunday or holiday. R.S., c. 300, s. 145.

Administration of oath

165 (1) An oath authorized or required to be made under this Act may be taken before

(a) the person who by this Act is expressly required to administer it; or

(b) where no person is expressly required to administer it, the clerk, the returning officer, the registrar of voters, the revising officer, the deputy returning officer, a judge, a barrister, a notary public, a justice of the peace or a commissioner for taking affidavits.

(2) The oath must be administered without fee or reward. R.S., c. 300, s. 146.

Vote by mail or other voting method

166 (1) A council may by bylaw authorize voters to vote by mail, electronically or by another voting method.

(2) The bylaw referred to in subsection (1) must provide for the system of voting for any election that occurs after the date stated in the bylaw or the date the bylaw takes effect, including

- (a) the notification of electors;
- (b) the form of the ballots where applicable;
- (c) the swearing in and voting on election day;
- (d) the method of counting the ballots or votes; and
- (e) the rejection of ballots or votes.

(3) The bylaw may provide for

- (a) the contents of voters kits;
- (b) the places where voting can occur or ballots can be delivered instead of mailing, if applicable;
- (c) the process for sorting, storing or cataloguing any ballots received;
- (d) voting by telephone, via the Internet or by any other electronic means, including a combination of different electronic means;
- (e) the method of recounting the ballots or votes;
- (f) additional hours and dates for voting at an advance poll, including permitting voting 24 hours per day over a period of days;
- (g) the appointment and duties of an auditor to audit and monitor the performance of the system of voting;
- (h) any matter or thing necessary to effectively conduct the election, including matters or things under Sections 90 to 92 and 100.

(4) Where an auditor is appointed under the bylaw, the auditor shall, before entering upon the duties of the office, take the oath in the form prescribed by the regulations.

(5) Not fewer than 60 days before ordinary polling day, the returning officer shall establish procedures and forms for the conduct of voting in accordance with the bylaw and provide a copy of the procedures and forms to each candidate for election.

(6) Where a bylaw under this Section is in effect, the provisions of this Act respecting the matters dealt with by the bylaw apply only if the bylaw so specifies.

(7) Notwithstanding subsection (6), where a bylaw provides for voting via the Internet through the unsupervised use of a personal computing device, the bylaw must also permit voting by some other means on each advance polling day and on ordinary polling day.

(8) A bylaw made pursuant to this Section may provide for the creation of offences and may

(a) impose a fine not exceeding \$10,000 or imprisonment for a maximum term of two years less a day, or both;

(b) impose a minimum fine;

(c) provide for imprisonment, for not more than one year, for non-payment of a fine.

(9) The *Remission of Penalties Act* does not apply to a pecuniary penalty imposed under a bylaw made pursuant to this Section.

(10) The limitation period for the prosecution of an offence under a bylaw made pursuant to this Section is two years from the later of the date of the commission of the offence and the date on which it was discovered that an offence had been committed. 2003, c. 9, s. 41; 2007, c. 46, s. 24; 2008, c. 24, s. 2; 2011, c. 68, s. 23; 2015, c. 47, s. 25.

Oath of councillor

167 (1) A councillor shall, before entering upon the duties of the councillor's office, be sworn by taking the oath of allegiance and of office in prescribed form.

(2) The oath must be administered by a judge, a justice of the peace, the mayor or warden or the clerk.

(3) The clerk shall enter a certificate of the taking of the oath in the minutes.

(4) The oath must be taken and subscribed by each councillor at the first meeting of the council after the councillor's election, or within such extended time as the council allows.

(5) A councillor who refuses or fails to take the oath is deemed to have forfeited the councillor's office as councillor. R.S., c. 300, s. 147.

Special meeting of council

168 Where no regular meeting of the council is to be held within four weeks after ordinary polling day, the clerk shall call a special meeting of the council to be held within four weeks after ordinary polling day for the purpose of administering the oaths of office. R.S., c. 300, s. 148.

Corrupt practices

169 Every person who

- (a) induces or procures any person to vote knowing that that person has no right to vote;
- (b) before or at an election knowingly publishes a false statement of the withdrawal of a candidate;
- (c) votes knowing that the person is for any reason not qualified;
- (d) votes at more than one polling station in a municipality on ordinary polling day;
- (e) places any writing, number or mark on a ballot paper so that an elector may be thereby identified;
- (f) knowingly furnishes false or misleading information to an election officer; or
- (g) not being authorized by this Act, wilfully
 - (i) has a ballot paper or ballot in the person's possession,
 - (ii) alters, defaces or destroys a ballot paper,
 - (iii) supplies a ballot paper to any person,
 - (iv) deposits a paper other than a ballot paper in a ballot box,
 - (v) takes a ballot paper out of a polling station,
 - (vi) delivers to the deputy returning officer, to be placed in a ballot box, anything other than the ballot paper given the person by the deputy returning officer,
 - (vii) destroys, takes, opens or otherwise interferes with a ballot box or books or packets of ballots or a ballot to be used, in use or used for the purpose of an election, or
 - (viii) prints a ballot paper or anything capable of being used as a ballot paper,

is guilty of a corrupt practice and is liable to a fine of not less than \$500 nor more than \$5,000 or to imprisonment for a term of not less than 45 days nor more than six months, or to both. R.S., c. 300, s. 149.

Corrupt practice—double voting

170 Every person who after having voted at an advance polling station votes or attempts to vote at a polling station on ordinary polling day, is guilty of a

corrupt practice and is liable to a fine of not more than \$2,500 or to imprisonment for a term of not more than six months, or both. R.S., c. 300, s. 150; 2007, c. 46, s. 25.

Corrupt practices

- 171 (1)** Every person who, by intimidation or duress,
- (a) compels, induces or prevails upon any person to vote or refrain from voting at an election; or
 - (b) impedes, prevents or otherwise interferes with the free exercise of the franchise of any elector,

is guilty of a corrupt practice and is liable to a fine of not less than \$1,000 nor more than \$10,000 or to imprisonment for a term of not less than 90 days nor more than 12 months, or to both.

- (2)** Every person who
- (a) represents to any person that the ballot paper to be used or the mode of voting at an election is not secret;
 - (b) acts as an election officer without lawful authority; or
 - (c) impedes or obstructs an election officer in the performance of the election officer's duties under this Act,

is guilty of a corrupt practice and is liable to a fine of not less than \$1,000 nor more than \$10,000 or to imprisonment for a term of not less than 90 days nor more than 12 months, or to both. R.S., c. 300, s. 151.

Corrupt practices by candidate

- 172** Every candidate who, at an election,
- (a) agrees, at the request of any person, to follow a course of action that will prevent the candidate from exercising freedom of action on the council or to resign therefrom if called upon by any person; or
 - (b) makes or promises to make a bet or wager upon the result of the election or on any event or contingency relating to it,

is guilty of a corrupt practice and is liable to a penalty of not less than \$1,000 nor more than \$10,000 or to imprisonment for a term of not less than 90 days nor more than 12 months, or to both. R.S., c. 300, s. 152.

Default of duty or corrupt practice by election officer

173 (1) Every election officer who refuses or neglects to perform any of the duties imposed upon the election officer by this Act is guilty of an offence and on summary conviction is liable to a fine of not more than \$5,000 or in default of payment thereof to imprisonment for a term not exceeding six months.

- (2)** Every election officer who
- (a) wilfully miscounts the ballots or otherwise makes up a false statement of poll;
 - (b) while performing the duties of the election officer's office, acts as an agent or canvasser for any candidate; or

(c) makes any alteration or insertion in or omission from the enumerators' index book, a list of electors, poll book or other election document, with intent to falsify it,

is guilty of a corrupt practice and is liable to a penalty of not less than \$1,000 nor more than \$10,000 or to imprisonment for a term of not less than 90 days nor more than 12 months, or to both. R.S., c. 300, s. 153.

Bribery

174 (1) Every person who, directly or indirectly, offers, promises, gives, lends, accepts, borrows or demands valuable consideration, including office or employment, to

- (a) induce any elector to vote or to refrain from voting;
- (b) vote or refrain from voting;
- (c) procure the return of any candidate or the vote of any elector;
- (d) induce a person to allow the person to be nominated as a candidate, to refrain from becoming a candidate or to withdraw from becoming a candidate;
- (e) illegally assist a candidate; or
- (f) engage in corrupt practices at an election,

is guilty of bribery, and on summary conviction is liable to a fine of not less than \$1,000 nor more than \$10,000, or to imprisonment for a term of not less than 90 days nor more than 12 months, or to both, and is disqualified from voting at any election for six years.

(2) The actual personal expenses of a candidate, the candidate's reasonable expenses for actual professional services performed and good faith payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate in good faith and without any corrupt intent, are deemed to be expenses lawfully incurred, and the payment thereof is not a contravention of this Act. R.S., c. 300, s. 154.

Offences

175 (1) Every person who

- (a) during the hours of polling on ordinary polling day
 - (i) supplies, carries or wears any flag, ribbon, emblem, badge or like favour with the intent to distinguish the user as the supporter of a candidate,
 - (ii) supplies, carries or uses a loud speaker, public address system, flag or banner with the intent that it be used to support a candidate, or
 - (iii) organizes or participates in a parade or demonstration that supports a candidate;
- (b) at a polling place on ordinary polling day or at the advance polling place on advance polling day, posts or displays in, or within 200 feet of, any wall of the building in which a polling place is

situated any literature, emblem, ribbon, flag, sign, banner, card, bill, poster or device that tends to support a candidate;

(c) acts, incites others to act or conspires to act in a disorderly manner with intent to prevent the transaction of the business of a public meeting called for the purpose of the election;

(d) removes, mutilates, defaces or alters any notice or document required by this Act to be posted;

(e) having already voted in a municipal election or school board election, either votes or applies to vote in the same election or in another municipal election or school board election that has the same ordinary polling day; or

(f) contravenes any provision of this Act or of a bylaw made pursuant to this Act, for which contravention no penalty is otherwise provided,

is guilty of an offence.

(2) Where there is a violation of clause (1)(b) and such violation is brought to the attention of a returning officer, the returning officer shall cause the offending devices to be removed and may deduct the cost from the candidate's deposit. R.S., c. 300, s. 155; 2003, c. 9, s. 42; 2015, c. 47, s. 26.

Penalty

176 Every person who is guilty of an offence under this Act for which contravention no penalty is otherwise provided is liable on summary conviction to a fine of not more than \$2,500 and in default of payment thereof to imprisonment for a term of not more than six months. R.S., c. 300, s. 156; 2008, c. 24, s. 3; 2015, c. 47, s. 27.

Forfeiture of office

177 (1) Any officer or employee who is paid in whole or in part out of the funds of a municipality who is convicted of a corrupt practice or bribery under this Act shall forfeit the officer's or employee's office or employment in addition to any other penalty that may be imposed.

(2) Any councillor who is convicted of a corrupt practice or bribery under this Act ceases to be a councillor. R.S., c. 300, s. 157; 1994, c. 26, s. 41.

Voiding of election or vote

178 (1) Where an election, or a vote of the electors for the determination of any matter that the council has directed be put before the electors, has not been conducted in accordance with this Act, the Supreme Court may, upon application, declare the election or the vote to be void.

(2) An elector, or the clerk on the direction of the council and in the name of the municipality, may make an application under this Section.

(3) The applicant shall name as respondent

- (a) the clerk;
- (b) the returning officer; and

(c) the candidates who are not named as applicants.

(4) Notwithstanding subsection (3), where the election was a school board election, the applicant shall name as respondent

- (a) the superintendent of the school board;
- (b) the returning officer for the school board election; and
- (c) the candidates who are not named as applicants.

(5) An application must be in the form prescribed by the rules of court and must state the particulars upon which the order is being sought.

(6) An application must be commenced within 21 days after ordinary polling day for the election, or for the vote of the electors to which the application relates.

(7) Within 21 days after the judge completes the statement of a recount, the Supreme Court may extend the time for commencing an application pursuant to this Section if

- (a) the application alleges that an action taken or decision made at the recount was not in accordance with this Act; and
- (b) the Court is satisfied that the extension is equitable having regard to the availability of evidence.

(8) An application may not be commenced until the sum of \$500 has been deposited with the prothonotary as security for costs. R.S., c. 300, s. 158; 2007, c. 46, s. 26; 2011, c. 68, s. 24.

Application to discontinue

179 (1) Where an applicant wishes to discontinue the application, the applicant shall apply to the Supreme Court for an order authorizing the applicant to discontinue the proceeding.

(2) Upon hearing an application for discontinuance, the Supreme Court shall direct publication of the application for discontinuance, inviting persons to apply for leave to be substituted as applicants within a specified number of days after publication of the notice.

(3) Where a judge grants an application for discontinuance, any person who might have been an applicant may apply for leave to be substituted as the applicant. R.S., c. 300, s. 159; 2011, c. 68, s. 25.

Delivery of copy of order and costs

180 (1) At the conclusion of the hearing of an application pursuant to subsection 178(1), the judge shall cause a copy of the judge's decision and of the final order to be forwarded to the clerk of the municipality or the superintendent of the school board, as the case may be, and to the Minister.

(2) At the conclusion of the application, the judge may make such order as the judge sees fit respecting costs, including the disposition of money deposited as security for costs.

(3) Except where otherwise provided in this Act, the practice and procedure of the Supreme Court applies to an application under this Act. R.S., c. 300, s. 160; 2007, c. 46, s. 27; 2011, c. 68, s. 26.

Proceedings to disqualify councillor

181 No election or return of a councillor or school board member may be questioned, and no proceedings to have the right of a person to serve as a councillor determined, may be taken except in accordance with this Act. R.S., c. 300, s. 161; 2007, c. 46, s. 28.

Appeal

182 (1) An appeal lies from the decision of the Supreme Court to the Nova Scotia Court of Appeal in accordance with the rules of court.

(2) A new election or vote may not be held until after the expiration of the time limited for appeal from the determination of the Supreme Court that the election or vote is void and, where an appeal is brought, the election or vote may not be held pending the determination of the appeal. R.S., c. 300, s. 162; 2007, c. 46, s. 29; 2011, c. 68, s. 27.

Effect of participation by disqualified councillor

183 The decision of a council reached with the participation of a member who is declared to be not entitled to sit on council may not in any way be affected on the grounds of the participation of such member. R.S., c. 300, s. 163.

Irregularity

184 No election may be declared invalid

(a) by reason of any irregularity on the part of the clerk or the returning officer or in any of the proceedings preliminary to the poll;

(b) by reason of any want of qualification in the person signing a nomination paper received by the returning officer under the provisions of this Act;

(c) by reason of a failure to hold a poll at any place appointed for holding a poll;

(d) by reason of non-compliance with the provisions of this Act or a bylaw made pursuant to this Act as to the taking of the poll, as to the counting of the votes or as to limitations of time; or

(e) by reason of any mistake in the use of the prescribed forms,

if it appears to the judge that the election was conducted in accordance with the principles of this Act or a bylaw made pursuant to this Act and that the irregularity, failure, non-compliance or mistake did not affect the result of the election. R.S., c. 300, s. 164; 2008, c. 24, s. 4.

Certificate as evidence

185 In any proceeding under this Act, the certificate of the returning officer is sufficient evidence of the holding of the election or of any person named in the certificate having been a candidate thereat. R.S., c. 300, s. 165.

Disqualification while in office

186 (1) The seat of a councillor may be declared vacant pursuant to the provisions of this Act for disqualification or loss of qualification subsequent to the councillor's admission to office.

(2) An application to have the right of a person to serve as councillor determined must be brought within 30 days after the disqualification or loss of qualification is known to the applicant.

(3) Subject to subsection (2), the proceedings to have the right of a person to serve as councillor determined are the same as in the case of an application under Section 178. R.S., c. 300, s. 166.

Regulations

187 (1) The Minister may make regulations

- (a) prescribing forms and procedures for the purpose of this Act;
- (b) prescribing materials and documents to be retained by a clerk pursuant to Section 156;
- (c) defining any word or expression used but not defined in this Act;
- (d) considered necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2003, c. 9, s. 43; 2007, c. 46, s. 30; 2011, c. 68, s. 28.

CHAPTER M-39

An Act to Change the Fiscal Year for Municipalities, Other Local Bodies and the Nova Scotia Municipal Finance Corporation to Coincide with the Fiscal Year of the Province

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Short title

1 This Act may be cited as the *Municipal Fiscal Year Act*. 1990, c. 19, s. 1.

Interpretation

2 In this Act,
“council” means the council of a municipality;
“local body” means
(a) the Conseil scolaire acadien provincial;
(b) a regional library board to which the *Libraries Act* applies;
(c) a service commission as defined by the *Municipal Government Act*;
(d) a district planning commission established pursuant to or within the meaning of the *Municipal Government Act*;
(e) fire protection commissioners incorporated pursuant to the *Rural Fire District Act* or to whom the *Rural Fire District Act* applies;
(f) village commissioners incorporated pursuant to the *Municipal Government Act* or to whom the *Municipal Government Act* applies;
“municipality” means a regional municipality, a town or a municipality of a county or district. 1990, c. 19, s. 2; 2018, c. 1, Sch. A, s. 128.

Fiscal year

3 The fiscal year of a municipality or a local body is the period from April 1, 1992, or any year thereafter to March 31st in the next following year, inclusive. 1990, c. 19, s. 3.

Interpretation of other enactments

4 (1) Where there is a conflict between this Act or the regulations and any general or special enactment, this Act and the regulations prevail.

(2) For greater certainty, where the date that anything required by law to be done is based, whether expressly or by necessary implication, upon the fiscal year of a municipality or local body, that date is adjusted, relative to the change in the fiscal year of a municipality or local body pursuant to this Act, to be consistent with this Act.

(3) Without restricting the generality of subsection (2), the following dates are to be adjusted in accordance with subsection (2):

- (a) the date upon which a requisition or request is to be made to a council for a financial contribution;
- (b) the date upon which audited statements are to be completed, whether or not they are required to be filed with a council;
- (c) the date that audited statements are to be filed with a council.

(4) Where the date of the annual meeting and election of commissioners or other representatives is adjusted pursuant to subsection (2), the term of office of the commissioners or other representatives who hold office during the transition year is extended to correspond to the adjusted dates. 1990, c. 19, s. 4.

Regulations

5 (1) The Governor in Council may make regulations respecting any matter or thing the Governor in Council considers necessary or advisable to carry out the purpose and intent of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1990, c. 19, s. 6.

CHAPTER M-40

An Act Respecting Municipal Government

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WHEREAS the Province recognizes that municipalities have legislative authority and responsibility with respect to the matters dealt with in this Act;

AND WHEREAS municipalities are a responsible order of government accountable to the people:

Short title

1 This Act may be cited as the *Municipal Government Act*. 1998, c. 18, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) give broad authority to councils, including broad authority to pass bylaws, and respect their right to govern municipalities in whatever ways the councils consider appropriate within the jurisdiction given to them;

(b) enhance the ability of councils to respond to present and future issues in their municipalities; and

(c) recognize the purposes of a municipality set out in Section 12. 1998, c. 18, s. 2; 2019, c. 19, s. 1.

Interpretation

3 In this Act,

“administrator” means the employee of a municipality or other person designated by the chief administrative officer to be responsible for the provisions of this Act respecting dangerous or unsightly premises, except where the context otherwise requires, and includes a person acting under the supervision and direction of the administrator;

“annual summary report” means a summary of all the expense reports and hospitality expense reports of a municipality or village for a fiscal year;

“assessment roll” means the assessment roll required to be prepared pursuant to the *Assessment Act*;

“auditor” means the auditor appointed for the municipality pursuant to this Act, except where the context otherwise requires;

“automatic machine” means a mechanical or electronic device that is operated by the introduction of a coin, counter or slug, and includes a vending machine but does not include automatic scales, telephone apparatus or a machine that is licensed by the Province or an agency of the Province;

“Board” means the Nova Scotia Utility and Review Board;

“building service connection” means a piping system that conveys sewage, liquid waste, stormwater or surface runoff from a property to a municipal sewer;

“chief administrative officer” means the chief administrative officer of a municipality;

“clerk” means the clerk of a municipality;

“combined sewer” means a sewer intended to function simultaneously as a storm sewer and a sanitary sewer;

“commercial property” has the same meaning as in the *Assessment Act*;

“community” means an area in a regional municipality entitled to elect a community council pursuant to this Act;

“community council” means the council of a community established pursuant to this Act;

“conservation property” has the same meaning as in the *Assessment Act*;

“council” means the council of a municipality, except as otherwise defined in this Act;

“councillor” means a council member other than the mayor;

“county or district municipality” means a municipality incorporated as a municipality of a county or district pursuant to the former *Municipal Act*;

“dangerous or unsightly” means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and, where used in relation to property, includes property containing

(a) ashes, junk, cleanings of yards or other rubbish or refuse;

(b) a derelict vehicle, vessel, item of equipment or machinery, or bodies or parts thereof;

(c) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material;

(d) an accumulation or collection of materials or refuse that is stockpiled, hidden or stored away and is dangerous, unsightly, unhealthy or offensive to a person; or

(e) any other thing that is dangerous, unsightly, unhealthy or offensive to a person,

and, where used in relation to property or a building or structure, includes property or a building or structure, with or without structural deficiencies,

- (f) that is in a ruinous or dilapidated condition;
- (g) the condition of which seriously depreciates the value of land or buildings in the vicinity;
- (h) that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes;
- (i) that is an allurements to children who may play there to their danger;
- (j) constituting a hazard to the health or safety of the public;
- (k) that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure or the landscaping is not maintained;
- (l) that is a fire hazard to itself or to surrounding lands or buildings;
- (m) that has been excavated or had fill placed on it in a manner that results in a hazard; or
- (n) that is in a poor state of hygiene or cleanliness;

“debenture” includes any financial instrument acceptable to the Minister of Finance and Treasury Board;

“deed” means an instrument by which land is conveyed, transferred, assigned or vested in a person, but does not include a will, mortgage, agreement of sale or lease for a term of less than 21 years;

“Deputy Minister” means the Deputy Minister or Associate Deputy Minister of Municipal Affairs and Housing;

“derelict vehicle, vessel, item of equipment or machinery” includes a vehicle, vessel, item of equipment or machinery that

- (a) is left on property, with or without lawful authority; and
- (b) appears to the administrator to be disused or abandoned by reason of its age, appearance, mechanical condition or, where required by law to be licensed or registered, by its lack of licence plates or current vehicle registration;

“Director of Assessment” means the Director of Assessment appointed pursuant to the *Assessment Act*, and includes a person acting under the supervision and direction of the Director;

“dog” means a dog, male or female, or an animal that is the result of the breeding of a dog and any other animal;

“drainage master plan” means a detailed plan of stormwater runoff and the courses and channels of it, including floodplains, for an entire area of drainage;

“drainage plan” means a detailed plan of stormwater runoff and the courses and channels of it, including floodplains, for one or more parts of an

area of drainage for all lands tributary to, or carrying drainage from, land that is proposed to be subdivided;

“dwelling unit” means living quarters that

- (a) are accessible from a private entrance, either outside the building or in a common area within the building;
- (b) are occupied or, where unoccupied, are reasonably fit for occupancy;
- (c) contain kitchen facilities within the unit; and
- (d) have toilet facilities that are not shared with the occupants of other dwelling units;

“elector” has the same meaning as in the *Municipal Elections Act*;

“emergency services” means services related to the provision of emergency services, including

- (a) fire services;
- (b) emergency medical services;
- (c) search and rescue;
- (d) water rescue and assistance; and
- (e) protection for people and property in the event of disasters, including floods, hurricanes, motor vehicle accidents and chemical spills;

“engineer” means the engineer of the municipality or the village and includes a person acting under the supervision and direction of the engineer;

“expense report” means a report on all amounts reimbursed for a reportable municipal expense to a reportable individual during a fiscal quarter;

“farm property” has the same meaning as in the *Assessment Act*;

“fire department” means an incorporated body that provides fire services and that may, at its option, provide one or more other emergency services, and includes a fire or emergency services department of a municipality, village, fire protection district or other body corporate;

“fire protection district” has the same meaning as in the *Rural Fire District Act*;

“fire services” means services related to the prevention and suppression of fires;

“fiscal year” means the period from April 1st in one year to March 31st in the following year, including both dates;

“forest property” has the same meaning as in the *Assessment Act*;

“grading” means the alteration of land levels, including the addition or removal of topsoil or other material of any kind, and includes a change in land that alters the permeability of the soil;

“hospitality expense report” means a report on all hospitality expenses incurred by a municipality or village during a fiscal quarter, including purchases of alcohol;

“improve” includes lay out, open, construct, repair and maintain;

“incorporation date” means the date prescribed by the Governor in Council on which a regional municipality is established;

“mayor” means the council member elected at large to be the chair of the council;

“Minister” means the Minister of Municipal Affairs and Housing;

“mobile canteen” means a vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;

“mobile vendor” means a person who vends from a mobile canteen or a stand;

“municipal government” means a municipal unit, village or service commission in an area to be incorporated as a regional municipality, and includes every authority, board, commission, corporation or other entity of that municipal unit, village or service commission and every joint authority, board, commission, committee or other entity involving that municipal unit, village or service commission;

“municipal highway” means a highway owned by a municipality, pursuant to this Act, the *Public Highways Act* or otherwise;

“municipal sewer” means a sewer controlled by a municipality or a village;

“municipal unit” means a town or a county or district municipality in an area to be incorporated as a regional municipality;

“municipal water utility” means a utility owned, operated or managed by a municipality, village or service commission, either directly or through a board or commission, for the purpose of producing, transmitting, delivering or furnishing water directly or indirectly to or for the public;

“municipality” means a regional municipality, a town or a county or district municipality, except where the context otherwise requires or as otherwise defined in this Act;

“oversized sewer” means a sewer that is designed to benefit lands in addition to lands that will benefit from the sewer immediately upon its completion;

“owner” includes

(a) as it refers to the owner of a dog, any person who possesses, has the care of, has the control of or harbours a dog and, where the person is a minor, includes a person responsible for the custody of the minor;

(b) as it refers to the owner of property,

(i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,

(ii) where the person having title to the land or building is absent or incapacitated, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building,

(iii) a person who occupies shores, beaches or shoals, and

(iv) in the absence of proof to the contrary, the person assessed for the property;

“parental accommodation” means a leave of absence by a council member or village commissioner due to

(a) the pregnancy of the council member or village commissioner;

(b) the birth of the child of the council member or village commissioner; or

(c) the adoption of a child by the council member or village commissioner;

“policy” means a resolution of council that is required pursuant to this Act to be recorded in the bylaw records of a municipality, except where the context otherwise requires;

“private on-site sewage disposal system” means a private system for sewage disposal serving one lot;

“private wastewater facilities” means wastewater facilities that are privately owned and serving two or more properties;

“public place” includes

(a) streets;

(b) parks; and

(c) entrances, halls, corridors, washrooms, parking areas, driveways, roads, sidewalks and alleys of a shopping centre, shopping mall or other shopping complex, recreation centre, restaurant and retail store;

“regional municipality” means a regional municipality established or continued by an enactment, and includes

(a) the Cape Breton Regional Municipality;

(b) the Halifax Regional Municipality;

(c) the Region of Queens Municipality; and

(d) the West Hants Regional Municipality,

and the area over which each of those bodies corporate has jurisdiction;

“registered Canadian charitable organization” means a charitable organization registered pursuant to the *Income Tax Act* (Canada) and the regulations made pursuant to that Act;

“registrar of deeds” means a registrar of deeds appointed pursuant to the *Registry of Deeds Act* and, in the case of an interest registered pursuant to the *Land Registration Act*, means a registrar appointed pursuant to that Act;

“registry” means the office of the registrar of deeds for the registration district in which the land is situate and, in the case of an interest registered pursuant to the *Land Registration Act*, means the appropriate land registration office established pursuant to that Act;

“reportable individual” means, with respect to a municipality or village, an individual who holds one of the following positions:

- (a) in respect of a municipality,
 - (i) mayor or warden,
 - (ii) councillor,
 - (iii) chief administrative officer, including an employee of the municipality delegated any of the responsibilities or powers of the chief administrative officer pursuant to clause 39(b),
 - (iv) a position prescribed by the regulations;
- (b) in respect of a village,
 - (i) village commissioner,
 - (ii) village clerk,
 - (iii) a position prescribed by the regulations;

“reportable municipal expense” means an expense for which reimbursement was provided by a municipality or village and that falls into one of the following expense categories:

- (a) travel and travel-related expenses, including accommodation, incidentals and transportation;
- (b) meals;
- (c) professional development and training;
- (d) expense categories prescribed by the regulations;

“residential property” has the same meaning as in the *Assessment Act*;

“resource property” has the same meaning as in the *Assessment Act*;

“sale price” or “value” means the entire consideration for the sale of property and, without restricting the generality of the foregoing, includes

- (a) money consideration paid together with the par or face value of promissory notes, cheques, bills of exchange, agreements and securities forming part of the consideration;
- (b) the gross value of real or personal property given in exchange, in whole or in part, including mortgages made by the grantee in favour of the grantor or any person on behalf of the grantor;
- (c) outstanding obligations or accounts cancelled, assumed or satisfied; and
- (d) taxes, liens, mortgages and encumbrances, including interest and expenses, assumed by the grantee;

“sanitary sewer” means a sewer receiving and carrying liquid and water-carried wastes and to which storm, surface or groundwaters are not intentionally admitted;

“service commission” means a board, commission or corporation created by, or under the authority of, an enactment that may

(a) provide services for an area, or the residents of an area, that are similar to one or more of those that may be provided by a municipality for its residents; and

(b) levy rates and taxes, or require a municipality to levy rates and taxes, other than, or in addition to, water or electric rates fixed or approved pursuant to the *Public Utilities Act*,

but does not include a municipality, a committee created by an intermunicipal services agreement, a village or an education entity as defined in the *Education Act*;

“sewage” means the combination of liquid and water-carried wastes from buildings, containing animal, vegetable or mineral matter in suspension or solution, together with such groundwater, surface water or stormwater as might be present;

“sewer” means a pipe or conduit for carrying sewage, groundwater, stormwater or surface runoff, and includes all sewer drains, storm sewers, clearwater sewers, storm drains and combined sewers vested in, or under the control of, a municipality or village;

“solid-waste management facility” means

(a) a sanitary landfill licensed pursuant to the *Environment Act* or a location not required to be licensed pursuant to that Act;

(b) a recycling facility;

(c) a transfer station;

(d) a waste separation facility;

(e) a household hazardous waste facility;

(f) an incinerator;

(g) a composting site; or

(h) any other facility for the management of solid waste, including collection, recycling, treatment and disposal;

“special purpose tax” means a tax that a council, by resolution, declares to be a special purpose tax;

“special purpose tax account” means the account to which the proceeds of a special purpose tax are credited;

“special sewer connection” means a connection from a building on a property to a sewer that is not situate in the portion of the street on which the property immediately abuts;

“stand” includes a table, showcase, bench, rack, pushcart, wagon or wheeled vehicle or device that can be moved without the assistance of a motor and is used for the display, storage, transportation or sale of food, beverages or other merchandise by a mobile vendor;

“stormwater” means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water;

“stormwater system” means a method or means of carrying stormwater, including ditches, swales, sewers, drains, canals, ravines, gullies, pump-

ing stations, retention ponds, streams, watercourses, floodplains, ponds, springs, creeks, streets or private roads, roadways or driveways;

“storm sewer” means a sewer that carries stormwater and surface runoff water, but does not carry sewage;

“street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, except as otherwise defined in this Act;

“taxes” includes municipal rates, area rates, change-in-use tax, forest property tax, recreational property tax, capital charges, one-time charges, local improvement charges and any rates, charges or debts prescribed, by the enactment authorizing them, to be a lien on the property;

“tax sale” includes a sale by public auction or a sale by tender, for the purpose of collecting taxes;

“transit facilities” includes a bus, a bus terminal, a bus shelter, a bus bay, a parking lot, a ferry, a ferry terminal and a ferry dock;

“treasurer” means the treasurer of a municipality and includes a person acting under the supervision and direction of the treasurer;

“tree” includes a bush, shrub and hedge;

“vending” means the sale, or offering for sale, of

(a) food, beverages or other merchandise, unless they are immediately delivered to a residence or shop by the person selling them;

(b) services, unless they are provided in a building;

“vending machine” means a mechanical or electronic device that

(a) is operated by the introduction of a coin, counter or slug; and

(b) dispenses food, beverages, goods, wares or services, including newspapers and other publications;

“village” means a village continued or incorporated pursuant to this Act;

“village commission” means the commission of a village;

“village commissioner” means a commissioner of a village;

“warden” means the council member chosen by the council of a county or district municipality to be the chair of the council;

“wastewater facilities” means the structures, pipes, devices, equipment, processes or other things used or intended to be used for the collection, transportation, pumping or treatment of sewage and disposal of the effluent;

“water system” means the source, structures, pipes, hydrants, meters, devices, equipment or other things used or intended to be used for the collection, transportation, pumping or treatment of water. 1998, c. 18, s. 3; 2000, c. 9, s. 32; 2001, c. 6, s. 119; 2001, c. 35, s. 2; 2003, c. 9, s. 49; 2006, c. 40, s. 1; 2008, c. 36, s. 4; 2010, c. 64, s. 1; 2011, c. 4, s. 6; 2012, c. 63, s. 1; 2014, c. 21, s. 1; 2017, c. 13, s. 1; 2018, c. 1, Sch. A, s. 129; 2018, c. 17, s. 1; 2018, c. 26, s. 18; O.I.C. 2020-270; 2022, c. 4, Sch., s. 36; 2022, c. 38, s. 24; 2023, c. 2, s. 35.

PART I

THE MUNICIPALITY

Previously incorporated municipalities subject to Act

4 Every municipality incorporated as of April 1, 1999, is subject to this Act. 1998, c. 18, s. 4.

Regional municipalities continued

5 (1) The inhabitants of the County of Cape Breton are, and continue to be, a body corporate under the name “Cape Breton Regional Municipality”.

(2) The inhabitants of the County of Queens are, and continue to be, a body corporate under the name “Region of Queens Municipality”. 1998, c. 18, s. 5; 2008, c. 39, s. 387.

References to regional municipalities

6 (1) A reference in an enactment to

- (a) a municipality pursuant to the former *Municipal Act*;
- (b) a city;
- (c) a town;
- (d) a municipality of a county or district; or
- (e) a rural municipality,

includes a regional municipality.

(2) A reference in an enactment to

- (a) the mayor of a city or town; or
- (b) the warden of a municipality of a county or district, a rural municipality or a municipality pursuant to the former *Municipal Act*,

includes the mayor of a regional municipality. 1998, c. 18, s. 6.

Municipalities of counties and districts continued

7 (1) The inhabitants, other than the inhabitants of an incorporated town, of each of

- (a) the counties of Annapolis, Antigonish, Colchester, Cumberland, Inverness, Kings, Pictou, Richmond and Victoria; and
- (b) the districts of Argyle, Barrington, Chester, Clare, Digby, East Hants, Guysborough, Lunenburg, Shelburne, St. Mary's and Yarmouth,

are, and continue to be, bodies corporate under the name of the “Municipality of the (County or District) of”.

(2) A municipality continued pursuant to this Section is a county or district municipality. 1998, c. 18, s. 7.

References to county or district municipalities

- 8 (1)** A reference in an enactment to
- (a) a municipality of a county or district;
 - (b) a rural municipality; or
 - (c) a municipality pursuant to the former *Municipal Act*,

is a reference to a county or district municipality.

(2) A reference in an enactment to the warden of a municipality of a county or district, a rural municipality or a municipality pursuant to the former *Municipal Act* is a reference to the mayor or warden of a county or district municipality. 1998, c. 18, s. 7.

County or district municipality does not include incorporated town

9 The powers and jurisdiction of a county or district municipality do not include an incorporated town within the boundaries of the county or district municipality. 1998, c. 18, s. 7.

Towns continued

10 The inhabitants of an incorporated town are, and continue to be, a body corporate under the name of the “Town of”. 1998, c. 18, s. 8.

Municipal name change

11 The Governor in Council may, on the request of the council of a municipality, change the name of the municipality to a name chosen by the council. 1998, c. 18, s. 9.

Purposes of a municipality

- 12** The purposes of a municipality are to
- (a) provide good government;
 - (b) provide services, facilities and other things that, in the opinion of the council, are necessary or desirable for all or part of the municipality; and
 - (c) develop and maintain safe and viable communities. 2019, c. 19, s. 2.

Powers of council

13 (1) The powers of a municipality are exercised by the council of the municipality.

(2) In the general exercise of its powers, a council shall take into account the principle of accessibility for its citizens with disabilities. 1998, c. 18, s. 14.

Interpretation of powers

14 The powers conferred on a municipality and its council by this Act must be interpreted broadly in accordance with the purpose of this Act set out in Section 2 and in accordance with the purposes of a municipality set out in Section 12. 2019, c. 19, s. 3.

Composition of council

15 (1) A municipality is governed by a council consisting of at least three members.

(2) In a county or district municipality and in a regional municipality, one councillor must be elected for each polling district.

(3) In a town, no more than two councillors may be elected for each polling district. 1998, c. 18, s. 10; 2000, c. 9, s. 33.

Oaths, affidavits, declarations and affirmations

16 Each council member, while in office, may administer oaths and take and receive affidavits, declarations and affirmations within the Province for use within the Province. 1998, c. 18, s. 14.

Election of mayor for towns and regional municipalities

17 (1) The mayor of a town or regional municipality must be elected at large.

(2) Every person eligible to vote for a councillor of a town or regional municipality is eligible to vote for the mayor. 1998, c. 18, s. 11.

Selection of warden or mayor for county or district municipalities

18 (1) The warden of a county or district municipality must be chosen by the council members from among themselves.

(2) The term of office of a warden expires when the term of office of the council expires unless, prior to the selection of the warden, the council adopts a shorter term of office for the warden.

(3) The warden must be chosen

(a) at the first meeting of the council in a regular election year after the time for applying for a recount has expired; or

(b) at the first meeting of the council after the expiration of the term of a warden or after the office of warden has otherwise become vacant.

(4) The clerk shall preside at the meeting of the council at which the warden is to be elected, until the warden is elected.

(5) Where a majority of the council members are unable to agree upon the choice of a warden, the clerk shall determine the warden from the two leading candidates by lot as provided in the *Municipal Elections Act*.

(6) The council of a county or district municipality may, by policy, adopt rules governing the election of a warden by the council members.

(7) The council of a county or district municipality may

(a) by a vote of two-thirds of the council members; and

(b) on 20 days notice in writing to the clerk, the warden and the councillors,
remove a warden from office as warden and proceed to elect a new warden.

(8) The council of a county or district municipality may, at any time not less than nine months before a regular municipal election, decide that the chair of the council be elected at large, in which case

(a) commencing at the next regular municipal election, a mayor must be elected at large for the municipality;

(b) every person eligible to vote for a councillor of the municipality is eligible to vote for the mayor;

(c) the total number of council members is increased by one, unless the municipality has applied to the Board and the Board has determined otherwise;

(d) subsections (1) to (7) do not apply to the municipality.

(9) A decision made pursuant to subsection (8) may not be reversed after February 15th in the year in which the first mayor is to be elected, or subsequently. 1998, c. 18, s. 12; 2006, c. 40, s. 2.

Mayor or warden

19 (1) The mayor or warden shall preside at all council meetings.

(2) During the temporary absence of the mayor or warden, the deputy mayor or deputy warden shall preside and, where neither is present, the council may appoint a person to preside from among the council members present.

(3) The mayor or warden may

(a) monitor the administration and government of the municipality; and

(b) communicate such information and recommend such measures to the council as will improve the finances, administration and government of the municipality. 1998, c. 18, s. 15.

Deputy mayor or deputy warden

20 (1) A council shall select one of its council members to be the deputy mayor or deputy warden of the council.

(2) Prior to the selection of a deputy mayor or deputy warden, a council shall determine the term of office of the deputy mayor or deputy warden.

(3) The deputy mayor or deputy warden shall act in the absence or inability of the mayor or warden or in the event of the office of mayor or warden being vacant.

(4) A council may prescribe, by policy, additional duties and responsibilities of the deputy mayor or deputy warden.

(5) Where the deputy mayor or warden is notified that

(a) the mayor or warden is absent or unable to fulfill the duties of mayor or warden; or

(b) the office of mayor or warden is vacant,

the deputy mayor or deputy warden has all the power and authority and shall perform all the duties of the mayor or warden. 1998, c. 18, s. 16; 2006, c. 40, s. 3.

Perpetual succession, common seal and signing authority

21 (1) A municipality has perpetual succession and shall have a common seal.

(2) The seal must be kept by the clerk.

(3) The mayor or warden and clerk or the persons designated by the council by policy may sign a deed or other document to which the municipality is a party on behalf of the municipality. 1998, c. 18, s. 13.

Mayor or councillor resignation

22 (1) A mayor or councillor may resign from office at any time by delivering to the clerk a signed resignation and such a resignation is effective on delivery by the clerk to the next council meeting.

(2) A resignation may not be withdrawn after it has been delivered to the clerk. 1998, c. 18, s. 17

Mayor or councillor disqualification

23 (1) A mayor or councillor who ceases to be ordinarily resident in the municipality ceases to be qualified to serve as mayor or as councillor.

(2) A mayor or councillor who, without leave of the council, is absent from three consecutive regular council meetings ceases to be qualified to serve as mayor or as councillor.

(3) Subsection (2) does not apply to a mayor or councillor who is absent for 52 or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of a birth or adoption.

(4) Notwithstanding subsection (1), where a mayor or councillor has the approval of the council, a mayor or councillor may be ordinarily resident outside the municipality but within the Province for one period of not more than six months in a term. 1998, c. 18, s. 17; 2004, c. 7, s. 2; 2018, c. 17, s. 2.

Vacancy to be reported to council

24 Where a seat on the council becomes vacant, the clerk shall report the facts to the council. 1998, c. 18, s. 17.

Employment restriction for former council member

25 No council member may be employed by the municipality while a council member or for a period of six months after ceasing to be a council member. 1998, c. 18, s. 18.

Council meetings

26 (1) Notice of regular council meetings is not required.

(2) In addition to regular meetings, the council may hold such other meetings as may be necessary or expedient for the dispatch of business at such time and place as the council determines, if each council member is notified at least three days in advance and the clerk gives at least two days public notice of the meeting.

(3) Where the mayor or warden determines that there is an emergency, the council may meet without notice or with such notice as is possible in the circumstances.

(4) The clerk shall call a council meeting where required to do so by the mayor or warden or upon presentation of a written request signed by a majority of the councillors.

(5) When calling a meeting pursuant to subsection (4), the clerk shall give at least two days public notice of the meeting.

(6) Where a council fails to meet at any time determined by law, it is not dissolved, but may hold future meetings as if there had been no failure.

(7) A council meeting is not an illegal or invalid meeting by reason only of

- (a) a failure to give notice; or
- (b) meeting elsewhere than provided in the bylaws, a policy or a notice of meeting. 1998, c. 18, s. 19; 2004, c. 7, s. 3.

Meeting by electronic means

27 (1) Where a procedural policy of the council so provides, a council meeting or council committee meeting may be conducted by electronic means if

- (a) at least two days prior to the meeting, notice is given to the public respecting the way in which the meeting is to be conducted;
- (b) the electronic means enables the public to see and hear the meeting as it is occurring;
- (c) the electronic means enables all the meeting participants to see and hear each other; and
- (d) any additional requirements established by the regulations have been met.

(2) Where a procedural policy of the council so provides, a council member or council committee member may participate in a council meeting or council committee meeting through electronic means if

- (a) the electronic means enables the public to see and hear the member as the meeting is occurring;
- (b) the electronic means enables all meeting participants to see and hear each other; and

(c) any additional requirements established by the regulations have been met.

(3) A council member participating in a council meeting or council committee meeting by electronic means is deemed to be present at the meeting.

given by (4) The notice to the public referred to in clause (1)(a) must be

(a) publication in a newspaper circulating in the municipality;

(b) posting on the municipality's publicly accessible Internet site and in at least five conspicuous places in the municipality; or

(c) such other method permitted by the regulations.

(5) Notwithstanding clause (1)(a), where the mayor or warden determines that there is an emergency, a meeting may be conducted by electronic means without notice or with such notice as is possible in the circumstances.

(6) The Minister may make regulations

(a) respecting council meetings and council committee meetings conducted by electronic means;

(b) respecting the participation of a council member or council committee member in a council meeting or council committee meeting by electronic means.

(7) The exercise by the Minister of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*. 2021, c. 14, s. 1.

Quorum of council

28 (1) A majority of the maximum number of persons that may be elected to the council is a quorum for a council meeting.

(2) Where there is a vacancy in a council's numbers, the council may, if a quorum is present, make a decision at a council meeting.

(3) Where the number of council members is reduced due to vacancies in a council's numbers below the number required for a quorum, the remaining council members may make a decision at a council meeting if

(a) there are at least three remaining council members; and

(b) a majority of the remaining council members are present at the meeting,

but the council may not pass a bylaw or policy, borrow money, set a tax rate, acquire or sell property or make any other decision that has effect after, or for a term extending beyond, the date for the election to fill the vacancies in council membership.

(4) Where the number of council members is reduced below

(a) three, for a council consisting of more than three members; or

(b) two, for a council consisting of three members, due to vacancies in the council's numbers, the council may not make a decision except to take such steps as may be required to fill the vacancies. 1998, c. 18, s. 20.

Voting at a council meeting

29 (1) Unless otherwise prescribed by statute, a question arising at a council meeting must be decided by a majority of votes.

(2) Subject to the *Municipal Conflict of Interest Act*, all council members present, including the person presiding, shall vote on a question.

(3) Unless otherwise specified in a policy, a member of the council who fails or refuses to vote on a question before the council is deemed to have voted in the negative.

(4) In the event of a tie in a vote on a question, the question is determined in the negative. 1998, c. 18, s. 21.

Expulsion of person disrupting meeting

30 The person presiding at a council meeting may expel and exclude any person, including a council member, who is disrupting the proceedings of the council. 1998, c. 18, s. 21.

Open meetings and exceptions

31 (1) Except as otherwise provided in this Section, council meetings and meetings of committees appointed by council are open to the public.

(2) A council or committee appointed by council may meet in closed session to discuss matters relating to

- (a) acquisition, sale, lease and security of municipal property;
- (b) setting a minimum price to be accepted by the municipality at a tax sale;
- (c) personnel matters;
- (d) labour relations;
- (e) contract negotiations;
- (f) litigation or potential litigation;
- (g) legal advice eligible for solicitor-client privilege;
- (h) public security.

(3) No decision may be made at a private council meeting except a decision concerning procedural matters or to give direction to the staff of, or solicitors for, the municipality.

(4) A record that is open to the public must be made, noting the fact that council met in private, the type of matter that was discussed as set out in subsection (2) and the date, but no other information.

(5) Subsections (3) and (4) apply to committee meetings or parts of them that are not public.

(6) A councillor or employee of a municipality who discloses any report submitted to, or details of matters discussed at, a private council or committee meeting, as a result of which the municipality has lost financially or the councillor or employee of a municipality has gained financially, is liable in damages to the municipality for the amount of the loss or gain.

(7) Subsection (6) does not apply to information disclosed pursuant to subsection (4) or subsection 565(2). 1998, c. 18, s. 22; 2000, c. 9, s. 34; 2003, c. 9, s. 50.

Policies regarding meetings, committees and remuneration

32 (1) A council may make policies

(a) respecting the date, hour and place of council meetings and the notice to be given for them;

(b) regulating its own proceedings and preserving order at council meetings;

(c) providing for committees and conferring powers and duties upon them, except the power to expend funds;

(d) providing for and fixing

(i) the annual remuneration to be paid to the mayor or warden,

(ii) the annual remuneration to be paid to the deputy mayor or deputy warden,

(iii) the annual remuneration to be paid to councillors,

(iv) that part of the salary or remuneration that is an allowance for expenses incidental to the discharge of the duties of such persons as elected officers of the municipality,

(v) the deduction to be made from the remuneration of such persons, other than persons on parental accommodation, for missing more than three council or committee meetings in a year, and

(vi) the rate per kilometre as a travelling allowance for such persons for actual distance travelled once each day to go to, and return from, every daily session of a meeting of the council or of a committee.

(2) A council may, by policy, require that where a council member is nominated or appointed by the council to a board, commission or other position or is otherwise appointed as a representative of the municipality, any remuneration from that position to which that council member is entitled, excluding reimbursement of expenses, must be paid to the municipality. 1998, c. 18, s. 23; 2018, c. 17, s. 3.

Expense policy and hospitality policy

33 (1) A municipality shall adopt an expense policy and a hospitality policy.

(2) An expense policy must

(a) prohibit the municipality from reimbursing expense claims for alcohol purchases by an individual;

(b) identify the persons who have signing authority to authorize the reimbursement of an expense;

(c) set out rules respecting the use of corporate credit cards, where applicable;

(d) apply to every reportable individual in the municipality; and

(e) comply with the regulations.

(3) A hospitality policy must

(a) establish the expenditures, including an alcohol purchase, that may be a hospitality expense;

(b) establish the approval process for authorizing hospitality expenses;

(c) establish the scope and applicability of the policy; and

(d) comply with the regulations.

(4) An expense may be reimbursed only if that expense is authorized pursuant to the expense policy or the hospitality policy.

(5) By January 31st immediately following a regular election held under the *Municipal Elections Act*, a council shall review the expense and hospitality policies and, following a motion by the council, either readopt the policies or amend one or both of the policies and adopt the policies as amended. 1998, c. 18, s. 23; 2017, c. 13, s. 2.

Standing, special and advisory committees

34 (1) A council may establish standing, special and advisory committees.

(2) A committee shall perform the duties conferred on it by this Act, any other Act of the Legislature or the bylaws or policies of the municipality.

(3) A council may appoint persons who are not members of the council to a committee and may establish a procedure for doing so.

(4) A committee shall operate in accordance with the procedures provided in this Act and the procedural policy for the council applies to committees unless the council, by policy, decides otherwise.

(5) A member of a committee established by council who is a council member is not entitled to additional remuneration for serving on the committee but may be reimbursed for expenses incurred as a committee member.

- (6) A committee member who is not a council member may be
- (a) paid an annual honorarium for serving on the committee, as determined by the council by policy, and an honorarium may be a different amount if the person is chair of a committee and honorariums may differ for different committees; and
 - (b) reimbursed for expenses incurred as a committee member.

(7) Where a council member is appointed to a committee, board or commission as a representative of the council, the council member's appointment ceases if and when the person ceases to be a council member. 1998, c. 18, s. 24.

Vacancy on board, commission or committee

35 (1) A person appointed by a council as a member of a board, commission or committee pursuant to this or any other Act of the Legislature who, without leave of the board, commission or committee, is absent from three consecutive regular meetings, ceases to be a member.

(2) Subsection (1) does not apply to a council member who sits as a member of a municipal committee and who is absent for 52 or fewer consecutive weeks due to parental accommodation during a pregnancy or commenced within one year of a birth or adoption.

(3) The secretary of the board, commission or committee shall immediately notify the council of a vacancy, and the council shall fill the vacancy. 1998, c. 18, s. 25; 2018, c. 17, s. 4.

Citizen advisory committees

36 A council may, by policy, establish citizen advisory committees, which shall advise the council as directed by the council. 1998, c. 18, s. 26.

Community committees

37 (1) A council may, by policy, establish a community committee for an area.

- (2) A policy establishing a community committee
- (a) must define the boundaries of the area for which the committee is responsible and set out the duties of the committee; and
 - (b) may include such other matters as the council considers advisable.
- (3) The powers and duties of a community committee may include
- (a) monitoring the provision of services to the area for which the committee is responsible and recommending the appropriate level of services, areas where additional services are required and ways in which the provision of services can be improved;
 - (b) the establishment of one or more advisory subcommittees;

(c) making recommendations to the council respecting any matter intended to improve conditions in the area for which the committee is responsible, including recommendations respecting

(i) inadequacies in existing services provided to the area and the manner in which they might be resolved, additional services that might be required and the manner in which the costs of funding these services might be raised,

(ii) bylaws or regulations, including those regarding planning, that are required, and

(iii) the adoption of policies that would allow the people of the area to participate more effectively in the governance of the area. 1998, c. 18, s. 27.

PART II

ADMINISTRATION

Chief administrative officer

38 (1) Subject to subsection (2), a council may employ a person to be the chief administrative officer for the municipality.

(2) The council of a regional municipality shall employ a person to be the chief administrative officer for the regional municipality. 1998, c. 18, s. 28.

No chief administrative officer appointed

39 Where a council does not appoint a chief administrative officer, the council

(a) shall fulfill the responsibilities and may exercise the powers given to the chief administrative officer by this Act; and

(b) may delegate any of the responsibilities and powers of the chief administrative officer to an employee of the municipality. 1998, c. 18, s. 29.

Council and chief administrative officer relationship

40 (1) The chief administrative officer is the head of the administrative branch of the government of the municipality and is responsible to the council for the proper administration of the affairs of the municipality in accordance with the bylaws of the municipality and the policies adopted by the council.

(2) A council shall communicate with the employees of the municipality solely through the chief administrative officer, except that the council may communicate directly with employees of the municipality to obtain or provide information.

(3) A council shall provide direction on the administration, plans, policies and programs of the municipality to the chief administrative officer. 1998, c. 18, s. 30.

Instructing or directing staff prohibited

41 No council member, committee or member of a committee established by the council shall instruct or give direction to, either publicly or privately, an employee of the municipality. 1998, c. 18, s. 30.

Duties and powers of chief administrative officer

42 (1) The chief administrative officer shall

- (a) coordinate and direct the preparation of plans and programs to be submitted to the council for the construction, rehabilitation and maintenance of all municipal property and facilities;
- (b) ensure that the annual operating and capital budgets are prepared and submitted to the council;
- (c) be responsible for the administration of the budgets after adoption;
- (d) review the drafts of all proposed bylaws and policies and make recommendations to the council with respect to them;
- (e) carry out such additional duties and exercise such additional responsibilities as the council may direct.

(2) The chief administrative officer may

- (a) attend all meetings of the council and any board, committee, commission or corporation of the municipality and make observations and suggestions on any subject under discussion;
- (b) appoint, suspend and remove all employees of the municipality, with power to further delegate this authority;
- (c) act or appoint a person to act as bargaining agent for the municipality in the negotiation of contracts between the municipality and any trade union or employee association and recommend to the council agreements with respect to them;
- (d) subject to policies adopted by the council,
 - (i) make or authorize expenditures, and enter into contracts on behalf of the municipality, for anything required for the municipality if the amount of the expenditure is budgeted or within the amount determined by the council by policy, and may delegate this authority to employees of the municipality,
 - (ii) sell personal property belonging to the municipality that, in the opinion of the chief administrative officer, is obsolete, unsuitable for use, surplus to requirements of, or no longer needed by, the municipality, and may delegate this authority to employees of the municipality,
 - (iii) personally or by an agent negotiate and execute leases of real property owned by the municipality that are for a term not exceeding one year, including renewals,
 - (iv) establish departments of the municipal administration,

(v) adopt a system of classification of positions of municipal officers and employees and specify offices that may not be filled by the same person,

(vi) determine the salaries, wages and emoluments to be paid to municipal officers and employees, including payment pursuant to a classification system,

(vii) where not otherwise provided for, fix the amount in which security is to be given by municipal officers and employees, the form of security, the manner in which security is to be given and approved and the nature of the security to be given;

(e) authorize, in the name of the municipality, the commencement or defence of a legal action or proceedings before a court, board or tribunal, including reporting the commencement of the legal action, defence or proceeding to the council at the next meeting and may, where the council so provides by policy, delegate this authority to employees of the municipality;

(f) where the council so provides by policy, settle a legal action or proceeding in accordance with the policy.

(3) A lease executed by the chief administrative officer is as binding on the municipality as if it had been specifically authorized by the council and executed by the mayor or warden and clerk on behalf of the municipality.

(4) Notwithstanding subsections 44(1), 49(1) and 51(1) and Section 55, the chief administrative officer may, with the consent of the council, perform the duties of the clerk, treasurer, engineer and administrator, or any of them, pursuant to this Act.

(5) The chief administrative officer may from time to time appoint an employee of the municipality to act in the place of the chief administrative officer when the chief administrative officer is absent or unable to act. 1998, c. 18, s. 31; 2019, c. 19, s. 4.

Reporting and accountability requirements

43 (1) The directors of departments of a municipality

(a) are accountable to the chief administrative officer for the performance of their duties; and

(b) shall submit the reports and recommendations required of them to, and through, the chief administrative officer.

(2) A report or recommendation from the solicitor of the municipality must be presented to the council by the solicitor and the chief administrative officer must be informed of the contents in advance of the presentation to the council, unless the report or recommendation is with respect to the chief administrative officer.

(3) Where a director of a department of a municipality disagrees with a recommendation of the chief administrative officer, the objections may be

provided to the chief administrative officer, who shall present them to the council. 1998, c. 18, s. 32.

Clerk

44 (1) The chief administrative officer shall designate an employee of the municipality to perform the duties of the clerk of the municipality.

(2) The clerk shall

(a) record in a minute book all the proceedings of the council;

(b) account for the attendance of each council member at every meeting of the council;

(c) keep the bylaws and policies of the municipality; and

(d) perform such other duties as are prescribed by the chief administrative officer, the council or an enactment. 1998, c. 18, s. 33.

Records management and destruction

45 (1) A council may adopt a policy for the management and destruction of records.

(2) Records that are required by an enactment to be kept and minutes, bylaws, policies and resolutions of a council must not be destroyed.

(3) A council may, by policy, specify further classes of records that are not to be destroyed or that are to be kept for specified time periods. 1998, c. 18, s. 34.

Reproduction of municipal record admissible

46 Where

(a) a municipal record is destroyed; or

(b) an original municipal record is not produced in court,

and

(c) the clerk certifies that a reproduction is part of the records of the municipality and is a true reproduction of the original municipal record,

a photographic, photostatic or electronic reproduction of the record is admissible in evidence to the same extent as the original municipal record and is, in the absence of proof to the contrary, proof of the record. 1998, c. 18, s. 34.

Proof of employee's authority

47 Where in an action or proceeding it is necessary to prove the authority of an employee of a municipality, a certificate under the hand of the clerk and the seal of the municipality stating that the employee has the authority is sufficient proof, without proof of the signature of the clerk or of the seal. 1998, c. 18, s. 35.

False certificate of clerk

48 A clerk who wilfully gives a false certificate is liable, on conviction, to a penalty not exceeding \$10,000 and, in default of payment, to imprisonment for a period of not more than 180 days. 1998, c. 18, s. 36.

Treasurer

49 (1) The chief administrative officer shall designate an employee of the municipality to perform the duties of the treasurer of the municipality.

(2) The treasurer may delegate any of the powers or duties of the treasurer pursuant to this or any other Act of the Legislature to an employee of the municipality. 1998, c. 18, s. 37.

Treasurer to advise council regarding uncollectable money

50 The treasurer shall promptly advise the council of

(a) all money due to the municipality that the treasurer considers cannot reasonably be collected after pursuing all reasonable avenues of collection; and

(b) the reasons for the belief that such money cannot be collected, and the council may write off the amounts determined to be uncollectible. 1998, c. 18, s. 38.

Engineer

51 The chief administrative officer shall designate an employee of the municipality to be the engineer for the municipality. 1998, c. 18, s. 39.

Engineer direction to take action

52 (1) Where the engineer has authority to require that action be taken by a person, the engineer may direct that the action be taken.

(2) A person shall not refuse or fail to take action when directed to do so by the engineer.

(3) Where the engineer directs that action be taken and no action is taken, the engineer may cause the necessary work to be done. 1998, c. 18, s. 39.

Engineer power of entry

53 The engineer may enter in or upon a property at

(a) a reasonable hour upon reasonable notice to the owner and any occupier of the property; or

(b) any time in the event of an emergency,

for the purpose of inspection, observation, measurement, sampling, testing or work to be done in accordance with this Act or a bylaw made pursuant to this Act. 1998, c. 18, s. 39.

Appeal of engineer's decision

54 (1) Where approval or permission by the engineer is required pursuant to this Act, the engineer's decision to refuse the approval or permission may be appealed to

- (a) the council; or
- (b) where there is a committee designated by the council, by policy, to hear appeals, that committee.

(2) On an appeal pursuant to subsection (1), the council or the designated committee, as the case may be, shall

- (a) direct the engineer to grant the approval or permission;
- or
- (b) uphold the decision of the engineer.

(3) The right of appeal pursuant to this Section expires 14 days after the engineer serves a written decision regarding the approval or permission on the owner. 1998, c. 18, s. 40.

Administrator for dangerous and unsightly premises

55 The chief administrative officer shall designate an employee of the municipality or other person to be the administrator responsible for the dangerous and unsightly premises provisions of this Act. 1998, c. 18, s. 41; 2000, c. 9, s. 35.

Municipal auditor

56 (1) A council shall appoint a municipal auditor who is registered pursuant to this Act to be the auditor for the municipality.

(2) The auditor shall report to the council on the accounts and funds

- (a) administered by the council; and
- (b) over which the council has apparent or implied control.

(3) The auditor's report must contain the information, and be in the form, required pursuant to this Act.

(4) The auditor's report must be filed with the council and the Minister by September 30th of each year.

(5) The auditor shall report to the council and to the Minister any management letters and any communication from the auditor detailing weaknesses in internal control, deficiencies in management information systems or other areas requiring improvement.

(6) The financial statements of a municipality, as reported on by the auditor, must set out the remuneration paid to each council member and the chief administrative officer.

(7) The auditor shall certify reports to the council and to the Minister if required by the regulations.

(8) No person may be appointed as auditor who, at any time during the fiscal year in which the auditor is appointed, is or has been

- (a) a council member;
- (b) a contractor hired by the municipality; or
- (c) an employee of the municipality,

except that an auditor may be reappointed as auditor. 1998, c. 18, s. 42; 2012, c. 63, s. 2; 2017, c. 13, s. 4.

Access by auditor

57 (1) The auditor has access at all times to the books, accounts and vouchers of the municipality and may require from the employees of the municipality such information and explanations as may be necessary for the performance of the auditor's duties.

(2) The employees of a municipality shall, on request, promptly provide access, information and explanations to the auditor. 1998, c. 18, s. 43.

Audit committee

58 (1) A council shall annually appoint an audit committee.

(2) The responsibilities of the audit committee include

- (a) a detailed review of the financial statements of the municipality with the auditor;
- (b) an evaluation of internal control systems and any management letter with the auditor;
- (c) a review of the conduct and adequacy of the audit;
- (d) such matters arising out of the audit as may appear to the audit committee to require investigation;
- (e) such other matters as may be determined by the council to be the duties of an audit committee;
- (f) any other matters as may be determined by the council.

(3) An audit committee shall meet at least twice in each fiscal year.

(4) Subject to subsection (5), an audit committee must include a minimum of one person who is not a member of the council or an employee of the municipality.

(5) Where an audit committee does not include the person referred to in subsection (4),

- (a) the audit committee shall continue to meet and perform its duties and may exercise its powers; and
- (b) the municipality shall advertise to recruit a person who is not a member of the council or an employee of the municipality at least once every six months until the requirement is met. 1998, c. 18, s. 44; 2017, c. 13, s. 5.

Pension plans

59 (1) In this Section, “full-time employee” means an employee who is employed in full-time, continuous employment.

(2) A council shall establish a pension plan to provide pensions for full-time employees in such manner as the council shall, by policy, determine.

(3) A council may, by policy, establish pension plans to provide pensions for some or all other employees of the municipality in such manner as the council may, by policy, determine.

(4) A pension plan may include employees of a board, commission or other body corporate established by the municipality, alone or jointly with other municipalities.

(5) A council may, by policy, establish a pension plan to provide a pension for the mayor or councillors or both.

(6) The municipality, the employees and, where a pension plan is established for the mayor or councillors, those for whom the pension plan is established, shall make contributions to the plan’s cost.

(7) A pension plan may provide for annual increases in the pensions paid pursuant to the plan, but the increases may not exceed the lesser of

(a) six per cent; or

(b) the percentage increase in the cost of living in the preceding year, as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada.

(8) The *Pension Benefits Act* applies to a pension plan established pursuant to this Section. 1998, c. 18, s. 45.

Employment not during pleasure

60 Notwithstanding the *Interpretation Act*, no employee of a municipality holds office during pleasure, unless a written agreement between the employee and the municipality provides otherwise. 1998, c. 18, s. 46.

PART III**POWERS****Resolutions, policies and bylaws**

61 (1) A council shall make decisions in the exercise of its powers and duties by resolution, by policy or by bylaw.

(2) A council may exercise any of its powers and duties by resolution unless a policy or a bylaw is required by an enactment.

(3) A council may exercise by policy any of the duties and powers that it may exercise by resolution.

(4) A council may exercise by bylaw any of the duties and powers that it may exercise by resolution or policy. 1998, c. 18, s. 47.

Policies

62 (1) A council shall give at least seven days notice to all council members before a policy is passed, amended or repealed.

(2) A council may adopt different policies for different areas of the municipality.

(3) In addition to matters specified in this Act or another Act of the Legislature, the council may adopt policies on any matter that the council considers conducive to the effective management of the municipality. 1998, c. 18, s. 48.

Power to make policies

63 (1) A council may make policies

(a) setting the interest rate to be charged on overdue taxes, area rates, water charges, sewer charges and any other charges or sums owing to the municipality;

(b) regulating the use of solid-waste management facilities, providing for times and conditions under which they may be used and setting charges for the use of solid-waste management facilities operated by the municipality;

(c) setting and amending the fees to be paid for

(i) licences issued pursuant to a bylaw of the municipality,

(ii) an inspection required or conducted pursuant to a bylaw of the municipality or an enactment,

(iii) permits, applications and approvals required to be obtained from the municipality or an employee of the municipality pursuant to a bylaw of the municipality or an enactment, and

(iv) expenses charged for the impoundment of animals;

(d) delegating the power to issue, refuse, suspend, cancel or revoke licences and permits, other than building permits and development permits;

(e) establishing the amount that may be accepted by the municipality in lieu of prosecution for breach of a bylaw and setting out procedures to be followed for such acceptance.

(2) Where the power to issue, refuse, suspend, cancel or revoke licences and permits is delegated by policy, provision for an appeal of such issuance, refusal, suspension, cancellation or revocation to a standing committee or the council must be included in the policy. 1998, c. 18, s. 49.

Powers of council

64 A council may make and carry out a contract, perform an act, do any thing or provide a service for which the municipality or the council is authorized by an Act of the Legislature to spend or borrow money. 1998, c. 18, s. 47.

Powers of municipality regarding property

65 (1) A municipality may acquire and own property granted or conveyed to the municipality either absolutely or in trust for a public or charitable purpose.

(2) Where property is conveyed to a municipality in trust for a public or charitable purpose, the municipality holds the property according to the terms of the trust and may do anything necessary to carry out the objects of the trust.

(3) The property vested in a municipality, absolutely or in trust, is under the exclusive management and control of the council, unless an Act of the Legislature provides otherwise.

(4) Possession, occupation, use or obstruction of property of a municipality does not give an estate, right or title to the property.

(5) A municipality may

(a) acquire property, including property outside the municipality, that the municipality requires for its purposes or for the use of the public;

(b) sell property at market value when the property is no longer required for the purposes of the municipality;

(c) lease property owned by the municipality at market value;

(d) sell deeds for cemetery lots and certificates of perpetual care. 1998, c. 18, s. 50.

Sale or lease of municipal property at less than market value

66 (1) A municipality may sell or lease property at a price less than market value to a non-profit organization that the council considers to be carrying on an activity that is beneficial to the municipality.

(2) A resolution to sell or lease property referred to in subsection (1) at less than market value must be passed by at least a two-thirds majority of the council present and voting.

(3) Where a council proposes to sell property referred to in subsection (1) valued at more than \$10,000 at less than market value, the council shall first hold a public hearing respecting the sale.

(4) The council shall advertise the public hearing at least twice, in a newspaper circulating in the municipality, the first notice to appear at least 14 days before the hearing.

(5) The notice of the public hearing must include the date, time and place of the hearing, the location of the real property or a description of the tangible personal property, the estimated value of the property and the purpose of the sale. 1998, c. 18, s. 51.

Sale of land to abutting owner

67 Where a municipality holds land that, in the opinion of the council, is of insufficient size or dimensions to be capable of any reasonable use, all or part of the land may be sold to the owner of any lot abutting that land and may be consolidated with such lot and, notwithstanding Section 66, the sale price of the land so sold may be set by the council at a price that is less than market value at the time of the sale. 2003, c. 9, s. 51.

Sale or lease of eligible property by Cape Breton Regional Municipality

68 (1) In this Section, “eligible municipal property” has the meaning prescribed by the regulations.

(2) Cape Breton Regional Municipality may sell or lease to any person eligible municipal property at a price less than market value.

(3) A resolution to sell or lease eligible municipal property at less than market value must be passed by at least a two-thirds majority of the council of Cape Breton Regional Municipality present and voting.

(4) Where the council of Cape Breton Regional Municipality proposes to sell or lease eligible municipal property valued at more than \$10,000 at less than market value, the council shall first hold a public hearing respecting the sale or lease.

(5) The council of Cape Breton Regional Municipality shall advertise the public hearing on the Municipality’s publicly-accessible Internet site and shall post the advertisement at least 14 days before the hearing.

(6) The notice of the public hearing must include

- (a) the date, time and place of the hearing;
- (b) the location of the eligible municipal property if it is real property or a description of the property if it is tangible personal property;
- (c) the estimated value of the property; and
- (d) the purpose of the sale or lease.

(7) The Minister may make regulations prescribing the meaning of “eligible municipal property”.

(8) The exercise by the Minister of the authority contained in subsection (7) is a regulation within the meaning of the *Regulations Act*. 2018, c. 16, s. 1.

Expropriation

69 (1) Where a council considers it necessary to acquire real property, including real property outside the municipality, for a purpose for which it may

spend money, the council may expropriate the real property, but this power to expropriate does not authorize a municipality to expropriate property of another municipality.

- (2) Where real property is proposed to be expropriated,
 - (a) the municipality shall survey the property and prepare a description of it;
 - (b) municipal employees and agents of the municipality may enter upon the property to survey or examine it; and
 - (c) the municipality may make borings or other excavations in the property and shall reimburse the owner for any damage done if the expropriation is not completed.

(3) The *Expropriation Act* applies to expropriation proceedings by a municipality or a village. 1998, c. 18, s. 52.

Plebiscite

70 (1) A council may direct that a plebiscite be held in all or part of the municipality and that the clerk hold a public meeting in connection with the plebiscite.

(2) Where a plebiscite is directed, the clerk shall require the returning officer appointed pursuant to the *Municipal Elections Act* to conduct the plebiscite and it must be conducted as closely as possible to the manner provided for the conduct of a special election pursuant to that Act.

(3) A plebiscite must be held on a Saturday, as specified in the resolution, that is not less than 10 weeks after the resolution directing the plebiscite is passed. 1998, c. 18, s. 53.

Police services

71 (1) A council may provide police services in the municipality by a combination of methods authorized pursuant to the *Police Act* and the board of police commissioners of a municipality has jurisdiction over the provision of the police services, notwithstanding that they are provided by a combination of methods.

(2) A municipality may contract with the Royal Canadian Mounted Police, the Minister of Justice or another municipality to provide police services. 1998, c. 18, s. 54.

Public transportation service

- 72 (1) A municipality may provide a public transportation service by
- (a) the purchase of vehicles or vessels and operation of the service;
 - (b) providing financial assistance to a person who will undertake to provide the service; or
 - (c) a combination of these methods.

(2) The *Public Utilities Act* does not apply to a public transportation service within a municipality that provides the service. 1998, c. 18, s. 55.

Area improvement and promotion

73 (1) A municipality may

- (a) beautify, improve and maintain property owned or leased by the municipality;
- (b) pay grants to a body corporate for the purpose of promoting or beautifying a business district and for airport, wharf or waterfront development;
- (c) identify and promote a business district as a place for retail and commercial activity;
- (d) establish or maintain parking facilities.

(2) The municipality may levy an area rate applicable only to the commercial property assessments in the area benefited by the expenditures in order to recover them.

(3) In setting such an area rate, the council may set a minimum and maximum amount to be paid by a person assessed, or may provide that payments be made on another basis established by the council. 1998, c. 18, s. 56.

Business and industrial development

74 (1) A municipality may

- (a) solicit and encourage the establishment and development of new institutions, industries and businesses and the establishment, development and expansion of existing institutions, industries and businesses in and around the municipality;
- (b) publicize the advantages of the municipality or any part of the municipality and the surrounding areas as a location for the establishment and expansion of institutions, industries and businesses;
- (c) pay grants to a body corporate for the purpose of promoting the municipality or any part of the municipality and the surrounding areas as a location for institutions, industries and businesses;
- (d) prepare and disseminate information about the municipality or any part of the municipality and the surrounding areas for the assistance of institutions, industries and businesses intending to locate or expand in the municipality or the surrounding area.

(2) A municipality may not grant a tax concession or other form of direct financial assistance to a business or industry.

(3) Notwithstanding subsection (2), a municipality may provide direct financial assistance to a business for the purpose of improving accessibility for people with disabilities.

(4) Notwithstanding subsection (2), a municipality may provide direct financial assistance to a business for the purpose of increasing the availability of affordable housing in the municipality. 1998, c. 18, s. 57; 2021, c. 12, s. 1; 2021, c. 33, s. 1.

Libraries Act

75 (1) A municipality may enter into and carry out agreements for providing regional public libraries and other purposes pursuant to the *Libraries Act*.

(2) A regional municipality has the powers of a regional library board pursuant to the *Libraries Act*.

(3) Where a regional municipality provides library services directly, it is the regional library board for the purpose of grants made pursuant to the *Libraries Act*. 1998, c. 18, s. 58.

Highway, housing and trail agreements

76 A municipality may enter into and carry out agreements

(a) for highway construction, improvement and maintenance and other purposes pursuant to the *Public Highways Act*;

(b) with

(i) the Minister of Community Services or Canada Mortgage and Housing Corporation with respect to housing projects, or

(ii) any body corporate or agency having similar objects to Canada Mortgage and Housing Corporation with respect to projects pursuant to the *National Housing Act* (Canada);

(c) with the Government of the Province with respect to the development, operation or maintenance of trails on land of the Crown in right of the Province. 1998, c. 18, s. 59; 2001, c. 35, s. 3.

Municipality and village services agreements

77 (1) A municipality or a village may agree with one or more municipalities, villages, service commissions, the Government of the Province or Canada, or a department or agency of either of them, or a band council pursuant to the *Indian Act* (Canada) to provide or administer municipal or village services.

(2) An agreement made by a municipality or village pursuant to subsection (1) may

(a) include any service provided by the municipality or village, as the case may be;

(b) include the provision of services within or outside the municipality or village, as the case may be;

(c) delegate the power to provide the service to a committee representing each of the participating municipalities and villages, to a district planning commission or to a party to the agreement.

(3) An agreement made by a municipality or village under subsection (1) may include

- (a) a description of the services to be provided under the agreement;
- (b) the area for which the services are to be provided;
- (c) how and by whom the services are to be provided and administered;
- (d) how the cost of the services, both capital and current, is to be paid, the proportions of the cost to be paid by each party to the agreement or a method of determining those proportions, when the respective shares of the cost are to be paid and a rate of interest payable in default of prompt payment;
- (e) where the power to provide the service is delegated to a committee, whether the committee to which responsibility for the service is delegated is a separate body corporate, and the corporate powers that it may exercise;
- (f) the ownership of any capital assets to be created under the agreement;
- (g) provision for the disposition of a capital asset before or at the termination of the agreement;
- (h) provision for the sharing of any liabilities before or at the termination of the agreement;
- (i) provision for amending, reviewing or terminating the agreement;
- (j) provision for resolving disputes among the parties to the agreement;
- (k) such other terms and conditions as the parties to the agreement determine.

(4) Where an agreement made by a municipality or village pursuant to subsection (1) creates a body corporate,

- (a) a copy of the agreement must be filed with the Registrar of Joint Stock Companies; and
- (b) the participating municipalities and villages may guarantee its borrowings. 1998, c. 18, s. 60; 2000, c. 9, s. 36; 2001, c. 35, s. 4.

Agreement for provision of service or capital facility

78 (1) A municipality or a village may agree with any person for the provision of a service or a capital facility that the municipality or village is authorized to provide.

(2) An agreement made pursuant to subsection (1) may allow for the lease, operation or maintenance of the facility or provision of the service by a person, including the sale or disposition to that person of property of the municipality or village that continues to be required for the purposes of the municipality or village, as the case may be. 1998, c. 18, s. 61.

Flag, symbol or coat of arms

79 (1) A council may, by policy, adopt a flag, symbol or coat of arms for the municipality.

(2) A flag, symbol or coat of arms adopted pursuant to this Section may be registered pursuant to an Act of Parliament in order to prevent its unauthorized use.

(3) No person, other than the municipality, shall use a flag, symbol or coat of arms of the municipality unless specifically authorized by the council and upon payment of any fee charged by the municipality for the use. 1998, c. 18, s. 62.

Trees on public and private property

80 (1) A municipality may

(a) remove dead, dying or diseased trees on public and private property;

(b) recommend and encourage

(i) the proper pruning, protection and repair of privately-owned trees in the municipality,

(ii) the planting of trees of suitable species at desirable sites within the municipality.

(2) A municipality may not remove trees from private property unless the owner has granted written permission or an order requiring the removal of the tree has been issued.

(3) A municipality is not liable for failure to remove a diseased or dangerous tree or limb from property, whether publicly or privately owned. 1998, c. 18, s. 63.

Entry to inspect and treat trees

81 A council may, by policy, authorize its employees to enter upon land within the municipality to

(a) inspect the trees on the land to determine whether they are in a diseased condition or damaged to the extent that they constitute a hazard to the safety of persons or property;

(b) treat the trees on the land as approved and recommended by Forestry Canada. 1998, c. 18, s. 63.

Order to remove tree or limb

82 (1) A council may, by policy, authorize an employee to order an owner of land, within 30 days of service of a copy of the order, to remove a tree or limb that is, in the opinion of the employee, hazardous to persons or property or so affected by disease or insect infestation as to endanger the life and health of trees in the vicinity.

(2) An order to remove a tree or limb must contain a description of the location of the tree or limb directed to be removed and a copy of the order must be served upon the owner of the land.

(3) Where the owner fails to remove the tree or limb described in the order within 30 days of service of a copy of the order, a person authorized by the employee may enter upon the land upon which the tree or limb is situate, without warrant or other legal process, and remove the tree or limb.

(4) The actual cost of removal of the tree or limb pursuant to subsection (3) may be recovered as a debt from the owner of the land upon which it was located and is a first lien on the real property of the owner of the land and may be collected in the same manner as taxes.

(5) An owner may appeal an order requiring the removal of a tree or limb to the Supreme Court of Nova Scotia within seven days of service of the order on the owner and the giving of a notice of appeal acts as a stay of proceedings until the appeal has been determined.

(6) Upon an appeal pursuant to subsection (5), the Supreme Court of Nova Scotia may confirm, modify or set aside the order. 1998, c. 18, s. 63.

Defacing, mutilating or cutting tree on municipal property

83 A person who defaces, mutilates or cuts a tree upon property of a municipality without the written consent of the municipality is guilty of an offence, and is guilty of a separate offence for each tree defaced, mutilated or cut. 1998, c. 18, s. 63.

Borrowing for major tree removal program

84 A municipality may borrow for a term not exceeding 10 years for the cost of a major tree removal program. 1998, c. 18, s. 63.

PART IV

FINANCE

Fiscal year

85 The fiscal year of a municipality begins on April 1st and ends on March 31st in the following year. 1998, c. 18, s. 64.

Operating and capital budgets

86 A council shall adopt an operating budget and a capital budget for each fiscal year. 2019, c. 19, s. 5.

Municipal expenditures

87 (1) Subject to subsections (2) to (4), a municipality may spend money for municipal purposes only if

(a) the expenditure is included in the municipality's operating budget or capital budget or is otherwise authorized by the municipality;

(b) the expenditure is in respect of an emergency under the *Emergency Management Act*; or

(c) the expenditure is legally required to be paid.

(2) A municipality may expend money provided for in an operating budget or capital budget for a purpose other than that set out in the operating budget or capital budget for that fiscal year if the expenditure does not affect the total of the amounts estimated for the operating budget and the capital budget.

(3) A municipality may authorize expenditures from its operating budget or transfer money from the operating budget to its capital budget if the total amount of such expenditures and transfers for the fiscal year does not exceed the total amount of estimated revenue from all sources in excess of the amount estimated for those sources in the operating budget for that fiscal year.

(4) A municipality may authorize capital expenditures that are not provided for in its capital budget if the total of such expenditures does not exceed the greater of

(a) the amount authorized to be transferred from the operating budget to the capital budget under subsection (3);

(b) the borrowing limits established for the municipality under Section 124; or

(c) the amount withdrawn from a capital reserve fund under subsection 140(4).

(5) In the event of ambiguity in whether or not a municipality has the authority under this or any other Act to spend money or to take any other action, the ambiguity may be resolved so as to include, rather than exclude, powers the municipality had immediately prior to April 12, 2019. 2019, c. 19, s. 5.

Expenditures not included in operating and capital budgets

88 A council shall establish procedures to authorize and verify expenditures that are not included in an operating budget or capital budget. 2019, c. 19, s. 5.

Disclosure policy regarding grant recipients

89 (1) A council shall adopt a policy that requires the municipality to disclose to the public a list of recipients of grants made by the municipality and the amounts of those grants.

(2) A policy adopted under subsection (1) must include

(a) the frequency and timing of disclosure;

(b) the content to be included in a disclosure; and

(c) the form in which the disclosure must be made.

(3) A policy adopted under subsection (1) may include any other matter that the council considers necessary or advisable to carry out effectively the intent and purpose of the policy. 2019, c. 19, s. 5.

Expense report and hospitality expense report

90 (1) A municipality shall prepare an expense report for each reportable individual within 90 days of the end of each fiscal quarter.

(2) An expense report must

(a) be posted on a publicly available website for the municipality; and

(b) comply with the regulations.

(3) A municipality shall prepare a hospitality expense report within 90 days of the end of each fiscal quarter.

(4) A hospitality expense report must

(a) comply with the hospitality policy of the municipality;

(b) be posted on a publicly available website for the municipality; and

(c) comply with the regulations.

(5) A municipality shall prepare an annual summary report that complies with any requirements prescribed by the Minister.

(6) A municipality shall file the annual summary report with the Minister by September 30th of each year. 2017, c. 13, s. 6.

Power to borrow money

91 (1) A municipality may borrow to carry out an authority to expend funds for capital purposes conferred by this Act or another Act of the Legislature.

(2) The authority to borrow and expend money conferred by this Section may be exercised in respect of any land, building or undertaking owned by the municipality, even if all or part of the land, building or undertaking is located in another municipality.

(3) Where a municipality or village enters into a joint undertaking with a municipality, village or service commission for a purpose for which it is authorized to borrow and expend money, it may borrow its portion of the cost of the undertaking irrespective of which party or intermunicipal corporation will own the undertaking.

(4) A municipality may borrow money

(a) with the approval of the Minister of Public Works, to improve a street that is the property of the Crown in right of the Province;

(b) to pay and retire debentures;

(c) where a municipality is authorized by an Act of the Legislature to give a guarantee, to honour such a guarantee that it is called upon to pay;

- (d) to carry out an agreement made pursuant to clause 76(c);
- (e) to demolish a building or structure that is owned by the municipality;
- (f) to contribute a capital grant to a hospital to which the *Hospitals Act* applies;
- (g) for the purpose of making a loan to a registered fire department or registered emergency services provider. 1998, c. 18, s. 66; 2001, c. 35, s. 6; 2004, c. 7, s. 5; 2005, c. 55, s. 1; 2008, c. 25, s. 1; 2019, c. 19, s. 6.

Sums spent by requirement of Legislature are for ordinary lawful purposes

92 Where an Act of the Legislature authorizes or directs a municipality to make an expenditure, enter into a contract or guarantee or take action as a result of which it may be required to pay money, the sums required are for the ordinary lawful purposes of the municipality. 1998, c. 18, s. 67.

Sharing of taxes or grants in lieu

93 A municipality may agree with another municipality to share taxes or grants in lieu of taxes paid or payable to the municipality. 1998, c. 18, s. 68.

Interpretation of Sections 95 and 96

94 In Sections 95 and 96, “income” means a person’s total income from all sources for the calendar year preceding the fiscal year of the municipality and, where so determined by the council, includes the income of all other members of the same family residing in the same household, but does not include an allowance paid pursuant to the *War Veterans Allowance Act* (Canada) or pension paid pursuant to the *Pension Act* (Canada). 1998, c. 18, s. 69.

Low income tax exemption

95 (1) A council may, by policy,

- (a) grant an exemption from taxation, in the amount or to the extent set out in the policy, for a person whose income is below the amount set out in the policy; and
- (b) prescribe a scale of exemptions related to income.

(2) A council may provide that a person applying for an exemption pursuant to this Section shall make an affidavit or provide other proof confirming the person’s income.

(3) The policy to grant an exemption from taxation may

- (a) specify that the exemption extends only to persons who are residents of the municipality or property of a ratepayer occupied as the ratepayer’s principal residence;
- (b) provide that where a property is assessed to more than one person, any of them who is entitled to an exemption may receive only the portion of the exemption equal to that person’s share of the total assessment for the property, but where the different interests are not separate, then to that portion determined by the treasurer, whose determination is final;

(c) specify a date, not less than 30 days after the filing of the assessment roll, after which no application for an exemption will be received. 1998, c. 18, s. 69; 2004, c. 7, s. 6.

Reduction of taxes for destroyed buildings

96 (1) A council may, by policy, provide for the reduction, to the extent that the council considers appropriate, of the taxes payable with respect to a property if a building situate on the property has been destroyed or partially destroyed by fire, storm or otherwise and the assessment of the property does not reflect that the building has been destroyed or partially destroyed, and provide for the reimbursement of any overpayment resulting from the reduction.

(2) A policy adopted pursuant to subsection (1) may be made retroactive to April 1, 1999.

(3) Upon a request by the clerk, the Director of Assessment shall value the property for the purpose of a policy adopted pursuant to subsection (1) but, for greater certainty, shall not change the assessment of the property except in accordance with the *Assessment Act*. 2001, c. 14, s. 2.

Postponed payment of rates and taxes

97 (1) A council may, by bylaw, provide for the postponed payment of all, or a defined portion of, rates and taxes by persons whose income is below the amount set out in the bylaw.

(2) A bylaw passed pursuant to this Section

(a) applies only to the property of a person occupied by that person as the person's principal residence;

(b) may provide that taxes be postponed for a certain period or until the death of the assessed owner or other specified contingency;

(c) may provide for the postponement of tax collection procedures for the current year;

(d) may prescribe the procedure for applying for the benefits of the bylaw, including the required forms and affidavits;

(e) may provide for interest on the taxes postponed.

(3) A limitation period affecting a municipality's entitlement to collect postponed taxes does not begin until the period of postponement expires.

(4) Where a municipality provides that only a portion of the taxes due may be postponed and where the portion that is required to be paid is three years overdue, the period of postponement terminates 30 days after the treasurer notifies the person whose taxes have been postponed, unless the taxes that were not postponed are paid before the expiration of the 30 days. 1998, c. 18, s. 70.

No tax relief except as otherwise provided

98 Except as otherwise provided by this Act or another Act of the Legislature, a council may not relieve a taxpayer from all or a portion of taxes. 1998, c. 18, s. 70.

Tax reduction or exemption for organization or water utility

99 (1) A council may, by policy, exempt from taxation, to the extent and under the conditions set out in the policy

(a) property of a named registered Canadian charitable organization that is used directly and solely for a charitable purpose;

(b) property of a non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization if, in the opinion of the council, the organization provides a service that might otherwise be a responsibility of the council; and

(c) the buildings, pump stations, deep well pumps, main transmission lines, distribution lines, meters and associated plant and equipment of a municipal water utility.

(2) A council may, by policy, to the extent and under the conditions set out in the policy, provide that the tax payable with respect to all or part of the taxable commercial property of any non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization named in the policy be reduced to the tax that would otherwise be payable if the property were residential property, inclusive of area rates.

(3) A tax exemption or reduction pursuant to this Section must be shown on the tax bill and accounted for by the municipality as an expenditure.

(4) A council may, in its discretion, refuse to grant an exemption or reduction pursuant to this Section and a policy made pursuant to this Section extends only to properties specifically named in the policy.

(5) An exemption given pursuant to this Section does not apply to area rates or the fire protection rate unless specified in the policy.

(6) A policy made pursuant to this Section has effect in the fiscal year following the fiscal year in which it is published, unless the policy sets a different effective date, including an effective date retroactive to the beginning of the current fiscal year. 1998, c. 18, s. 71; 2001, c. 14, s. 3; 2001, c. 35, s. 7; 2005, c. 9, s. 7; 2008, c. 25, s. 2.

Tax reduction bylaw for child-care facility

100 (1) A council may, by bylaw, to the extent and under the conditions set out in the bylaw, provide that the tax payable with respect to all or part of the taxable commercial property of any child-care facility licensed under the *Early Learning and Child Care Act* be reduced to the tax that would be payable if the property were residential property, including area rates.

(2) A bylaw made pursuant to this Section may have an effective date retroactive to the beginning of the current fiscal year. 2004, c. 7, s. 7; 2005, c. 9, s. 8; 2018, c. 33, s. 21.

Cape Breton Regional Municipality taxation agreement

101 (1) In this Section, “eligible industrial property” has the meaning prescribed by the regulations.

(2) Notwithstanding any enactment, where the council of Cape Breton Regional Municipality considers it necessary or advisable, the Municipality may enter into a taxation agreement with the owner of an eligible industrial property respecting the taxes payable to the Municipality by the owner.

(3) Notwithstanding any enactment, where there is a taxation agreement pursuant to this Section, the owner shall pay taxes with respect to the eligible industrial property in accordance with the agreement instead of the taxes otherwise payable pursuant to this Act.

(4) A taxation agreement does not take effect unless it is approved by bylaw.

(5) Taxes payable under a taxation agreement entered into pursuant to this Section are a first lien upon the eligible industrial property.

(6) The Minister may make regulations prescribing the meaning of “eligible industrial property”.

(7) The exercise by the Minister of the authority contained in subsection (6) is a regulation within the meaning of the *Regulations Act*. 2018, c. 16, s. 2.

Commercial development district

102 (1) In this Section,

“commercial development district” means a district, established by a bylaw made pursuant to subsection (2), that includes one or more eligible properties;

“eligible commercial property” means a commercial property, except the forest property owned by a person who owns 50,000 acres or more of forest property in the Province;

“eligible contaminated property” means a property or part thereof that

(a) was an eligible commercial property;

(b) is designated as a contaminated site pursuant to subsection 93(1) of the *Environment Act*; and

(c) is the subject of an agreement entered into pursuant to clause 95(1)(b) of the *Environment Act*;

“eligible property” means an eligible commercial property or eligible contaminated property.

(2) Notwithstanding subsection 74(2) but subject to Section 103, where a council considers it necessary or advisable, the council may, by bylaw, provide for

(a) the phasing-in of an increase in the taxable assessed value of an eligible property located in a commercial development district over a period not exceeding 10 years; and

(b) the cancellation, reduction or refund of taxes paid as a result of the phasing-in of the increase.

(3) Subject to subsection (4), a bylaw made pursuant to subsection (2) must establish, in accordance with a municipal planning strategy, one or more commercial development districts.

(4) A commercial development district may be established only in an area that is serviced by wastewater facilities and a water system.

(5) Subject to subsection (6), a bylaw made pursuant to subsection (2) may

(a) where the taxes paid in the current year in respect of an eligible property exceed the taxes payable in respect of the eligible property under the bylaw, authorize the refund of the amount by which the taxes paid exceed the taxes payable under the bylaw;

(b) prescribe a base year for the purpose of a formula authorized by clause (c); and

(c) prescribe a formula to be applied to any increase in the taxable assessed value in a year above the taxable assessed value in the base year for the purpose of calculating the taxes payable.

(6) A formula prescribed by clause (5)(c) must not result in the calculation of the total increase in taxes payable during the phase-in period being less than 50% of the total increase in taxes that would be payable during the same period in the absence of the application of the formula.

(7) Notwithstanding subsection 74(2), where a bylaw is made pursuant to subsection (2), the owner of an eligible property to which the bylaw applies shall pay taxes with respect to the eligible property in accordance with the bylaw instead of the taxes otherwise payable pursuant to this Act.

(8) Taxes payable in respect of an eligible property under a bylaw made pursuant to subsection (2) are a first lien upon the eligible property.

(9) Nothing in this Section authorizes the application of a commercial tax rate to an eligible property other than the commercial tax rate set by the council pursuant to subsection 106(1) for the area of the municipality determined to be an urban area receiving an urban level of services. 2016, c. 13, s. 1.

Ministerial review and approval of bylaw

103 (1) Where a council makes a bylaw pursuant to subsection 102(2), the clerk shall submit a certified copy of the bylaw to the Minister.

(2) The Minister shall review the bylaw and determine whether the bylaw appears to affect a provincial interest or conflict with the law.

(3) Where the Minister determines that the bylaw appears to affect a provincial interest, the Minister shall

- (a) approve the bylaw;
- (b) approve the bylaw with such amendments as the Minister considers necessary or advisable; or
- (c) refuse to approve the bylaw.

(4) Where the Minister determines that the bylaw appears to conflict with the law, the Minister shall

- (a) approve the bylaw with such amendments as the Minister considers necessary or advisable to resolve the apparent conflict with the law; or
- (b) refuse to approve the bylaw.

(5) The bylaw is of no force and effect until the Minister

- (a) determines that the bylaw does not appear to affect a provincial interest or conflict with the law; or
- (b) approves the bylaw, with or without amendments,

and provides written notice to the clerk of the Minister's determination or approval.
2016, c. 13, s. 1.

Municipal review of bylaw

104 A bylaw made pursuant to subsection 102(2) must be reviewed by the municipality within four years of its coming into force and every four years thereafter. 2016, c. 13, s. 1.

Estimates of required sums and setting of tax rates

105 (1) A council shall make estimates of the sums that are required by the municipality for the fiscal year.

(2) The estimates must include the probable revenue for the fiscal year from all sources other than taxes and make due allowance for

- (a) the abatement and losses that might occur in the collection of the taxes; and
- (b) taxes for the current fiscal year that might not be collected.

(3) A council shall include an allowance to provide for any variation in the total assessed value shown on the roll that might result from assessment appeals.

(4) A council shall include in its estimates the deficit from the preceding fiscal year.

(5) A council may include in its estimates an amount for

- (a) contingencies and unforeseen expenses in matters on which it may vote and expend money;

(b) all or part of any surplus of previous fiscal years that will be available for the current fiscal year.

(6) A council shall authorize the levying and collecting of a

(a) commercial tax rate of so much on the dollar on the assessed value of taxable commercial property; and

(b) residential tax rate of so much on the dollar on the assessed value of taxable residential property and resource property.

(7) Notwithstanding clause (6)(a), the tax rate for the part of commercial property that is identified on the assessment roll as being occupied by a seasonal tourist business is 75% of the commercial tax rate.

(8) The tax rates must be those which the council considers sufficient to raise the amount required to defray the estimated requirements of the municipality. 1998, c. 18, s. 72; 2005, c. 9, s. 9.

Tax rates for rural, suburban and urban areas

106 A council may set separate commercial and residential tax rates for the area of the municipality determined by the council to be

(a) a rural area receiving a rural level of services;

(b) a suburban area receiving a suburban level of services; and

(c) an urban area receiving an urban level of services. 1998, c. 18,

s. 73.

Minimum tax per dwelling unit

107 (1) A council may, by policy, prescribe a minimum tax per dwelling unit and the minimum tax may be set at different levels for different areas of the municipality.

(2) Where the tax rate applied to the assessment of a property is less than the minimum tax prescribed by the council, the owner of the property shall pay an additional tax equal to the difference between the tax rate applied to the assessment of the property and the minimum tax.

(3) The number of dwelling units in a property is as determined by the Director of Assessment, whose decision may be appealed to the Board. 1998, c. 18, s. 74.

Area rates and uniform charges

108 (1) A council may spend money in an area, or for the benefit of an area, for any purpose for which a municipality may expend funds or borrow.

(2) For greater certainty, an expenditure under subsection (1) may include a contribution to a hospital to which the *Hospitals Act* applies.

(3) A council may recover annually from the area the amount required or as much of that sum as the council considers advisable to collect in any one fiscal year by an area rate of so much on the dollar on the assessed value of the taxable property in the area.

- (4) A council may provide
 - (a) a subsidy for an area rate from the general rate in the amount or proportion approved by the council;
 - (b) in the resolution setting the area rate, that the area rate applies only to the assessed value of one or more of the taxable commercial, residential or resource property in the area.
- (5) A council may, in lieu of levying an area rate, levy a uniform charge on each
 - (a) taxable property assessment;
 - (b) dwelling unit,
 in the area.
- (6) Charges pursuant to subsection (5) are first liens on the real property and may be collected in the same manner as taxes.
- (7) A council may expend money within an area for any lawful purpose and may raise all, or part of it, by a general rate on the whole municipality.
- (8) The area rate referred to in this Section may be different on commercial property than on residential and resource property. 1998, c. 18, s. 75; 2005, c. 9, s. 10; 2019, c. 19, s. 7.

Marketing levy

109

- (1) In this Section,
 - “accommodation” means the provision of one or more rental units or rooms as lodging in hotels and motels and in any other facility required to be registered under the *Tourist Accommodations Registration Act* and in a building owned or operated by a post-secondary educational institution;
 - “marketing levy” means a levy imposed pursuant to this Section;
 - “operator” means a person who, in the normal course of the person’s business, sells, offers to sell, provides or offers to provide accommodation in the municipality;
 - “purchase price” means the price for which accommodation is purchased, including the price in money, the value of services rendered and other consideration accepted by the operator in return for the accommodation provided, but does not include the goods and services tax.
- (2) A council may, by bylaw, impose a marketing levy upon a person who, for a daily charge, fee or remuneration purchases accommodation in the municipality.
- (3) The marketing levy is at such rate as may be set by the council, but may not exceed three per cent of the purchase price of the accommodation.
- (4) Subsections (2) and (3) do not apply to

- (a) a person who pays for accommodation for which the daily purchase price is not more than \$20;
- (b) a student who is accommodated in a building owned or operated by a post-secondary educational institution while the student is registered at and attending that post-secondary educational institution;
- (c) a person who is accommodated in a room for more than 30 consecutive days; or
- (d) accommodation exempted under the bylaws.

(5) A marketing levy collected pursuant to this Section may be used by the council only to promote tourism.

(6) Without restricting the generality of subsection (5) and notwithstanding subsection 74(2) or any other enactment, the council may pay such portion of the marketing levy collected by way of a grant, as determined by the council, to any organization formed to promote tourism, whether such organization is non-profit or otherwise.

(7) An operator is deemed to be an agent of the municipality in which the accommodation is located for the purpose of collecting the marketing levy and remitting it to the municipality and as such shall collect the levy from the purchaser and remit it to the municipality.

(8) The marketing levy, whether the price is stipulated to be payable in cash, on terms, by instalments or otherwise, must be collected at the time of the purchase on the total amount of the purchase price and must be remitted to the municipality at the times and in the manner prescribed by a bylaw passed pursuant to subsection (9).

(9) A council may make a bylaw to implement a marketing levy in its municipality, including respecting

- (a) the levy not applying to the purchaser of accommodation based on the purchase price of the accommodation, the number of rental units or rooms for rent, the location of the facility or any other criteria prescribed by the council;
- (b) the forms and records to be maintained by an operator and the information to be recorded therein;
- (c) the method of collection and remittance of the levy and any other conditions or requirements affecting collection and remittance;
- (d) the rate of levy to be collected, including a minimum and maximum levy;
- (e) the method by which a purchase price may be attributed to accommodations that are sold as part of a combination of accommodations, meals and specialized goods or services;
- (f) the inspection and audit of records maintained by an operator;

(g) interest and penalties for the failure to collect or remit the levy as required to the municipality;

(h) the times at which and the manner in which operators must remit the marketing levy to the municipality.

(10) A bylaw made pursuant to subsection (9) must include an exemption for persons and their families accommodated while receiving medical treatment at a hospital or provincial healthcare centre or seeking specialist medical advice, including the manner of showing entitlement to the exemption. 2022, c. 50, s. 1.

Recreational property tax

110 (1) An owner of land to which Section 22 of the *Assessment Act* applies shall annually pay to the municipality in which the land is situate a tax, to be known as a recreational property tax, equal to five dollars per acre, or part of an acre, for all of the land assessed as recreational property.

(2) The recreational property tax applies for the municipal taxation year 1977, and the amount of the tax per acre is increased by five per cent per year for each subsequent municipal taxation year, unless altered pursuant to subsection (3).

(3) The Governor in Council may, by regulation, determine the amount of the tax per acre for the recreational property tax.

(4) Where any land, or any part thereof, to which this Section applies ceases to be land used directly and solely for the purposes of a non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization or institution, a change in use tax equal to 50% of the value, determined by the assessor pursuant to the *Assessment Act*, of the land or part thereof to which this Section ceased to apply, is due and payable to the municipality in which the land is situate by the person determined by the assessor to be responsible for the change in use, unless the land becomes farm property, in which case no change in use tax is payable. 1998, c. 18, s. 76.

Conservation property

111 (1) The Minister of Environment and Climate Change shall in each year pay to the municipality in which conservation property exempt from taxation is situate a grant equal to the amount that would have been due and payable to the municipality had each conservation property in the municipality continued to be classified as it was immediately before becoming conservation property.

(2) Notwithstanding anything in this Act or any other Act of the Legislature authorizing a tax on the assessed value of property, no change in use tax is payable by reason of a property becoming conservation property.

(3) Where any land, or part thereof, to which this Section applies, ceases to be conservation property, a change in use tax equal to 20% of the value, determined by the assessor pursuant to the *Assessment Act*, of the land, or part thereof, that ceased to be conservation property is due and payable to the municipality in which the land is situate by the person determined by the assessor to have been responsible for the change in use.

(4) Notwithstanding subsection (3), no change in use tax is payable by reason of the ownership of conservation property being transferred to the Crown in right of the Province or of Canada or to a municipality. 2008, c. 36, s. 5.

Farm property

112 (1) The Minister shall in each year pay to the municipality in which farm property exempt from taxation is situate a grant equal to \$2.10 per acre in respect of the land.

(2) For the fiscal year ending March 31, 2001, and for each subsequent fiscal year, the Minister shall pay to the municipality in which the land is situate a grant per acre equal to the grant paid for the immediately preceding fiscal year varied by the same percentage as the variation in the cost of living over the immediately preceding calendar year as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada.

(3) Where any land, or part thereof, to which this Section applies ceases to be farm property, a change in use tax equal to 20% of the value, determined by the assessor pursuant to the *Assessment Act*, of the land, or part thereof, that ceased to be farm property is due and payable to the municipality in which the land is situate by the person determined by the assessor to have been responsible for the change in use, unless the land, or part thereof, becomes forest property bona fide used or intended to be used for forestry purposes, in which case no change in use tax is payable.

(4) Subject to subsections (5), (6) and (7), an owner of farm property may

(a) transfer to each parent, sibling, child, grandchild or spouse of the owner; or

(b) convey, reserve to or set aside for the owner,

one lot suitable for the erection of a single-family dwelling and the

(c) lot must not exceed one acre or the minimum size required by any applicable law, whichever is larger; and

(d) change in use tax is not payable if the land ceases to be used for agricultural purposes.

(5) For the purpose of subsections (6) and (7), “transfer” includes conveyance, reservation to and setting aside for.

(6) The change in use tax is payable by the transferor of land referred to in subsection (4) in accordance with this Section if, within seven years of the date of the transfer, the owner of the lot, grantee of the lot or person for whom the lot is reserved or set aside transfers the lot to any person other than a parent, sibling, child, grandchild or spouse of the owner or to the owner, then the change in use tax is payable by the transferor in accordance with this Section.

(7) Subsections (4) to (6) do not apply to a transfer of land unless the grantor or person reserving or setting aside the land files, in the registry, a statutory declaration that the grantee of the land or person for whom the land is reserved or set aside, as the case may be, is a person named in subsection (4). 1998, c. 18, s. 77; 2000, c. 9, s. 37.

Forest property tax

113 (1) In lieu of all rates and taxes of the municipality, an owner of forest property bona fide used or intended to be used for forestry purposes shall annually pay a tax, to be known as a forest property tax, equal to

- (a) 25¢ per acre, if the forest property is classified as resource property; and
- (b) 40¢ per acre, if the forest property is classified as commercial property,

and, where an area, village or commission rate is levied for fire protection, the owner is liable to pay an additional annual tax not exceeding one cent per acre, as the authority levying the area, village or commission rate determines.

(2) Where any land, or part thereof, to which this Section applies, ceases to be land used for forestry purposes, a change in use tax equal to 20% of the value, determined by the assessor pursuant to the *Assessment Act*, of the land, or part thereof, that ceased to be used for forestry purposes is due and payable to the municipality in which the land is situate by the person determined by the assessor to have been responsible for the change in use, unless the land, or part thereof, is used for agricultural purposes, in which case no change in use tax is payable.

(3) Subject to subsections (4), (5) and (6), an owner of forest land may transfer to each parent, sibling, child, grandchild or spouse of the owner or may convey or reserve to or set aside for the owner one lot suitable for the erection of a single-family dwelling, and the change in use tax is not payable if the land ceases to be used for forestry purposes.

(4) A lot referred to in subsection (3) must not exceed one acre or the minimum size required by any applicable law, whichever is larger.

(5) Where, within seven years of the date of the transfer, conveyance or reservation to or setting aside for the owner of a lot referred to in subsection (3), the grantee of the lot or person for whom the lot is reserved or set aside transfers the lot to any person other than a parent, sibling, child, grandchild or spouse of the owner referred to in subsection (3) or to the owner, the change in use tax is payable by the transferor in accordance with this Section.

(6) Subsections (3) to (5) do not apply to any transfer, conveyance, reservation or setting aside of lands unless the grantor or person reserving or setting aside the land files, in the registry, a statutory declaration that the grantee of the land or person for whom the land is reserved or set aside, as the case may be, is a person named in subsection (3). 1998, c. 18, s. 78.

Commercial rent increase where tax increase

114 (1) Notwithstanding any provision in a lease, licence or permit for commercial property that was in existence on April 1, 2006, where that lease, licence or permit does not include a provision enabling the owner of the property to increase the rent or require an annual deposit in relation to any increase in property tax payable by the owner, that lease, licence or permit is deemed to include such a clause.

(2) Where a deposit is required or the rent is increased under subsection (1), the owner shall give the tenant notice in writing not later than 90 days before the deposit is required or the rent is increased.

(3) Notice under subsection (2) may be provided by

- (a) giving it to the tenant personally;
- (b) giving it to an agent or employee of a tenant on the premises;
- (c) posting it in a conspicuous place in some part of the premises; or
- (d) sending it to the tenant by registered mail, in which case notice is deemed to have been given on the third day after the date of mailing. 2005, c. 9, s. 11.

User charges

115 Subject to the approval of the Board for those services that are subject to the *Public Utilities Act*, a council may, by bylaw, prescribe charges for the provision of services for persons who use or benefit from the service, on a basis to be set out in the bylaw. 1998, c. 18, s. 79.

Fire protection rate

116 (1) A council may levy a rate on the value of all assessable property in the area served by a water system in the municipality, as defined by the council by policy, in order to recover that part of the cost of the water system that is attributable to fire protection.

(2) No property, except property of the Crown in right of the Province, in the area served by the water system as defined by policy is exempt from the rate, unless exempted by bylaw.

(3) The rate is a first lien on the real property and may be collected in the same manner as taxes.

(4) The rate referred to in subsection (1) may be different for commercial property than for residential and resource property. 1998, c. 18, s. 80; 2001, c. 35, s. 8; 2005, c. 9, s. 12.

Charges for facilities, systems and programs

117 (1) A council may make bylaws imposing, fixing and providing methods of enforcing payment of charges for

- (a) wastewater facilities or stormwater systems, the use of wastewater facilities or stormwater systems and connecting to wastewater facilities or stormwater systems;
- (b) expenditures incurred for the wastewater management system in a wastewater management district;
- (c) solid-waste management facilities;
- (d) transit facilities;

(e) the municipal portion of the capital cost of installing a water system;

(f) laying out, opening, constructing, repairing, improving and maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls, whether the cost is incurred by the municipality directly or by, or pursuant to, an agreement with the Crown in right of the Province, the Minister of Public Works or any person;

(g) laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with private roads, where the cost is incurred

(i) by the municipality, or

(ii) under an agreement between the municipality and a person;

(h) the municipal portion of the cost of a major tree removal program or the cost of removing trees from a private property;

(i) the municipal portion of the capital cost of placing the wiring and other parts of an electrical distribution system underground;

(j) depositing in a special purpose tax account to provide for future expenditures for wastewater facilities, stormwater systems, water systems, transit facilities or other anticipated capital requirements.

(2) The council may, by bylaw,

(a) define classes of buildings to be erected or enlarged according to the varying loads that, in the opinion of the council, the buildings impose or may impose on the sewer system or wastewater facility and levy a one-time redevelopment charge to pay for additional or trunk sanitary or storm sewer capacity or additional wastewater facility capacity required to accommodate the effluent from the buildings;

(b) impose a one-time oversized sewer charge on each property determined by the council to benefit from a sewer in the future to recover the cost of making the sewer an oversized sewer and provide that the oversized sewer charge is not payable until the property is serviced by a sanitary sewer or a storm sewer;

(c) levy a one-time storm drainage charge on the owner of each lot of land in a drainage management area for which an application is made for a development permit to allow, on the lot, a development of a class designated by the council in the bylaw.

(3) A bylaw passed pursuant to this Section may provide

(a) that the charges fixed by, or determined pursuant to, the bylaw may be chargeable in proportion to frontage, in proportion to area, in proportion to the assessment of the respective properties

fronting on the street or according to another plan or method set out in the bylaw;

(b) that the charges may be made and collected only where

(i) the persons owning more than 50% of the frontage of the real property fronting on the street or the portion of a street on which the work is performed, or

(ii) the persons as determined by the method set out in the bylaw,

have filed with the clerk a petition requesting that the work be performed;

(c) that the charges may be different for different classes of development and may be different in different areas of the municipality;

(d) when the charges are payable;

(e) for the total or partial exemption of persons and land from the charge and for adjustments to be made with respect to lots of land or developments where the proposals or applications change in order to reflect the changing nature of lots or developments;

(f) that the charges are first liens on the real property and may be collected in the same manner as other taxes;

(g) that the charges be collectable in the same manner as taxes and, at the option of the treasurer, be collectable at the same time, and by the same proceedings, as taxes;

(h) a means of determining when the lien becomes effective or when the charges become due and payable;

(i) that the amount payable may, at the option of the owner of the property, be paid in the number of annual instalments set out in the bylaw and, upon default of payment of any instalment, the balance becomes due and payable; and

(j) that interest is payable annually on the entire amount outstanding and unpaid, whether or not the owner has elected to pay by instalments, at a rate and beginning on a date fixed by the bylaw.

(4) For greater certainty, no property is exempt from a charge levied pursuant to this Section except property of the Crown in right of the Province.

(5) A municipality may install the wastewater facilities, stormwater system, water system and system for the supply or distribution of gas, steam or other source of energy of the municipality outside its boundaries and may enter into contracts to provide the services.

(6) A municipality may charge for services provided outside the municipality in the same manner in which the service is charged for within the municipality, if rates that are subject to the approval of the Board are approved by the Board.

(7) Notwithstanding the *Public Utilities Act* and for greater certainty, any bylaw made pursuant to this Section and any charge imposed or fixed

pursuant to this Section do not require approval by the Board. 1998, c. 18, s. 81; 2001, c. 35, s. 9; 2004, c. 7, s. 8; 2006, c. 40, s. 4.

Charges for equipment on private property

118 (1) A council may make bylaws imposing, fixing and providing methods of enforcing payment of charges for the financing and installation of any of the following on private property with the consent of the property owner:

- (a) energy-efficiency equipment;
- (b) renewable energy equipment;
- (c) equipment for the supply, use, storage or conservation of water; and
- (d) on-site sewage disposal equipment.

(2) A bylaw passed pursuant to this Section may provide

- (a) that the charges fixed by, or determined pursuant to, the bylaw may be chargeable according to a plan or method set out in the bylaw;
 - (b) that the charges may be different for different classes of development and may be different in different areas of the municipality;
 - (c) when the charges are payable;
 - (d) that the charges are first liens on the real property and may be collected in the same manner as other taxes;
 - (e) that the charges are collectable in the same manner as taxes and, at the option of the treasurer, are collectable at the same time, and by the same proceedings, as taxes;
 - (f) a means of determining when the lien becomes effective or when the charges become due and payable;
 - (g) that the amount payable may, at the option of the owner of the property, be paid in the number of annual instalments set out in the bylaw and, upon default of payment of any instalment, the balance becomes due and payable; and
 - (h) that interest is payable annually on the entire amount outstanding and unpaid, whether or not the owner has elected to pay by instalments, at a rate and beginning on a date fixed by the bylaw.
- 2012, c. 27, s. 2; 2016, c. 25, s. 2; 2019, c. 19, s. 8; 2019, c. 36, s. 1.

Interest payable on unpaid taxes and charges

119 Interest is payable on unpaid taxes and charges levied pursuant to this Part at the same rate as for other outstanding taxes. 1998, c. 18, s. 82.

Special purpose tax accounts

120 (1) All sums raised by a special purpose tax must be credited to the account for that tax.

(2) A council may withdraw money from a special purpose tax account for an expenditure on a purpose for which the account was established.

(3) A council may, if the balance in a special purpose tax account exceeds the funds required for the purpose for which the special purpose tax account was established, return the surplus to the contributors.

(4) A council, by resolution passed by at least a two-thirds majority, may withdraw money from a special purpose tax account for any purpose for which the municipality may expend funds if the council

(a) holds a public hearing respecting the withdrawal prior to the withdrawal;

(b) advertises the public hearing at least twice in a newspaper circulating in the municipality, the first notice to appear at least 14 days before the hearing, and includes in the notice of the public hearing the date, time and place of the hearing and the purpose of the withdrawal.

(5) A council may borrow from a special purpose tax account, by resolution, if the resolution prescribes the terms of repayment, including interest, at a rate not less than the interest rate that the municipality would pay to borrow the funds for a similar term from another source. 1998, c. 18, s. 83.

Borrowing to defray annual current expenditure

121 A municipality may borrow to defray the annual current expenditure of the municipality that has been authorized by the council, but the borrowing may not exceed 50% of the combined total of the taxes levied by the municipality for the previous fiscal year and the amounts received, or to be received, by the municipality from the Crown in right of Canada or in right of the Province or from an agency of the Crown. 1998, c. 18, s. 84.

Borrowing for village or service commission

122 A municipality within which all or part of a village or service commission lies may borrow money and pay it to the village or service commission for any of the purposes for which the commission has authority to expend money. 1998, c. 18, s. 85.

Lending to village of service commission

123 (1) A municipality may lend money to a village or service commission with interest at the rate, and on the terms, agreed upon.

(2) Where the municipality collects the taxes on behalf of the village or service commission, unless some other agreement is made, the municipality shall, in each fiscal year, deduct the amounts required to pay interest and repay principal on the loans from the amounts otherwise payable.

(3) Where a village or service commission defaults in either principal or interest, the municipality shall recover the amounts in default by an area rate levied on the assessed value of the taxable property in the area of the village or service commission and shall immediately notify the Minister of the default.

(4) The area rate referred to in subsection (3) may be different for commercial property than for residential and resource property. 1998, c. 18, s. 85; 2005, c. 9, s. 13.

Borrowing limits for municipality, village or service commission

124 (1) The Minister may, in each fiscal year, establish borrowing limits for a municipality, village or service commission.

(2) Where borrowing limits are established, a municipality, village or service commission may not borrow money pursuant to this Act or another Act of the Legislature unless the proposed borrowing is within the limits established.

(3) Subsections (1) and (2) do not apply to borrowing for the purpose of defraying part of the annual current expenditure of a municipality, village or service commission. 1998, c. 18, s. 86.

Capital budget filing by municipality, village or service commission

125 The Minister shall not establish borrowing limits or approve a borrowing resolution for a municipality, village or service commission in a fiscal year unless the municipality, village or service commission, as the case may be, has filed with the Minister its capital budget for that fiscal year in the form prescribed by the Minister. 1998, c. 18, s. 87.

Ministerial approval of borrowing or guarantee

126 (1) No money may be borrowed by a municipality, village, committee created by an intermunicipal services agreement or service commission pursuant to the provisions of this Act or another Act of the Legislature until the proposed borrowing has been approved by the Minister.

(2) Subsection (1) and subsection 527(2) do not apply to a borrowing for the purpose of defraying part of the annual current expenditure of a municipality, village or service commission.

(3) A guarantee by, or on behalf of, a municipality, village or service commission of a borrowing or debenture is not effective unless the Minister has approved of the proposed guarantee. 1998, c. 18, s. 88; 2000, c. 9, s. 39; 2001, c. 35, s. 10.

Financial commitment beyond fiscal year

127 A municipality may enter into a lease, lease-purchase or other commitment to pay money over a period extending beyond the end of the current fiscal year. 1998, c. 18, s. 88; 2000, c. 9, s. 39; 2001, c. 35, s. 10; 2020, c. 16, s. 1.

Municipal guarantee payment of village debentures

128 A county or district municipality may, subject to the approval of the Minister, guarantee the payment of the principal and interest of debentures of a village situate wholly or partly within it. 1998, c. 18, s. 89.

Electors' approval of village or service commission borrowing

129 (1) No money may be borrowed by a village or service commission under the provisions of this Act or another Act of the Legislature until the village or service commission obtains the approval of the electors for the proposed borrowing at a public meeting called by advertisement placed in a newspaper circulating in the area of the village or service commission, and posted in not fewer than two conspicuous places within the area, the advertisements to appear at least 14 days before the date set for the meeting.

(2) Subsection (1) does not apply to a borrowing

(a) to pay and retire, at maturity, debentures of the village or service commission; or

(b) for the purpose of defraying the annual current expenditure of the village or service commission, if the aggregate borrowing for the fiscal year does not, at any time, exceed one half of the total amount of taxes levied for the current fiscal year. 1998, c. 18, s. 90; 2014, c. 21, s. 2.

Borrowing by issue and sale of debentures

130 (1) Where a municipality is authorized to borrow money, subject to the approval of the Minister,

(a) the sum must be borrowed by the issue and sale of debentures, in one sum or by instalments, as determined by the council; and

(b) the council shall determine

(i) the amount and term of, and the rate of interest on, each debenture,

(ii) when the interest on a debenture is to be paid, and

(iii) where the principal and interest on a debenture are to be paid.

(2) In accordance with the *Finance Act*, the mayor or warden and clerk or the persons designated by the council, by policy, shall sell and deliver the debentures on behalf of the municipality at the price, in the sums and in the manner they consider proper.

(3) The mayor or warden and clerk or the persons designated by the council, by policy, may

(a) change the sums of the debentures at any time from the amounts determined by the council, if the total principal amount payable in any one fiscal year is not changed;

(b) before the debentures are sold, reduce the rate of interest from that determined by the council;

(c) exchange debentures, provided the rate of interest is not increased and the total principal amount payable in any one fiscal year is not changed. 1998, c. 18, s. 91; 2022, c. 38, s. 25.

Restriction on issuance and sale of bonds

131 (1) Notwithstanding any other provision of this Act or any other Act of the Legislature, the Municipality or a municipal enterprise may not issue or sell notes, bonds, debentures or securities except to the Government of Canada, the Province or another municipality, or to any department, agency or fund thereof.

(2) This Section does not apply to a temporary borrowing pending the issue of notes, bonds, debentures or securities or a borrowing by the Municipality or a municipal enterprise made in accordance with this Act and for the purpose of defraying part of its annual current expenditure.

(3) This Section does not apply to a borrowing or part thereof by a municipal housing corporation where the municipal housing corporation obtains a borrowing guarantee from Canada Mortgage and Housing Corporation in respect of that borrowing or that part thereof, respectively. 2022, c. 38, s. 26.

Borrowing without issue of debentures

132 (1) Where a municipality is authorized to borrow money, the municipality may, with the approval of the Minister, postpone the issue of debentures and borrow the money on terms and conditions agreed upon with the lender.

(2) Money borrowed without the issue of debentures must be repaid within one year after the resolution is approved by the Minister, unless the Minister approves an extension of the repayment period or a repayment period not exceeding 10 years. 1998, c. 18, s. 92.

Debenture records

133 The treasurer shall keep a record of all debentures of the municipality. 1998, c. 18, s. 93.

Form and signing of debenture

134 (1) A debenture must be

- (a) in the form approved by the council; and
- (b) signed by the mayor or warden and clerk or the persons designated by the council, by policy.

(2) Interest coupons must be signed by the clerk or the person designated by the council, by policy, or bear a printed facsimile of the clerk's signature.

(3) A right to call in and redeem a debenture prior to maturity must be set out on the face of the debenture. 1998, c. 18, s. 94; 2016, c. 12, s. 1.

Debenture type determined by council

135 (1) A debenture may be

- (a) payable to bearer;
- (b) registered as to principal only; or
- (c) registered as to principal and interest,

as determined by the council and the debenture must state whether it is payable to bearer, registered as to principal or as to principal and interest.

- (2) Where a debenture is
 - (a) payable to bearer, it is negotiable and transferable by delivery;
 - (b) registered, the council shall appoint a registrar of debentures who shall keep a register of the debentures and the debenture is transferable by the registered owner by entry in the register and endorsement of the entry on the debenture.

(3) Interest coupons are transferable by delivery unless the debenture is registered as to both principal and interest, in which case the interest is payable only to the registered holder of the debenture. 1998, c. 18, s. 95.

Debenture certificate

136 (1) Every debenture of a municipality must bear a certificate of the Deputy Minister to the effect that the debenture is valid and binding according to its terms, and the validity of every debenture is not open to question in any court in the Province.

(2) The certificate required pursuant to subsection (1), when signed by the Deputy Minister, is conclusive evidence that

- (a) the municipality had authority to issue the debenture;
- (b) the debenture was lawfully issued;
- (c) the debenture is valid and binding on the municipality according to its terms; and
- (d) the validity of the debenture is not open to question in any court in the Province.

(3) The Deputy Minister may sign the certificate if the Deputy Minister is of the opinion that the municipality has substantially complied with the provisions of the statutes pursuant to which the debentures are issued.

(4) The signature of the Deputy Minister may be reproduced by mechanical means.

(5) Non-compliance with this Act does not invalidate an irregular or informal debenture and the holder of such a debenture may, on an *ex parte* application, obtain from a judge of the Supreme Court of Nova Scotia an order requiring the issuance of a new and proper debenture in replacement of the irregular or informal debenture. 1998, c. 18, s. 96.

Debenture a municipal lien

137 The principal and interest of a debenture are a lien and charge on all assets of the municipality. 1998, c. 18, s. 97.

Debenture sinking fund

138 (1) When a municipality issues debentures, the municipality may provide for a sinking fund for the debentures.

(2) The municipality shall annually pay into the sinking fund an amount that the council considers sufficient to provide for the repayment of the debentures when they fall due.

(3) The Minister may require a municipality to establish a sinking fund for any issue of debentures and may specify the annual amount to be paid into it.

(4) A premium realized from the sale of debentures must be paid into the sinking fund but, where there is no sinking fund, the premium may be used for any purpose for which a municipality may borrow money.

(5) Except as provided in this Section, no part of a sinking fund or interest on it may be used for any purpose but paying the principal of the debentures for which the fund was provided.

(6) The Minister may permit a municipality to cease paying into the sinking fund if the Minister determines that the amount in the sinking fund will be sufficient to provide for the payment of the debentures for which the fund was provided.

(7) The Minister may permit a municipality to withdraw from a sinking fund an amount not exceeding the amount by which the sinking fund exceeds the amount of the debentures for which the fund was provided.

(8) Any surplus remaining in a sinking fund after the debentures for which the fund was provided have been repaid must be transferred to the municipality's capital reserve fund. 1998, c. 18, s. 98.

Default on payment to Minister of Finance and Treasury Board

139 (1) Where a municipality or a municipal enterprise defaults on any payment required to be made to the Minister of Finance and Treasury Board, the Minister of Finance and Treasury Board shall immediately inform the Minister.

(2) The Governor in Council shall, upon the recommendation of the Minister, appoint trustees to manage the affairs of the municipality or municipal enterprise.

(3) The Minister may recover any amount in default by a levy on the property assessment subject to taxation in a municipality.

(4) The Minister may seize and sell property of a municipal enterprise to recover any amount in default, and for this purpose a loan by the Minister of Finance and Treasury Board to a municipal enterprise is a charge upon the property of the municipal enterprise. 2022, c. 38, s. 28.

Capital reserve fund

140 (1) A municipality shall maintain a capital reserve fund.

(2) The capital reserve section of a special reserve fund in existence immediately prior to April 1, 1999, is a capital reserve fund.

(3) The capital reserve fund includes

- (a) funds received from the sale of property;
- (b) the proceeds of insurance resulting from loss or damage of property that is not used for replacement, repair or reconstruction of the property;
- (c) any surplus remaining from the sale of debentures that is not used for the purpose for which the debentures were issued;
- (d) the surplus remaining in a sinking fund when the debentures for which it was established are repaid;
- (e) any capital grant not expended in the year in which it was paid;
- (f) proceeds received from the winding up of a municipal enterprise as defined in the *Finance Act*;
- (g) the current fiscal year's accrual for landfill closure and post-closure costs; and
- (h) amounts transferred to the fund by the council.

(4) A withdrawal from the capital reserve fund may be authorized by a council, by resolution, and may be used only for

- (a) capital expenditures for which the municipality may borrow;
- (b) repayment of the principal portion of capital debt; and
- (c) landfill closure and post-closure costs.

(5) A council may borrow from a capital reserve fund, by resolution, if the resolution prescribes the terms of repayment, including interest, at a rate not less than the interest rate that the municipality would pay to borrow the funds for a similar term from another source. 1998, c. 18, s. 99; 2022, c. 38, c. 27.

Other reserve funds

141 A municipality may maintain other reserve funds for such purposes as the council may determine. 1998, c. 18, s. 99.

Investment of funds

142 (1) Funds in a sinking fund, capital reserve fund, utility depreciation fund or other fund of a municipality or village must be

- (a) deposited in an interest-bearing account at a bank doing business in the Province;
- (b) invested pursuant to an investment policy adopted by the council or village commission, as the case may be, and approved by the Minister; or

(c) invested in investments in which a trustee is permitted to invest pursuant to the *Trustee Act*.

(2) Income arising from the investment of a fund is part of that fund unless the council or village commission otherwise provides.

(3) A council or village commission may pledge any investments to the credit of the capital reserve fund as collateral security for a borrowing for a capital purpose. 1998, c. 18, s. 100; 2012, c. 63, s. 4.

PART V

DEED TRANSFERS

Deed transfer affidavit and treasurer's certificate

143 (1) Notwithstanding the *Registry of Deeds Act*, the registrar of deeds shall not accept a deed for registration

(a) where the property, or any part thereof, is situate within a municipality that levies a deed transfer tax, unless the deed is accompanied by the affidavit required pursuant to this Part and a certificate issued by the treasurer stating either that the deed transfer tax has been paid in full or that no deed transfer tax is payable;

(b) where the whole of the property is situate within a municipality that does not levy a deed transfer tax, unless the deed is accompanied by the affidavit required pursuant to this Part.

(2) The grantee shall file an affidavit made by the grantee or by someone having full knowledge of the facts setting out

(a) the names of the parties;

(b) the location of the property;

(c) the sale price of the property with full details of the consideration, including the amount of any lien or encumbrance subject to which the transfer was made; and

(d) any other information prescribed by the Minister.

(3) The affidavit must be filed within 10 days of the transfer.

(4) Where the affidavit is made by a person other than the grantee, it must state that the person making it has personal knowledge of the facts stated therein.

(5) Where the affidavit is made by a person other than the grantee, that person is personally liable, jointly and severally, with the grantee for payment of any deed transfer tax.

(6) Where the grantee claims exemption from the deed transfer tax, the affidavit must set out the facts on which the grantee claims to be exempt and, in the case of a registered Canadian charitable organization, must give the number of its registration pursuant to the *Income Tax Act* (Canada).

(7) Where it appears from the face of the certificates of execution that a deed was executed prior to the time that a municipality imposed a deed transfer tax and it is not practical to ascertain from any of the parties to the deed particulars of the sale price of the property, the affidavit may set out those facts in lieu of the sale price.

(8) Where the municipality levies a deed transfer tax, the affidavit must be filed with the treasurer and where the municipality does not levy a deed transfer tax, the affidavit must be filed in the registries for every registration district within which a part of the property is situate.

(9) The affidavit must be in the form, and contain the information, prescribed by the Minister by regulation.

(10) The exercise by the Minister of the authority contained in subsection (9) is a regulation within the meaning of the *Regulations Act*.

(11) Notwithstanding subsection (2), the treasurer may require that the affidavit be filed electronically.

(12) Notwithstanding subsection (2), the registrar may require that the affidavit or the affidavit and certificate, as the case may be, be filed electronically.

(13) An affidavit, including all signatures and the certificate of execution that is filed electronically, is deemed to be the original affidavit for all purposes.

(14) Where there is a difference between a copy of an affidavit that is filed electronically and one that is filed in writing, the copy that is filed electronically is deemed to be the original, even if the written copy contains an original signature of a party or witness.

(15) An affidavit or certificate filed electronically has the same legal effect as an affidavit or certificate filed in writing.

(16) An affidavit or certificate filed electronically that is certified as a true copy by the treasurer or registrar is admissible in court in the same manner as the original.

(17) Every person who makes an affidavit that contains a false statement is guilty of an offence. 1998, c. 18, s. 101; 2005, c. 55, s. 2.

Sale price may be published

144 (1) Notwithstanding any enactment, the registrar of deeds may publish

- (a) the sale price; and
- (b) any related information prescribed by the Minister by regulation,

obtained from an affidavit that is filed pursuant to Section 143 on or after July 1, 2010.

(2) The exercise by the Minister of the authority contained in clause (1)(b) is a regulation within the meaning of the *Regulations Act*. 2012, c. 28, s. 1.

Information in affidavit may be disclosed to assessor

145 For greater certainty, information contained in an affidavit filed pursuant to Section 143 or predecessor legislation is permitted to be disclosed, and has always been permitted to be disclosed, to an assessor for the purpose of the *Assessment Act*. 2012, c. 28, s. 1.

Deed transfer tax bylaw

146 (1) A council may determine, by bylaw, that a deed transfer tax applies in the municipality and the rate of the deed transfer tax, but the rate of the deed transfer tax must not exceed one and one-half per cent of the value of the property transferred.

(2) A deed transfer tax applies to the sale price of every property that is transferred by deed. 1998, c. 18, s. 102.

Apportionment of deed transfer tax

147 Where only part of a property is within a municipality, the deed transfer tax applies to that part of the value that is apportioned by the Director of Assessment to the part of the property within the municipality, and the decision of the Director of Assessment on such apportionment is final. 1998, c. 18, s. 103.

Deed transfer tax payment

148 The deed transfer tax must be paid by the grantee named in the deed within 10 days of the transfer. 1998, c. 18, s. 104.

Incorrect property sale price

149 (1) Where the treasurer is not satisfied that the affidavit sets out the correct sale price or is not able to determine the sale price from the affidavit, the treasurer may refuse to accept the affidavit and issue the certificate and shall so advise the grantee.

(2) The grantee may either tender a revised affidavit or may tender the affidavit to the Nova Scotia Assessment Appeal Tribunal.

(3) The Nova Scotia Assessment Appeal Tribunal shall determine the sale price and, for that purpose, may examine persons on oath.

(4) The determination of the Nova Scotia Assessment Appeal Tribunal is final. 1998, c. 18, s. 105; 2005, c. 55, s. 3.

Treasurer to endorse deed

150 Where the municipality levies a deed transfer tax, the treasurer shall issue, in writing or electronically, a certificate stating that, as computed from the affidavit filed, the deed transfer tax is paid in full or no deed transfer tax is payable. 1998, c. 18, s. 106; 2005, c. 55, s. 4.

Interest on deed transfer tax

151 Where the grantee does not pay the deed transfer tax when due, the grantee shall pay interest at the rate determined by the council, by policy, until paid, beginning 10 days after the transfer and shall pay an additional penalty of 10% on any deed transfer tax that remains unpaid after 30 days from the transfer. 1998, c. 18, s. 107.

Deed transfer tax is a lien

152 (1) The deed transfer tax, with interest and penalty, is a lien upon the property transferred.

(2) The lien attaches on the date when the deed transfer tax is due and may be collected in the same manner as taxes.

(3) The tax is a first lien on the real property and may be collected in the same manner as taxes. 1998, c. 18, s. 108.

Deed transfer tax exemptions

153 (1) Where a deed transfers property

- (a) between persons married to one another;
- (b) to a municipality;
- (c) between persons formerly married to one another, if the transfer is for the purpose of division of marital assets; or
- (d) by way of gift, notwithstanding that
 - (i) the deed transfers property subject to an encumbrance, including a mortgage or a tax lien, and the grantee assumes the amount of the encumbrance, including interest and expenses, or
 - (ii) there is a nominal consideration therefor,

it is exempt from deed transfer tax.

(2) Where

- (a) a deed merely confirms, corrects, modifies or supplements a deed previously given;
- (b) there is no consideration beyond one dollar; and
- (c) the deed does not include more property than the deed previously given,

it is exempt from deed transfer tax.

(3) A deed from the Nova Scotia Farm Loan Board to a borrower under the *Agriculture and Rural Credit Act* is not subject to deed transfer tax.

(4) A deed given pursuant to a tax sale is not subject to deed transfer tax.

(5) A deed is not subject to deed transfer tax if the certificates of execution for the deed show, on their face, that they were signed by the official prior to the date on which the municipality adopted a deed transfer tax.

(6) A deed that transfers property pursuant to an agreement of purchase and sale entered into prior to the date on which the municipality adopted a deed transfer tax is not subject to deed transfer tax.

(7) Where the grantee is a registered Canadian charitable organization, a deed is exempt from the deed transfer tax if the property is not to be used for any commercial, industrial, rental or other business purpose and if an officer of the grantee makes and files an affidavit to that effect.

(8) Notwithstanding subsection (7), where, within three years after the filing of the affidavit, the property is

(a) used by the grantee for a commercial, industrial, rental or other business purpose; or

(b) is sold or conveyed by the grantee,

the treasurer shall compute the deed transfer tax for which the grantee would have been liable if the grantee had not been a registered Canadian charitable organization and the grantee is liable to pay the amount of the tax and interest on it at the rate of 10% per year computed from the date of the deed referred to in subsection (7). 1998, c. 18, s. 109; 2000, c. 9, s. 41; 2003, c. 9, s. 53.

Registrar of Deeds as agent and collector

154 Where a council and the Minister agree that the Registrar of Deeds is to be the municipality's agent and collector of the deed transfer tax, the Registrar is the municipality's agent and collector and has all of the powers of the treasurer pursuant to this Part. 1998, c. 18, s. 110.

PART VI

TAX COLLECTION

Payment of taxes

155 (1) A council may determine

(a) the due date for taxes;

(b) that taxes are payable in one sum or by instalments.

(2) Where a council has not set a due date for payment of taxes, taxes are due and payable as soon as the tax rate is set.

(3) Where payment of taxes by instalments is authorized, the council may provide that in default of payment of an instalment when due, the balance of taxes outstanding are immediately due and payable. 1998, c. 18, s. 111.

Payment of taxes by instalments

156 (1) A council may, by policy, provide for the payment of taxes by instalments before the tax rate is set.

(2) The policy must set out the date or dates on which the instalments are due and the manner in which the amount of each instalment is calculated.

(3) Each instalment is payable by the person assessed for the property for the current fiscal year.

(4) The amount of each instalment bears interest, beginning on the date on which it falls due, at the same rate of interest determined for overdue taxes.

(5) Instalments paid must be applied in part payment of the taxes on that property for the current fiscal year. 1998, c. 18, s. 112.

Incentives and interest

157 (1) A council may provide incentives for the early payment of taxes.

(2) A council may impose interest, at a rate determined by policy, for non-payment of taxes when due.

(3) Interest must be added to the unpaid taxes and must be collected as if the interest originally formed part of the unpaid taxes.

(4) Interest is calculated according to the length of default in payment.

(5) A council may provide that interest be compounded, not more frequently than monthly.

(6) A council may provide that interest is calculated from the date the tax rate is set if taxes are not paid within 30 days of the due date.

(7) A council may adopt a formula by which, and the time when, the rate of interest on overdue taxes is automatically adjusted.

(8) Unless the council otherwise provides, incentives are allowed and interest charged on area rates and rates collected for any other body at the same rates and under the same terms and conditions as the council has provided for its own taxes. 1998, c. 18, s. 113.

Taxes paid in error or overpaid

158 (1) The Governor in Council may make regulations respecting taxes paid in error or overpaid and, without limiting the generality of the foregoing, may make regulations

- (a) requiring a municipality to refund taxes paid in error or overpaid;
- (b) limiting the time for applying for a refund;
- (c) respecting the payment of interest.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2008, c. 26, s. 1.

Tax collection where assessment appeal

159 (1) Taxes on a property may be collected or recovered even if the assessment of the property is under appeal.

(2) After an assessment appeal is determined and any appeal from that decision is decided, any taxes that were overpaid must be refunded to the appellant, together with interest at a rate set by the council by policy.

(3) Where a council has not adopted a policy on the rate of interest, the rate is the rate of interest on overdue taxes. 1998, c. 18, s. 114.

Taxes are first liens

160 Change in use tax, forest property tax and recreational property tax are first liens upon the property in respect of which they are levied. 1998, c. 18, s. 115.

Taxes in respect of other properties

161 Where property is

(a) vested in the Crown or any person for Federal or Provincial purpose; and

(b) occupied by a person other than in an official capacity,

the occupant shall be taxed in respect of the property, but the property may not be sold for taxes. 1998, c. 18, s. 116.

Tax bills

162 (1) Every person liable to pay taxes must be served with a tax bill showing the amount of taxes for the current year, the due date and all arrears of taxes by that person or in respect of the property.

(2) The tax bill must be served personally or mailed to the address shown on the assessment roll or any more current address known to the treasurer.

(3) Where taxes are due on property of persons unknown or the address of the owner is unknown, the tax bill must be posted in a conspicuous place on the property.

(4) The tax bill must contain a concise statement of the terms of incentives for early payment of taxes, interest on overdue taxes and instalment payment options allowed by the council.

(5) Where there is an error in the name of a person in a tax bill, the taxes may be collected from the person intended to be taxed if the person is taxable and can be identified. 1998, c. 18, s. 117.

Prima facie evidence of balance of unpaid taxes

163 A certificate purporting to be signed by the treasurer that a person is liable to the municipality for the sum claimed for taxes and that a specified balance has not been paid is, without proof of the signature or the official character of the treasurer, prima facie evidence in any court of the facts stated. 1998, c. 18, s. 118.

Power to sue for and recover taxes

164 (1) The treasurer may, at any time, sue for and recover all taxes and other sums due to the municipality in an action in the name of the municipality as if the amount were a debt.

(2) Any proceedings for the collection of taxes pursuant to this Act may be pursued even if a judgment for taxes has been entered.

(3) A municipality may set off a sum due from a person to the municipality against a claim that person has against the municipality. 1998, c. 18, s. 119.

Warrant to distrain goods

165 (1) A judge of the provincial court, mayor, warden or councillor may, upon application by the treasurer, issue a warrant in the form prescribed as Form A by the regulations, with any variations that circumstances may require, to distrain the goods of a person indebted to the municipality for taxes who is about to leave the municipality, even if the taxes are not yet due.

(2) An application made pursuant to subsection (1) must be in the form of an affidavit setting out the

(a) amount in which the person is indebted to the municipality; and

(b) belief, with or without statement of the grounds of the belief, of the treasurer that unless the person's goods are distrained the taxes will be lost to the municipality. 1998, c. 18, s. 120.

Issue of warrant by treasurer

166 At any time after the due date for taxes, the treasurer may proceed to issue warrants, in the form prescribed as Form A by the regulations or to like effect, for the collection of all taxes then due and unpaid. 1998, c. 18, s. 121.

Articles exempt from seizure under warrant

167 Articles that are exempt from seizure under Section 62 of the *Judicature Act* are exempt from seizure under a warrant issued under Section 166. 2005, c. 55, s. 5.

Limitation on issuance of warrant

168 A warrant may be issued at any time within six years from the time when the taxes become due and remains valid until executed. 1998, c. 18, s. 122.

Execution of warrant

169 (1) A warrant issued pursuant to the authority of this Act may be directed to any police officer, civil constable, bylaw enforcement officer or other employee of the municipality, and it may be executed by any of them whether or not it is directed to that person.

(2) The person to whom a warrant is directed shall execute it and pay the proceeds over to the municipality with a return in the form prescribed by the regulations or to like effect.

(3) A warrant may be executed at any place within the Province by an officer having jurisdiction in that place or by an officer having jurisdiction in the municipality that issued it.

(4) The person to whom a warrant is directed shall levy the taxes for which the warrant was issued, with collection costs and expenses, by distress and sale of the goods and chattels of the person or of the goods and chattels in that person's possession, wherever situate.

(5) The property levied upon may be removed to any place for safekeeping and the cost of removal and storage are part of the collection expenses.

(6) The person executing a warrant is entitled to the fees set by the council, by policy, and the fees and expenses must be added to the amount to be collected pursuant to the warrant.

(7) Where a warrant is executed without payment of the full amount due, it may be executed again or a new warrant may be issued and executed for the amount remaining unpaid.

(8) Where the person executing a warrant is unable to collect the amount due under the warrant, the warrant and a statement of the proceedings taken pursuant to it must be returned to the treasurer. 1998, c. 18, s. 123.

Sale of distrained goods

170 (1) Where goods are distrained pursuant to this Act, the person distraining them shall advertise the goods for sale in a newspaper circulating in the area where the sale is to take place at least seven days before the sale takes place.

(2) A sale pursuant to subsection (1) may be adjourned from time to time.

(3) Where the taxes for which the distress has been made and the costs, charges and expenses incurred in connection with the distress are not paid at or before the time appointed for the sale or an adjournment of it, the goods must be sold at public auction to pay the taxes, costs, charges and expenses, including the expenses of the sale. 1998, c. 18, s. 124.

Balance remaining after sale

171 (1) Where a balance remains after payment of the taxes, costs, charges and expenses, it must be paid to the person in whose possession the prop-

erty was when the distress was made if no claim to the balance is made by any other person within 30 days after the sale.

(2) A claim to the balance may be made within 30 days after the sale by a person who claims ownership of the property sold or entitlement by lien or other right to the surplus.

(3) Where a claim is made by a person and is admitted by the person who had possession of the property when it was distrained, the balance must be paid over to the claimant.

(4) Where the claim is contested, the balance must be paid to the treasurer, who may retain it until the right to it is determined by action at law or otherwise.

(5) Nothing in this Section renders the municipality, its treasurer or other officer liable for costs. 1998, c. 18, s. 125.

Taxes on property of deceased person

172 (1) The property of a deceased person is liable for taxes levied with respect to the property before or after death, and the property is liable to be sold for non-payment of taxes.

(2) The tax bills may be served on the executor or administrator, sent to the last address of the deceased person or posted upon the property.

(3) Where there is no executor or administrator, property of a deceased person may be levied on and sold for non-payment of taxes.

(4) The executors or administrators shall pay the taxes out of the property of the deceased person that comes into their hands and are personally liable for the taxes to the extent of the property or income of the deceased person that comes under their control. 1998, c. 18, s. 126.

Property assessed to person in representative capacity

173 (1) Where property under the control of a person as executor, administrator, trustee, guardian or agent is assessed to that person in a representative capacity, any proceedings based on that property must be kept separate and distinct from any proceedings based on property assessed personally to that person.

(2) Where a person assessed for property in a representative capacity fails to pay the taxes on the property, the person is personally liable for the taxes to the extent that the property or the income from it is sufficient to pay the taxes.

(3) A person assessed for property in a representative capacity may raise the amount of the taxes by sale, mortgage or lease of the property.

(4) Where more than one person is assessed for a property in a representative capacity, notice to any one of them is notice to all of them. 1998, c. 18, s. 127.

Security interest in mobile home

174 (1) In this Section, “security interest” has the same meaning as in the *Personal Property Security Act*.

(2) Where a mobile home is taken or repossessed pursuant to a security interest and sold, or is sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the mobile home by the municipality in which the mobile home was situate when taken.

(3) The holder of a security interest, sheriff or other person selling the mobile home may pay the taxes before or after the sale and add them to the amount claimed.

(4) The holder of a security interest, sheriff or other person selling the mobile home shall pay the taxes out of the proceeds of the sale and is personally liable to the municipality for the taxes to the extent of the total proceeds of the sale less the costs of conducting the sale.

(5) Where a mobile home is taken or repossessed pursuant to a security interest and is not sold within six months of the taking or repossession, the holder of the security interest is personally liable to the municipality for the taxes levied with respect to the mobile home by the municipality in which the mobile home was situate when taken.

(6) Any lien for taxes against a mobile home taken or repossessed pursuant to a security interest and sold within six months of the taking or repossession, or sold under execution, other legal process or court order, is discharged by the sale if this Section has been followed. 2000, c. 28, s. 85.

Priority for proceeds of sale of real property

175 (1) Where real property is taken or sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the property.

(2) The holder of the security interest, sheriff or other person selling the property shall pay the taxes out of the proceeds of the sale and is personally liable to the municipality for the real property taxes to the extent of the total proceeds of the sale less the costs of conducting the sale. 2000, c. 28, s. 85.

Landlord paying taxes or expenses due from tenant

176 A landlord who pays any taxes or expenses due from a tenant may sue for and recover them from the tenant or may distrain upon the tenant’s property for the amount paid, in the same manner as distraint upon the tenant’s property for arrears of rent. 1998, c. 18, s. 130.

Partial payment of taxes

177 (1) Where a person, including a person paying on behalf of another person, pays only a portion of the taxes due, the treasurer shall apply and credit the amount

(a) first, to the payment of any taxes that are not a lien on any property;

(b) second, to the payment of accumulated interest and then the taxes longest in arrears with respect to any real property designated by the person.

(2) Where no real property is designated, the treasurer shall, subject to the priorities listed in subsection (1), apply the amount received to the payment of the taxes longest in arrears.

(3) The acceptance of part payment does not prevent the collection of any interest imposed in respect of non-payment of taxes or an instalment of taxes.

(4) Where taxes are paid on behalf of a purchaser of real property, the taxes must be applied to taxes due with respect to the property designated by the person paying the taxes. 1998, c. 18, s. 131; 2006, c. 40, s. 5.

Tax certificate

178 (1) A municipality shall issue a tax certificate, on request, stating

(a) the current taxes on the property;

(b) the total taxes due by the owner to the municipality with respect to the property;

(c) any sums due from an owner of property for work done on the property by the municipality, the engineer, the administrator or any other authorized person, the cost of which forms a lien on the property; and

(d) whether a change-in-use tax will be incurred if the use of the land is changed.

(2) The fee for a tax certificate is as set by the council, by resolution.

(3) A tax certificate binds the municipality. 1998, c. 18, s. 132.

Certain taxes are liens

179 (1) Taxes levied in respect of real property are a first lien upon the real property.

(2) Taxes levied in respect of a mobile home are a first lien upon the mobile home.

(3) The lien has priority over the claims, liens or encumbrances of any person and need not be registered.

(4) Where property is sold for taxes and the sale is set aside, the lien is not discharged.

(5) The lien has effect from the first day of the fiscal year for which the tax rate is set.

(6) Taxes are a first lien upon property conveyed between the time the assessment roll is filed and the tax rate is set and may be collected from a subsequent owner.

(7) Taxes cease to be a lien on the property when six years have elapsed after the end of the fiscal year in which they were levied, but may be collected after they have ceased to be a lien. 1998, c. 18, s. 133.

Tax sale

180 (1) Property may be sold for taxes if the taxes with respect to the property are not paid in full for the taxation year immediately preceding the year in which the tax sale proceedings are commenced, but the proceedings may not commence before June 30th in the year immediately following that taxation year.

(2) Property must be put up for tax sale if taxes are in arrears for the preceding three fiscal years.

(3) The council may defer tax sale proceedings for a property for up to two years.

(4) A municipality is not required to put a property up for tax sale if

(a) the solicitor for the municipality advises that a sale of the property would expose the municipality to an unacceptable risk of litigation;

(b) the amount of taxes due is below the collection limit established by the council, by policy;

(c) the property has been put up for sale three times in the preceding three years and no satisfactory offer has been made with respect to it;

(d) the taxes have been deferred pursuant to a bylaw; or

(e) the municipality and the taxpayer have entered into a tax arrears payment arrangement and the taxpayer is in compliance with the agreement.

(5) Where the municipality and a taxpayer have entered into a tax arrears payment arrangement, the period for which the tax lien is effective is extended by the period of the tax arrears payment arrangement. 1998, c. 18, s. 134.

Land assessed to “owner unknown”

181 (1) Where land assessed to “owner unknown” is liable to be sold for taxes, the municipality shall notify the Minister of Natural Resources and Renewables that the land is liable to be sold for taxes.

(2) No land assessed to “owner unknown” may be sold for taxes unless the Minister of Natural Resources and Renewables has been notified at least 120 days before the sale and has not acted to vest the land in the Crown in right of the Province.

(3) The Minister of Natural Resources and Renewables may require a municipality to furnish a statement concerning a specified property assessed to “owner unknown”.

(4) A notice or statement required pursuant to this Section must include a general description of the land, the amount of taxes and interest owing in respect of the land and any information the municipality has concerning possible owners of the land.

(5) Upon payment of the taxes and interest owing in respect of land assessed to “owner unknown”, plus 10% as an allowance for expenses, the land vests absolutely in the Crown in the right of the Province, subject to this Section.

(6) When land vests in the Crown in the right of the Province pursuant to this Section, the Minister of Natural Resources and Renewables shall cause a certificate to be registered in the registry

- (a) stating that the land described in the certificate is vested in the Crown;
- (b) setting out the date the land vested;
- (c) describing the land with the best available description;
- (d) setting out the property identification number, assessment account number and municipal tax account number for the land; and
- (e) stating that the land will cease to vest in the Crown if
 - (i) on application made within 18 months of the vesting, a person proves to the satisfaction of the Minister of Natural Resources and Renewables or a judge of the Supreme Court of Nova Scotia on appeal from the Minister of Natural Resources and Renewables that the person owns the land, and
 - (ii) the person pays the taxes, interest and allowance for expenses paid by the Minister of Natural Resources and Renewables.

(7) Within six months of the vesting of the land, a copy of the certificate must be published in a newspaper circulating in the municipality in which the land is situate once a week, for three successive weeks.

(8) Where a dominant tenement vests in the Crown in right of the Province pursuant to this Section, an easement or a right-of-way appurtenant to it passes to the Crown, and where a servient tenement vests in the Crown pursuant to this Section, the vesting does not terminate or affect an easement or a right-of-way to which it is subject. 1998, c. 18, s. 135; 2022, c. 4, Sch., s. 37; 2023, c. 2, s. 36.

Land ceasing to vest in Crown

182 (1) A person may apply to the Minister of Natural Resources and Renewables within 18 months after land vests in the Crown in right of the Province pursuant to Section 181 to determine that the land ceases to vest in the Crown, and, where the applicant proves to the satisfaction of that Minister that the person owns the land, that Minister shall determine that upon payment by the applicant of the

taxes, interest and allowance for expenses paid by the Minister of Natural Resources and Renewables for the land, the land ceases to vest in the Crown.

(2) Where land ceases to vest in the Crown in right of the Province pursuant to this Section, the Minister of Natural Resources and Renewables shall cause a certificate to that effect to be registered in the registry and shall include in the certificate the recording particulars of the certificate that set out the vesting of the land.

(3) A decision of the Minister of Natural Resources and Renewables may be appealed within 30 days to the Supreme Court of Nova Scotia.

(4) Where land ceases to vest in the Crown in right of the Province pursuant to this Section, the land is deemed never to have vested in the Crown pursuant to this Section. 1998, c. 18, s. 135; 2022, c. 4, Sch., s. 37; 2023, c. 2, s. 36.

Claim to land vested in Crown

163 (1) A person who claims to own land that vests in the Crown in right of the Province pursuant to this Act may apply to the Supreme Court of Nova Scotia for an order declaring what rights that person would have had to the land if the land had not vested in the Crown, and the Court may direct that any necessary inquiries be made and may finally adjudicate the matter.

(2) An application pursuant to subsection (1) must be made within 10 years after the land vests in the Crown in right of the Province or, where the person who claims to own the land is under the age of 19 years or of unsound mind when the land vests in the Crown, within 10 years after that person attains the age of 19 years or becomes of sound mind, but no application may be made more than 20 years after the land vests in the Crown.

(3) Where the Supreme Court of Nova Scotia determines that a person owns land that has vested in the Crown in right of the Province pursuant to this Act, the Minister of Natural Resources and Renewables, in the Minister's absolute discretion, shall

(a) pay to that person the value of the land at the date the land vested in the Crown, less

(i) the amount of taxes, interest and allowance for expenses paid by the Minister, and

(ii) any grants in lieu of taxes that may have been paid with respect to the land; or

(b) upon payment of the amount of taxes, interest and allowance for expenses paid by the Minister and any grants in lieu of taxes that may have been paid with respect to the land, convey the land to that person. 1998, c. 18, s. 136.

Tax sale list

184 (1) Where land is to be sold for taxes, a list of the properties to be put up for sale must be prepared setting out, with respect to each lot,

(a) the name and address of the person assessed;

- (b) a brief description of the lot sufficient to identify and locate it;
- (c) the amount of arrears, including interest; and
- (d) the years in which the arrears were levied.

(2) The tax sale list, or a copy certified by the treasurer, is conclusive evidence of the facts stated therein. 1998, c. 18, s. 137; 2022, c. 4, Sch., s. 38; 2023, c. 2, s. 37.

Tax sale preliminary notice

185 After the tax sale list is compiled, the municipality shall mail to each owner named in the list a preliminary notice setting out the information contained in the list with respect to the person and advising that the property is liable to be sold for the arrears, with interest and expenses, and that tax sale procedures will be commenced and costs expended unless the arrears are paid within 14 days of the date of the preliminary notice, or such longer period as the council may, by policy, prescribe. 1998, c. 18, s. 138.

Title search and survey

186 (1) After the time set out in the tax sale preliminary notice has expired, a title search must be conducted for each property on the list for which the taxes have not been paid.

(2) The cost of the title search, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered.

(3) Where the treasurer determines that a survey of the property is necessary for the proper identification and description of the land to be sold, a survey may be undertaken before or after the sale.

(4) The cost of a survey, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered and, where the survey is not undertaken prior to the sale, the expenses of the sale must include an estimate of the cost of the survey.

(5) Where the title search or survey is done by an employee of the municipality, the cost included in the expenses of the sale is the amount determined by the treasurer to be the reasonable cost of having the same work performed by a solicitor or surveyor in private practice. 1998, c. 18, s. 139.

Court order for tax sale

- 187 (1)** The treasurer may apply to a court of competent jurisdiction for
- (a) an order that there are arrears of taxes respecting a property proposed to be sold for taxes that would allow the sale;
 - (b) an order prescribing that, upon the sale, the tax deed will convey all outstanding interests in the property, or subject to such interests in the property, or subject to such interests as the court may specify; and

(c) directions respecting the manner in which notice may be provided, the persons to be notified and such other matters respecting the carrying out of the sale as the court considers appropriate.

(2) The court may require that persons appearing to have an interest in the property other than the assessed owners be notified of the tax sale.

(3) The court may require that any person appearing to have an interest in the property, whether that person is assessed for that interest or not, be given an opportunity to appear on the application.

(4) A tax sale conducted pursuant to an order obtained under this Section is not open to challenge on any grounds and a tax deed of the property so sold conveys a fee simple interest in the property sold, free and discharged of all encumbrances, charges and liens, except any right to redeem pursuant to Section 205, and subject to the exceptions in subsection 210(3) and any exceptions, exclusions or partial interests set out in the order of the court. 2003, c. 9, s. 54.

Notice of intent to sell

188 (1) Upon completion of the title search and any survey, the owner of each lot and a person with a mortgage, lien or other charge on the land must be served with notice of intent to sell the land for taxes.

(2) The spouse of each owner of a lot referred to in subsection (1) must be notified in accordance with the *Matrimonial Property Act*.

(3) The notice must contain

- (a) a general description of each lot of land;
- (b) the amount of arrears of taxes and expenses incurred to date, the year or years in which they were levied and the person in whose name the land was then assessed;
- (c) a statement that the land is liable to be sold for the arrears with interest and expenses of, and incidental to, the sale unless they are paid within 60 days from the date of the notice;
- (d) an estimate of the total expenses that would be incurred if the property is sold for taxes;
- (e) the proposed date of the sale; and
- (f) a statement to the effect that, if the owner challenges the right of the municipality to set the land up for sale, the owner should obtain legal advice and contact the municipality. 1998, c. 18, s. 140.

Public auction or call for tenders

189 (1) Unless the arrears of taxes, interest and expenses are paid, the treasurer shall proceed to sell land liable to be sold for taxes at public auction.

(2) The treasurer may, with the consent of the council, call tenders for property rather than put the property up for sale at public auction.

(3) The council may direct the treasurer as to what constitutes an acceptable minimum tender or bid, if the treasurer is of the opinion that the property might not realize sufficient to cover the outstanding taxes, interest and expenses. 1998, c. 18, s. 141.

Sale of land in another municipality

190 Where lands to be sold for taxes are partly in one municipality and partly in another, the treasurer may sell the entire lot if

- (a) notice of the sale is given to the other municipality; and
- (b) the taxes, interest and expenses due to the other municipality are included in the amount for which the land is to be sold,

and the taxes, interest and expenses must be paid to the other municipality forthwith after the sale. 1998, c. 18, s. 141.

Tax sale advertisement

191 (1) After the notice of intent to sell land for taxes has been served,

- (a) the land liable to be sold for taxes must be advertised for sale at public auction; or
- (b) tenders must be called for the land.

(2) Notice of the sale at public auction or the call for tenders must be published

- (a) at least twice prior to the sale or when tenders close in a newspaper circulating in the municipality;
- (b) with the first advertisement appearing at least 30 days prior to the sale or when tenders close; and
- (c) setting out each lot of land to be sold and the date, time and place of the sale or when tenders close.

(3) It is sufficient to state in the advertisements the street and number of a property advertised or to include any other such short reference by which the property may be identified, together with a statement that a full description can be seen at the office of the treasurer. 1998, c. 18, s. 142.

Municipal purchase of tax sale property

192 (1) A municipality, by an official or agent, may bid for and purchase land at a tax sale for any municipal purpose.

(2) Where no bid is received for land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land, the treasurer may bid the amount of the taxes, interest and expenses and purchase the land for the municipality.

(3) Where a municipality purchases land at a tax sale, the subsequent proceedings are the same as for a purchase by another person. 1998, c. 18, s. 143; 2022, c. 4, Sch., s. 39; 2023, c. 2, s. 38.

Re-advertisement where no sufficient bid

193 (1) Where no bid is received for any land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land and the municipality does not purchase the land, the municipality may, without further notice to the owner and encumbrancers, again advertise the property and

- (a) sell it at auction for the best price that may be obtained;
- or
- (b) call tenders for the property and sell it for the highest tender,

and the council may direct the treasurer as to what constitutes an acceptable minimum bid or tender price.

(2) Subsections 191(2) and (3) apply to the advertising referred to in subsection (1). 1998, c. 18, s. 143; 2003, c. 9, s. 55.

Persons prohibited from purchasing land

194 (1) No

- (a) council member or employee of a municipality that sells land for arrears of taxes;
- (b) member of a village commission or employee of a village that sells land for arrears of taxes;
- (c) spouse of a person referred to in clause (a) or (b); or
- (d) company in which a person referred to in clause (a), (b) or (c) owns or beneficially owns the majority of the issued and outstanding shares,

shall purchase the land at the sale, either directly or through an agent.

(2) A person who contravenes this Section is liable, on summary conviction, to a penalty of \$5,000 and, in default of payment, to imprisonment for a term not exceeding six months.

(3) Where there is a conviction pursuant to subsection (2), the relevant person referred to in clause (1)(a) or (b) forfeits their office or employment, as the case may be. 1998, c. 18, s. 144; 2001, c. 35, s. 11.

Arrears where taxes collected for other body

195 Where a municipality collects taxes for a village, service commission or any other body, the arrears of the taxes are deemed to be those of the municipality in all proceedings for the sale of land for taxes. 1998, c. 18, s. 145.

Application of money received at sale

196 (1) The purchase money received at a tax sale must be applied, so far as it extends,

- (a) first, to payment of the taxes, interest and expenses owing with respect to the land;
- (b) second, to payment of any taxes due by the owner of the land to a village;

(d) third, to payment of any other taxes, charges for water or electricity and other sums due by the owner to the municipality that are not a lien,

and the balance must be deposited to the credit of the tax sale surplus account.

(2) Where the land sold for taxes is redeemed, the balance must be applied to reduce the amount that the person redeeming is required to pay.

(3) Where the owner of land sold for taxes owes the municipality any taxes or charges not secured by a lien on the land sold, the taxes or charges may be paid from the balance.

(4) Except as provided in this Section, no part of the balance may be withdrawn from the tax sale surplus account during the period in which the land may be redeemed. 1998, c. 18, s. 146; 2022, c. 4, Sch., s. 40; 2023, c. 2, s. 39.

Application for order directing payment of balance

197 (1) A person with an interest in land sold for taxes may apply to the Supreme Court of Nova Scotia for an order directing the payment of all, or part, of the balance to that person.

(2) An application pursuant to subsection (1) may be made at any time after the period of redemption has expired and before the expiry of 20 years from the date of the sale.

(3) Where the Supreme Court of Nova Scotia orders payment, the Court shall order the payment of that part of the balance proportional to the applicant's interest in the property before it was sold.

(4) Interest is not payable with respect to the payment of the balance and costs may not be awarded against the municipality on an application pursuant to subsection (1). 1998, c. 18, s. 147.

Transfer to capital reserve fund

198 Where a balance remains in the tax sale surplus account 20 years after the sale, the municipality shall transfer it to its capital reserve fund. 1998, c. 18, s. 147.

Form of payment at tax sale

199 Payment at a tax sale must be by cash, certified cheque, money order, bank draft, irrevocable letter of credit or lawyer's trust cheque. 1998, c. 18, s. 148; 2004, c. 7, s. 9.

Payment or resale

200 (1) The purchaser at a tax sale shall immediately pay the purchase price or deposit a smaller amount equal to the taxes, interest and expenses for which the land was sold, failing which the treasurer shall forthwith put the land up for sale again.

(2) Where the balance of the purchase money is not paid within three business days, the land must again be advertised and put up for sale.

(3) The expenses of the resale must be deducted from the deposit and the balance must be refunded after the resale is held. 1998, c. 18, s. 148.

Rejection of tenders

201 Where a municipality calls tenders for land to be sold for taxes, the municipality may reject all tenders if

(a) the price tendered is less than the taxes, interest and expenses;
and

(b) the council considers that the best price offered is inadequate, and may again put the land up for sale, by tender or by public auction. 1998, c. 18, s. 149.

Payment of tender price or resale

202 (1) Where a municipality calls tenders for land to be sold for taxes, the person whose tender is accepted shall pay the tender price within three business days after being notified of the acceptance.

(2) Where the balance of the purchase money is not paid within three business days, the land must again be advertised and put up for sale.

(3) The expenses of the resale must be deducted from the deposit and the balance must be refunded after the resale is held. 1998, c. 18, s. 149.

Certificate of sale

203 (1) After land is sold for taxes, upon payment of the purchase money the treasurer shall give the purchaser a certificate of sale, in the form prescribed by the regulations or to like effect, describing the land sold and stating the sum for which it was sold.

(2) The certificate must state that a deed conveying the land to the purchaser, or as directed by the purchaser, will be provided upon payment of the prescribed fee at any time after six months from the date of the sale, if the property is not redeemed.

(3) The treasurer shall register a copy of the certificate of sale in the registry.

(4) A copy of the certificate of sale must be served on each owner of the land sold and, where the land may be redeemed, a notice that the land may be redeemed must be included with the copy of the certificate of sale. 1998, c. 18, s. 150.

Purchaser rights, liability protection and duty to insure

204 On receipt of the certificate of sale, the purchaser

(a) has all the rights of action and powers of an owner needed to protect the land and may collect rents due, or to grow due, and use the land without diminishing its value, but shall not cut down any trees on the land, injure the premises or knowingly allow any other person to do so;

(b) is not liable for damage done to the land without the purchaser's knowledge; and

- (c) shall insure any buildings on the land, if the buildings are insurable, and is deemed to have an insurable interest in the land. 1998, c. 18, s. 151.

Redemption of tax sale property

205 (1) Land sold for non-payment of taxes may be redeemed by the owner, a person with a mortgage, lien or other charge on the land or a person having an interest in the land within six months after the date of the sale but, where at the time of sale, taxes on the land are in arrears for more than six years, no right of redemption exists.

- (2) To redeem the land, the person redeeming shall pay
- (a) the sum paid by the purchaser;
 - (b) interest at the rate of 10% per year on the total sum paid by the purchaser from the date of the sale to the date of redemption;
 - (c) the full amount of any outstanding taxes arising before the tax sale if the purchaser paid less than the amount of the outstanding taxes on the land;
 - (d) taxes levied on the land after the sale and any interest;
 - (e) the fee to record the certificate of discharge;
 - (f) all sums paid by the purchaser for fire insurance premiums to insure buildings on the land; and
 - (g) all amounts paid by the purchaser for necessary repairs made, with the written approval of the treasurer, to buildings on the land,

less any balance remaining in the tax sale surplus account with respect to the property and any rent or other income earned by the purchaser from the land.

(3) Where the municipality buys the land, the taxes payable by a person redeeming are the amount that would be payable if the municipality did not own the land.

(4) Where redemption takes place before the tax rate is set, the taxes payable by a person redeeming are those payable for the preceding year and after the tax rate is set, any surplus must be refunded to the person redeeming and the land is liable for any deficiency.

(5) Where property has been redeemed, a certificate of discharge in the form prescribed by the regulations, or to like effect, must be prepared and registered in the registry.

(6) The registrar of deeds shall make a marginal note referring to the registry of the certificate of discharge on the recorded copy of the certificate of sale. 1998, c. 18, s. 152; 2008, c. 25, s. 3.

Repayment to purchaser

206 (1) Where redemption of land is to take place, the purchaser shall, within 14 days of being requested to do so, provide a statement of amounts spent for

fire insurance premiums and repairs made, with the written approval of the treasurer, to buildings on the land.

(2) After delivery of the statement of amounts spent, the purchaser must receive

- (a) the sum paid upon the purchase of the land;
- (b) the interest on the purchase price; and
- (c) the sums paid with respect to fire insurance premiums and repairs,

less any rent or other income earned by the purchaser from the property. 1998, c. 18, s. 153.

Dispute concerning redemption

207 A dispute concerning the amount to be paid for redemption or to be repaid to the purchaser upon redemption may be referred to the Supreme Court of Nova Scotia. 1998, c. 18, s. 153.

Purchaser rights cease

208 From the time of the payment to the treasurer of the full amount for redemption, the purchaser of the land ceases to have a right to it. 1998, c. 18, s. 154.

Deed to purchaser

209 (1) At the request of the purchaser at a tax sale and upon payment of the fee determined by the council, by resolution, the municipality shall deliver a deed to the land in the form prescribed by the regulations, or to like effect, to the purchaser, or as directed by the purchaser,

- (a) where, at the time of the sale, taxes on the land were unpaid for more than six years, at any time after the sale; or
- (b) at any time after six months from the sale, if the land has not been redeemed.

(2) The deed must

- (a) fully describe the land conveyed;
- (b) be signed by the mayor or warden and the clerk; and
- (c) be under the seal of the municipality. 1998, c. 18, s. 155; 2022, c. 4, Sch., s. 41; 2023, c. 2, s. 40.

Tax sale deed

210 (1) A deed to land sold for taxes is conclusive evidence that the provisions of this Act with reference to the sale of the land described in the deed have been fully complied with and each act and thing necessary for the legal perfection of the sale has been duly performed.

(2) The deed has the effect of vesting the land in the grantee in fee simple, free and discharged from all encumbrances.

(3) Notwithstanding subsection (1), where a dominant tenement is sold for taxes, an easement or right-of-way appurtenant to it passes to the purchaser and where a servient tenement is sold for taxes, the sale does not terminate or affect an easement or right-of-way to which it is subject. 1998, c. 18, s. 156.

Persons with lien, charge or encumbrance

211 A mortgagee, judgment creditor or other person having a lien, charge or encumbrance on land liable to be sold for taxes, or in respect of which taxes are due

- (a) may pay the taxes, interest and expenses;
- (b) may add the amount paid for taxes, interest, expenses and any amount paid to redeem the property after a tax sale to the mortgage, judgment or other security;
- (c) has, in respect of the amount paid, the same rights, remedies and privileges as under the security; and
- (d) may sue for and recover the amount paid, with interest, from the person primarily liable to pay it. 1998, c. 18, s. 157.

Co-operative housing

212 Where real property is held by a company incorporated for co-operative housing purposes and is subject to a mortgage held by the Minister of Municipal Affairs and Housing, a copy of the tax bill and, where the real property is to be sold for taxes, a copy of the notice of sale must be sent to the regional manager of the Department of Municipal Affairs and Housing for the area where the property is located. 1998, c. 18, s. 158.

Veterans' Land Act agreement

213 (1) Where real property is held under an agreement of sale with the Director within the meaning of the *Veterans' Land Act* (Canada), the taxes upon the property are a lien upon the property and the property may be sold for taxes in the same manner as if the Director were a corporation sole and not an agent of the Crown in right of Canada.

(2) A copy of the notice of assessment, the tax bill and the notice of sale for taxes must be sent to the Director within the meaning of the *Veterans' Land Act* (Canada), or to the district office thereof, before the property is sold. 1998, c. 18, s. 159.

Rebate for tax exempt property

214 (1) An owner of property that becomes exempt from taxation during a fiscal year is entitled to a rebate of the taxes on the property for the portion of the fiscal year in which it is exempt.

(2) The owner shall notify the Director of Assessment that the property is exempt within 30 days after the property becomes exempt and, where the owner fails to do so, the rebate must be calculated from the date notice is given.

(3) The Director of Assessment shall forthwith provide the treasurer with a copy of the notice.

(4) Upon receipt of the notice, the treasurer shall forthwith notify the person assessed of the amount of tax to be rebated.

(5) The notice from the treasurer may be appealed pursuant to the *Assessment Act* as if it were a notice of assessment.

(6) Upon expiration of the period of appeal or upon the appeal having been disposed of, where the person entitled to the rebate pays the taxes, the treasurer shall pay the rebate to the person and, where the person is indebted to the municipality, the treasurer shall apply the rebate to reduce the indebtedness. 1998, c. 18, s. 160.

Proceeding based on assessment

215 (1) A proceeding with respect to taxes based on an assessment, except an action or other proceeding brought by a municipality for the collection of taxes, may be brought only

(a) within six months of the date upon which the assessment roll is forwarded to the clerk;

(b) where an appeal has been taken to the Nova Scotia Assessment Appeal Tribunal, within six months from the time limited for appealing to the Board; and

(c) where an appeal has been taken to the Board, within 30 days after the date of the Board's decision.

(2) Nothing that could have been raised

(a) by way of appeal to the Nova Scotia Assessment Appeal Tribunal;

(b) by way of appeal to the Board;

(c) on originating notice pursuant to the *Assessment Act*,

may be raised by way of defence in an action or other proceeding brought by, or on behalf of, a municipality. 1998, c. 18, s. 163.

Validity of taxes

192 (1) No

(a) error, informality or irregularity on the part of the council, the assessor, the Nova Scotia Assessment Appeal Tribunal, the recorder, the clerk, the treasurer or any other officer; and

(b) no error or omission in giving a notice required pursuant to this Act,

affects or prejudices the validity of taxes or the tax levy.

(2) The invalidity, irregularity or illegality of an individual's taxes does not extend to, or affect, the validity of other taxes.

(3) No taxes or tax levy may be quashed for a matter of form only and no tax levy may be quashed for an illegality except as to an individual person's taxes. 1998, c. 18, ss. 163, 164.

Affidavit regarding notice

217 (1) Where a notice is required pursuant to this Act, the person who served or gave the notice may make an affidavit setting out that the notice was served or given in compliance with this Act and setting out how the notice was given.

(2) The affidavit is prima facie evidence that the notices were served or given in the manner required pursuant to this Act. 1998, c. 18, s. 165.

Service of notice

218 Service of a notice required pursuant to this Part is sufficient

(a) if it is mailed by ordinary mail to the last known address of the person on whom the notice is to be served; or

(b) where the address of the person is unknown, if it is mailed to a tenant or occupant of the land or a copy of the notice is posted in a conspicuous place on the premises. 1998, c. 18, s. 166.

Formula for rate of interest

219 Where the council is authorized or required, pursuant to this Act, to set a rate of interest, the council may instead adopt a formula by which the rate of interest may be determined and automatically adjusted. 1998, c. 18, s. 167.

PART VII**BYLAWS****Adoption procedure**

220 (1) A bylaw must be read twice.

(2) At least 14 days before a bylaw is read for a second time, notice of the council's intent to consider the bylaw must be published in a newspaper circulating in the municipality.

(3) The notice must state the object of the bylaw, the date and time of the meeting at which the council proposes to consider it and the place where the proposed bylaw may be inspected.

(4) A council may require further advertising, including advertising by radio or television.

(5) A council may provide that advertising by radio and television replaces advertising in a newspaper, except in the case of advertising required pursuant to Parts VIII and IX.

(6) A council may, by policy, further determine the procedure to be followed and the notice to be given with respect to the introduction and passing of bylaws. 1998, c. 18, s. 168.

Publication and filing

221 (1) A bylaw has the force of law upon publication.

(2) A bylaw is published when

(a) it is passed by the council in the manner provided in this Act;

(b) it is approved by a minister of the Crown whose approval is required; and

(c) a notice is published in a newspaper circulating in the municipality, stating the object of the bylaw and the place where it may be read.

(3) When a bylaw is published, the clerk shall file a certified copy of the bylaw with the Minister.

(4) Failure to file with the Minister a copy of a bylaw that is not subject to the approval of the Minister does not invalidate the bylaw. 1998, c. 18, s. 169.

Application

222 (1) A bylaw

(a) made pursuant to this Act or another Act of the Legislature may apply to an area defined in the bylaw;

(b) may set different charges for different areas.

(2) A bylaw applies to the municipality, unless otherwise stated in the bylaw. 1998, c. 18, s. 170.

Matters incidental or conducive to exercise of powers

223 In addition to the powers specifically conferred pursuant to this Act or another Act of the Legislature, a municipality may provide, in a bylaw, for matters incidental or conducive to the exercise of the specified powers. 1998, c. 18, s. 170.

Power to regulate, license and prohibit

224 Subject to Part VIII, in this Act, the power to

(a) license includes the power to regulate;

(b) regulate includes the power to license; and

(c) regulate includes the power to prohibit. 1998, c. 18, s. 171.

Inconsistency with enactments

225 A bylaw must not be inconsistent with an enactment of the Province or of Canada. 1998, c. 18, s. 171.

General power not limited by specific power

226 Where this Act confers a specific power on a municipality in relation to a matter that can be read as coming within a general power also conferred by this Act, the general power is not to be interpreted as being limited by the specific power. 2008, c. 25, s. 4.

Power to make bylaws

227 (1) A council may make bylaws, for municipal purposes, respecting

- (a) the health, well-being, safety and protection of persons;
- (b) the safety and protection of property;
- (c) persons, activities and things in, on or near a public place or place that is open to the public;
- (d) nuisances, activities and things that, in the opinion of the council, may be or may cause nuisances, including noise, weeds, burning, odours, fumes and vibrations including, without limiting the generality of the foregoing,
 - (i) prescribing a distance beyond which noise must not be audible,
 - (ii) distinguishing between one type of noise and another,
 - (iii) providing that any noise or sound greater than a specific decibel level or other measurement of noise or sound is prohibited,
 - (iv) prescribing the hours during which certain noises, or all noise above a certain level, specified in the bylaw is prohibited,
 - (v) authorizing the granting of exemptions in such cases as the bylaw provides,
 - (vi) providing that it is an offence to engage in any activity that unreasonably disturbs or tends to disturb the peace and tranquillity of a neighbourhood;
- (e) transport and transport systems;
- (f) businesses, business activities and persons engaged in business;
- (g) automatic machines;
- (h) the appointment of a day to be a civic holiday;
- (i) a requirement that pawnbrokers report all transactions by pawn or purchase;
- (j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor trees, shrubs, flowers, other ornamental plants and turf on the part of a property used for residential purposes and on property of the municipality, including, without restricting the generality of the foregoing,
 - (i) requiring the posting of notices when pesticides, herbicides or insecticides are to be so used and regulate the form, manner and time of the notice and the area in which the notice must be posted,

(ii) establishing a registration scheme that is open to the public, in which a resident who has a medical reason for objecting to pesticides, herbicides and insecticides being so used may file with the clerk an objection to them being so used in the vicinity of the property on which the person resides,

(iii) requiring that notices be served on the residents of properties registered pursuant to the registration scheme within the distance specified in the bylaw when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the notice, and

(iv) specifying the circumstances in which the posting or serving of notices is not required,

but a bylaw may not prohibit the use of pesticides, herbicides and insecticides and a bylaw pursuant to this clause does not apply to property used for agricultural or forestry purposes;

(k) the condition or maintenance of vacant buildings, structures and properties and, without restricting the generality of the foregoing, may

(i) adopt property maintenance and performance standards,

(ii) prescribe the manner in which buildings or structures must be secured by owners or the municipality, and

(iii) limit the length of time that buildings or structures may remain boarded up;

(l) the maintenance and sightliness of property, including grounds, lawns, buildings and structures;

(m) services provided by, or on behalf of, the municipality;

(n) the enforcement of bylaws made under the authority of a statute, including

(i) procedures to determine whether bylaws are being complied with, including entering upon or into private property for the purposes of inspection, maintenance and enforcement,

(ii) remedies for the contravention of bylaws, including

(A) undertaking or directing the remedying of a contravention,

(B) apprehending, removing, impounding or disposing of, including by sale or destruction, plants, animals, vehicles, improvements or other things, and

(C) charging and collecting the costs thereof as a first lien on the property affected,

(iii) the creation of offences,

(iv) for each offence, imposing a fine not exceeding \$10,000 or imprisonment for not more than one year or both, including the imposition of a minimum fine,

(v) providing for the imposition of a penalty for an offence that is in addition to a fine or imprisonment if the penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence,

(vi) providing for imprisonment, for not more than one year, for non-payment of a fine or penalty,

(vii) providing that a person who contravenes a bylaw may pay an amount established by bylaw and, where the amount is paid, the person will not be prosecuted for the contravention,

(viii) providing, with respect to a bylaw, that in a prosecution for violation of the bylaw, evidence that one person is disturbed or offended is *prima facie* evidence that the public, or the neighbourhood, is disturbed or offended.

(2) Without restricting the generality of subsection (1) but subject to Part VIII, a council may, in any bylaw

(a) regulate or prohibit;

(b) regulate any development, activity, industry, business, animal or thing in different ways divide each of them into classes and deal with each class in different ways;

(c) provide that in a prosecution for violation of a bylaw, evidence that one neighbour is disturbed is *prima facie* evidence that the neighbourhood is disturbed;

(d) adopt by reference, in whole or in part, with changes that the council considers necessary or advisable, a code or standard and require compliance with it;

(e) provide for a system of licences, permits or approvals, including

(i) establishing fees for licences, permits or approvals, including fees for licences, permits and approvals that may be in the nature of a reasonable tax for the activity authorized or for the purpose of raising revenue, which fees may be set or altered by policy,

(ii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval is granted,

(iii) providing that terms and conditions may be imposed on a licence, permit or approval, the nature of the terms and conditions and who may impose them,

(iv) setting out the conditions that must be met before a licence, permit or approval is granted or renewed, the nature of the conditions and who may impose them,

(v) providing for the duration of licences, permits and approvals and their suspension or cancellation for failure

to comply with a term or condition or the bylaw or for any other reason specified in the bylaw;

(f) where decision-making is delegated by bylaw to a person or committee other than the council, provide for an appeal of the decision, the body that is to decide the appeal and related matters. 1998, c. 18, s. 172; 2004, c. 7, s. 10; 2010, c. 64, s. 2.

Acquisition or expropriation of vacant building

228 (1) In this Section, “vacant building” does not include a seasonal dwelling.

(2) A council may acquire a property that contains a vacant building if the building is boarded up for a period of time that exceeds the length of time that it may be boarded up under a bylaw made pursuant to subclause 227(1)(k)(iii).

(3) Before deciding to acquire a property under subsection (2), the council shall provide seven days notice in writing to the owner, setting out the date, time and place of the meeting at which the decision to acquire the property will be discussed, and the owner must be given an opportunity to appear and be heard before any order is made.

(4) Notice under subsection (3) must be provided by service upon the owner or by posting the notice in a conspicuous place upon the property.

(5) Where the owner refuses to sell the property, the council may exercise the power of expropriation under Section 69 to acquire the property. 2008, c. 25, s. 5; 2019, c. 19, s. 9.

Retention of trees and vegetation

229 (1) In this Section, “serviced area” means an area that has access to municipal water or wastewater service or that is identified as a “serviced area” in a municipal subdivision bylaw.

(2) A council may make bylaws, for municipal purposes, requiring that existing trees or vegetation be retained or be removed only pursuant to a municipal permit.

(3) Subsection (2) does not apply to

(a) land used for agricultural or forestry purposes;

(b) land that is in a serviced area and is only capable of being subdivided into three or fewer lots of a size that could be used for development; and

(c) land that is in an unserviced area and is only capable of being subdivided into 10 or fewer lots that could be used for development. 2008, c. 25, s. 5.

Vending on streets

230 Without limiting the generality of Section 227, notwithstanding the *Motor Vehicle Act*, a council may, by bylaw, regulate vending, any class of vending,

mobile vendors and the placement of vending machines on the streets of the municipality. 1998, c. 18, s. 173.

Further powers to make bylaws

231 Without limiting the generality of Section 227, a council may make bylaws respecting

- (a) the regulation and licensing of persons owning or operating rooming houses or boarding houses and regulating the maintenance, administration, operation and occupancy of buildings used as rooming houses or boarding houses and the land on which they are located;
- (b) the prevention and fighting of fires;
- (c) the firing of firearms;
- (d) fire and burglar alarms;
- (e) off-road vehicles on public or private property;
- (f) wild and domestic animals and activities in relation to them.

1998, c. 18, s. 174.

Dogs and dog registration

232 (1) Without limiting the generality of Section 227, a council may make bylaws

- (a) regulating the running at large of dogs, including permitting the running at large of dogs in certain places or at certain times;
- (b) imposing a registration fee upon the owner of every dog, the amount to be set by policy, for such length of time as is specified in the bylaw with the power to impose a larger fee for female dogs than for male dogs, or for unspayed or unneutered dogs than for spayed or neutered dogs;
- (c) requiring tags for the identification of dogs registered under the bylaw;
- (d) exempting from any registration fee a dog that is a stray dog and is harboured for up to the maximum period of time set by bylaw;
- (e) defining fierce or dangerous dogs, including defining them by breed, crossbreed, partial breed or type;
- (f) regulating the keeping of fierce or dangerous dogs;
- (g) prohibiting the keeping of a dog that persistently disturbs the quiet of a neighbourhood by barking, howling or otherwise;
- (h) authorizing the dog control officer to impound, sell, kill or otherwise dispose of dogs
 - (i) that run at large contrary to the bylaw,
 - (ii) in respect of which the fee or tax imposed by a bylaw is not paid,
 - (iii) that are fierce or dangerous,

(iv) that are rabid or appear to be rabid or exhibiting symptoms of canine madness,

(v) that persistently disturb the quiet of a neighbourhood by barking, howling or otherwise;

(i) requiring the owner of a dog, other than a dog that is trained to assist and is assisting a person with a disability, to remove the dog's feces from public property and private property other than the owner's;

(j) requiring the owner of a dog to provide a written statement of the number of dogs owned, harboured or that are habitually kept upon the premises occupied by the owner.

(2) A dog that is trained to assist and assists a person with a disability is exempt from any registration fee.

(3) Where a dog tag is required by bylaw, the dog tag must bear a serial number and the year in which it is issued and a record must be kept showing the name and address of the owner and the serial number of the tag.

(4) The owner of a kennel of purebred dogs that are registered with the Canadian Kennel Club may, in any year, pay a fee set by the council, by policy, as a tax upon the kennel for that year and upon payment of the amount, the owner of the kennel is exempt from any further fee regarding the dogs for that year.

(5) Where required by bylaw to do so, the owner of a dog may enter upon private property to remove the dog's feces. 1998, c. 18, s. 175.

Warrant authorizing seizure of dog

233 (1) Where a peace officer believes, on reasonable grounds, that a person is harbouring, keeping or has under care, control or direction a dog that is fierce or dangerous, rabid or appears to be rabid, that exhibits symptoms of canine madness or that persistently disturbs the quiet of a neighbourhood by barking, howling or otherwise contrary to a bylaw, a justice of the peace may, by warrant, authorize and empower the person named in the warrant to

(a) enter and search the place where the dog is, at any time;

(b) open or remove any obstacle preventing access to the dog; and

(c) seize and deliver the dog to the pound and, for such purpose, break, remove or undo any fastening of the dog to the premises.

(2) Where the person named in the warrant is unable to seize the dog safely, the person may destroy the dog. 1998, c. 18, s. 176; 2003, c. 9, s. 56; 2004, c. 7, s. 11.

Destruction of dog and costs related to dog

234 (1) At the trial of a charge laid against the owner of a dog that is fierce or dangerous, that persistently disturbs the quiet of a neighbourhood by bark-

ing, howling or otherwise or that runs at large, contrary to a bylaw, in addition to the penalty, the judge may order that

- (a) the dog be destroyed or otherwise dealt with; and
- (b) the owner pay any costs incurred by the municipality related to the dog, including costs related to the seizure, impounding or destruction of the dog.

(2) For the purpose of an order under subsection (1), it is not necessary to prove that

- (a) the dog previously attacked or injured a domestic animal, person or property;
- (b) the dog had a propensity to injure or to damage a domestic animal, person or property; or
- (c) the defendant knew that the dog had such propensity or was, or is, accustomed to doing acts causing injury or damage. 1998, c. 18, s. 177; 2000, c. 9, s. 42.

Rabid animals

235 A person may kill or destroy a rabid dog or other rabid animal found at large and may secure and confine a dog or other animal at large and appearing to be rabid or exhibiting symptoms of canine madness. 1998, c. 18, s. 178.

Proof of dog-owner or harbourer

236 Upon the trial of an action brought against the owner or harbourer of a dog for any injury caused, or damage occasioned by, such dog, it is not necessary to prove knowledge by, or notice to, the owner or harbourer of any mischievous propensity of the dog. 1998, c. 18, s. 179.

Protected water supply area

237 (1) A council may, by bylaw, designate lands owned by a municipality as protected water supply areas.

- (2) No person shall
- (a) place, or permit to escape, any matter or thing of an offensive nature, deleterious nature or likely to impair the quality of water for use for domestic purposes, upon land in a protected water supply area;
 - (b) fish or bathe in a lake, or other body of water, in a protected water supply area;
 - (c) camp on land in a protected water supply area; or
 - (d) cut wood or erect, construct or place a building or structure in a protected water supply area without the permission of the council. 1998, c. 18, s. 180.

Angling Act

238 The *Angling Act* does not apply to a lake, river or stream forming part of a water supply area of a municipality or village or to the land surrounding or adjacent to them. 1998, c. 18, s. 180.

Minimum standards for buildings

239 (1) Without limiting the generality of Section 227, a council may make bylaws

(a) prescribing minimum standards of sanitation, plumbing, water supply, lighting, wiring, ventilation, heating, access, maintenance, appearance, construction and material for buildings, or parts thereof, occupied for residential purposes, whether the building, or part thereof, is erected, constructed or converted to residential purposes before or after the date of the making of the bylaw;

(b) limiting the number of persons who may reside in a building or part thereof;

(c) imposing on the owner, tenant or occupant, or any one or more of them, the responsibility for complying with the bylaw;

(d) providing for notice to an owner, occupant or tenant, or any one or more of them, to discontinue the residential use of a building, or part thereof, in contravention of the bylaw; and

(e) prescribing penalties for such residential use after notice to discontinue the use is given.

(2) A council may make bylaws prescribing minimum standards of sanitation, plumbing, water supply, lighting, wiring, ventilation, heating, access, maintenance, appearance, construction and material for buildings, or parts thereof, occupied for commercial purposes.

(3) Where a person contravenes a bylaw made pursuant to this Section, the administrator may apply to the Supreme Court of Nova Scotia for any or all of the remedies provided pursuant to this Section.

(4) The Supreme Court of Nova Scotia may hear and determine the matter at any time and, in addition to any other remedy or relief, may make an order

(a) restraining the continuance, or repetition of, a contravention and a new or further contravention in respect of the same building or structure;

(b) directing the removal or destruction of the building or structure, or part thereof, that is in contravention of, or fails to comply with, the bylaw and authorizing the administrator, where an order is not complied with, to enter upon the land and premises with necessary workers and equipment and remove and destroy the building or structure, or part thereof, at the expense of the owner;

(c) regarding the recovery of the expense of removal and destruction, an order to enforce the bylaw and an order as to costs, as the Court determines is proper,

and an order may be interlocutory, interim or final.

(5) Where there is another contravention of a bylaw made pursuant to this Section by the same person after an application is made pursuant to subsection (3),

- (a) it is not necessary to bring a further application;
- (b) the original application may be amended from time to time, and at any time before final judgment so as to include the other offences; and
- (c) the whole matter of the contraventions must be heard, dealt with and determined.

(6) Where the administrator cannot find the owner of a building or structure in respect of which a contravention is taking place or has taken place, notice of the application may be posted upon the building or structure.

(7) The standards of a bylaw passed pursuant to this Section must be consistent with the standards prescribed pursuant to the *Building Code Act* and the regulations made under that Act. 1998, c. 18, s. 181.

False statement in licence application

240 Every person who makes a false statement in an application for a licence to be issued by a municipality is guilty of an offence. 1998, c. 18, s. 182.

Recovery of penalties, fees and fines

241 (1) A penalty or licence fee imposed pursuant to this Act may, unless otherwise provided, be recovered and enforced with costs on summary conviction.

(2) A penalty for a contravention of this Act or a bylaw of the municipality made pursuant to this Act or another Act of the Legislature must, when collected, be paid to the municipality.

(3) A penalty or fine pursuant to a bylaw of the municipality, unless otherwise provided, belongs to, and forms part of, the general revenue of the municipality. 1998, c. 18, s. 183.

Application for injunction

242 Where

- (a) a building is erected, being erected or being used in contravention of a bylaw of the municipality;
 - (b) land is being used in contravention of a bylaw of the municipality;
 - (c) a breach of a bylaw is anticipated or is of a continuing nature;
- or
- (d) a person is carrying on business or doing any thing without having paid the licence or permit fee required,

the municipality may apply to a judge of the Supreme Court of Nova Scotia for an injunction or other order and the judge may make any order that the justice of the case requires. 1998, c. 18, s. 184.

Municipality not liable for damages when remedying contravention

243 A municipality and its officers and employees are not liable for damages caused by it in remedying or attempting to remedy a contravention unless the municipality was grossly negligent. 1998, c. 18, s. 185.

Ministerial approval not required for bylaws

244 Unless otherwise provided in an enactment, a bylaw made by a council pursuant to this Act or another Act of the Legislature is not subject to the approval of the Minister. 1998, c. 18, s. 186.

Record of bylaws and policies

245 (1) A council shall keep one copy of every bylaw and one copy of every policy, certified by the clerk under the seal of the municipality that it was passed or made and, in the case of a bylaw requiring the approval of a minister of the Crown, bearing the approval of the minister.

(2) The clerk shall file a certified copy of the notice of publication of the bylaw with every bylaw entered in the bylaw records.

(3) The bylaw records must be maintained by the clerk.

(4) The original bylaws must be open to inspection by any person at a reasonable time, but may not be removed from the office of the clerk and the production of an original bylaw in a court is not required on subpoena but only upon order of the court or a judge after satisfactory cause is shown.

(5) The clerk shall

(a) print all of the bylaws of the municipality from time to time in force;

(b) keep printed copies of the bylaws, amended to date, for sale; and

(c) provide a copy of a bylaw, amended to date, to a person requesting one, at a reasonable price, having regard to the cost of printing the bylaw. 1998, c. 18, s. 187.

Prima facie proof of bylaw

246 (1) A copy of a bylaw made pursuant to this Act or another Act of the Legislature purporting to be certified by the clerk, under the seal of the municipality, to

(a) be a true copy of a bylaw passed by the council; and

(b) have received all required approvals,

must be received in evidence as prima facie proof of its passing, receipt of all required approvals, publication, being in force and the contents of it without further proof in any court, unless it is specially pleaded or alleged that the seal or the signature of the clerk was forged.

(2) Printed documents, certified by the clerk, purporting to be printed copies of any or all bylaws passed by the council must be admitted in evi-

dence in all courts in the Province as prima facie proof of the bylaws and of the due passing of them. 1998, c. 18, s. 188.

Quashing bylaw, order, policy or resolution

247 (1) A person may, by notice of motion that is served at least seven days before the day on which the motion is to be made, apply to a judge of the Supreme Court of Nova Scotia to quash a bylaw, order, policy or resolution of the council of a municipality, in whole or in part, for illegality.

(2) No bylaw may be quashed for a matter of form only or for a procedural irregularity.

(3) The judge may quash the bylaw, order, policy or resolution, in whole or in part, and may, according to the result of the application, award costs for or against the municipality and determine the scale of the costs.

(4) No application may be entertained pursuant to this Section to quash a bylaw, order, policy or resolution, in whole or in part, unless the application is made within three months of the publication of the bylaw or the making of the order, policy or resolution, as the case may be. 1998, c. 18, s. 189.

PART VIII

PLANNING AND DEVELOPMENT

Purpose of Part

248 The purpose of this Part is to

(a) enable the Province to identify and protect its interests in the use and development of land;

(b) enable municipalities to assume the primary authority for planning within their respective jurisdictions, consistent with their urban or rural character, through the adoption of municipal planning strategies and land-use bylaws consistent with interests and regulations of the Province;

(c) ensure that every municipality develops and adopts one or more municipal planning strategies to govern planning throughout the municipality and fulfill the minimum planning requirements;

(d) establish a consultative process to ensure the right of the public to have access to information and to participate in the formulation of planning strategies and bylaws, including the right to be notified and heard before decisions are made pursuant to this Part; and

(e) provide for the fair, reasonable and efficient administration of this Part. 1998, c. 18, s. 190; 2018, c. 39, s. 1.

Interpretation of this Part and Part IX

249 In this Part and Part IX, unless the context otherwise requires,

“aggrieved person” includes

(a) an individual who bona fide believes the decision of the council will adversely affect the value, or reasonable enjoyment,

of the person's property or the reasonable enjoyment of property occupied by the person;

(b) an incorporated organization, the objects of which include promoting or protecting the quality of life of persons residing in the neighbourhood affected by the council's decision, or features, structures or sites of the community affected by the council's decision, having significant cultural, architectural or recreational value; and

(c) an incorporated or unincorporated organization in which the majority of members are individuals referred to in clause (a);

"commission" means a district planning commission continued pursuant to this Act;

"development" includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure and a change or alteration in the use made of land or structures;

"development officer" means the person or persons appointed by a council to administer a land-use or subdivision bylaw;

"Director" means the Provincial Director of Planning appointed pursuant to this Part, and includes a person acting under the supervision and direction of the Director;

"former *Planning Act*" means Chapter 346 of the Revised Statutes, 1989, the *Planning Act* and any predecessor to that Act;

"incentive or bonus zoning" means requirements that permit the relaxation of certain requirements if an applicant exceeds other requirements or undertakes other action, in the public interest, as specified in the requirements;

"minimum planning requirements" means the requirements respecting a municipal planning strategy prescribed by Section 272 and the regulations made under that Section;

"municipal planning strategy" means a municipal planning strategy, intermunicipal planning strategy or secondary planning strategy;

"non-conforming structure" means a structure that does not meet the applicable requirements of a land-use bylaw;

"non-conforming use of land" means a use of land that is not permitted in the zone;

"non-conforming use in a structure" means a use in a structure that is not permitted in the zone in which the structure is located;

"participating municipality" means a municipality participating in a commission;

"planning area" means the area to which a municipal or intermunicipal planning strategy applies;

"planning documents" means

(a) a municipal planning strategy and a land-use bylaw adopted to carry out the municipal planning strategy;

(b) an amendment to a municipal planning strategy and a land-use bylaw amendment to carry out the municipal planning strategy amendment; and

(c) a subdivision bylaw and an amendment to it;

“regulate” does not include the power to prohibit;

“structure” includes a building;

“subdivision” means the division of an area of land into two or more parcels, and includes a resubdivision or a consolidation of two or more parcels;

“watercourse” means a lake, river, stream, ocean or other body of water. 1998, c. 18, s. 191; 2018, c. 39, s. 2.

Provincial Director of Planning

250 (1) The Minister shall appoint from the public service an officer in the Department of Municipal Affairs and Housing to be known as the Provincial Director of Planning.

(2) The Minister may, from time to time, authorize another person in the Department of Municipal Affairs and Housing to act in the Director’s stead.

(3) The Minister may appoint an Assistant Provincial Director of Planning to perform the duties of the Director subject to the Director’s supervision and direction. 1998, c. 18, s. 192; 2006, c. 40, s. 6; 2018, c. 39, s. 3.

Statement of provincial interest

251 (1) The Governor in Council, on the recommendation of the Minister, may adopt or amend a statement of provincial interest necessary to protect the provincial interest in the use and development of land.

(2) A statement of provincial interest is a regulation within the meaning of the *Regulations Act*. 1998, c. 18, ss. 193, 194.

Preparation, amendment and review of statement of provincial interest

252 (1) When preparing or amending a statement of provincial interest, the Minister shall seek the views of councils affected by the proposed statement.

(2) The Minister may, at any time, review a statement of provincial interest.

(3) The statements of provincial interest contained in Schedule B to Chapter 18 of the Acts of 1998 are deemed to be adopted pursuant to Section 251 and to have been published in accordance with the *Regulations Act*.

(4) The Governor in Council may amend or repeal a statement of provincial interest, including a statement of provincial interest referred to in subsection (3). 1998, c. 18, s. 194.

Copy and notice of adoption or amendment of statement

253 Upon the adoption or amendment by the Governor in Council of a statement of provincial interest, the Minister shall send a copy of the statement to the clerk of each municipality affected by it and give notice of its adoption in a newspaper circulating in the affected area. 1998, c. 18, s. 195.

Provincial activities reasonably consistent with statement

254 The activities of the Government of the Province must be reasonably consistent with a statement of provincial interest. 1998, c. 18, s. 196.

Department to consider planning documents of municipality

255 A department of the Government of the Province, before carrying out or authorizing any development in a municipality, shall consider the planning documents of the municipality. 1998, c. 18, s. 197.

Planning documents consistent with statement

256 (1) Planning documents adopted after the adoption of a statement of provincial interest must be reasonably consistent with the statement.

(2) The Minister may request that a council, within the time prescribed by the Minister, amend its planning documents to be, or adopt new planning documents that are, reasonably consistent with a statement of provincial interest.

(3) Where

(a) a council does not comply with a request pursuant to subsection (2); or

(b) development that is inconsistent with a statement of provincial interest might occur and the Minister is satisfied that there are necessary and compelling reasons to establish an interim planning area to protect the provincial interest,

the Minister may, by order, establish an interim planning area for an area prescribed by the Minister. 1998, c. 18, s. 198; 2004, c. 44, s. 1; 2018, c. 39, s. 4.

Planning advisory committee

257 (1) A municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the municipality.

(2) Two or more municipalities may, by policy, establish a joint planning advisory committee.

(3) A planning advisory committee or joint planning advisory committee must include members of the public and may include a representative appointed by a village commission.

(4) The purpose of a planning advisory committee or a joint planning advisory committee is to advise respecting the preparation or amendment of planning documents and respecting planning matters generally.

(5) The duties assigned, pursuant to this Part, to a planning advisory committee or a joint planning advisory committee may be carried out only by the committee.

(6) The council shall appoint members of a planning advisory committee or a joint planning advisory committee by resolution. 1998, c. 18, s. 200; 2014, c. 21, s. 3.

Area planning advisory committee

258 (1) A municipality may establish, by policy, one or more area planning advisory committees to advise the planning advisory committee or joint planning advisory committee on planning matters affecting a specific area.

(2) An area planning advisory committee must include members of the public.

(3) An area planning advisory committee, with jurisdiction over an area that includes all or part of a village, must include at least one member appointed by the village commission.

(4) The council shall appoint members of an area planning advisory committee by resolution. 1998, c. 18, s. 201.

Policy establishing committee

259 In the policy establishing a planning advisory committee, joint planning advisory committee or area planning advisory committee, the council shall

- (a) fix the term of appointment and any provisions for reappointment;
- (b) fix the remuneration, if any, to be paid to the chair of the committee if the chair is not a council member;
- (c) fix the remuneration, if any, to be paid to those members of the committee who are not council members;
- (d) establish the duties and procedures of the committee; and
- (e) provide for the appointment of the chair and other officers of the committee. 1998, c. 18, s. 202.

Meetings of committee or commission

260 (1) Meetings of a planning advisory committee, joint planning advisory committee or area planning advisory committee or a commission are open to the public, unless the committee or commission, by a majority vote, moves a meeting in private to discuss matters related to

- (a) personnel;
- (b) labour relations;
- (c) contract negotiations;
- (d) litigation or potential litigation;
- (e) legal advice eligible for solicitor-client privilege; or

(f) a potential application for a development permit, land-use bylaw amendment, development agreement or amendment to a development agreement, before the applicant has applied to the municipality or development officer.

(2) The date, time and location of committee or commission meetings must be posted in a conspicuous place in the municipal office or another conspicuous place, as determined by the committee or commission.

(3) Any person may view

(a) committee or commission minutes, other than for a meeting in private, after they are adopted; and

(b) committee or commission reports to a council after they are submitted to the council.

(4) A planning advisory committee, joint planning advisory committee or area planning advisory committee may hold meetings for public discussion when and in the manner it or the council decides. 1998, c. 18, s. 203.

Public participation program

261 (1) A council shall adopt, by policy, a public participation program concerning the preparation of planning documents.

(2) A council may adopt different public participation programs for different types of planning documents.

(3) The content of a public participation program is at the discretion of the council, but it must identify opportunities and establish ways and means of seeking the opinions of the public concerning the proposed planning documents. 1998, c. 18, s. 204.

Engagement program for abutting municipalities

262 (1) A council shall adopt, by policy, an engagement program for engaging with abutting municipalities when the council is adopting or amending a municipal planning strategy.

(2) Subject to the regulations, the content of an engagement program is at the discretion of the council.

(3) The Minister may make regulations respecting the content of an engagement program.

(4) The exercise by the Minister of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*. 2018, c. 39, s. 5.

Procedure for adoption of planning documents

263 (1) A council shall adopt, by bylaw, planning documents.

(2) A bylaw adopting planning documents must be read twice.

(3) Before planning documents are read for a second time, the council shall hold a public hearing.

(4) A council shall complete the public participation program before placing the first notice for a public hearing in a newspaper circulating in the municipality.

(5) The notice for the public hearing is sufficient compliance with the requirement to advertise second reading of a bylaw.

(6) Second reading may not occur until the council has considered any submissions made or received at the public hearing.

(7) Only those council members present at the public hearing may vote on second reading of the planning documents.

(8) A council shall adopt planning documents, at second reading, by majority vote of the maximum number of members that may be elected to council. 1998, c. 18, s. 205; 2004, c. 7, s. 12.

Public hearing

264 (1) Prior to holding a public hearing required pursuant to this Part, the clerk shall give notice of the public hearing in a newspaper circulating in the municipality, inserted at least once a week for two successive weeks.

(2) The first notice of the public hearing must be published at least 14 days before the date of the public hearing.

(3) The notice of the public hearing must

(a) state the place where, and the hours during which, the proposed documents may be inspected by the public;

(b) state the date, time and place set for the public hearing;

(c) describe by metes and bounds, a plan, map, sketch or civic address or other description adequate to identify the area affected by the proposed documents;

(d) where the public hearing is with respect to an amendment to a municipal planning strategy or land-use bylaw or the approval or amendment of a development agreement, give a synopsis of the proposed documents.

(4) Copies of the proposed documents or portions of the documents must be provided to a person, on request, upon payment of a reasonable fee set by the council, by policy, sufficient to recover the cost of providing the copies.

(5) Upon the publication of the first notice of the public hearing, the clerk shall send a copy of the notice to the clerk of every municipality that immediately abuts an area affected by the proposed documents.

(6) Upon the publication of the first notice of the public hearing, the clerk shall send a copy of the notice to the village clerk of every village in which an affected property is situate. 1998, c. 18, s. 206; 2014, c. 21, s. 4.

Joint public hearing

265 (1) The councils of two or more municipalities, two or more community councils or the council of a regional municipality and one or more community councils may agree to hold a joint public hearing regarding the adoption or amendment of an intermunicipal planning strategy.

(2) The councils of two or more municipalities may agree to hold a joint public hearing regarding the adoption or amendment of a municipal planning strategy by one or more of the municipalities if each of the councils determines that its municipality may be affected by the adoption or amendment.

(3) Where a proposed development is subject to a public hearing pursuant to another Act of the Legislature, the council may provide for a single hearing process for the proposed development, if this Act is complied with. 1998, c. 18, s. 207; 2018, c. 39, s. 6.

Requirement for review by Director

266 (1) Planning documents are subject to review by the Director.

(2) The clerk shall submit four certified copies of the planning documents to the Director.

- (3)** Where the Director determines that the planning documents
- (a)** appear to affect a provincial interest;
 - (b)** may not be reasonably consistent with an applicable statement of provincial interest;
 - (c)** appear to conflict with the law;
 - (d)** in the case of a municipal planning strategy, may fail to fulfill the minimum planning requirements; or
 - (e)** in the case of a subdivision bylaw, may conflict with the provincial subdivision regulations,

the planning documents are subject to the Minister's approval.

(4) Within 30 days after receiving the planning documents, the Director shall

- (a)** return two copies of the planning documents to the clerk, with a written notice affixed stating that they are not subject to the approval of the Minister; or
- (b)** provide written notice to the clerk that the planning documents are subject to the approval of the Minister and include the reasons why they are so subject.

(5) Compliance with the procedural requirements for the adoption or amendment of planning documents is not subject to the review of the Director or the Minister.

(6) Within 60 days after the date of a written notice that planning documents are subject to the approval of the Minister, the Minister shall

- (a)** approve all or part of the documents;

- (b) approve the documents with amendments; or
- (c) refuse to approve the documents,

and return to the clerk two copies of the planning documents as approved, amended or refused with written reasons for the decision.

(7) Where no decision is made in accordance with subsection (6), the planning documents are deemed to be approved on the 61st day and the clerk shall place a notice in a newspaper circulating in the municipality advising that the planning documents are in effect as of the date of the notice, stating where the documents may be inspected.

(8) Except where the Minister refuses to approve planning documents, upon receipt of the planning documents from the Director or the Minister, the clerk shall place a written notice in a newspaper circulating in the municipality advising that the planning documents, or the planning documents as amended by the Minister, are in effect as of the date of that notice, stating where the documents may be inspected.

(9) A notice that planning documents are in effect is publication of a bylaw for the purpose of this Act.

(10) A municipal planning strategy takes effect on the date a notice is published in a newspaper circulating in the municipality informing the public that the municipal planning strategy and its implementing land-use bylaw are in effect. 1998, c. 18, s. 208; 2018, c. 39, s. 7.

Repeal of planning documents

267 Planning documents may be repealed and the procedure for repealing them is the same as the procedure for adopting them. 1998, c. 18, s. 209.

Amendment of land-use bylaw

268 (1) An amendment to a land-use bylaw that

- (a) is undertaken in accordance with the municipal planning strategy; and
- (b) is not required to carry out a concurrent amendment to a municipal planning strategy,

is not subject to the review of the Director or the approval of the Minister.

(2) The procedure for the adoption of an amendment to a land-use bylaw referred to in subsection (1) is the same as the procedure for the adoption of planning documents, but a public participation program is at the discretion of the council and the amendment may be adopted by a majority of votes of the council members present at the public hearing.

(3) Upon the adoption of an amendment to a land-use bylaw referred to in subsection (1), the clerk shall place a notice in a newspaper circulating in the municipality stating that the amendment has been adopted and setting out the right of appeal.

(4) When notice of an amendment to a land-use bylaw referred to in subsection (1) is published, the clerk shall file a certified copy of the amending bylaw with the Minister.

(5) Within seven days after a decision to refuse to amend a land-use bylaw referred to in subsection (1), the clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.

(6) Where the council has not, within 120 days after receipt of a completed application to amend a land-use bylaw referred to in subsection (1), commenced the procedure required for amending the land-use bylaw by publishing the required notice of public hearing, the application is deemed to have been refused.

(7) Within seven days after an application to amend a land-use bylaw, referred to in subsection (1), being deemed to be refused, the clerk shall notify the applicant in writing that the application is deemed to have been refused and setting out the right to appeal.

(8) An amendment to a land-use bylaw referred to in subsection (1) is effective when

- (a) the appeal period has elapsed and no appeal has been commenced; or
- (b) all appeals have been abandoned or disposed of or the amendment has been affirmed by the Board. 1998, c. 18, s. 210; 2004, c. 7, s. 13.

Certain amendments by policy

269 (1) A council may, by policy, adopt amendments to

- (a) the engineering specifications in a subdivision bylaw;
- (b) the processing fees set out in a land-use bylaw or in a subdivision bylaw;
- (c) a subdivision bylaw resulting from an amendment to the provincial subdivision regulations.

(2) An amendment referred to in subsection (1) is not subject to the review of the Director or the approval of the Minister. 1998, c. 18, s. 211.

Municipal planning strategy

270 (1) A council shall adopt one or more municipal planning strategies in accordance with the requirements of this Section.

(2) There may be separate municipal planning strategies for different parts of the municipality.

(3) All land within a municipality must be the subject of a municipal planning strategy.

(4) A municipal planning strategy must

- (a) be reasonably consistent with every statement of provincial interest; and

- (b) fulfill the minimum planning requirements. 2018, c. 39, s. 8.

Purpose of municipal planning strategy

271 The purpose of a municipal planning strategy is to provide statements of policy consistent with the minimum planning requirements to guide the development and management of the municipality and, to further this purpose, to

- (a) establish policies that address problems and opportunities concerning the development of land and the effects of the development;
- (b) establish policies to provide a framework for the environmental, social and economic development within a municipality;
- (c) establish policies that are reasonably consistent with the intent of statements of provincial interest; and
- (d) specify programs and actions necessary for implementing the municipal planning strategy. 1998, c. 18, s. 213; 2018, c. 39, s. 9.

Statements of policy in planning strategy

272 (1) A municipal planning strategy must include statements of policy respecting

- (a) the objectives of the municipality in respect of its physical, economic and social environment;
- (b) the future use, management and development of lands within the municipality;
- (c) the implementation and administration of the municipal planning strategy and the periodic review of the municipal planning strategy, its implementing land-use bylaw and the extent to which the objectives set out in the municipal planning strategy are achieved;
- (d) the engagement by the municipality with abutting municipalities when amending the municipal planning strategy or adopting a new municipal planning strategy to replace the existing one; and
- (e) any other matter prescribed by the regulations.

(2) In addition to the statements of policy required under subsection (1), a municipal planning strategy may include statements of policy respecting any matter permitted by the regulations.

(3) A municipal planning strategy must fulfill any additional requirements prescribed by the regulations.

(4) The Minister may make regulations

- (a) prescribing matters in respect of which the inclusion of statements of policy in a municipal planning strategy is either mandatory or discretionary, which may include matters respecting
 - (i) public health and safety,
 - (ii) the protection of the natural environment,

- (iii) the protection of resource lands,
- (iv) the identification, preservation and protection of landscape features,
- (v) the division of land into zones and the permitted and prohibited uses for each zone,
- (vi) infrastructure,
- (vii) transportation services and networks,
- (viii) the subdivision of land,
- (ix) matters of a local nature,
- (x) the land-use bylaw that implements the municipal planning strategy,
- (xi) the physical, economic and social environment of the municipality, and
- (xii) procedures, not inconsistent with the public participation program established under Section 261, to be followed when amending or reviewing the municipal planning strategy, including procedures for public consultation and notice;
- (b) prescribing requirements that a municipal planning strategy must fulfill, including requirements respecting
 - (i) the development, content, administration, implementation and review of the municipal planning strategy and the implementing land-use bylaw,
 - (ii) the content, development and administration of development agreements, variances, site-plan approval areas and other planning tools, and
 - (iii) studies to be carried out before undertaking specified developments or developments in specified areas of the municipality.
- (5) A regulation made under subsection (4) may not
 - (a) require or authorize a municipal planning strategy to include a statement of policy that is inconsistent with any enactment; or
 - (b) require a municipal planning strategy to fulfill a requirement that is contrary to any enactment.

(6) The exercise by the Minister of the authority contained in subsection (4) is a regulation within the meaning of the *Regulations Act*. 2018, c. 39, s. 10.

Failure to meet minimum planning requirements

273 (1) Where a municipal planning strategy does not fulfill the minimum planning requirements, the Minister may request that the council, within the time prescribed by the Minister, amend the municipal planning strategy to fulfill, or

adopt a new municipal planning strategy that fulfills, the minimum planning requirements.

(2) Where a council does not comply with a request pursuant to subsection (1), the Minister may, by order, establish an interim planning area for an area prescribed by the Minister. 2018, c. 39, s. 10.

Interim planning area

274 (1) Within an interim planning area established under Section 256 or 273, subdivision, development or certain classes of subdivision or development may be regulated or prohibited, in whole or in part, to protect the provincial interest or give effect to the minimum planning requirements.

(2) No permit or approval of any kind may be issued that is contrary to an order establishing an interim planning area or an order regulating or prohibiting subdivision or development in the interim planning area.

(3) The Minister may withhold any grant or other funding otherwise payable to a municipality under any enactment or agreement while an order establishing an interim planning area within the municipality is in effect.

(4) The Minister shall

(a) send a copy of an order establishing an interim planning area and any order regulating or prohibiting subdivision or development in the interim planning area to the clerk of each municipality affected; and

(b) give notice that an order is in effect in a newspaper circulating in the area affected.

(5) Where a council amends its municipal planning strategy in relation to an interim planning area to be reasonably consistent with the statements of provincial interest and fulfill the minimum planning requirements, or adopts a new municipal planning strategy to do so and, where the amended or new municipal planning strategy is in effect, the Minister shall revoke the order establishing the interim planning area.

(6) The Minister may recover any costs incurred in the course of establishing an interim planning area within a municipality or regulating or prohibiting subdivision or development in the interim planning area from any money otherwise payable to the municipality under the *Municipal Grants Act*. 2018, c. 39, s. 10.

Intermunicipal planning strategy

275 (1) Councils of two or more municipalities may agree to adopt a mutually binding intermunicipal planning strategy.

(2) The provisions of this Act that apply to a municipal planning strategy apply to an intermunicipal planning strategy. 1998, c. 18, s. 215.

Secondary planning strategy

276 (1) A municipal planning strategy may provide for the preparation and adoption of a secondary planning strategy that applies, as part of the municipal planning strategy, to a specific area or areas of the municipality.

(2) The purpose of a secondary planning strategy is to address issues with respect to a particular part of the planning area that may not, in the opinion of the council, be adequately addressed in the municipal planning strategy alone. 1998, c. 18, s. 216.

No action inconsistent with planning strategy

277 (1) A municipality shall not act in a manner that is inconsistent with a municipal planning strategy.

(2) The adoption of a municipal planning strategy does not commit the council to undertake any of the projects suggested in it. 1998, c. 18, s. 217.

Acquisition of land for development

278 (1) A municipality may

(a) acquire and assemble land for the purpose of carrying out a development consistent with the municipal planning strategy, whether the development is to be undertaken by the municipality or not; or

(b) acquire by agreement with the owners of the land, the right to impose easements or other development restrictions on the lands as if it had acquired the title.

(2) The municipality may subdivide, rearrange and deal with lands described in clause (1)(a) as if it were a private owner and may sell the lands subject to any building restrictions or easements that the council requires to ensure the development is consistent with the municipal planning strategy. 1998, c. 18, s. 218.

Adoption of land-use bylaw or amendment

279 (1) Where a council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the council shall, at the same time, adopt a land-use bylaw or land-use bylaw amendment that enables the policies to be carried out.

(2) A council may amend a land-use bylaw in accordance with policies contained in the municipal planning strategy on a motion of council or on application.

(3) A council may not adopt or amend a land-use bylaw except to carry out the intent of a municipal planning strategy. 1998, c. 18, s. 219; 2004, c. 7, s. 14.

Content of land-use bylaw

280 (1) A land-use bylaw must include maps that divide the planning area into zones.

- (2) A land-use bylaw must
- (a) list permitted or prohibited uses for each zone; and
 - (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.
- (3) A land-use bylaw may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.
- (4) A land-use bylaw may
- (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
 - (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
 - (c) regulate the maximum area of the ground that a structure may cover;
 - (d) regulate the location of a structure on a lot;
 - (e) regulate the height of structures;
 - (f) regulate the percentage of land that may be built upon;
 - (g) regulate the size, or other requirements, relating to yards;
 - (h) regulate the density of dwelling units;
 - (i) require and regulate the establishment and location of off-street parking and loading facilities;
 - (j) regulate the location of developments adjacent to pits and quarries;
 - (k) regulate the period of time for which temporary developments may be permitted;
 - (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
 - (m) regulate the floor area ratio of a building;
 - (n) prescribe the fees for an application to amend a land-use bylaw or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use bylaw may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, provided that a lot has access to at least one street;
 - (b) regulate or prohibit the type, number, size and location of signs and sign structures;

- (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
- (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purpose of landscaping, buffering, sedimentation or erosion control;
- (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
- (f) regulate the location of disposal sites for any waste material;
- (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
- (h) regulate or prohibit the removal of topsoil;
- (i) regulate the external appearance of structures;
- (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
- (k) require and regulate the provision of affordable housing within developments, including requiring that a specified percentage of affordable housing units be provided within a development;
- (l) provide for incentive or bonus zoning;
- (m) prescribe methods for controlling erosion and sedimentation during the construction of a development;
- (n) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use bylaw;
- (o) prohibit development or certain classes of development where, in the opinion of council,
 - (i) the cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) the provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) the cost of maintaining municipal streets would be prohibitive;
- (p) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
- (q) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,

- (iii) is low-lying, marshy or unstable,
- (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
- (v) is known to be contaminated within the meaning of the *Environment Act*, or
- (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
- (r) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of 30, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (s) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign. 1998, c. 18, s. 220; 2000, c. 9, s. 43; 2003, c. 9, s. 58; 2006, c. 40, s. 7; 2008, c. 25, s. 6; 2011, c. 17, s. 2; 2014, c. 16, s. 13; 2021, c. 33, s. 2.

Notification and costs

281 (1) A land-use bylaw may identify the class or classes of bylaw amendments, development agreements or amendments to development agreements that require

- (a) notifying affected property owners who are either the assessed owners or are as otherwise defined in the land-use bylaw for this purpose; and
- (b) a sign to be posted on the affected property describing the requested bylaw amendment, development agreement or amendment to a development agreement.

(2) A council may, by resolution, provide that any person applying for a land-use bylaw amendment, a development agreement or an amendment to a development agreement shall pay the municipality the cost of

- (a) any required advertising;
- (b) notifying affected landowners;
- (c) posting a sign. 1998, c. 18, s. 221.

Future public use

282 (1) A council may zone privately owned land for future public use other than transportation reserves if the bylaw provides for an alternative zone on the land, consistent with the municipal planning strategy.

(2) Where privately owned land is zoned for future public use, the municipality shall, within one year of the effective date of the zoning, acquire the land or the alternative zone comes into effect. 1998, c. 18, s. 222.

Parking cash-in-lieu

283 (1) Where provided for in a municipal planning strategy, a council may accept money instead of all or part of any required off-street parking lot or facility.

(2) The council shall use any money received to construct or maintain municipally owned parking or transit facilities to serve the immediate area of the development with respect to which the payment was made, provided the facilities are located in an area identified in the municipal planning strategy.

(3) The method used to determine the contribution for parking or transit facilities must be set out in the land-use bylaw and take into account the cost of construction of an individual parking space, including costs of land, grading and paving or any other standard determined by the council. 1998, c. 18, s. 223.

Affordable housing cash-in-lieu

284 Where provided for in a municipal planning strategy, council may accept money instead of all or part of any required provision of affordable housing. 2021, c. 33, s. 3.

Transportation reserve

285 (1) Where a municipal planning strategy identifies property required for the purpose of widening, altering or diverting an existing street or pathway or for the purpose of a new street or pathway, the council may, in a land-use bylaw, identify the transportation reserve and

(a) set out its intention to acquire property for the purpose of widening, altering or diverting an existing street or pathway, or for the purpose of a new street or pathway;

(b) set out the proposed right-of-way intended to be acquired;

(c) set out building setbacks for the widened, altered, diverted or new street or pathway;

(d) prohibit development in the proposed right-of-way or between the proposed right-of-way and the building setbacks.

(2) Any right-of-way and any building setbacks must be shown on a map or plan that is attached to and forms part of the land-use bylaw.

(3) Where the council adopts bylaw provisions in accordance with this Section, it shall provide for an alternate zone on the property to be acquired.

(4) The alternate zone comes into effect if the municipality does not acquire the property in the right-of-way within five years of the effective date of the provisions.

(5) Where a council adopts provisions in accordance with this Section, an affected property owner may make a written request to the council to acquire the property or acquire an interest in the property, at the discretion of the council.

(6) Where the council does not acquire the property or acquire the interest in the property within one year of the written request of an affected property owner, the alternate zone on the property comes into effect. 1998, c. 18, s. 224.

Development agreements

286 (1) A council may consider development by development agreement if a municipal planning strategy identifies

- (a) the developments that are subject to a development agreement;
- (b) the area or areas where the developments may be located; and
- (c) the matters that council must consider prior to the approval of a development agreement.

(2) The land-use bylaw must identify the developments to be considered by development agreement. 1998, c. 18, s. 225.

Comprehensive development districts

287 (1) A council may regulate the development of a district by development agreement by establishing a comprehensive development district if the municipal planning strategy identifies

- (a) the classes of uses permitted in a district;
- (b) developments or uses in a district, if any, that are permitted without a development agreement;
- (c) the area or areas where a district may be established; and
- (d) the matters that council must consider prior to the approval of a development agreement for the development of a district.

(2) When a municipal planning strategy provides for a comprehensive development district, the land-use bylaw must include a comprehensive development district zone.

(3) No development may occur in a comprehensive development district unless it is consistent with the development agreement or it is a development permitted without a development agreement. 1998, c. 18, s. 226.

Content of development agreement

288 (1) A development agreement may contain terms with respect to

- (a) matters that a land-use bylaw may contain;
- (b) hours of operation;
- (c) maintenance of the development;
- (d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, storm-

water systems, wastewater facilities, water systems and other utilities;

(e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;

(f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;

(g) the subdivision of land;

(h) security or performance bonding.

(2) A development agreement may include plans or maps.

(3) A development agreement may

(a) identify matters that are not substantive or, alternatively, identify matters that are substantive;

(b) identify whether the variance provisions are to apply to the development agreement;

(c) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;

(d) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by council;

(e) provide that where the development does not commence or is not completed within the time specified in the development agreement, the development agreement, or portions of it, may be discharged by council without the concurrence of the property owner. 1998, c. 18, s. 227; 2003, c. 9, s. 59.

Entering and filing development agreement

289 (1) A development agreement may not be entered into until

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.

(2) A council may stipulate that a development agreement must be signed by the property owner within a specified period of time.

(3) A development agreement does not come into effect until

(a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board;

(b) the development agreement is signed by the property owner, within the specified period of time, if any, and the municipality; and

(c) the development agreement is filed by the municipality in the registry.

(4) The clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry. 1998, c. 18, s. 228.

Discharge of development agreement

290 (1) A development agreement is in effect until discharged by the council.

(2) A council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner.

(3) After a development agreement is discharged, the land is subject to the land-use bylaw. 1998, c. 18, s. 229.

Adoption or amendment of development agreement

291 (1) A council shall adopt or amend a development agreement by policy.

(2) A council shall hold a public hearing before approving a development agreement or an amendment to a development agreement.

(3) Only those members of the council present at the public hearing may vote on the development agreement or the amendment.

(4) Upon approving a development agreement or an amendment to a development agreement, the clerk shall place a notice in a newspaper circulating in the municipality stating that the development agreement or amendment is approved and setting out the right of appeal.

(5) The clerk shall file a certified copy of a development agreement or an amendment to a development agreement with the Minister when notice of the development agreement or amendment is published.

(6) Within seven days after a decision refusing to approve a development agreement or an amendment to a development agreement, the clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.

(7) Amendments to those items in a development agreement that the parties have identified as not substantive or, if the substantive items were identified in the agreement, that were not identified as being substantive, do not require a public hearing. 1998, c. 18, s. 230; 2003, c. 9, s. 60.

Site-plan approval

292 (1) Where a municipal planning strategy so provides, a land-use bylaw shall identify

(a) the use that is subject to site-plan approval;

- (b) the area where site-plan approval applies;
- (c) the matters that are subject to site-plan approval;
- (d) those provisions of the land-use bylaw that may be varied by a site-plan approval;
- (e) the criteria the development officer must consider before granting site-plan approval;
- (f) the notification area; and
- (g) the form and content of an application for site-plan approval.

(2) No development permit may be issued for a development in a site-plan approval area unless

- (a) the class of use is exempt from site-plan approval as set out in the land-use bylaw and the development is otherwise consistent with the requirements of the land-use bylaw; or
- (b) the development officer has approved an application for site-plan approval and the development is otherwise consistent with the requirements of the land-use bylaw.

(3) A site-plan approval may deal with

- (a) the location of structures on the lot;
- (b) the location of off-street loading and parking facilities;
- (c) the location, number and width of driveway accesses to streets;
- (d) the type, location and height of walls, fences, hedges, trees, shrubs, ground cover or other landscaping elements necessary to protect and minimize the land-use impact on adjoining lands;
- (e) the retention of existing vegetation;
- (f) the location of walkways, including the type of surfacing material, and all other means of pedestrian access;
- (g) the type and location of outdoor lighting;
- (h) the location of facilities for the storage of solid waste;
- (i) the location of easements;
- (j) the grading or alteration in elevation or contour of the land and provision for the management of storm and surface water;
- (k) the type, location, number and size of signs or sign structures;
- (l) provisions for the maintenance of any of the items referred to in this subsection. 1998, c. 18, s. 231; 2003, c. 9, s. 61.

Site-plan approval

293 (1) A development officer shall approve an application for site-plan approval, unless

(a) the matters subject to site-plan approval do not meet the criteria set out in the land-use bylaw; or

(b) the applicant fails to enter into an undertaking to carry out the terms of the site plan.

(2) Where a development officer approves or refuses to approve a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.

(3) Notwithstanding subsection (2), council may require a larger notification distance for site-plan approvals in its land-use bylaw if the municipal planning strategy so provides.

(4) The council, in hearing an appeal concerning a site-plan approval, may make any decision that the development officer could have made.

(5) A council may by resolution provide that any person applying for approval of a site plan shall pay the municipality the cost of

(a) notifying affected landowners; and

(b) posting a sign.

(6) A development officer may, with the concurrence of the property owner, discharge a site plan, in whole or in part. 1998, c. 18, s. 232; 2003, c. 9, s. 62; 2006, c. 40, s. 8.

Development permit in site-plan approval area

294 A development officer shall issue a development permit for a development in a site-plan approval area if a site plan is approved and the development otherwise complies with the land-use bylaw, and

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the site plan has been affirmed by the council. 1998, c. 18, s. 233.

Conveyance to person not a party

295 Where the owner of property that is subject to a development agreement or a site plan conveys all or part of the property to a person not a party to the development agreement or site plan, the development agreement or site plan continues to apply to the property until, in the case of a development agreement, it is discharged by council and, in the case of a site plan, it is discharged by the development officer. 1998, c. 18, s. 234; 2006, c. 40, s. 9.

Variance

296 (1) A development officer may grant a variance in one or more of the following terms in a development agreement, if provided for in the development agreement, or land-use bylaw requirements:

(a) percentage of land that may be built upon;

- (b) size or other requirements relating to yards;
- (c) lot frontage or lot area, or both, if
 - (i) the lot existed on the effective date of the bylaw, or
 - (ii) a variance was granted for the lot at the time of subdivision approval.

(2) Where a municipal planning strategy and land-use bylaw so provide, a development officer may grant a variance in one or more of the following terms in a development agreement, if provided for in the development agreement, or land-use bylaw requirements:

- (a) number of parking spaces and loading spaces required;
- (b) ground area and height of a structure;
- (c) floor area occupied by a home-based business;
- (d) height and area of a sign.

(3) A variance may not be granted if

- (a) the variance violates the intent of the development agreement or land-use bylaw;
- (b) the difficulty experienced is general to properties in the area; or
- (c) the difficulty experienced results from an intentional disregard for the requirements of the development agreement or land-use bylaw. 1998, c. 18, s. 235; 2003, c. 9, s. 63.

Variance procedures

297 (1) Within seven days after granting a variance, the development officer shall give notice in writing of the variance granted to every assessed owner whose property is within 30 metres of the applicant's property or within such greater distance of the applicant's property as is set by the land-use bylaw or by policy.

(2) The notice must

- (a) describe the variance granted;
- (b) identify the property where the variance is granted; and
- (c) set out the right to appeal the decision of the development officer.

(3) Where a variance is granted, a property owner served a notice may appeal the decision to the council within 14 days after receiving the notice.

(4) Where a variance is refused, the applicant may appeal the refusal to council within seven days after receiving notice of the refusal by giving written notice to the clerk, who shall notify the development officer.

(5) Where an applicant appeals the refusal to grant a variance, the clerk or development officer shall give seven days written notice of the hearing to every assessed owner whose property is within 30 metres of the applicant's property.

(6) The notice must

(a) describe the variance applied for and the reasons for its refusal;

(b) identify the property where the variance is applied for; and

(c) state the date, time and place when council will hear the appeal. 1998, c. 18, s. 236; 2008, c. 25, s. 7.

Variance appeals and costs

298 (1) Where a council hears an appeal from the granting or refusal of a variance, the council may make any decision that the development officer could have made.

(2) A development officer shall issue a development permit for any development for which a variance has been granted and that otherwise complies with the terms of the development agreement or a land-use bylaw, whichever is applicable, if

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the variance has been affirmed by the council.

(3) A council may by resolution provide that any person applying for a variance shall pay the municipality the cost of

(a) notifying affected landowners;

(b) posting a sign. 1998, c. 18, s. 237; 2003, c. 9, s. 64.

Non-conforming structure or use

299 (1) A non-conforming structure, non-conforming use of land or non-conforming use in a structure may continue if it exists and is lawfully permitted at the date of the first publication of the notice of intention to adopt or amend a land-use bylaw.

(2) A non-conforming structure is deemed to exist at the date of the first publication of the notice of intention to adopt or amend a land-use bylaw, if

(a) the non-conforming structure was lawfully under construction and was completed within a reasonable time; or

(b) the permit for its construction was in force and effect, the construction was commenced within 12 months after the date of the issuance of the permit and the construction was completed in conformity with the permit within a reasonable time.

(3) A non-conforming use in a structure is deemed to exist at the date of the first publication of the notice of intention to adopt or amend a land-use bylaw if

(a) the structure containing the non-conforming use was lawfully under construction and was completed within a reasonable time; or

(b) the permit for its construction or use was in force and effect, the construction was commenced within 12 months after the date of the issuance of the permit and the construction was completed in conformity with the permit within a reasonable time,

and the use was permitted when the permit for the structure was granted and the use was commenced upon the completion of construction.

(4) This Act does not preclude the repair or maintenance of a non-conforming structure or a structure containing a non-conforming use.

(5) A change of tenant, occupant or owner of any land or structure does not of itself affect the use of land or a structure. 1998, c. 18, s. 238.

Rebuilding, repair or enlargement of non-conforming structure

300 (1) Where a non-conforming structure is located in a zone that permits the use made of it and the structure is used primarily for residential purposes

(a) where the structure is destroyed or damaged by fire or otherwise, it may be rebuilt, replaced or repaired if it is substantially the same as it was before the destruction or damage and it is occupied by the same use;

(b) it may be enlarged, reconstructed, repaired or renovated if

(i) the enlargement, reconstruction, repair or renovation does not further reduce the minimum required yards or separation distance that do not conform with the land-use bylaw, and

(ii) all other applicable provisions of the land-use bylaw except minimum frontage and area are satisfied.

(2) A non-conforming structure that is not located in a zone permitting residential uses and not used primarily for residential purposes, may not, where destroyed or damaged by fire or otherwise, to the extent of more than 75% of the market value of the building above its foundation, be rebuilt or repaired except in accordance with the land-use bylaw, and after the repair or rebuilding it may be occupied only by a use permitted in the zone. 1998, c. 18, s. 239; 2004, c. 44, s. 2.

Non-conforming use of land

301 A non-conforming use of land may not be

(a) extended beyond the limits that the use legally occupies;

(b) changed to any other use except a use permitted in the zone; or

- (c) recommenced, if discontinued for a continuous period of six months. 1998, c. 18, s. 240.

Non-conforming use in a structure

302 (1) Where there is a non-conforming use in a structure, the structure

- (a) may not be expanded or altered so as to increase the volume of the structure capable of being occupied, except as required by another Act of the Legislature; or

- (b) where destroyed or damaged by fire or otherwise, to the extent of more than 75% of the market value of the building above its foundation, may not be repaired or rebuilt except in accordance with the land-use bylaw, and after the repair or rebuilding it may be occupied only by a use permitted in the zone.

(2) Where there is a non-conforming use in a structure, the non-conforming use

- (a) may be extended throughout the structure;

- (b) may not be changed to any other use except a use permitted in the zone;

- (c) where discontinued for a continuous period of six months, may not be recommenced. 1998, c. 18, s. 241.

Relaxation of restrictions

303 (1) A municipal planning strategy may provide for a relaxation of the restrictions contained in this Part respecting non-conforming structures, non-conforming uses of land and non-conforming uses in a structure and, in particular, may provide for

- (a) the extension, enlargement, alteration or reconstruction of a non-conforming structure;

- (b) the extension of a non-conforming use of land;

- (c) the extension, enlargement or alteration of structures containing non-conforming uses, with or without permitting the expansion of the non-conforming use into an addition;

- (d) the reconstruction of structures containing non-conforming uses, after destruction;

- (e) the recommencement of a non-conforming use of land or a non-conforming use in a structure after it is discontinued for a continuous period in excess of six months;

- (f) the change in use of a non-conforming use of land or a non-conforming use in a structure, to another non-conforming use.

(2) The policies adopted in accordance with this Section must be carried out through the land-use bylaw and may require a development agreement. 1998, c. 18, s. 242; 2003, c. 9, s. 65.

Development officer

304 (1) A council shall appoint a development officer to administer its land-use bylaw and subdivision bylaw.

(2) Where the municipality participates in a district planning commission or enters into an agreement with another municipality to provide services, the council may appoint as its development officer an employee of the commission or of the other municipality. 1998, c. 18, s. 243.

Development permit

305 (1) Where the council has adopted a land-use bylaw, a development agreement may be obtained before any development is commenced.

(2) A land-use bylaw may specify developments for which a development permit is not required. 1998, c. 18, s. 244.

Time limits for consideration of development permit application

306 (1) Within 14 days after receiving an application for a development permit, the development officer shall

- (a)** determine if an application is incomplete; and
- (b)** where the application is incomplete, notify the applicant in writing advising what is required to complete the application.

(2) Within 30 days after receiving a completed application for a development permit, the development officer shall grant the development permit or inform the applicant of the reasons for not granting the permit. 1998, c. 18, s. 245.

Issuance of development permit

307 (1) A development permit must be issued for a proposed development if the development meets the requirements of the land-use bylaw, the terms of a development agreement or an approved site plan.

(2) Where a land-use bylaw is amended or a development agreement is approved or amended, a development permit for a development pursuant to the amendment or the agreement may not be issued until

- (a)** the appeal period has elapsed; or
- (b)** all appeals have been abandoned or disposed of or the decision of council has been affirmed by the Board.

(3) A development permit that is inconsistent with a proposed land-use bylaw or a proposed amendment to a land-use bylaw may not be issued for 150 days from the publication of the first notice advertising the council's intention to adopt or amend the bylaw.

(4) Where the proposed land-use bylaw or bylaw amendment has not come into effect after the expiry of 150 days from the publication of the first notice advertising the council's intention to adopt or amend the bylaw, the development officer shall issue the development permit if the proposed development meets the requirements of the land-use bylaw. 1998, c. 18, s. 246.

Appeals to the Board

308 (1) The approval or refusal by a council to amend a land-use bylaw may be appealed to the Board by

- (a) an aggrieved person;
- (b) the applicant;
- (c) an adjacent municipality;
- (d) a village in which an affected property is situated;
- (e) the Director.

(2) The approval of, or refusal to approve, and the amendment of, or refusal to amend, a development agreement may be appealed to the Board by

- (a) an aggrieved person;
- (b) the applicant;
- (c) an adjacent municipality;
- (d) a village in which an affected property is situated;
- (e) the Director.

(3) The refusal by a development officer to

- (a) issue a development permit;
- (b) approve a tentative or final plan of subdivision or a concept plan,

may be appealed by the applicant to the Board. 1998, c. 18, s. 247; 2000, c. 9, s. 44.

Matters not subject to appeal

309 The following are not subject to an appeal:

- (a) an amendment to a land-use bylaw to make the bylaw consistent with a statement of provincial interest;
- (b) an amendment to a land-use bylaw or a development agreement to implement a decision of the Board;
- (c) a development agreement approved as ordered by the Board;
- (d) an amendment to a land-use bylaw that is required to carry out a concurrent amendment to a municipal planning strategy. 1998, c. 18, s. 248.

Appeal period

310 An appeal must be served on the Board within 14 days after the date

- (a) of publication of notice of the adoption of the land-use bylaw amendment;
- (b) of written notice of council's decision refusing to amend the land-use bylaw;
- (c) of publication of notice of the approval or amendment of a development agreement;

- (d) of written notice of council's decision refusing to approve or amend a development agreement;
- (e) of written notice of the development officer's decision refusing to issue a development permit or refusing to approve a tentative or final plan of subdivision or a concept plan;
- (f) a decision is deemed to be refused. 1998, c. 18, s. 249; 2000, c. 9, s. 45.

Permitted grounds of appeal

311 (1) An aggrieved person or an applicant

- (a) may appeal an amendment or refusal to amend a land-use bylaw only on the grounds that the decision of the council does not reasonably carry out the intent of the municipal planning strategy;
 - (b) may appeal the approval or refusal of a development agreement or the approval of an amendment to a development agreement only on the grounds that the decision of the council does not reasonably carry out the intent of the municipal planning strategy;
 - (c) may appeal the refusal of an amendment to a development agreement only on the grounds that the decision of the council does not reasonably carry out the intent of the municipal planning strategy and the intent of the development agreement.
- (2)** An applicant may appeal a refusal to issue a development permit only on the grounds that the decision of the development officer does not comply with the land-use bylaw, a development agreement, an order establishing an interim planning area or an order regulating or prohibiting development in an interim planning area.
- (3)** An applicant may appeal a refusal to approve a concept plan or a tentative or final plan of subdivision only on the grounds that the decision of the development officer does not comply with the subdivision bylaw.
- (4)** The Director may appeal only on the grounds that the decision of the council is not reasonably consistent with a statement of provincial interest, an order establishing an interim planning area or an order regulating or prohibiting development in an interim planning area. 1998, c. 18, s. 250.

Procedures on appeal

- 312 (1)** This Section only applies to appeals to the Board made pursuant to this Part.
- (2)** A municipality shall file a complete appeal record with the Board, and any other person as the Board may require, within 14 business days of the municipality being notified by the Board of the appeal.
- (3)** A hearing must begin within 45 days from the filing of the appeal record unless the Board determines that it is necessary for the interests of justice for the hearing to begin at some later time or unless all the parties agree that the hearing may begin at some later time.

(4) The Board shall render its decision within 60 days after the close of submissions by the parties, unless the Board otherwise states at the close of the hearing or unless it is necessary for the interests of justice.

(5) A decision of the Board is not invalid nor does the Board lose jurisdiction over a matter in the event that a decision is rendered later than 60 days after the close of submissions.

(6) In the event that the Board directs the filing of post-hearing written submissions, such submissions must be filed with the Board within 14 days after the close of the hearing unless the Board determines that it is necessary for the interests of justice for such submissions to be submitted at some later time or unless all the parties agree that the submissions may be filed at some later time.

(7) Notwithstanding subsection 26(1) of the *Utility and Review Board Act*,

(a) the Board shall, by order, impose costs on a municipality that fails to file a complete appeal record within the time referred to in subsection (1); and

(b) the Board may, by order, impose costs on any party to an appeal that fails to meet any deadline or time limit established pursuant to this Section or otherwise established or imposed by the Board.

(8) When imposing costs pursuant to subsection (6), the Board shall consider, in addition to what the Board considers relevant, the financial ability of the party to pay and the conduct of the party in the appeal. 2008, c. 25, s. 8.

Powers of Board on appeal

313 (1) The Board may

(a) confirm the decision appealed from;

(b) allow the appeal by reversing the decision of the council to amend the land-use bylaw or to approve or amend a development agreement;

(c) allow the appeal and order the council to amend the land-use bylaw in the manner prescribed by the Board or order the council to approve the development agreement, approve the development agreement with the changes required by the Board or amend the development agreement in the manner prescribed by the Board;

(d) allow the appeal and order that the development permit be granted;

(e) allow the appeal by directing the development officer to approve the tentative or final plan of subdivision or concept plan.

(2) The Board may not allow an appeal unless it determines that the decision of the council or the development officer, as the case may be, does not reasonably carry out the intent of the municipal planning strategy or conflicts with the provisions of the land-use bylaw or the subdivision bylaw. 1998, c. 18, s. 251; 2001, c. 35, s. 12; 2003, c. 9, s. 66.

Restrictions on powers of Board

314 (1) The Board may not order the granting of a development permit, the approval of a plan of subdivision, a land-use bylaw amendment, a development agreement or an amendment to a development agreement that

- (a) is not reasonably consistent with a statement of provincial interest;
- (b) conflicts with an order made by the Minister establishing an interim planning area or regulating or prohibiting development in an interim planning area.

(2) The Board may not make any decision that commits the council to make any expenditures with respect to a development. 1998, c. 18, s. 252.

District planning commissions

315 (1) A district planning commission established by an order of the Minister pursuant to a former *Planning Act* continues to be a body corporate.

(2) Municipalities that are members of a district planning commission are deemed to have entered into an intermunicipal services agreement for the provision of the services provided by the commission on the same terms and conditions as contained in the order of the Minister establishing the commission, and such an agreement may be varied or rescinded with the agreement of all participating municipalities and the approval of the Minister to the variation or rescission is not required.

(3) A participating municipality may withdraw from a commission effective April 1st of a given year without the agreement of the remaining participating municipalities but shall, before withdrawing, give the other participating municipalities notice before March 31st of the preceding year.

(4) A participating municipality that withdraws from a commission is

- (a) not entitled to receive any assets of the commission without the approval of the remaining participating municipalities; and
- (b) responsible for severance costs or other costs imposed by its withdrawal and for its share of any liabilities of the commission existing at the time of its withdrawal.

(5) Where all the participating municipalities have agreed to dissolve the commission, they shall, by agreement, provide for the distribution of the assets and liabilities of the commission among the participating municipalities upon its dissolution.

(6) Where all the participating municipalities cannot agree on the distribution of the assets and liabilities of the commission, one or more of them may make an application to the Supreme Court of Nova Scotia to determine an equitable distribution of them. 1998, c. 18, s. 253; 2003, c. 9, s. 67.

District planning commission members

316 (1) A member of a commission who is a council member of a participating municipality ceases to be a member of the commission when the member ceases to be a council member.

(2) Where a member of a commission is no longer able to act, the council that appointed the member may appoint another member for the balance of the term. 1998, c. 18, s. 254.

Powers of commission

317 (1) A commission may

(a) advise and assist the council of any participating municipality in the preparation or amendment of planning documents and in the provision of any service related to planning or delegated to the commission by one or more of the participating municipalities;

(b) exercise rights and powers and perform duties that may be delegated to it by the council of a participating municipality;

(c) expend its funds for any of the purposes of the commission;

(d) retain the services of those persons necessary for the purposes of the commission and determine their remuneration;

(e) do any other things necessary for the attainment of its purposes.

(2) A commission may acquire and dispose of real property to the extent authorized and approved by all the councils of the participating municipalities. 1998, c. 18, s. 255.

Auditor and financial report required

318 (1) A commission shall annually appoint a registered municipal auditor to be its auditor.

(2) On or before June 30th in each year, a commission shall provide the councils of the participating municipalities with a financial report for the preceding year signed by the commission's auditor. 1998, c. 18, s. 256.

Annual report required

319 On or before June 30th in each year, a commission shall make an annual report to the councils of the participating municipalities setting out its activities for the preceding year. 1998, c. 18, s. 257.

Commission's estimates

320 (1) On or before January 15th in each year, a commission shall submit to the clerk of each of the participating municipalities an estimate of its revenues and expenditures for the next fiscal year after adding any anticipated deficit or deducting any anticipated surplus for the current fiscal year.

(2) The participating municipalities may agree on a method for approving or questioning the estimates of a commission.

(3) The council of each participating municipality shall include in its annual estimate of expenditures its proportion of the commission's estimates.

(4) A commission may at any time prepare supplementary estimates subject to the approval of the councils of the participating municipalities.

(5) The council of each participating municipality shall pay the commission its share of the estimates of the commission in accordance with any terms or payment schedule included in the order establishing the commission. 1998, c. 18, s. 258.

Use of mediation

321 The Minister, a council or the Board may, if the person or body considers it appropriate, at any time before a decision is made pursuant to this Part, use mediation, conciliation or other dispute resolution methods to attempt to resolve concerns or disputes. 1998, c. 18, s. 259.

No injurious affection

322 Property is deemed not to be injuriously affected by the adoption, amendment or repeal of a statement of provincial interest, interim planning area and development regulations in connection with it, subdivision regulations, subdivision bylaw, municipal planning strategy, land-use bylaw or the entering into, amending or discharging of a development agreement. 1998, c. 18, s. 261.

Former Planning Act

323 A municipal development plan and zoning bylaw or municipal planning strategy and land-use bylaw adopted pursuant to a former *Planning Act* are a municipal planning strategy and land-use bylaw within the meaning of this Act, to the extent they are consistent with this Act. 1998, c. 18, s. 262.

Part prevails in event of conflict

324 In the event of a conflict between this Part and another Part of this Act or another Act of the Legislature, this Part prevails. 1998, c. 18, s. 263.

Prohibition on breach of development agreement or site plan

325 No person shall breach the terms of a development agreement or site plan. 2004, c. 7, s. 15.

Breach of development agreement

326 (1) A municipality may, upon the breach of a development agreement, where 30 days notice in writing has been provided to the owner, enter the land and perform any of the terms contained in the development agreement or take such remedial action as is considered necessary to correct a breach of the development agreement, including the removal or destruction of any thing that contravenes the terms of a development agreement.

(2) All reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the development agreement.

(3) No action lies against a municipality or against any agent, servant or employee of a municipality for anything done pursuant to this Section. 1998, c. 18, s. 264; 2001, c. 35, s. 13.

Breach of approved site plan

327 (1) A municipality may, upon the breach of an approved site plan, if 30 days notice in writing has been provided to the owner, enter the land and perform any of the terms contained in the site plan.

(2) All reasonable expenses, whether arising out of the entry on the land or from the performance of the terms of the site plan, are a first lien on the land that is the subject of the site plan.

(3) No action lies against a municipality or against any agent, servant or employee of a municipality for anything done pursuant to this Section. 1998, c. 18, s. 265.

Remedies where offence under this Part or Part IX

328 (1) This Section applies to this Part and Part IX.

(2) In the event of an offence,

(a) where authorized by the council or by the chief administrative officer, the clerk or development officer, in the name of the municipality; or

(b) where authorized by the Minister, the Director, in the name of the Province,

may apply to the Supreme Court of Nova Scotia for any or all of the remedies provided pursuant to this Section.

(3) The Supreme Court may hear and determine the matter at any time and, in addition to any other remedy or relief, may make an order

(a) restraining the continuance or repetition of an offence in respect of the same property;

(b) directing the removal or destruction of any structure or part of a structure that contravenes any order, regulation, municipal planning strategy, land-use bylaw, development agreement, site plan or statement in force in accordance with this Part and authorizing the municipality or the Director, where an order is not complied with, to enter upon the land and premises with necessary workers and equipment and to remove and destroy the structure, or part of it, at the expense of the owner;

(c) as to the recovery of the expense of removal and destruction and for the enforcement of this Part, order, regulation, land-use bylaw or development agreement and for costs as is considered proper,

and an order may be interlocutory, interim or final.

(4) Where, after the action or proceeding is commenced, it appears that

(a) the offence that was the subject of the action or proceeding may have been done or committed by a person other than the defendant;

(b) the title to the property, or part of or any interest in it, that vested at the commencement of the action or proceeding, has since become vested in a person other than the defendant; or

(c) there has been a fresh offence by the same person or by another person with respect to the same property,

it is not necessary to bring another application and the original application may be amended from time to time and at any time before final judgment to include all parties and all offences and the whole matter of the offences must be heard, dealt with and determined, notwithstanding that the offences may be offences against different Sections of this Part or against different orders, land-use bylaws, development agreements, regulations or statements of provincial interest.

(5) Where the owner of any property where an offence is taking place or has taken place cannot be found, the municipality or the Director may post a notice of the offence and of the application upon the property. 1998, c. 18, s. 266, 2004, c. 7, s. 16.

Right of entry applicable to this Part and Part IX

329 (1) This Section applies to this Part and Part IX.

(2) A person authorized by the Minister or by a council has the right to enter at all reasonable times in or upon any property within the municipality, without a warrant, for the purpose of an inspection necessary to administer an order, land-use bylaw, development agreement, regulation or statement of provincial interest.

(3) The authorized person shall not enter any 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 has been given to the occupier at least 24 hours in advance of the entry.

(4) Where a judge is satisfied, on evidence under oath, that the entry is refused or no person is present to grant access, the judge may by order authorize entry into or on the property during reasonable hours set by the judge.

(5) Any order made by a judge continues in force until the purpose for which entry is required is fulfilled. 1998, c. 18, s. 267.

PART IX

SUBDIVISION

Requirements for subdivision approval

330 (1) An application for subdivision approval must

(a) be made to the development officer; and

(b) include a plan of subdivision prepared by a Nova Scotia land surveyor.

- (2) Subdivision approval is not required for a subdivision
- (a) if all lots to be created, including the remainder lot, exceed 10 hectares in area;
 - (b) resulting from an expropriation;
 - (c) resulting from an acquisition or disposition of land by the Crown in right of the Province or in right of Canada or by an agency of the Crown;
 - (d) of a cemetery into burial lots;
 - (e) resulting from an acquisition of land by a municipality for municipal purposes;
 - (f) resulting from an acquisition of land by a village for village purposes;
 - (g) resulting from the disposal, by a municipality or the Crown in right of the Province, of a street or part of a street or a former street or part of a former street, including the consolidation of a street or part of a street or a former street or part of a former street with adjacent land;
 - (h) resulting from the disposal of a trail or part of a trail, including the consolidation of a trail or part of a trail with adjacent land;
 - (i) of an abandoned railway right-of-way;
 - (j) that is a consolidation of a part of an abandoned railway right-of-way with adjacent land;
 - (k) resulting from a lease of land for 20 years or less, including any renewal provisions of the lease;
 - (l) resulting from the acceptance for registration by the Registrar of Condominiums of a phase of a phased-development condominium that meets the requirements, if any, prescribed by the regulations made pursuant to the *Condominium Act*;
 - (m) resulting from the issuance of a certificate of title under the *Quieting Titles Act* or the *Land Titles Clarification Act*; or
 - (n) resulting from a devise of land by will executed on or before January 1, 2000.

(3) In order to create a subdivision based on an exemption from the requirement for approval set out in any of the clauses in subsection (2), except clause (b), a document that

- (a) specifies the intent to create the subdivision, the exemption on which the subdivision is based and the facts that entitle the subdivision to the exemption; and
- (b) provides proof of the consent of the person entitled to create the subdivision,

must be registered or recorded in the registry. 1998, c. 18, s. 268; 2002, c. 10, s. 22; 2003, c. 9, s. 68; 2004, c. 7, s. 17; 2006, c. 40, s. 10; 2015, c. 24, s. 1; 2021, c. 7, s. 8.

Deemed consolidation

331 (1) Two or more lots that are contiguous, are parcels registered pursuant to the *Land Registration Act* and are and have been in common ownership and used together since April 15, 1987, or earlier are deemed to be consolidated if the owner or the owner's agent registers a statutory declaration in the parcel registers for the lots stating that the lots were in common ownership and used together on or before April 15, 1987, and have continued to be so owned and used, and including the facts that support the statement.

(2) Registration or recording of the statutory declaration referred to in subsection (1) is deemed to consolidate the lots as of the date of registration or recording.

(3) Subdivision approval of the consolidation is not required. 2003, c. 9, s. 69; 2015, c. 24, s. 2.

Subdivision by watercourse

332 (1) Notwithstanding Section 109 of the *Environment Act*, a watercourse does not subdivide a lot unless the watercourse creates a natural boundary, considering the nature and use of both the watercourse and the land through which it flows.

(2) Subsection (1) does not apply to subdivide a lot that

(a) has received subdivision approval; or

(b) is a parcel registered pursuant to the *Land Registration Act*. 2015, c. 24, s. 3.

Registrar General may validate subdivision

333 The Registrar General appointed pursuant to the *Land Registration Act* may validate a subdivision that is not in compliance with the subdivision approval or exemption requirements of this Part, if the affected lots are parcels registered pursuant to the *Land Registration Act* and it would not be practicable to rectify, repeal or nullify the subdivision. 2015, c. 24, s. 3.

Instrument of subdivision

334 (1) Notwithstanding clause 330(1)(b), in a county or district municipality where so provided in the provincial subdivision regulations or a subdivision bylaw, an application for subdivision approval may be made by instrument of subdivision rather than by a plan of subdivision.

(2) This Section applies only where the subdivision does not create a street or private road and results in

(a) each lot created being at least 100,000 square feet in area and having dimensions that would permit it to contain a 250-foot diameter circle within its boundaries; or

(b) an increase in size of an existing lot by the addition of a part or all of an abutting lot, if the lot reduced in area complies after the subdivision with the frontage and area requirements, if any, set out in the provincial subdivision regulations or municipal subdivision bylaw, as the case may be.

(3) An instrument of subdivision must be in the form prescribed in the provincial subdivision regulations.

(4) Except as otherwise provided in this Act, the procedure and requirements for approval of a subdivision apply to subdivision by instrument and a reference to a plan of subdivision includes an instrument of subdivision.

(5) For greater certainty, no instrument of subdivision that adds or consolidates parcels or areas of land in different ownerships may be approved by a development officer until the development officer is provided with

(a) executed deeds suitable for registering to effect the addition or consolidation; and

(b) the fees for registering the deeds,

and the development officer shall register the deeds with the approved instrument.
1998, c. 18, s. 269; 2000, c. 9, s. 47; 2005, c. 55, s. 6.

Provincial subdivision regulations

335 (1) The Minister shall prescribe provincial subdivision regulations.

(2) Provincial subdivision regulations must include

(a) procedures for preliminary evaluation and tentative and final approvals;

(b) requirements for preliminary evaluation and tentative and final approvals;

(c) the form of a notice of approval of subdivision;

(d) provisions for the repeal of a subdivision; and

(e) provisions for the referral of an application to a department or agency of the Province or of a municipality.

(3) Provincial subdivision regulations may include

(a) requirements for access to a lot;

(b) requirements respecting the shape of a lot;

(c) where they are not prescribed in a land-use bylaw, requirements for minimum lot frontage and minimum lot area;

(d) provisions allowing a waiver of any requirements of the regulations and the circumstances in which a waiver may be allowed;

(e) the fee for the processing of applications for approval or repeal of a subdivision, including registration, recording and filing fees;

(f) procedures and requirements for concept plans;

(g) procedures for the approval of, form of and requirements for approval and registration of instruments of subdivision in a county or district municipality;

- (h) requirements for private roads;
- (i) any other matter relating to the division of land.

(4) At least 30 days before prescribing or amending provincial subdivision regulations, the Minister shall

- (a) send a copy of the proposed regulations to the clerk of every municipality that will be affected by the regulations and invite written comments; and
- (b) place a notice in a newspaper circulating in the area that will be affected by the regulations stating where the proposed regulations may be inspected and invite written comments.

(5) Where, on April 1, 1999, a municipality has not adopted a subdivision bylaw, the municipality is deemed to have adopted the provincial subdivision regulations applicable to the municipality as its subdivision bylaw.

(6) A subdivision bylaw that is inconsistent with the provincial subdivision regulations is deemed to be amended by the subdivision regulations applicable to the municipality, unless the bylaw provisions are more stringent, implement the municipal planning strategy or, with respect to the regulations concerning instruments of subdivision, do not provide for instruments of subdivision. 1998, c. 18, s. 270; 2001, c. 6, s. 119; 2003, c. 9, s. 70.

Application of subdivision bylaw

336 A subdivision bylaw applies to the whole of a municipality, but the bylaw may contain different requirements for different parts of the municipality. 1998, c. 18, s. 271.

Contents of subdivision bylaw

337 (1) A subdivision bylaw must include

- (a) any requirements prescribed by the provincial subdivision regulations applicable to the municipality unless
 - (i) the municipality adopts more stringent requirements, or
 - (ii) the municipal requirements implement the municipal planning strategy;
- (b) procedures for preliminary evaluation and tentative and final approvals;
- (c) requirements for preliminary evaluation and tentative and final approvals;
- (d) the form of a notice of approval of subdivision;
- (e) provisions for the repeal of a subdivision; and
- (f) provisions for the referral of an application to a department or agency of the Government of the Province or of the municipality.

- (2) A subdivision bylaw may include
- (a) requirements for access to a lot;
 - (b) requirements respecting the shape of a lot;
 - (c) where they are not prescribed in a land-use bylaw, minimum lot frontage and minimum lot area;
 - (d) provisions allowing a waiver of certain requirements of the bylaw and the circumstances in which a waiver may be allowed;
 - (e) procedures for the approval of, form of and requirements for approval and registration of instruments of subdivision in a county or district municipality;
 - (f) the fee for the processing of applications for approval or repeal of a subdivision, including registration, recording and filing fees;
 - (g) requirements for the design and construction of streets, private roads, wastewater facilities, stormwater systems, water systems and other services;
 - (h) requirements for part of a system for the supply or distribution of electricity or other sources of energy or a telecommunications system to be placed underground;
 - (i) requirements for the transfer to the municipality of useable land, or equivalent value, for trails, park, playground and similar public purposes, and a requirement that, where the land being subdivided has frontage on the ocean, a river or a lake, the land transferred include land with frontage on the ocean, river or lake or land to provide public access to the ocean, river or lake, provided that the land required to be transferred does not exceed
 - (i) five per cent of the area of the lots shown to be approved on the final plan of subdivision, or
 - (ii) 10% of the area of the lots shown to be approved on the final plan of subdivision, if the requirement and the reasons for it are provided for in a municipal planning strategy;
 - (j) procedures and requirements for concept plan approval;
 - (k) the identification of transportation reserves and requirements that lots be designed so as not to impede a transportation reserve;
 - (l) provisions that regulate the width of streets or private road rights-of-way on which subdivisions are permitted.
- (3) Where a municipal planning strategy so provides, a subdivision bylaw may
- (a) regulate or prohibit new municipal streets in all, or part, of the municipality if, in the opinion of the council, the streets would be premature;

(b) regulate or prohibit subdivisions on private roads in all, or part, of the municipality;

(c) limit the number of lots that may be created from an area of land in a calendar year.

(4) A subdivision bylaw may require that prior to approval of a final plan of subdivision the applicant shall

(a) install water systems, wastewater facilities, stormwater systems and other services in the area of land being subdivided, to the standards prescribed by the municipality;

(b) install trees for streets, bus bays, sidewalks and pathways; and

(c) lay out, construct, grade and pave, in whole or in part, any street in the area of land being subdivided, to the standards prescribed by the municipality,

or, in the alternative, enter into a bond or other security satisfactory to the municipality to

(d) install and provide water systems, wastewater facilities, stormwater systems and other services in the area of land being subdivided, to the standards prescribed by the municipality;

(e) install trees along streets, bus bays, sidewalks and pathways, as required by the bylaw; and

(f) lay out, construct, grade and pave, in whole or in part, any street in the area of land being subdivided, to the standards prescribed by the municipality,

and, in either case, provide a bond or other security satisfactory to the municipality for the maintenance of the services for a maximum of two years from the date the services are accepted by the municipality as having been installed to the standards prescribed by the municipality.

(5) A subdivision bylaw may require that an applicant have, or permit an applicant to have, a qualified professional certify to the municipality that the services have been designed and installed to the standards prescribed by the municipality, and the municipality may rely on the certificate so given.

(6) A subdivision bylaw may authorize the municipality to require an applicant for subdivision approval to provide water systems, wastewater facilities, stormwater systems and other services, including streets, in the area of land being subdivided with a capacity exceeding the anticipated requirements of the applicant's subdivision, if the municipality reimburses the applicant for any costs incurred with respect to the excess capacity.

(7) Any cost to a municipality pursuant to subsection (6) may, at the option of the council, be recovered by the municipality in the same manner as an infrastructure charge or in another manner. 1998, c. 18, s. 271; 2001, c. 6, s. 119; 2003, c. 9, s. 71; 2004, c. 7, s. 18.

Adoption and amendment of subdivision bylaw

338 (1) The procedure for the adoption, amendment, repeal, approval and publication of a subdivision bylaw is the same as the procedure prescribed for planning documents.

(2) Notwithstanding the *Public Utilities Act* and for greater certainty, any bylaw made pursuant to this Section and any transfer, bond, security, cost, charge or requirement, fixed or imposed pursuant to this Section, do not require approval by the Board. 1998, c. 18, s. 271; 2001, c. 35, s. 14.

Stormwater and drainage

339 (1) A council may, in the subdivision bylaw, require a person applying for final approval of a subdivision to

- (a) provide, at no cost to the municipality, easements for the drainage of stormwater in those circumstances specified in the subdivision bylaw on the land that is proposed to be subdivided or outside that land;
- (b) transfer to the municipality land, including easements, that may be necessary to operate and maintain stormwater systems;
- (c) enter into an agreement to carry out a drainage plan or grading plan required by a subdivision bylaw and to provide security satisfactory to the engineer to secure performance of the agreement.

(2) A subdivision bylaw may

- (a) specify standards and requirements for an easement required by the subdivision bylaw;
- (b) set standards and requirements respecting drainage master plans, drainage plans and grading plans;
- (c) prescribe when drainage master plans, drainage plans and grading plans are required. 1998, c. 18, s. 272.

Transfer of land or equivalent value

340 (1) In this Section, “equivalent value” includes cash or facilities, services or other value in kind, related to parks, playgrounds and similar public purposes or any combination thereof, determined by the municipality to be equivalent to the value of the land as determined by the assessor pursuant to this Section.

(2) Where a subdivision bylaw provides for the transfer to the municipality of useable land, the applicant may provide land, equivalent value or a combination of land and equivalent value equal to the amount of the transfer required by the subdivision bylaw.

(3) The subdivision bylaw may specify the cases in which land only, equivalent value only or land and equivalent value in a specified combination must be transferred.

(4) Where equivalent value is to be provided in lieu of transferring land, the amount required must be determined by an assessor based on the market value of the proposed lots, excluding streets, easements and the residue of the

land of the applicant, and this valuation may be appealed in the same manner as an assessment.

(5) Where cash is paid in lieu of transferring land, the council shall use the funds for the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes and may use the interest on any funds not expended for those purposes for the operation and maintenance costs of parks, playgrounds and similar public purposes.

(6) Notwithstanding subsections (5) and (14), the council may transfer

(a) the funds referred to in subsections (5) and (14) to a village or non-profit organization that is providing parks, playgrounds or other recreational facilities in the municipality to be used for the acquisition of and capital improvements to those parks, playgrounds or other recreational facilities; and

(b) the interest on the funds referred to in subsections (5) and (14) to a village or non-profit organization that is providing parks, playgrounds or other recreational facilities in the municipality to be used for the operation or maintenance of those parks, playgrounds or other recreational facilities.

(7) A subdivision bylaw may include a definition of useable land, which may specify a minimum area, minimum dimensions, location and a method of establishing a minimum quality of the land.

(8) Useable land does not include any streets or easements conveyed to the municipality.

(9) The area of useable land to be conveyed to the municipality is calculated on the area of the lots to be approved, as shown on the final plan of subdivision, excluding streets and the residue of the land of the applicant.

(10) A development officer shall accept any land offered by an applicant that meets the definition of useable land contained in the subdivision bylaw.

(11) An applicant may, with the approval of the council, convey to the municipality an area of land in the municipality of equal value outside the area being subdivided, in lieu of land in the subdivision.

(12) An applicant may provide a bond or other security acceptable to the council for the conveyance to the municipality of land in a future phase of the subdivision rather than conveying land from the approved phase of the subdivision or equivalent value.

(13) Any land conveyed to a municipality pursuant to this Section must be

(a) free and clear of all encumbrances except an easement or right-of-way that does not materially interfere with the use and enjoyment of the land; and

(b) used for parks, playgrounds and similar public purposes.

(14) Where council determines that any land transferred pursuant to this Section may no longer be needed for parks, playgrounds or similar public purposes, the council may sell the land, after notifying the owners of lots in the subdivision with respect to which the land was conveyed to the municipality, by notice published in a newspaper circulating in the municipality at least 14 days prior to the council meeting at which a decision to sell will be made, and the proceeds must be used for parks, playgrounds and similar public purposes. 1998, c. 18, s. 273; 2003, c. 9, s. 72; 2004, c. 7, s. 19; 2006, c. 40, s. 11.

Infrastructure charges

341 (1) A municipal planning strategy may authorize the inclusion of provisions for infrastructure charges in a subdivision bylaw.

(2) Infrastructure charges for

- (a) new or expanded water systems;
- (b) new or expanded wastewater facilities;
- (c) new or expanded stormwater systems;
- (d) new or expanded streets;
- (e) new or expanded solid-waste management facilities;
- (f) new traffic signs and signals and new or expanded transit facilities,

may be imposed in a subdivision bylaw to recover all, or part, of the capital costs incurred, or anticipated to be incurred, by a municipality by reason of the subdivision and future development of land and infrastructure charges for land, planning, studies, engineering, surveying and legal costs incurred with respect to any of them.

(3) The subdivision bylaw must set out the infrastructure charge areas in which infrastructure charges are to be levied, the purposes for which infrastructure charges are to be levied and the amount of, or method of calculating, each infrastructure charge.

(4) Infrastructure charges may be set at different levels related to the proposed land use, zoning, lot size and number of lots in a subdivision and the anticipated servicing requirements for the infrastructure charge area.

(5) Infrastructure charges may not be imposed if an infrastructure charge has been paid with respect to the area of land, unless further subdivision of the land will impose additional costs on the municipality.

(6) An infrastructure charge may be used only for the purpose for which it is collected.

(7) Final approval of a subdivision may not be granted unless the infrastructure charges are paid or the applicant has entered into an agreement with the municipality securing the payment of the infrastructure charges.

(8) Infrastructure charges are a first lien on the land being subdivided and may be collected in the same manner as taxes.

(9) A bylaw in effect on April 1, 1999, that provides for a trunk sewer tax imposed on each lot in a new or existing subdivision is deemed to be a bylaw made pursuant to this Section.

(10) Notwithstanding the *Public Utilities Act* and for greater certainty, any bylaw made pursuant to this Section and any charge set, levied or imposed pursuant to this Section do not require the approval of the Board. 1998, c. 18, s. 274; 2001, c. 35, s. 15; 2003, c. 9, s. 73; 2006, c. 40, s. 12.

Infrastructure charges agreement

342 (1) An applicant and a municipality may enter into an infrastructure charges agreement that may

- (a) provide for the payment of infrastructure charges in instalments;
- (b) permit the applicant to provide certain services or extended services in lieu of the payment of all, or part, of the charge;
- (c) provide for security to ensure that the infrastructure charges are paid when due;
- (d) provide for any other matter necessary or desirable to effect the agreement.

(2) A subdivision bylaw may prescribe the circumstances in which an infrastructure charges agreement may be entered into and the general terms that such an agreement must contain. 1998, c. 18, s. 275.

Effect of infrastructure charges agreement

343 An infrastructure charges agreement

- (a) is binding on the land that is subdivided;
- (b) must be registered in the registry or, in the case of land registered pursuant to the *Land Registration Act*, must be recorded in the land registration office in the register of each parcel created or altered by the subdivision, and must be indexed as a conveyance to and from the owner of the land that is subdivided; and
- (c) is binding on each individual lot in a subdivision, to the extent specified in the agreement. 1998, c. 18, s. 276; 2001, c. 6, s. 119.

Time limits for subdivision approval application

344 (1) Within 14 days of receiving an application for subdivision approval, the development officer shall

- (a) determine if the application is complete; and
- (b) where the application is incomplete, notify the applicant in writing, advising what is required to complete the application.

(2) A completed application for subdivision approval that is neither approved nor refused within 90 days after it is received is deemed to be refused, unless the applicant and the development officer agree, in writing, to an extension.

(3) The development officer shall inform the applicant of the reasons for a refusal in writing. 1998, c. 18, s. 277; 2003, c. 9, s. 74.

Approval or refusal of subdivision approval application

345 (1) Subject to Section 352, an application for subdivision approval must be approved if the proposed subdivision is in accordance with the enactments in effect at the time a complete application is received by the development officer.

(2) An application for subdivision approval must be refused if

(a) the proposed use of the lots being created is not permitted by the land-use bylaw;

(b) the proposed lots do not comply with a requirement of the land-use bylaw, unless a variance has been granted with respect to the requirement;

(c) the proposed lots would require an on-site sewage disposal system and the proposed lots do not comply with requirements established pursuant to the *Environment Act* for on-site sewage disposal systems, unless the owner has been granted an exemption from technical requirements by the Minister of Environment and Climate Change, or a person designated by that Minister;

(d) the development officer is made aware of a discrepancy among survey plans that, if either claimant were completely successful in a claim, would result in a lot that cannot be approved;

(e) the proposed access to a street does not meet the requirements of the municipality or the Province;

(f) the proposed subdivision does not meet the requirements of the subdivision bylaw and no variance is granted; or

(g) the proposed subdivision is inconsistent with a proposed subdivision bylaw or a proposed amendment to a subdivision bylaw, for a period of 150 days from the publication of the first notice advertising the council's intention to adopt or amend the subdivision bylaw. 1998, c. 18, s. 278; 2001, c. 35, s. 16.

Lots not meeting requirements

346 Where a subdivision bylaw or a land use bylaw specifies minimum lot dimensions or lot area and the subdivision bylaw so provides, the development officer may approve a plan of subdivision that shows not more than two lots that do not meet these requirements, if the lot dimensions and area are not less than 90% of the required minimums. 1998, c. 18, s. 279; 2004, c. 44, s. 3.

Streets

347 (1) No plan of subdivision may be approved by a development officer if

(a) the plan shows a street to be owned by the municipality, unless the engineer has approved the design and construction standards of the street, and any intersection with a street, owned by the municipality;

(b) the plan shows a proposed intersection with a street owned by the Province, unless the intersection has been approved by the Minister of Public Works, or a person designated by that Minister; or

(c) the Minister of Public Works, or a person designated by that Minister, or the engineer advises that the probable volume of traffic from the development will create unsafe conditions for which no remedial arrangements have been made.

(2) The owners of lots shown on a plan of subdivision as abutting on a private right-of-way are deemed to have an easement over the private right of way for vehicular and pedestrian access to the lot and for the installation of electricity, telephone and other services to the lot.

(3) The new streets and new extensions of streets shown on a plan of subdivision, excluding roads that are shown on the plan as private roads, are vested absolutely in the municipality in which they are situated when the final approved plan is filed in the registry. 1998, c. 18, s. 280.

Plan of subdivision carrying out development agreement

348 A development officer shall approve a plan of subdivision prepared to carry out a development agreement authorized by a municipal planning strategy and land-use bylaw, notwithstanding that the plan does not comply with the subdivision bylaw, if the plan complies with the terms of the agreement. 1998, c. 18, s. 281.

Underlying lots deemed consolidated

349 Where a subdivision plan shows a remainder lot that is made up of the remainder of two or more underlying lots that have not been consolidated, the underlying lots are deemed to be consolidated before approval of the subdivision plan unless the application and plan indicate that they are not to be consolidated and, if

(a) subsection 350(1) is complied with; and

(b) where the remainder lot is 10 hectares or less in area, the subdivision plan includes a survey of the entirety of the remainder lot,

the development officer shall register the deeds respecting the remainder lot, if any, with the approved plan. 2003, c. 9, s. 75.

Addition or consolidation of land in different ownerships

350 (1) No plan of subdivision that adds or consolidates parcels or areas of land in different ownerships may be approved by a development officer until the development officer is provided with

(a) executed deeds suitable for registering to effect the addition or consolidation; and

(b) the fees for registering the deeds.

(2) The development officer shall register the deeds with the approved plan. 1998, c. 18, s. 282; 2000, c. 9, s. 48.

Land Registration Act and Registry of Deeds Act

351 (1) No plan or instrument of subdivision that, under the *Land Registration Act*, is not acceptable for registration pursuant to the *Registry of Deeds Act*, may be approved by a development officer unless the development officer is provided with proof that the parcels affected are all registered pursuant to the *Land Registration Act*.

(2) No plan or instrument of subdivision that adds or consolidates parcels or areas of land, that, under the *Land Registration Act*, is not acceptable for registration pursuant to the *Registry of Deeds Act*, may be approved by a development officer unless the development officer is provided with proof that both the parcel from which land is taken and the parcel to which land is added are registered pursuant to the *Land Registration Act*.

(3) A deed to effect a consolidation provided to a development officer pursuant to Section 350 must, where the deed is to be registered pursuant to the *Land Registration Act*, include a legal description of the consolidated parcel.

(4) The approval of a plan or instrument of subdivision contrary to subsection (1) or (2) is cancelled if the plan or instrument of subdivision is not accepted for registration pursuant to the *Land Registration Act*. 2001, c. 6, s. 119; 2004, c. 38, s. 26.

Tentative plan of subdivision

352 Where a tentative plan of subdivision is approved pursuant to the subdivision bylaw, a lot or lots shown on the approved tentative plan must be approved at the final plan of subdivision stage, if

- (a) the lots are substantially the same as shown on the tentative plan;
- (b) any conditions on the approval of the tentative plan have been met;
- (c) the services required by the subdivision bylaw at the time of approval of the tentative plan have been constructed and any municipal service has been accepted by the municipality or acceptable security has been provided to the municipality to ensure the construction of the service; and
- (d) the complete application for final subdivision plan approval is received within two years of the date of the approval of the tentative plan. 1998, c. 18, s. 283; 2001, c. 35, s. 17.

Appeal to the Board

353 The refusal to approve a concept plan or tentative or final plan of subdivision may be appealed to the Board by the applicant in accordance with the procedure for an appeal to the Board set out in Part VIII. 1998, c. 18, s. 284.

Filing of approved final plan of subdivision

354 (1) No final plan of subdivision may be filed in the registry unless the plan has been approved by a development officer in accordance with this Part.

(2) A development officer, or a person acting for a development officer, shall, within seven days of the approval of a final plan of subdivision, forward two original copies of the approved plan to the registry, one of which is to be filed in the registry.

(3) At the same time as an approved final plan of subdivision is filed in the registry, a notice of the approved final plan of subdivision must be registered in the registry.

(4) A notice of the approved final plan of subdivision must be indexed as a conveyance from the person whose land is divided.

(5) Where an approved final plan of subdivision effects an addition or consolidation, the notice of the plan must be indexed as a conveyance from the person whose land is divided and from the person whose land is enlarged as a result of the addition or consolidation. 1998, c. 18, s. 285; 2006, c. 40, s. 13.

Lot crossing municipal boundary

355 Where a lot to be created by a plan of subdivision crosses a municipal boundary, an approval is required from each municipality in which the proposed lot is located. 1998, c. 18, s. 286.

When subdivision takes effect

356 (1) A subdivision of land takes effect when the plan of subdivision is filed in the registry.

(2) No deed, mortgage, lease or other instrument that would result in the subdivision of land for which subdivision approval is required has effect until the subdivision is approved and the plan is filed.

(3) A deed, mortgage, lease or other instrument, that purports to subdivide land and is executed before the approval and the filing of a plan of subdivision in the registry in accordance with this Part, is deemed

(a) to have been executed immediately after the filing of the plan of subdivision; and

(b) where the deed, mortgage, lease or other instrument has been registered in the registry, to have been duly registered at the time of the actual registration.

(4) Where two or more deeds, mortgages, leases or other instruments are deemed to have been executed at the same time, they are deemed to have been executed in the same order as they were actually executed.

(5) Where a deed, mortgage, lease or other instrument is made which results in the subdivision of land in accordance with a plan or instrument of subdivision duly approved and filed in the registry, the amendment of the plan or instrument does not restrict the right of the owner, mortgagee, lessee or other holder to execute other deeds, mortgages, leases or instruments in which the property is described as it is described in the original deed, mortgage, lease or other instrument. 1998, c. 18, s. 287.

Amendment of approved final plan of subdivision

357 (1) An approved final plan of subdivision may be amended, provided the amendment does not materially alter the boundaries of a lot created by the approved plan.

(2) The provisions of this Act that apply to an approved final plan of subdivision apply to an amended plan of subdivision, except the effective date of the approval of the amended plan is the same as that of the approved final plan of subdivision. 1998, c. 18, s. 288; 2003, c. 9, s. 76.

Amendment or repeal of instrument of subdivision

358 An instrument of subdivision approved pursuant to this Act or the former *Planning Act* may be amended or repealed in the same manner, and with the same effect, as an approved final plan of subdivision. 1998, c. 18, s. 289.

Subdivision for which no approval required

359 Nothing in this Act prevents an application for approval of, or the approval of, a subdivision for which no approval is required. 1998, c. 18, s. 290.

Title or interest not affected

- 360 (1)** A failure to comply with
- (a) this Act; or
 - (b) the former *Planning Act*,

or a regulation or bylaw made thereunder does not affect the creation of a title or interest in real property conveyed, or purported to have been conveyed, by deed, lease, mortgage or other instrument before April 16, 1987.

(2) Subsection (1) does not affect the rights acquired by a person from a judgment or order of a court given or made in litigation or proceedings commenced before April 16, 1987. 1998, c. 18, s. 291.

Former Planning Act

361 A subdivision bylaw adopted pursuant to the former *Planning Act* is a subdivision bylaw within the meaning of this Act, to the extent that it is consistent with this Act. 1998, c. 18, s. 292.

PART X**FIRE AND EMERGENCY SERVICES****Municipal role**

362 A municipality may maintain and provide fire and emergency services by providing the service, assisting others to provide the service, working with others to provide the service or a combination of means. 1998, c. 18, s. 293.

Registration as fire department

363 (1) A body corporate may apply to a municipality for registration as a fire department.

(2) A municipality may not refuse to register a body corporate that complies with this Act if

(a) the municipality is satisfied that the body corporate is capable of providing the services it offers to provide;

(b) the body corporate carries liability insurance, as required by the municipality;

(c) the body corporate does not provide the fire services for profit; and

(d) the municipality does not provide the same services for the same area.

(3) A fire department, including a fire department of a municipality, village or fire protection district, shall register in each municipality in which it provides emergency services.

(4) A registered fire department shall provide the municipality with a list of specific emergency services it will endeavour to provide and the area in which the services will be provided.

(5) Registration continues in force until withdrawn by the municipality for cause or the fire department requests that the registration be revoked.

(6) A municipality may grant or lend money to, or guarantee a loan for, a registered fire department for operating or capital purposes.

(7) A municipality may grant or lend assets, without charge, to a registered fire department.

(8) Registration does not make a fire department an agent of a municipality.

(9) A registered fire department is not a municipal enterprise pursuant to the *Finance Act*, 1998, c. 18, s. 294; 2022, c. 38, s. 29.

Registration as emergency services provider

364 (1) A body corporate may apply to a municipality for registration as an emergency services provider to provide emergency services other than fire services.

(2) A municipality may not refuse to register a body corporate that complies with this Act if

(a) the municipality is satisfied that the body corporate is capable of providing the services it has undertaken to provide;

(b) the body corporate carries liability insurance, as required by the municipality;

(c) the body corporate does not provide the emergency services for profit; and

(d) the municipality does not provide the same services for the same area.

(3) A body corporate that applies pursuant to subsection (1) shall register in each municipality in which it provides emergency services.

(4) A registered emergency services provider shall provide the municipality with a list of the specific emergency services it will endeavour to provide and the area in which the services will be provided.

(5) Registration continues in force until withdrawn by the municipality for cause or the emergency services provider requests that the registration be revoked.

(6) A municipality may grant or lend money to, or guarantee a loan for, a registered emergency services provider for operating or capital purposes.

(7) A municipality may grant or lend assets, without charge, to a registered emergency services provider.

(8) Registration does not make an emergency services provider an agent of a municipality.

(9) A registered emergency services provider is not a municipal enterprise pursuant to the *Finance Act*. 1998, c. 18, s. 295; 2022, c. 38, s. 30.

Policies

365 (1) A council may make policies respecting full-time, volunteer and composite fire departments and emergency service providers in the municipality.

(2) Policies for fire departments and emergency service providers may include

- (a) requirements and procedures for registration;
- (b) personnel policies with respect to those members who are employees of the municipality;
- (c) the manner of accounting to the council for the use of funds provided by the municipality;
- (d) an annual meeting to report to the public respecting fire and emergency services;
- (e) such other matters as are necessary and expedient for the provision of emergency services in the municipality.

(3) A council may require proof of compliance with its policies before advancing any funds. 1998, c. 18, s. 296.

Powers of officer in charge

366 (1) When any fire, rescue or emergency occurs, the fire chief or other officer in charge, and any person under the direction of that officer, shall endeavour to extinguish the fire and prevent it from spreading, conduct the rescue or deal with the emergency and, for that purpose, may

- (a) command the assistance of persons present and any inhabitant of the municipality;
- (b) remove property from buildings on fire or in danger of fire;
- (c) take charge of property;
- (d) enter, break into or tear down any building;
- (e) exclude and remove persons and vehicles from the building or vicinity; and
- (f) generally do all things necessary to respond to the emergency.

(2) It is an offence to disobey any lawful order or command of the officer in charge.

(3) Where a fire alarm is given or the officer in charge has reason to believe that a fire exists on any premises, the officer in charge and any person under the direction of that officer may enter or break into any building to ascertain whether a fire exists.

(4) The officer in charge may direct that a building be pulled down or otherwise destroyed if, in the judgment of that officer, doing so will tend to contain a fire or protect the public from a dangerous condition.

(5) A municipality, a village, a fire protection district, a fire department, an emergency services provider and an officer in charge, and a person acting under the direction or authority of that officer, are not liable for an act done in the exercise of any of the powers conferred by this Section. 1998, c. 18, s. 297.

Interference with efforts, facilities or equipment

367 It is an offence to interfere with

- (a) efforts of a member of a fire department or emergency services provider to extinguish fires and render assistance in emergencies; and
- (b) publicly-owned or privately-owned firefighting, rescue or emergency facilities and equipment and hydrants. 1998, c. 18, s. 299.

No liability

368 A municipality, a village, a fire protection district, an employee of a municipality, village or fire protection district, a member of the fire department of a municipality, village or fire protection district, a registered fire department, a member of a registered fire department, a registered emergency services provider and a member of a registered emergency services provider are not liable for an act or omission in providing, or failing to provide, an emergency service, unless they are grossly negligent. 1998, c. 18, s. 300.

No action lies

369 (1) No action lies with respect to an act or omission in providing, or failing to provide, an emergency service against an employee of a municipality, village or fire protection district, a member of the fire department of a municipality,

village, fire protection district, registered fire department or registered emergency services provider.

(2) Notwithstanding subsection (1) and subject to Section 368, an action may lie against a municipality, village, fire protection district, registered fire department or registered emergency services provider with respect to its employee, member of its fire department or member. 1998, c. 18, s. 301.

Mutual aid

370 (1) A municipality may assist at fires, rescues or other emergencies occurring outside its boundaries.

(2) A municipality may agree with municipalities, villages, fire protection districts, federal and provincial departments and agencies or others to provide assistance at fires, rescues and other emergencies and to receive assistance at fires, rescues and other emergencies.

(3) A fire department that assists a registered fire department pursuant to a mutual aid agreement is not required to register and is entitled to all of the protections provided by this Act for the assisted fire department.

(4) An emergency services provider that assists a registered fire department or registered emergency services provider pursuant to a mutual aid agreement is not required to register and is entitled to all of the protections provided in this Act for the assisted fire department or emergency services provider. 1998, c. 18, s. 302.

PART XI

ELECTRICAL SERVICES

Contract with Nova Scotia Power Incorporated or municipality

371 (1) Subject to the *Public Utilities Act*, a council may contract with Nova Scotia Power Incorporated or another municipality for transmission and supply of electric power.

(2) A municipality that has entered into a contract for electric power or that generates electric power may

(a) use the electric power for the purpose of lighting streets, highways and property of the municipality or for any other purpose of the municipality;

(b) distribute the electric power throughout the municipality;

(c) establish and maintain an electrical distribution system in the municipality;

(d) sell or dispose of the electric power, or any part thereof, to a person or body;

(e) dispose of the whole of the electric power or any portion that it does not require, or otherwise dispose of, to any person,

firm or corporation having authority within the municipality to supply electric power or to operate an electric tramway;

- (f) employ required employees;
- (g) contract for the supply and distribution of electric power in another municipality, if the council of the other municipality agrees;
- (h) acquire real and personal property and construct and operate facilities for the generation, transmission and distribution of electric power;
- (i) include in its yearly estimates all amounts that are necessary or proper for the due carrying out of the purposes referred to in this subsection.

(3) Any agreement, contract, change in the cost of electric power, payment extension, connection between systems or diversion of power from one system to another is subject to the approval of the Board. 1998, c. 18, s. 303.

Lien

372 (1) The amount due to a municipality for the provision of electrical power is, subject only to municipal taxes, a first lien on the property of the person to whom the electrical power was provided, in priority to all prior liens or encumbrances on the property.

(2) The lien applies only to the amount due to the municipality for a period not exceeding 90 days.

(3) The lien referred to in subsection (1) is not a charge against a parcel registered pursuant to the *Land Registration Act* until a certificate evidencing the lien has been recorded in the register of the parcel.

(4) The municipality may record a notice of the lien referred to in subsection (1) in the parcel register of any property owned by a person to whom electrical power was provided to which the lien applies and shall thereupon serve that person with a copy of the lien and recording particulars.

(5) Upon satisfaction of the lien, including payment of the fees for recording the lien and the release, the municipality shall record a release of the lien in the parcel registers in which the lien was recorded. 1998, c. 18, s. 304; 2001, c. 6, s. 119.

Power cut-off

373 Where a person fails to pay a municipality the amount due for electric power within one month after the account is due, the municipality may cut off the supply of electricity to that person and may recover the amount due up to that time, despite a contract with the person to furnish electric power for a longer period. 1998, c. 18, s. 304.

Nova Scotia Power Incorporated powers

374 (1) Nova Scotia Power Incorporated may extend the time for payment of any sum due it by a municipality, if the municipality pays interest on any

sum due Nova Scotia Power Incorporated at such rate of interest, not exceeding seven per cent per year, as Nova Scotia Power Incorporated may determine.

(2) Nova Scotia Power Incorporated may make any connections between systems to divert power from one system to another system.

(3) The manner of any connection between systems, the amount to be charged to a system receiving power from a connection and the amount to be credited to a system supplying power is as determined by Nova Scotia Power Incorporated. 1998, c. 18, s. 305.

Power to sell system

375 A municipality may sell its system for developing or distributing electric power, including property used in connection with it. 1998, c. 18, s. 306.

PART XII

STREETS AND HIGHWAYS

Interpretation

376 In this Part, “street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, but does not include streets vested in the Crown in right of the Province. 1998, c. 18, s. 307; 2000, c. 9, s. 49; 2008, c. 39, s. 388.

Ownership and control of streets

377 (1) All streets in a municipality are vested absolutely in the municipality.

(2) In so far as is consistent with their use by the public, a council has full control over the streets in the municipality.

(3) No road, or allowance for a road, becomes a street until the council formally accepts the road or allowance, or the road or allowance is vested in the municipality according to law.

(4) Possession, occupation, use or obstruction of a street, or a part of a street, does not give and never has given any estate, right or title to the street. 1998, c. 18, s. 308.

Bylaws for protection of streets

378 A council may make bylaws for the protection of streets and may limit the bylaw to certain streets, or to certain times of the year, or to both. 1998, c. 18, s. 309.

Local authority for purpose of Motor Vehicle Act

379 For the purpose of the *Motor Vehicle Act*, a council is a local authority. 1998, c. 18, s. 309.

Use of mall

380 A council may, by policy, limit or prohibit the use of a mall by vehicles, or classes of vehicles, and may restrict or prohibit parking on a mall. 1998, c. 18, s. 309.

Pedestrian mall

381 A council may, by bylaw, establish a pedestrian mall on a street or any other land owned by the municipality. 1998, c. 18, s. 309.

Use of sidewalk

382 A council may, by bylaw,

- (a) prohibit any person from using any vehicle or apparatus on a sidewalk in the municipality;
- (b) prohibit any person from taking or riding any animal on any sidewalk in the municipality. 1998, c. 18, s. 309.

Controlled access street

383 (1) A council may, by bylaw,

- (a) designate any street as a controlled access street;
- (b) regulate or prohibit access to a controlled access street.

(2) No person may

- (a) construct or use a road or gate connected with, or opening upon, the controlled access street; or
- (b) offer for sale goods within the limit of the controlled access street. 1998, c. 18, s. 309; 2006, c. 40, s. 14.

Snow and ice on sidewalks

384 (1) A council may, by bylaw,

- (a) require the owner, occupier or person in charge of a property to clear snow and ice from the sidewalks adjoining the property;
- (b) prescribe measures to be taken by the owners, occupiers or persons in charge for the abatement of dangerous conditions arising from the presence of snow and ice on the sidewalks adjoining the property.

(2) Where a person required by a bylaw made pursuant to subsection (1) fails to clear the ice and snow from the sidewalk forthwith after notice to do so or to take the necessary measures for the abatement of any dangerous condition arising from the presence of the snow and ice, the engineer may have the snow and ice cleared and any necessary measures to abate dangerous conditions taken.

(3) A council may, by bylaw, require the owner of a property to remove ice or icicles from part of a building overhanging or abutting a sidewalk. 1998, c. 18, s. 310.

Maintenance of area of vegetation

385 A council may, by bylaw, require the owner of lands abutting a street to maintain an area of vegetation between the streetline and the main travelled way. 1998, c. 18, s. 310.

Traffic authority

386 (1) In this Section, “highway” and “Provincial Traffic Authority” have the same meaning as in the *Motor Vehicle Act*.

(2) A council may, by policy, appoint a traffic authority for all or part of the municipality.

(3) A traffic authority has, within the municipality, the powers of a traffic authority of a city or town pursuant to the *Motor Vehicle Act*.

(4) The clerk shall notify the Provincial Traffic Authority of the appointment of a traffic authority.

(5) Where there is no traffic authority appointed by a council, the Minister of Public Works may appoint a traffic authority to hold office until the council appoints a traffic authority.

(6) Where it appears to the Minister of Public Works that a traffic authority appointed by a council is not performing the duties and functions of a traffic authority, the Minister of Public Works may cancel the appointment of the traffic authority.

- (7)** The Provincial Traffic Authority has, with respect to
- (a) highways vested in the Crown in right of the Province;
 - (b) highways in areas of a municipality for which there is no traffic authority; and
 - (c) highways in a municipality that have been designated by the Minister of Public Works as main travelled or through highways,

the powers conferred upon a traffic authority by or pursuant to the *Motor Vehicle Act*.

(8) The traffic authority for a municipality has, with respect to highways in the municipality, excluding those for which the Provincial Traffic Authority has authority, the powers conferred upon a traffic authority by or pursuant to the *Motor Vehicle Act*. 1998, c. 18, s. 311.

Street-related powers and survey plan

387 (1) A council may design, lay out, open, expand, construct, maintain, improve, alter, repair, light, water, clean and clear streets in the municipality.

(2) When a street is laid out, opened or expanded, a survey plan must be filed in the registry. 1998, c. 18, s. 312.

Expenditure for snow and ice clearance

388 A council may expend funds for the purpose of clearing snow and ice from the streets, sidewalks and public places in all, or part, of the municipality. 1998, c. 18, s. 312.

Civic numbers

389 A council may

(a) by bylaw, adopt a system for assigning civic numbers to properties, including buildings, and other locations;

(b) by bylaw, require owners or occupiers of property to post the correct civic number prominently on their properties, with power to prescribe the size, design and location of the civic number that the owner or occupier is so required to post, and the manner in which it is posted. 1998, c. 18, s. 313; 2007, c. 47, s. 1.

Street names

390 A council may

(a) by policy, name or rename any street or private road;

(b) post the name of any street or private road, including posting the name on private property. 1998, c. 18, s. 313.

Signage on private road

391 A council may by bylaw, require the owner of land that is a private road to

(a) apply for permission to erect a sign or signpost that identifies the road by the name assigned to it pursuant to clause 390(a) to any person or authority whose permission is required by law to erect the sign or signpost and use the owner's best efforts to obtain such permission; and

(b) erect a sign or signpost of such size and design, in such location and in such a manner as is prescribed by the bylaw, if permission is obtained to erect the sign or signpost in accordance with clause (a). 1998, c. 18, s. 313.

Street encroachment

392 (1) Where any part of a street, other than the travelled way, has been built upon and it is determined that the encroachment was made in error, the engineer may permit, in accordance with any bylaw made pursuant to subsection (2), the encroachment to continue until such time as the building or structure encroaching upon the street is taken down or destroyed.

(2) A council may, by bylaw, regulate encroachments upon, under or over streets, including stipulating the period of time an encroachment may remain and the entering into of agreements, including terms and conditions, for particular encroachments. 1998, c. 18, s. 314.

Permanent street closure

393 (1) A council may, by policy, permanently close any street or part of a street and the council shall hold a public hearing before passing the policy.

(2) Notwithstanding subsection (1), where a street or part of a street is being altered, improved or redesigned, part of that street may be closed without holding a public hearing under subsection (1) if

- (a) the part of the street that remains open
 - (i) is open to vehicular and pedestrian traffic, and
 - (ii) meets all the municipal standards; and
- (b) the part of the street that is closed
 - (i) is determined by the engineer to be surplus, and
 - (ii) is worth less than \$50,000.

(3) The council shall give notice of its intent to close the street by advertisement in a newspaper circulating in the municipality.

(4) The notice must set out the time and place of the public hearing at which those in favour or opposed to the street closing will be heard and describe the street to be closed sufficiently to identify it.

(5) A copy of the notice must be mailed to the Minister of Public Works before the public hearing.

(6) A copy of the policy passed by the council, certified by the clerk under the seal of the municipality, incorporating a survey or a metes and bounds description of the street that is closed, must be filed in the registry and with the Minister of Public Works.

(7) Upon filing the policy in the registry, all rights of public user in the land described in the policy are forever extinguished and the municipality may sell and convey the land or may subsequently reopen the land as a street in the manner required by this Act. 1998, c. 18, s. 315; 2004, c. 44, s. 4.

Contribution to cost of underground wiring

394 Where a council determines that wires and other parts of an electrical distribution or telecommunications system be placed underground, the council may contribute to the cost. 1998, c. 18, s. 316.

Breaking surface of street

395 (1) No person shall break the surface of a street without the permission of the engineer.

(2) A council may, by policy, prescribe the terms upon which a permit to break the surface of a street may be granted, including setting a fee for the permit and requiring security to be posted to ensure that the street is restored. 1998, c. 18, s. 317.

Driveway construction

396 No person shall construct or widen a driveway, or other access to a street, without the permission of the engineer. 1998, c. 18, s. 317.

Obstruction of street

- 397 (1)** Except as otherwise provided in this Act, no person shall
- (a) obstruct a street in a municipality;
 - (b) erect, construct or place a building or structure, fence, railing, wall, tree or hedge or part of them upon a street;
 - (c) deposit any snow or ice on the travelled way of a street;
 - (d) deposit any snow or ice near a portion of the travelled way of a street so as to hinder clearing of the travelled pathway;
 - (e) prevent water flowing from a street on to the adjoining land;
 - (f) cause or permit water to flow over a street, except as directed by the engineer or council;
 - (g) deposit, or permit to accumulate, sewage, refuse, garbage, rubbish or other matter on a street or in a drain, gutter, sluice or watercourse on a street; or
 - (h) cause or permit sewage, refuse, garbage, rubbish or any other matter to discharge or flow upon a street or into a drain, gutter, sluice or watercourse on a street.

(2) An owner or occupant of land who collects water upon the land and turns or allows the water to flow upon a street is liable for all damage to the street, gutters or drains occasioned thereby.

(3) Where, as a result of the collection of the water, the flow requires, in the opinion of the engineer, the construction of a larger drain, sluice or culvert on the street, or makes necessary any alteration in the street or the building of new drains, sluices or culverts, the person is liable to pay the cost of the alteration or construction.

(4) Where a person is in apparent contravention of this Section, the engineer may serve notice on the person to remedy the contravention and, where the condition is not remedied within the time specified in the notice, the engineer may cause the condition to be remedied.

(5) Where an obstruction is a structure of any kind, the engineer may require the owner of the structure to remove the structure from the street within such time as the engineer specifies.

(6) Where the structure is not removed within the time specified, the engineer may remove, demolish or destroy the structure in such manner as is considered expedient. 1998, c. 18, s. 318; 2000, c. 9, s. 50.

Public Utilities Act applies

398 Section 91 of the *Public Utilities Act* applies to the erection or placement of a pole, wire, conduit or pipe in, upon, along, under or across a street. 1998, c. 18, s. 319.

Removal of sign or billboard

399 (1) The engineer may require an owner or occupant of land adjoining a street to remove a sign or billboard on the land that, in the opinion of the engineer, is a source of danger to traffic on the street.

(2) Where the owner of the land fails to remove the sign or billboard within 14 days after receipt of notice from the engineer, the engineer may cause the sign or billboard to be removed. 1998, c. 18, s. 320.

Dangerous vegetation

400 (1) The engineer may require an owner or occupant of land adjoining a street to remove or trim a tree, bush, shrub, hedge or other vegetation that, in the opinion of the engineer, is a source of danger to traffic on the street.

(2) Where the owner of the land fails to remove or trim the vegetation within 14 days after receipt of notice from the engineer, the engineer may cause the vegetation to be removed or trimmed. 1998, c. 18, s. 321.

Temporary use or closure of street

401 The engineer may

(a) permit a person to use a portion of a street for construction or other temporary purpose;

(b) temporarily close a street, or part thereof, for the protection of the public, to allow work to be done on the street or on lands and buildings adjacent to the street or for any other purpose beneficial to the public interest. 1998, c. 18, s. 322.

Engineer powers on land adjoining street

402 (1) The engineer may

(a) enter upon land adjoining a street and erect and maintain snow fences on it or take down, alter or remove a fence or obstruction of any kind that causes drifts or an accumulation of snow so as to impede or obstruct traffic;

(b) at any time and from time to time, construct, open, maintain or repair a drain, gutter, sluice or watercourse upon land adjoining a street and for such purpose may, at any time and from time to time, enter into and upon such land.

(2) A person who hinders or obstructs the engineer in the exercise of a power or authority conferred by this Section is guilty of an offence. 1998, c. 18, s. 323.

Bylaw not subject to Motor Vehicle Act

403 A bylaw passed pursuant to this Part is not subject to the *Motor Vehicle Act*. 1998, c. 18, s. 324.

PART XIII

SOLID-WASTE RESOURCE MANAGEMENT

Bylaws regarding solid waste

404 A council may make bylaws respecting solid waste, including, but not limited to,

- (a) prohibiting persons from depositing any solid waste except at a solid-waste management facility;
 - (b) regulating the disposal, collection and removal of solid waste;
 - (c) regulating the use of containers for solid waste;
 - (d) licensing persons engaged in the business of removing or collecting solid waste, regulating the operation of the business and prohibiting, in whole or in part, the operation of such a business by a person not holding a licence;
 - (e) prescribing the materials that may or may not be deposited at a solid-waste management facility of the municipality or in which the municipality participates;
 - (f) prescribing the terms and conditions under which a deposit may be made at a solid-waste management facility of the municipality or in which the municipality participates, including the amount and manner of payment of any fees and charges to be paid for the deposit;
 - (g) requiring the separation of solid waste prior to collection;
 - (h) setting fees or charges for removal of solid waste;
 - (i) requiring compliance with a waste resource diversion strategy;
 - (j) respecting anything required to implement the integrated solid-waste resource management strategy of the municipality.
- 1998, c. 18, s. 325.

Solid-waste management

405 (1) A municipality may provide compensation to an area, to the property owners in an area or to the residents of an area in which a solid-waste management facility is located in amounts and under the conditions determined by the council.

(2) A municipality may contract with other municipalities or persons for the use of any component of its solid-waste management program. 1998, c. 18, s. 326.

PART XIV

SEWERS

Injury to wastewater facilities or stormwater system

406 No person shall injure or remove any portion of wastewater facilities or a stormwater system, except as directed by the engineer. 1998, c. 18, s. 327.

Connection to wastewater facilities or stormwater system

407 (1) A council may, by policy, prescribe standards and specifications for connections to wastewater facilities and stormwater systems and the conditions under which connections may be made.

(2) No person shall make a connection to wastewater facilities or a stormwater system

(a) in violation of any policy or bylaw made pursuant to this Act;

(b) without the approval of the engineer. 1998, c. 18, s. 328.

Building service connection

408 (1) An owner is responsible for the design, construction and maintenance of that part of a building service connection determined by the council or village commission by bylaw, whether on privately-owned property or not.

(2) The construction of a building service connection is subject to the supervision of the engineer.

(3) A building service connection must be of the size and at the grade and with the mode of piercing or opening into the sewer and generally be constructed in the manner and of the materials approved by the engineer.

(4) No building service connection may be covered in until it is inspected and approved by the engineer.

(5) Where the owner, or an agent of the owner, covers in a building service connection before it is inspected and a certificate of approval issued, the engineer may open it for the purpose of inspection.

(6) The engineer may repair or replace a building service connection with the consent of the owner and at the expense of the owner. 1998, c. 18, s. 329; 2001, c. 35, s. 18.

Blocking of abandoned connection

409 (1) When a sewer connection is abandoned, the owner shall effectively block up the connection at the sewer in a manner approved by the engineer.

(2) The blocking up must be inspected and approved by the engineer before it is covered.

(3) Where the owner or the owner's agent covers in a blocked sewer connection before it is inspected and a certificate of approval issued, the engineer may open it for the purpose of inspection.

(4) Where the owner does not effectively block up a sewer connection within 24 hours from the receipt of a notice from the engineer to do so, the engineer may cause it to be done. 1998, c. 18, s. 330.

Repairs required to connection

410 (1) Where a building service connection or special sewer connection is causing a municipal sewer to malfunction and repairs to the connection would result in the malfunction being cured, the engineer may require the owner of the property in which any portion of the connection that requires repairs is located to complete the repairs within a reasonable time specified by the engineer.

(2) Where the repairs required are not completed by the owner within the time specified, the engineer may cause the repairs to be completed. 1998, c. 18, s. 331.

Requirement to connect to municipal sewer

411 (1) The engineer may give notice in writing to an owner of property that may be served by a sewer requiring that owner, within the time specified in the notice, to connect with the municipal sewer by a building service connection.

(2) The engineer may require an owner to repair, reconstruct or replace a building service connection.

(3) Where a building service connection is not laid, built and connected with the municipal sewer or any other work in connection with the building service connection is not done to the satisfaction of the engineer, the engineer shall, in writing, notify the owner of the property served or to be served by the building service connection to that effect, specifying in what particulars the work is unsatisfactory, and where the owner fails to perform the work to the satisfaction of the engineer within seven days from the receipt of the notice, the engineer may perform the necessary work. 1998, c. 18, s. 332.

Prohibited discharge of substances

412 (1) No person shall permit the discharge into wastewater facilities or a stormwater system of a municipality or a village or into wastewater facilities or a stormwater system or building service connection connecting with the wastewater facilities or stormwater system of a municipality or a village of

(a) a liquid or vapour having a temperature higher than that specified by the council or village commission, by bylaw;

(b) inflammable or explosive matter;

(c) a quantity of matter capable of obstructing the flow in, or interfering with, the proper operation of a part of the sewage works and treatment process;

(d) sewage that has any corrosive property that could be hazardous to structures, equipment or personnel;

- (e) sewage of such quality that an offensive odour or foam could emanate from the wastewater facilities system or that could cause a nuisance;
- (f) sewage containing fish or animal offal or pathological or medical wastes;
- (g) the contents of septic tanks, holding tanks or wastes from marine vessels or vehicles or sludge from sewage treatment plants;
- (h) sewage containing animal fats, wax, grease or vegetable oil in liquid or solid form in concentrations exceeding those specified by the council or village commission, by bylaw;
- (i) sewage containing herbicides, pesticides, xenobiotics, polychlorinated biphenols or radioactive materials that are not approved for disposal in a sanitary sewer by the Atomic Energy Control Board of Canada;
- (j) sewage in concentrations of suspended solids that exceed the limit specified by the council or village commission by bylaw;
- (k) sewage that exerts or causes biological oxygen demand and chemical oxygen demand greater than amounts specified by the council or village commission, by bylaw, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment facilities;
- (l) sewage that contains toxic substances at the point of discharge to the municipal sewer in excess of the concentrations specified by the council or village commission, by bylaw;
- (m) sewage containing substances for which special treatment or disposal practices are required by any applicable enactments of Canada or the Province,

and compliance with any limit is not attainable simply by dilution.

- (2) A council or village commission may, by bylaw,
 - (a) prohibit the discharge of named substances into any building service connection, wastewater facilities or stormwater system;
 - (b) prescribe conditions under which the discharge of contaminants set out in this Section or in a bylaw may be permitted, and shall in the bylaw set out the contaminant the discharge of which is permitted, and the requirements of any agreements with respect to it;
 - (c) prescribe methods of testing and measurement to ensure compliance with this Part and any bylaw.

(3) A treatment or flow quantity control equalizing facility installed pursuant to a bylaw or an agreement made pursuant to this Section must be maintained by the owner of the property on which it is installed at the expense of the owner. 1998, c. 18, s. 333; 2001, c. 35, s. 19.

Requirement for interceptors

413 (1) The engineer may require an owner of land that is connected to wastewater facilities or a stormwater system of the municipality or the village to provide grease, oil and sand interceptors.

(2) All interceptors must be of a type and capacity approved by the engineer and must be located so as to be readily and easily accessible for cleaning and inspection.

(3) Grease and oil interceptors must be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and must be of substantial construction, watertight and equipped with easily removable covers that when bolted in place are gastight and watertight.

(4) Where the interceptors required are not provided by the owner within the time referred to in the notice, the engineer may cause the interceptors to be provided. 1998, c. 18, s. 334; 2001, c. 35, s. 20.

Control service access

414 (1) The engineer may require the owner of an industrial, commercial or institutional property served by a building service connection to install a suitable control service access in the building service connection to facilitate observation, sampling and measurement of the wastes.

(2) The control service access must be located and constructed in accordance with plans approved by the engineer.

(3) The control service access must be installed by the owner at the owner's expense and must be maintained by the owner so as to be safe and accessible at all times.

(4) Where the control service access required is not provided by the owner within the time required by the engineer, the engineer may cause the control service access to be installed. 1998, c. 18, s. 335.

Bylaw regarding private on-site sewage disposal systems

415 A municipality may, by bylaw, require owners of private on-site sewage disposal systems to have the systems pumped, emptied, cleaned, checked and maintained in accordance with the standards set out in the bylaw. 1998, c. 18, s. 336.

Requirement to connect to municipal sewer

416 (1) Where a municipal sewer becomes available to a property served by a private on-site sewage disposal system, the engineer may require the owner of the property to connect the property to the municipal sewer.

(2) Upon receipt of a notice from the engineer requiring a connection, the owner shall, within the time specified in the notice, cause the property to be connected to the municipal sewer by a building service connection.

(3) Where required by the engineer, the owner shall cause any septic tank, cesspool, privy or private on-site sewage disposal system on the prop-

erty to be abandoned and removed or filled with suitable material in a manner acceptable to the engineer.

(4) Where the owner of a property is notified by an official of the municipality or the village or an official of the Government of the Province, pursuant to a bylaw or an enactment, to remove or close up a cesspit, septic tank, privy or private on-site sewage disposal system on the property, and the owner fails to comply with the notice, or where the owner of a property fails to comply with a notice requiring the construction of a building service connection in accordance with this Act, the engineer may cause to be done all work necessary for compliance with the notice.

(5) The engineer may require, as a part of the work necessary for compliance, the installation of a suitable water closet and its connection with a municipal sewer. 1998, c. 18, s. 337; 2001, c. 35, s. 21.

Prohibitions respecting discharge into sewer

417 No person shall

- (a) permit stormwater, surface water, ground water, roof runoff, subsurface drainage, cooling water or industrial process waters to be discharged into a sanitary sewer;
- (b) connect a sump pump to a sanitary sewer;
- (c) discharge sewage anywhere except into a municipal sewer, private on-site sewage system or central sewage collection and treatment system; or
- (d) permit any contents of a septic tank or cesspit to be discharged into a municipal sewer or watercourse. 1998, c. 18, s. 338.

Private wastewater facilities requirements

418 (1) A person who owns, maintains or operates private wastewater facilities or who owns or occupies land on or under which there are private wastewater facilities shall maintain and operate the system in such a manner that

- (a) a danger to the public health is not created by the system;
- (b) sewage or effluent from the system does not appear on the surface of the ground, or in any ditch, excavation or building basement;
- (c) sewage or effluent from the system does not appear in any well or in any body of water from which water is used for drinking purposes;
- (d) sewage or effluent from the system does not leak from any part of the system; and
- (e) offensive odours are not emitted from the system.

(2) Where a person who owns, maintains or operates private wastewater facilities or who owns or occupies land on or under which there are private wastewater facilities fails or neglects to maintain or operate the system in the manner prescribed, the engineer may cause to be served upon that person a notice

requiring that the failure or neglect be corrected in the manner set out in the notice within seven days from the service of the notice.

(3) Where the failure or neglect is not corrected in accordance with the terms of the notice and within the time prescribed in the notice, the engineer may cause to be done all work necessary for compliance with the notice. 1998, c. 18, s. 339.

Requirement to connect to municipal sewer

419 (1) Where a municipal sewer becomes available to a property served by private wastewater facilities, the engineer may require the owner of the property to connect the property to the municipal sewer.

(2) Upon receipt of a notice from the engineer requiring a connection, the owner shall, within the time specified in the notice, cause the property to be connected to the municipal sewer by a building service connection.

(3) The owner shall cause any private wastewater facilities or any portion of them on the property to be abandoned and removed or filled with suitable material.

(4) Where the owner of a property fails to comply with a notice of the engineer pursuant to this Section, the engineer may cause to be done all work necessary for compliance with the notice. 1998, c. 18, s. 340.

Abandonment of private wastewater facilities

420 (1) When a municipal sewer becomes available to all the properties served by private wastewater facilities, the person who owns, maintains or operates the private wastewater facilities shall cause them to be abandoned and removed or filled with suitable material.

(2) Where the person who owns, operates or maintains the private wastewater facilities fails to comply with subsection (1), the engineer may cause to be done all work necessary for compliance. 1998, c. 18, s. 341.

Wastewater management districts

421 (1) A council may, by bylaw, establish wastewater management districts.

(2) A bylaw establishing a wastewater management district must include

- (a) the boundaries of the wastewater management district;
- (b) the system of wastewater management to be used in the district; and
- (c) the extent to which the municipality is responsible for the repair, upgrading or replacement of private and municipal sewer systems.

(3) Where the council has established a wastewater management district, the municipality, its servants and agents may enter on any property within

the wastewater management district to repair, upgrade or replace a public or private wastewater system and may, in accordance with the bylaw, charge any or all of the costs to the owners of the property served by the system. 1998, c. 18, s. 342.

Bylaws regarding stormwater and stormwater systems

422 (1) A council may make bylaws

- (a) setting standards and requirements respecting stormwater management;
- (b) requiring stormwater to be directed to or retained in areas specified in the bylaws;
- (c) setting standards and requirements respecting the design, construction and installation of stormwater systems and related services and utilities;
- (d) providing further criteria for the approval of stormwater systems that do not meet the standards and requirements set by bylaw, but that are an improvement over an existing stormwater system;
- (e) regulating the use and maintenance of municipal and private stormwater systems;
- (f) providing for the protection of municipal and private stormwater systems;
- (g) prescribing when connection of stormwater systems to a municipal stormwater system is required;
- (h) providing for exemptions from the requirement to connect stormwater systems to a municipal stormwater system;
- (i) prescribing the circumstances under which the engineer may undertake the work required to connect stormwater systems to a municipal stormwater system;
- (j) regulating and setting standards for drainage;
- (k) regulating and setting standards for grading, describing when the standards and requirements must be met, and exempting those classes of lots described in the bylaw;
- (l) prohibiting the issuance of any municipal permits or approvals if a bylaw pursuant to this Part is not complied with and prescribing conditions under which, in such cases, the issuance of permits or approvals may be allowed, and any conditions that may be attached to them;
- (m) regulating and setting standards with respect to the alteration, diversion, blocking or infilling of stormwater systems.

(2) The engineer may direct a person to comply with a bylaw made pursuant to this Section and may direct restoration to the original condition if any work is done contrary to the bylaw.

(3) Where the engineer undertakes the work required to connect stormwater systems to a municipal stormwater system pursuant to a bylaw, the cost

may be recovered from the owner of land that the stormwater system benefits and is a first lien on that land. 1998, c. 18, s. 343.

PART XV

DANGEROUS OR UNSIGHTLY PREMISES

Requirement to maintain property

423 Every property in a municipality must be maintained so as not to be dangerous or unsightly. 1998, c. 18, s. 344.

Delegation of authority and requirement to report

424 (1) A council may, by policy, delegate some or all of its authority pursuant to this Part, except the authority to order demolition, to the administrator.

(2) A council may, by policy, delegate its authority pursuant to this Part, or such of its authority as is not delegated to the administrator, to a community council or to a standing committee, for all or part of the municipality.

(3) The administrator shall at least twice per year table a public report to the council describing the status of dangerous or unsightly property orders, including remedial progress made regarding properties for which orders were issued pursuant to this Part. 1998, c. 18, s. 345; 2011, c. 4, s. 7.

Order to remedy condition

425 (1) Where a property is dangerous or unsightly, a council may order the owner to remedy the condition by removal, demolition or repair, specifying in the order what is required to be done.

(2) An owner may appeal an order of the administrator to the council, or to the committee to which the council has delegated its authority, within seven days after the order is made.

(3) Where it is proposed to order demolition, not less than seven days notice must be given to the owner specifying the date, time and place of the meeting at which the order will be considered and that the owner will be given the opportunity to appear and be heard before any order is made.

(4) Where a council or a committee varies or overturns the order of the administrator, the council or committee shall provide reasons to be recorded in the minutes of the council or committee meeting.

(5) The notice may be served by being posted in a conspicuous place upon the property or may be served upon the owner. 1998, c. 18, s. 346; 2000, c. 9, s. 51; 2011, c. 4, s. 8.

Declaration and order to remedy condition

426 (1) A municipality may apply to a court of competent jurisdiction for a declaration that a property is dangerous or unsightly and an order specifying the work required to be done to remedy the condition by removal, demolition or repair.

(2) The court may order any property found to be dangerous or unsightly to be vacated until the condition is remedied.

(3) The court may, where any property is found to be dangerous or unsightly, order that no rent becomes due, or is payable by, any occupants until the condition is remedied. 1998, c. 18, s. 347.

Service of order and failure to comply

427 (1) In this Section, “order” means an order made by the administrator, committee, council or court pursuant to this Part.

(2) An order may be served by being posted in a conspicuous place upon the property or may be served upon the owner.

(3) Where the owner fails to comply with the requirements of an order within the time specified in the order, the administrator may enter upon the property without warrant or other legal process and carry out the work specified in the order.

(4) After the order is served, any person who permits or causes a dangerous or unsightly condition, continues to permit or cause a dangerous or unsightly condition or who fails to comply with the terms of the order is liable, on summary conviction, to a penalty of not less than \$100 and not more than \$5,000, and in default of payment to imprisonment for not more than three months.

(5) Any monetary penalty payable pursuant to subsection (4) may not be remitted pursuant to the *Remission of Penalties Act* unless the penalty relates to a property that is the primary residence of the person required to pay the penalty.

(6) Every day during which the condition is not remedied is a separate offence. 1998, c. 18, s. 348; 2001, c. 35, s. 22; 2003, c. 9, s. 77; 2006, c. 40, s. 15; 2011, c. 4, s. 9.

Removal of occupants

428 Where an order requires the demolition or removal of a building, the administrator may cause the occupants to be removed, using force if required, in order to effect the demolition or removal. 1998, c. 18, s. 348.

Order to vacate unsafe property

429 (1) A property within a municipality that is unsafe must be vacated forthwith upon order of the administrator.

(2) The administrator shall post notice that the property is unsafe in a conspicuous place on the property.

(3) The notice must remain posted until the unsafe condition is remedied. 1998, c. 18, s. 349.

Immediate action for public safety

430 Where public safety requires immediate action, the administrator may immediately take the necessary action to prevent danger or may remove the dangerous structure or condition. 1998, c. 18, s. 350.

Proceedings where land sold for non-payment of taxes

431 Where land is sold for non-payment of taxes and the period for its redemption has not expired, proceedings may be taken in respect of the repair, removal or destruction of any structure on the land by reason of its condition, and where the purchaser of the land is

(a) the municipality, any notice required to be given with respect to an order for removal or destruction must be given to the person who was entitled to receive it immediately before the day on which the land was sold; and

(b) any person other than the municipality, the notice must be given to both the person entitled to receive it immediately before the day on which the land was sold and the purchaser at the tax sale. 1998, c. 18, s. 351.

Power of entry

432 (1) The administrator may, for the purpose of ensuring compliance with this Part, enter in or upon any land or premises at any reasonable time without a warrant.

(2) Except in an emergency, the administrator shall not enter any 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 has been given to the occupier at least 24 hours in advance.

(3) If a person refuses to allow the administrator to exercise, or attempts to interfere or interferes with the administrator in the exercise of a power pursuant to this Act, the administrator may apply to a judge of the Supreme Court of Nova Scotia for an order to allow the administrator entry to the building and an order restraining a person from further interference. 1998, c. 18, s. 352.

No action against municipality or employee

433 No action may be maintained against a municipality or against the administrator or any other employee of a municipality for anything done pursuant to this Part. 1998, c. 18, s. 353.

PART XVI**BOUNDARIES****Boundaries remain unless altered by Board**

434 (1) The boundaries of the Cape Breton Regional Municipality are the boundaries of the County of Cape Breton, unless altered by the Board pursuant to this Act.

(2) The boundaries of the Region of Queens Municipality are the boundaries of the County of Queens, unless altered by the Board pursuant to this Act.

(3) The boundaries of a regional municipality incorporated pursuant to this Act are the boundaries set out in the order establishing the regional municipality, unless altered by the Board pursuant to this Act.

(4) The boundaries of a county or district municipality continue to be as they were on July 1, 1996, unless altered by the Board pursuant to this Act or a regional municipality is incorporated that includes the county or district municipality.

(5) The boundaries of a town continue as they were on July 1, 1996, unless altered by the Board pursuant to this Act or a regional municipality is incorporated that includes the town.

(6) The boundaries, names and numbers of the polling districts in a municipality continue to be as they were on July 1, 1996, unless altered by the Board pursuant to this Act. 1998, c. 18, s. 354; 2008, c. 39, s. 389; 2015, c. 23, s. 1.

Structures within municipal boundaries

435 All docks, quays, wharves, slips, breakwaters and other structures connected with the shore of any part of a municipality are within the boundaries of the municipality. 1998, c. 18, s. 355.

Determination of uncertain boundary line

436 (1) Upon application by a municipality, a village or the Minister, the Board may determine an uncertain boundary line, including a county boundary.

(2) An application must

- (a) set out the nature and cause of the uncertainty;
- (b) include the proposed determination;
- (c) list the steps taken to obtain agreement from adjacent municipalities and whether all affected municipalities have agreed to the proposed determination;
- (d) include the particulars of the evidence known respecting the existence and location of the boundary.

(3) The Board shall ensure that a copy of the application is provided to the Minister and any municipality adjacent to the uncertain boundary line.

(4) An order of the Board determining an uncertain boundary line

- (a) may establish the boundary line by metes and bounds description, by map, or both;
- (b) is a regulation pursuant to the *Regulations Act*; and
- (c) is binding on all municipalities notified of the application. 1998, c. 18, s. 356.

Change in or settlement of mutual boundary

437 Where two or more municipalities or a municipality and a village agree to a change in, or settlement of, a mutual boundary, the Board may confirm the change or settlement without a hearing if

- (a) the agreed change or settlement is advertised in a newspaper circulating in the affected municipalities, as directed by the Board;
- (b) the advertisement invites objectors to advise the Board of their objections;
- (c) proof of the advertising has been provided to the Board; and
- (d) no objections are received by the Board within 30 days after the first advertisement. 1998, c. 18, s. 357.

Amalgamation or annexation

438 Municipalities may be amalgamated or the whole or part of a municipality may be annexed to another upon application to the Board by

- (a) the Minister;
- (b) a municipality; or
- (c) the greater of 10% or 100 of the electors in the area proposed to be amalgamated or annexed. 1998, c. 18, s. 358.

Application for preliminary order

439 (1) An applicant for amalgamation or annexation shall apply for a preliminary order.

- (2) The application for a preliminary order must include
 - (a) the boundaries of the area proposed to be amalgamated or annexed sufficient to identify the area;
 - (b) an estimate of the population of the area proposed to be amalgamated or annexed;
 - (c) the total assessed value of taxable property and occupancy assessments in the area proposed to be amalgamated or annexed;
 - (d) where the area is or contains a village, the audited financial statements of the village for the fiscal year immediately preceding the year in which the application is made;
 - (e) a brief statement of the reasons for the application; and
 - (f) such other matters as the applicant considers relevant to the application.

(3) The applicant shall serve a copy of the application for a preliminary order on the clerk of any municipality that would be affected by the annexation or amalgamation if granted, on the Minister, and on such others as the Board directs. 1998, c. 18, s. 359.

Advertisement of hearing

440 Upon the Board setting the date for a hearing of the application for a preliminary order, the Board shall, at the expense of the applicant, advertise the hearing in a newspaper circulating in the area to be amalgamated or annexed, including the date by which any person wishing to be heard must notify the Board. 1998, c. 18, s. 360.

Participation at hearing

441 (1) Any interested person may appear and be heard at the hearing for a preliminary order by notifying the Board at least one week before the date fixed for the hearing.

(2) At the hearing of the application for a preliminary order the Board shall hear

- (a) the applicant;
 - (b) a representative of any municipality that would be affected by the amalgamation or annexation if granted;
 - (c) the Minister; and
 - (d) any person who has previously notified the Board.
- 1998, c. 18, ss. 360, 361.

Preliminary order or dismissal

442 (1) After the application is heard, the Board may make a preliminary order, indicating

- (a) suggested boundaries of the area proposed to be amalgamated or annexed;
- (b) studies to be undertaken into the financial implications of amalgamation or annexation for the area, for the Province and for any municipality that would be affected;
- (c) such other studies as may appear to the Board to be relevant to a decision on the necessity or expediency of the amalgamation or annexation; and
- (d) any other evidence that the Board may direct be provided during the hearing of the application.

(2) Where the Board determines that there are no reasonable grounds for the application or there is no reasonable possibility that the application would be granted, the Board may dismiss the application. 1998, c. 18, s. 362.

Required studies

443 (1) The cost of any studies required by the Board must be borne by the parties as directed by the Board.

(2) Where any required studies are not completed within the time provided in the preliminary order, the Board may

- (a) extend the time for completing the studies;
- (b) proceed with the application without the studies;

- (c) have the studies carried out or completed at the expense of the party responsible for them; or
- (d) dismiss the application. 1998, c. 18, s. 362; 2001, c. 35, s. 23.

Order for amalgamation or annexation

444 (1) After the application has been heard, the Board may, if satisfied that the order is in the best interests of the inhabitants of the area, taking into account the financial and social implications of the order applied for, order an amalgamation or annexation upon such terms as it considers advisable.

(2) The order of the Board for an amalgamation or an annexation must

- (a) fix the effective date of the amalgamation or annexation;
- (b) make provision for any necessary revision of polling districts;
- (c) make provision for any election that the Board considers necessary, including setting the dates for nomination day and ordinary polling day for the election and providing for returning officers and the conduct of the election;
- (d) direct the Director of Assessment to make any necessary adjustment in the assessment roll applicable to the area;
- (e) provide for any other matter that is necessary or desirable to effect the amalgamation or annexation; and
- (f) from time to time make such determinations, issue such orders and directions and do, or cause to be done, all such other matters and things as, in the opinion of the Board, are necessary or incidental to the annexation or amalgamation.

(3) An order of the Board may

- (a) adjust assets and liabilities among those affected by the order as the Board considers fair;
- (b) annex, amalgamate, continue or dissolve boards, commissions, villages and service commissions and allocate their assets as the Board considers fair; and
- (c) require compensating grants for a period of not more than five years from a benefiting municipality to a municipality that loses assessment as a result of an order.

(4) The Board may make an interim order and reserve further directions.

(5) The Board may make an order granting the whole or part of an application, and may grant such further or other relief as the Board considers proper.

(6) Where the Board considers that, as a result of an annexation it is desirable to annex the whole or part of the municipality remaining after the order

to some other municipality, the Board after such notice and hearing as it considers desirable may order the annexation.

(7) A copy of an order for an amalgamation or an annexation must be published in the Royal Gazette as a regulation, and must be filed and advertised as directed by the Board. 1998, c. 18, s. 363.

Councillor continues to hold office

445 Unless the Board otherwise orders, where an area is annexed to another municipality, any councillor holding office at the time of the annexation continues to hold office until the next regular municipal election, notwithstanding that the councillor's polling district has ceased to be part of the municipality. 1998, c. 18, s. 364.

Village or service commission dissolved

446 Unless the Board otherwise orders, when an area is annexed to a town, any village or service commission having authority in the area annexed to the town is dissolved and its assets and liabilities are vested in the town. 1998, c. 18, s. 365.

Policies and bylaws continue in force

447 (1) When municipalities are amalgamated, the policies and bylaws in effect in each continue in force in the area of each former municipality until repealed by the council.

(2) When an area is annexed to another municipality, the policies and bylaws in the annexing municipality apply to the area except for the municipal planning strategy and land-use and subdivision bylaws, which remain in force in the annexed area until repealed by the council of the annexing municipality. 1998, c. 18, s. 366.

Effect of annexation or amalgamation

448 (1) Unless the Board otherwise orders

(a) the real property of a municipality situate in an area annexed to another municipality is vested in the annexing municipality;

(b) taxes imposed with respect to the ownership or occupation of property in an area annexed to another municipality and unpaid at the date of an annexation belong to the annexing municipality and may be collected as if they had been imposed by the annexing municipality;

(c) where the whole of a municipality is annexed to a municipality or municipalities are amalgamated, all of the assets and liabilities of the annexed or former municipalities are vested in the annexing or amalgamated municipality, and the annexing or amalgamated municipality stands in the place and stead of the annexed or former municipalities.

(2) The annexing or amalgamated municipality has the same rights with respect to the collection of taxes imposed by the annexed or former

municipalities as if the taxes had been imposed by the annexing or amalgamated municipality. 1998, c. 18, s. 367.

Polling districts and number of councillors

- 449 (1)** Upon application, the Board may, by order,
- (a) divide or redivide a municipality into polling districts;
 - (b) amend the boundaries of any polling district;
 - (c) dissolve polling districts;
 - (d) determine that a town be divided into polling districts or cease to be divided into polling districts;
 - (e) determine the number of councillors for a municipality; and
 - (f) determine the date upon which the order takes effect.
- (2)** An application may be made by
- (a) the Minister;
 - (b) a municipality; or
 - (c) at least 50 electors of a municipality.

(3) The Board may make an order granting the whole or part of an application, and may grant such further or other relief as the Board considers proper.

(4) In determining the number and boundaries of polling districts the Board shall consider number of electors, relative parity of voting power, population density, community of interest and geographic size.

(5) In determining the number of councillors for a town, the Board shall consider the population and geographic size of the town. 1998, c. 18, s. 368.

Periodic review of polling districts and number of councillors

450 (1) In the year 1999, and in the years 2006 and every eighth year thereafter the council shall conduct a study of the number and boundaries of polling districts in the municipality, their fairness and reasonableness and the number of councillors.

(2) After the study is completed, and before the end of the year in which the study was conducted, the council shall apply to the Board to confirm or to alter the number and boundaries of polling districts and the number of councillors. 1998, c. 18, s. 369.

Councillor continues to hold office

451 Unless the Board otherwise orders, where boundaries of polling districts are revised, any councillor holding office at the time of the revision continues to hold office until the next regular municipal election. 1998, c. 18, s. 370.

PART XVII

MUNICIPAL INCORPORATION

Interpretation

452 In this Part,

“plebiscite” means a vote of the electors of the municipalities that are affected;

“study” means a review conducted by or under the control of the Board, with input from the residents of the municipalities that are affected. 1998, c. 18, s. 371; 2000, c. 9, s. 52.

Establishment of regional municipality

453 (1) The Board may, if requested by all of the councils of the municipalities in a county, undertake a study of the form of municipal government in the county to determine whether a regional municipality would be in the interests of the people of the county.

(2) Where

(a) a study of the form of municipal government in a county to determine whether a regional municipality would be in the interests of the people of the county has been undertaken, whether the study was undertaken by the Minister or otherwise prepared; and

(b) a plebiscite has taken place and its results show that a majority of the electors who voted in the plebiscite are in favour of the establishment of a regional municipality for the county,

the Governor in Council may, on the recommendation of the Minister, order that a regional municipality be established for the county.

(3) Sections 454 to 469 apply to a county for which a regional municipality is established from and after the date of the order establishing the regional municipality.

(4) An order establishing a regional municipality must set out

(a) the name of the regional municipality;

(b) the county for which the regional municipality is established;

(c) the incorporation date, which must be April 1st in the year determined by the Governor in Council;

(d) the dates for nomination day and ordinary polling day for the first election of the mayor and councillors of the regional municipality;

(e) the date the council takes office, which must be at least 20 weeks before the incorporation date;

(f) the term of office of the members of the council elected at the first election;

(g) any matter unique to the regional municipality that must be provided for to ensure the effective implementation of the regional municipality and to protect the interests of the public; and

(h) any other matter that is necessary or desirable to effect the incorporation of the regional municipality.

(5) Where a regular municipal election would take place after the date of an order establishing a regional municipality, that election may not be held and the term of office of the members of the councils of the municipalities is extended to the incorporation date of the regional municipality.

(6) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 1998, c. 18, s. 372; 2000, c. 9, s. 53.

Coordinator of regional municipality

454 (1) Subject to subsection (2), the Governor in Council shall appoint a person to be the coordinator of the regional municipality.

(2) The Governor in Council shall appoint as the coordinator a person approved by a majority of the councils of the municipalities in the county.

(3) Between the date the new council takes office and the incorporation date, the council shall exercise the powers of the coordinator and the coordinator has no further authority. 1998, c. 18, s. 373.

Administrative structure of regional municipality

455 The coordinator is responsible for designing and implementing the administrative structure of the regional municipality. 1998, c. 18, s. 374.

Chief administrative office

456 (1) The coordinator shall appoint the chief administrative officer and, on the recommendation of the chief administrative officer, the heads of departments.

(2) The new council shall ratify the appointment of the chief administrative officer as soon as practicable after the incorporation. 1998, c. 18, s. 374.

Employees of regional municipality

457 (1) The chief administrative officer, in consultation with the coordinator, shall employ all other employees of the regional municipality, effective on the incorporation date or such earlier date as the chief administrative officer considers expedient.

(2) Preference in employment must be given to an employee of municipal government where that employee meets the basic requirements for a position and is the most qualified candidate from within municipal government.

(3) Subsection (5) does not apply to the appointment of the chief administrative officer. 1998, c. 18, s. 374.

Pension plan

458 On or before the incorporation date, the coordinator shall establish a pension plan in accordance with the *Pension Benefits Act* to replace any pension plan established by a municipal government. 1998, c. 18, s. 374.

Coordinator powers

459 (1) The coordinator has all of the powers of the council and of the board of police commissioners.

(2) The coordinator may contract and be contracted with, sue and be sued, acquire real and personal property, engage officers and employees, prescribe a seal and do such things and make such expenditures as are required for the orderly establishment of the regional municipality.

(3) The coordinator may, with the approval of the Minister, borrow such sums as may be required for the purposes of this Part, and the sums borrowed must be repaid by the regional municipality in not more than 10 annual instalments, as determined by the council.

(4) All acts of the coordinator have, upon the incorporation of the regional municipality, full force and effect, and are and are deemed to have been exercised by the regional municipality.

(5) The officers and employees of the municipal governments shall render assistance to the coordinator upon request, and furnish all information and perform all acts requested by the coordinator.

(6) The coordinator has all of the powers of a commissioner appointed pursuant to the *Public Inquiries Act*. 1998, c. 18, s. 374.

Number of councillors and polling districts

460 The coordinator shall apply to the Board for a determination, and the Board shall determine, the number of councillors and the boundaries of the polling districts in the regional municipality. 1998, c. 18, s. 375.

First election

461 (1) Proceedings for the first election of the mayor and councillors of the regional municipality must be as nearly as may be as specified in the *Municipal Elections Act*, but the coordinator may abridge any time period contained therein.

(2) The coordinator shall, with the assistance of employees of the municipal governments, provide for the first election of the mayor and councillors of the regional municipality.

(3) Notwithstanding the *Municipal Elections Act*, a member of the council of a municipality is eligible to be elected to the council.

(4) Qualifications for nomination as a council member must be determined as if the municipal governments had been merged in the regional municipality six months prior to nomination day.

(5) Each council member is entitled to remuneration from the regional municipality from the date that member takes office, except that no member of the council of a municipality who is elected to the council may receive remuneration from the municipality from that date.

(6) Notwithstanding any other enactment, there must not be an election for Conseil scolaire acadien provincial members concurrently with the first election of the council members, unless otherwise prescribed by the Governor in Council.

(7) A member of the Conseil scolaire acadien provincial is not eligible to be nominated or to serve as a council member, if that member would be a member of the Conseil scolaire acadien provincial and a council member at the same time. 1998, c. 18, s. 375; 2018, c. 1, Sch. A, s. 130.

Activities prohibited in transition period

462 (1) Between the date of the order providing for the incorporation of a regional municipality and the incorporation date, a municipal government shall not

(a) replace an employee who retires, resigns, is laid off or is dismissed, convert an employee from part-time to full-time status or promote an employee or hire a new employee, except in the case of term appointments that will expire before the incorporation date;

(b) enter into any lease, contract or other commitment that has effect after, or a term extending beyond, the incorporation date; or

(c) dispose of a capital asset,

unless the coordinator has so approved.

(2) Between the date of the order providing for the incorporation of a regional municipality and the incorporation date, a municipal government shall not expend any funds from an operating or capital reserve fund, and after the incorporation date the council shall apply any reserve funds of a municipal government for the benefit of the residents of the area of the former municipal government.

(3) Between the date of the order providing for the incorporation of a regional municipality and the incorporation date, a municipal government shall not provide early retirement, pre-retirement, termination or severance benefits for any employee. 1998, c. 18, s. 376.

Programs and benefits for former municipal government employees

463 (1) The regional municipality may provide early retirement, pre-retirement, termination or severance benefits for any employee of a municipal government who is not employed by the regional municipality.

(2) An early retirement program may be limited to the incumbents of positions that the chief administrative officer considers to be unnecessary for the regional municipality.

(3) The cost of severance benefits provided by the regional municipality must be borne by the regional municipality and not be charged to the area of the municipal government that formerly employed the employee, and the sums required may be borrowed by the regional municipality and must be repaid by the regional municipality in not more than 10 annual instalments, as determined by the council. 1998, c. 18, s. 377.

Ministerial order

464 The Minister may, by order, provide for anything necessary or incidental to the incorporation and effective government of a regional municipality, and may include any orders, directions and conditions that are necessary, or desirable, in connection therewith. 1998, c. 18, s. 378.

Effect of incorporation of regional municipality

465 (1) Upon the incorporation of a regional municipality, the municipal governments in the area to be incorporated as a regional municipality are dissolved, and the assets and liabilities of them are vested in the regional municipality including, with the exception of benefits and entitlements created by Section 119 of the *Labour Standards Code*, all employee benefits and entitlements.

(2) Upon the incorporation of a regional municipality, every authority, board, commission, corporation or other entity of a municipal government in the area to be incorporated as a regional municipality and every joint authority, board, commission, committee or other joint entity involving a municipal government in the area to be incorporated as a regional municipality is dissolved and their assets and liabilities are vested in the regional municipality including, with the exception of benefits and entitlements created by Section 119 of the *Labour Standards Code*, all employee benefits and entitlements.

(3) The vesting of an asset of a municipal government in the regional municipality does not void any policy of insurance with respect to the asset, including public liability policies, and the regional municipality is deemed to be the insured party for purposes of any such policy.

(4) Nothing in this Act dissolves any authority, board, commission, committee or other entity that includes representatives of municipalities situate outside the regional municipality.

(5) The regional municipality shall continue to pay any pension or annuity being paid by a municipal government on the day preceding the incorporation date according to its terms.

(6) The regional municipality is a successor employer for purposes of the *Pension Benefits Act*.

(7) The regional municipality may transfer, free of cost, property of a village that is dissolved pursuant to subsection (1) to a body incorporated to provide community services in the area served by the dissolved village. 1998, c. 18, s. 379.

Application of Trade Union Act

466 (1) In this Section, “employee” means an employee as defined in Section 2 of the *Trade Union Act* but does not include persons described in subsection 2(2) of that Act.

(2) The regional municipality is a transferee for the purpose of Section 38 of the *Trade Union Act* and, for greater certainty,

(a) the regional municipality is bound by successor rights as determined pursuant to the *Trade Union Act*; and

(b) subject to the *Trade Union Act*, the regional municipality and the employees, who are covered by collective agreements, of a municipal government are bound by the collective agreements as if the regional municipality were a party to them.

(3) Where the Labour Board, in applying subsections (1) and (2), determines that those employees who are employed by the regional municipality and who were not previously included in a bargaining unit of a municipal government be included in a bargaining unit of the regional municipality, those employees are deemed to have seniority credits with the regional municipality equal to the employment service they had with that municipal government.

(4) Where an employee of a municipal government is employed by the regional municipality, the period of employment and seniority of that employee with the municipal government at the time of the incorporation of the regional municipality is deemed to have been employment and seniority with the regional municipality and the continuity of employment and seniority is not broken.

(5) Where an employee of a municipal government is employed by the regional municipality in a position that becomes a bargaining unit position, the employee’s right to employment in the position is not affected by whether that employee was previously employed pursuant to a collective agreement and the employee is deemed to have seniority credits with the regional municipality equal to the employee’s service with that municipal government.

(6) No provision of a collective agreement with a municipal government that purports to favour the employees of one municipal government in obtaining employment with the regional municipality over those of another municipal government has any force or effect. 1998, c. 18, s. 380.

Appointment of additional members to Labour Board

467 (1) Where, in the opinion of the Minister of Labour, Skills and Immigration, the workload of the Labour Board requires additional members, the Governor in Council may appoint additional members to the Labour Board for such period of time as is set out in the appointment.

(2) An appointment pursuant to subsection (1) does not increase the quorum of the Labour Board. 1998, c. 18, s. 381.

Deemed references to regional municipality or mayor

468 (1) A reference in an enactment, deed, will or other document to a municipal government is deemed to be a reference to the regional municipality.

(2) A reference in an enactment, deed, will or other document to the mayor, warden or chair of a municipal government is deemed to be a reference to the mayor of the regional municipality. 1998, c. 18, s. 382.

Bylaws, orders, policies and resolutions continue in force

469 The bylaws, orders, policies and resolutions in force in a municipal government immediately prior to the incorporation of a regional municipality continue in force in the area over which that municipal government had jurisdiction to the extent that they are authorized by this or another Act, until amended or repealed by the council of the regional municipality. 1998, c. 18, s. 382.

Dissolution of town

470 A town may be dissolved upon application to the Board by

- (a) the Minister;
- (b) the council of the town; or
- (c) 10% of the electors of the town. 1998, c. 18, s. 394.

Application for preliminary order

471 (1) An applicant for dissolution shall apply for a preliminary order.

(2) The application for a preliminary order must include

- (a) the boundaries of the town proposed to be dissolved;
- (b) an estimate of the population of the town;
- (c) the total assessed value of taxable property and occupancy assessments in the town;
- (d) the audited financial statements of the town for the fiscal year immediately preceding the year in which the application is made;
- (e) a brief statement of the reasons for the application; and
- (f) such other matters as the applicant considers relevant to the application.

(3) The applicant shall serve a copy of the application for a preliminary order on the clerk of the town, the clerk of the district municipality to which the town would revert if dissolved and on such others as the Board directs. 1998, c. 18, s. 395.

Advertisement of hearing

472 Upon the Board setting the date for a hearing of the application for a preliminary order, the Board shall, at the expense of the applicant, advertise the hearing in a newspaper circulating in the town proposed to be dissolved, including the date by which any person wishing to be heard must notify the Board. 1998, c. 18, s. 396.

Participation at hearing

473 (1) Any interested person may appear and be heard at the hearing for a preliminary order by notifying the Board at least one week before the date fixed for the hearing.

(2) At the hearing of the application for a preliminary order, the Board shall hear

- (a) the applicant;
- (b) a representative of the council of the town proposed to be dissolved;
- (c) a representative of any municipality to which the area of the town, if dissolved, might be annexed or form part of;
- (d) the Minister; and
- (e) any person who has previously notified the Board. 1998, c. 18, ss. 396, 397; 2003, c. 9, s. 79.

Preliminary order or dismissal

474 (1) After the application has been heard, the Board may make a preliminary order, indicating

- (a) studies to be undertaken into the financial implications of dissolution for the town, the Province and the municipality to which the town would revert if dissolved;
- (b) such other studies as may appear to the Board to be relevant to a decision on the necessity or expediency of the dissolution; and
- (c) any other evidence that the Board may direct be provided during the hearing of the application.

(2) Where the Board determines that there are no reasonable grounds for the application for dissolution or there is no reasonable possibility that the application would be granted, the Board may dismiss the application. 1998, c. 18, s. 398.

Required studies

475 (1) The cost of any studies required by the Board must be borne by the parties as directed by the Board.

(2) Where any required studies are not completed within the time provided in the preliminary order, the Board may

- (a) extend the time for completing the studies;
- (b) proceed with the application without the studies;
- (c) have the studies carried out or completed at the expense of the party responsible for them; or
- (d) dismiss the application. 1998, c. 18, s. 398; 2003, c. 9, s. 80.

Order for dissolution of town

476 (1) After the application for dissolution is heard, the Board may dissolve the town upon such terms as it considers advisable.

(2) The order of the Board dissolving a town must

(a) declare that the area comprising the town be dissolved and be annexed to, and form part of, another municipality or municipalities;

(b) set out the effective date of the dissolution;

(c) determine that the area be an additional polling district or shall form part of another polling district of the municipality to which it is annexed;

(d) direct the Director of Assessment to make any necessary adjustment in the assessment roll applicable to the area;

(e) make such determinations, issue such orders and directions and do or cause to be done all such other matters and things as, in the opinion of the Board, are necessary or incidental to the carrying out of the dissolution of the town.

(3) An order of the Board may annex, amalgamate, continue or dissolve boards and commissions and allocate their assets as the Board considers fair.

(4) The Board may make an interim order and reserve further directions. 1998, c. 18, s. 399; 2003, c. 9, s. 80; 2015, c. 23, s. 2.

Polling districts and list of electors

477 (1) Where an order of the Board results in the dissolved town being one additional polling district, until the next regular election of councillors, the mayor of the town dissolved is the councillor for the district.

(2) Where an order of the Board results in the dissolved town being more than one additional ward or polling district, a special election must be conducted by the returning officer of the municipality to which the dissolved town has been annexed in accordance with the *Municipal Elections Act*.

(3) Where a town is dissolved, the list of electors for the town continues to be the list of electors for the polling district until a new list of electors is prepared pursuant to the *Municipal Elections Act*. 1998, c. 18, s. 400.

Bylaws and policies continue in force

478 When a town is dissolved, the policies and bylaws in effect continue in force in the area of the former town until repealed by the council of the municipality to which the dissolved town has been annexed. 1998, c. 18, s. 400; 2015, c. 23, s. 3.

Streets of dissolved town

479 Where a town is dissolved,

(a) the Governor in Council may assume liability for the payment of all or any part of any debt incurred by the town for streets in the town; and

(b) the Minister of Public Works shall determine which of the streets in the town are municipal highways and shall advise the municipality to which the town has been annexed. 1998, c. 18, s. 401.

Assets and liabilities of dissolved town

480 (1) Where a town is dissolved, the assets and liabilities of the town become assets and liabilities of the county or district municipality to which it reverts.

(2) The county or district municipality to which a dissolved town reverts stands in the place and stead of the town for all purposes and has the same powers to collect taxes due to the town as if the taxes had been imposed by it. 1998, c. 18, s. 402.

PART XVIII

VILLAGES

Interpretation

481 In this Part, “elector” means a person resident within the village entitled to vote at a municipal election, and who will have resided in the village for at least six months immediately prior to the village election. 1998, c. 18, s. 403.

Villages continue

482 The inhabitants of every village for which village commissioners were incorporated pursuant to the former *Village Service Act* or to which that Act was declared to apply continue to be a body corporate under the name “Village of” with the same boundaries, until altered by the Board pursuant to this Act. 1998, c. 18, s. 404; 2014, c. 21, s. 5.

Composition of commission

483 A village is governed by a commission consisting of at least three commissioners and the number of commissioners, not exceeding five, is as determined by the village commission by bylaw. 1998, c. 18, s. 405; 2014, c. 21, s. 6.

Perpetual succession and common seal

484 (1) A village has perpetual succession and shall have a common seal.

(2) The seal must be kept by the village clerk.

(3) A deed or document to which a village is a party must be authenticated by the seal of the village and the chair of the village commission and the village clerk shall, when duly authorized, sign the deed or document and affix the seal. 1998, c. 18, s. 406; 2014, c. 21, s. 7.

Qualifications for village commissioner

485 (1) No person is qualified to serve as a village commissioner unless the person is an elector.

(2) An elector who is a council member is not qualified to serve as a village commissioner. 1998, c. 18, s. 407; 2011, c. 68, s. 29.

Oath of village commissioner

486 Every village commissioner shall take and subscribe the oath of office prescribed by the *Municipal Elections Act* in the manner prescribed by that Act before entering upon the duties of village commissioner. 1998, c. 18, s. 407.

Eligibility for re-election

487 A village commissioner whose term of office has expired is eligible for re-election. 1998, c. 18, s. 407.

Chair and vice-chair of village commission

488 (1) The village commissioners shall, at their first meeting after an election, elect a chair and a vice-chair.

(2) The chair shall preside at all meetings of the village commission.

(3) The vice-chair shall act in the absence or inability of the chair or in the event of the office of chair being vacant.

(4) The vice-chair, when notified that the chair is absent or unable to fulfill the duties of chair, or that the office of chair is vacant, has all the power and authority of the chair and shall perform all the duties of the chair. 1998, c. 18, s. 408; 2014, c. 21, s. 8.

Time and place of meeting

489 Meetings of a village commission must be held at the times and places specified in the bylaws of the village. 1998, c. 18, s. 408.

Standing, special and advisory committees

490 (1) A village commission may establish standing, special and advisory committees.

(2) Each committee shall perform the duties conferred on it by the bylaws of the village.

(3) A village commissioner is not entitled to additional remuneration for serving on a committee of the village commission but may be reimbursed for expenses incurred as a committee member.

(4) A village commissioner ceases to be a member of a committee of the village commission if and when that person ceases to be a village commissioner. 2014, c. 21, s. 9.

Expense policy and hospitality policy

491 (1) A village shall adopt an expense policy and a hospitality policy.

- (2) An expense policy must
 - (a) prohibit the village from reimbursing expense claims for alcohol purchases by an individual;
 - (b) identify the persons who have signing authority to authorize the reimbursement of an expense;
 - (c) where applicable, set out rules respecting the use of corporate credit cards;
 - (d) apply to every reportable individual in the village; and
 - (e) comply with the regulations.
- (3) A hospitality policy must
 - (a) establish the expenditures, including an alcohol purchase, that may be a hospitality expense;
 - (b) establish the approval process for authorizing hospitality expenses;
 - (c) establish the scope and applicability of the policy; and
 - (d) comply with the regulations.
- (4) An expense may be reimbursed only if that expense is authorized pursuant to the expense policy or the hospitality policy.
- (5) The village commission shall review the expense and hospitality policies at each annual meeting, and following a motion by the village commission, either readopt the policies or amend one or both of the policies and adopt the policies as amended. 2017, c. 13, s. 7.

Open meetings and exceptions

- 492 (1)** Except as otherwise provided in this Section, the meetings of a village commission and its committees are open to the public.
- (2) A village commission and its committees may meet in closed session to discuss matters relating to
- (a) acquisition, sale, lease and security of village property;
 - (b) setting a minimum price to be accepted by the village at a tax sale;
 - (c) personnel matters;
 - (d) labour relations;
 - (e) contract negotiations;
 - (f) litigation or potential litigation;
 - (g) legal advice eligible for solicitor-client privilege;
 - (h) public security.

(3) No decision may be made at a private meeting of a village commission except a decision concerning procedural matters or to give direction to staff of, or solicitors for, the village.

(4) A record that is open to the public must be made, noting the fact that the village commission met in private, the type of matter that was discussed, as set out in subsection (2), and the date, but no other information.

(5) Subsections (3) and (4) apply to committee meetings or parts of them that are not public.

(6) A village commissioner or employee of a village who discloses any report submitted to, or details of matters discussed at, a private meeting of the village commission or its committees, as a result of which the village has lost financially or the village commissioner or employee of the village has gained financially, is liable in damages to the village for the amount of the loss or gain.

(7) Subsection (6) does not apply to information disclosed pursuant to subsection (4) or 565(2). 2014, c. 21, s. 9.

Meetings and meeting participation by electronic means

493 (1) Where a procedural bylaw of the village commission so provides, a meeting of the village commission or a committee of the village commission may be conducted by electronic means if

(a) at least two days prior to the meeting, notice is given to the public respecting the way in which the meeting is to be conducted;

(b) the electronic means enables the public to see and hear the meeting as it is occurring;

(c) the electronic means enables all the meeting participants to see and hear each other; and

(d) any additional requirements established by the regulations have been met.

(2) Where a procedural bylaw of the village commission so provides, a village commissioner may participate in a village commission meeting or village commission committee meeting through electronic means if

(a) the electronic means enables the public to see and hear the village commissioner as the meeting is occurring;

(b) the electronic means enables all meeting participants to see and hear each other; and

(c) any additional requirements established by the regulations have been met.

(3) A village commissioner participating in a village commission meeting or village commission committee meeting by electronic means is deemed to be present at the meeting.

- given by
- (4) The notice to the public referred to in clause (1)(a) must be
 - (a) publication in a newspaper circulating in the village;
 - (b) posting in at least five conspicuous places in the village; or
 - (c) such other method permitted by the regulations.
 - (5) The Minister may make regulations
 - (a) respecting village commission meetings and village commission committee meetings conducted by electronic means;
 - (b) respecting the participation of a village commissioner in a village commission meeting or village commission committee meeting by electronic means.
 - (6) The exercise by the Minister of the authority contained in subsection (5) is a regulation within the meaning of the *Regulations Act*. 2021, c. 14, s. 2.

Term of office of village commissioner

494 A village commissioner holds office for a term of three years. 1998, c. 18, s. 409.

Nomination day bylaw

495 (1) A village commission may, by bylaw, provide for the nomination of candidates for election on a day preceding the day on which the election is to be held.

(2) Where a nomination day bylaw is passed, nominations may be made only on the day provided for by the bylaw. 1998, c. 18, s. 410.

Village commissioner vacancy

496 (1) Where a vacancy occurs in the office of a village commissioner, within 30 days

(a) the remaining village commissioners shall call a special meeting of the electors of the village for the purpose of filling the vacancy, which must be held in the same manner as elections held at an annual meeting; or

(b) an election must be held in accordance with the nomination and election bylaws of the village.

(2) Notwithstanding subsection (1), where a vacancy occurs within six months of the next annual meeting, the vacancy need not be filled until the next annual meeting or the election held in accordance with the nomination and election bylaws of the village immediately following the next annual meeting, unless the Minister or the village commission determines otherwise.

(3) A vacancy in the office of a village commissioner does not occur by virtue of the village commissioner being absent for 52 or fewer consecu-

tive weeks due to parental accommodation during a pregnancy or commenced within one year of a birth or adoption.

(4) The person elected to fill a vacancy shall serve in office for the remainder of the term of the village commissioner whose office the person was elected to fill. 1998, c. 18, s. 411; 2001, c. 35, s. 24; 2018, c. 17, s. 5.

Village commissioner resignation or cessation of qualification

497 (1) A village commissioner

(a) may resign from office at any time by delivering to the village clerk a signed declaration to that effect;

(b) who ceases to be ordinarily resident in the village, ceases to be qualified to serve as a village commissioner;

(c) who, without leave of the village commission, is absent from three consecutive regular meetings of the village commission, ceases to be qualified to serve as a village commissioner.

(2) Clause (1)(c) does not apply to a village commissioner who is absent for 52 or fewer consecutive weeks due to a parental accommodation during a pregnancy or commenced within one year of a birth or adoption. 1998, c. 18, s. 412; 2018, c. 17, s. 6.

Annual meeting of electors

498 An annual public meeting of the electors of the village must be held on or before July 1st in each fiscal year. 1998, c. 18, s. 413.

Notice of annual meeting of electors

499 (1) The chair of the village commission shall give notice of the time and place of the annual meeting of the electors by causing notices to be posted, in not fewer than five conspicuous places in the village, at least 14 days before the date of the meeting.

(2) The village commission may advertise the annual meeting of the electors in a newspaper circulating in the village at least 14 days before the meeting, in lieu of, or in addition to, posting notices. 1998, c. 18, s. 414.

Conduct of annual meeting and election

500 (1) The chair of the village commission shall preside at the annual meeting of the electors.

(2) The village commission shall present a report of the proceedings of the preceding fiscal year and the audited financial statement at the annual meeting.

(3) The electors present at an annual meeting shall, after the presentation and disposal of the report of the village commission and of the financial statement, proceed to elect village commissioners.

(4) The chair shall appoint two electors to act as scrutineers.

(5) Where more than one village commissioner is to be elected at the same meeting, a separate ballot must be taken for each commissioner.

(6) Where the village commission so provides by bylaw, a single ballot may be taken for the election of more than one village commissioner. 1998, c. 18, s. 415.

Election of village commissioners following annual meeting

501 (1) A village commission may, by bylaw, provide for the village commissioners to be elected on a day within one week following the annual meeting.

(2) The bylaw must

- (a) specify the day that the election is to be held;
- (b) specify the hours that polling is to occur;
- (c) provide for the appointment of two scrutineers; and
- (d) provide for any matter or thing necessary to effectively conduct the election. 1998, c. 18, s. 416.

Election procedures

502 (1) Upon the completion of the voting, the village clerk, in the presence of each of the two scrutineers, shall open the ballot box and examine the ballot papers and proceed to count the votes and shall declare the person or persons having the greatest number of votes elected.

(2) When there is a tie at an election of a village commissioner, the village clerk shall determine the successful candidate by lot as prescribed by the *Municipal Elections Act*.

(3) After the votes are counted the village clerk shall make up a written statement containing the following particulars

- (a) the number of votes polled;
- (b) the names of the persons receiving votes and the number of votes received by each person.

(4) The statement must be signed by the village clerk and filed with the minutes of the meeting. 1998, c. 18, s. 417; 2014, c. 21, s. 10.

Vote recount and declaration of elected candidate

503 (1) Where, within three days after the election, any elector requests a recount of the votes cast at the election, the village clerk shall appoint a time within three days to recount the votes at the village office and shall, at the time and place appointed, in the presence of the chair of the village commission and the elector, proceed to recount the votes.

(2) The village clerk, as soon as the result of the poll is ascertained, shall declare to be elected the candidate or candidates having the highest number of votes, and in the event of a tie determine the successful candidate by lot as prescribed by the *Municipal Elections Act*. 1998, c. 18, s. 418; 2014, c. 21, s. 11.

Special meeting of electors

504 (1) A village commission may convene a special meeting of the electors and shall give 14 days notice of the special meeting by posting notices in conspicuous places in the village stating the time, place and purpose for which the meeting is convened.

(2) The village commission may advertise the meeting in a newspaper circulating in the village at least 14 days before the meeting in lieu of, or in addition to, posting notices. 1998, c. 18, s. 419.

Village clerk and treasurer

505 (1) A village commission shall appoint a village clerk and treasurer, who are paid the salary granted by the village commission.

(2) The village clerk shall

(a) record all bylaws, resolutions, decisions and other proceedings of the village commission;

(b) where requested by any village commissioner, record the vote of every village commissioner voting on any matter;

(c) keep the books, records and accounts of the village;

(d) preserve and file all accounts, original and certified copies of the bylaws and of all minutes of proceedings of the village commission; and

(e) act as clerk at, and keep records of, all meetings of electors. 1998, c. 18, s. 420.

Policy for records management and destruction

506 (1) A village commission may adopt a policy for the management and destruction of records.

(2) Records required to be kept by any enactment and minutes, bylaws, policies or resolutions of a village commission may not be destroyed.

(3) A village commission may, by policy, specify further classes of records that are not to be destroyed or that are to be kept for set periods. 1998, c. 18, s. 421.

Reproduction of village record admissible

507 When a village record has been destroyed or when the original village record is not produced in court, any photographic, photostatic or electronic reproduction of the record is admissible in evidence to the same extent as the original could have been produced and is, in the absence of proof to the contrary, proof of the record, if the clerk certifies that the reproduction is part of the records of the village and that it is a true reproduction of the original. 1998, c. 18, s. 421.

Power to employ persons

508 A village may employ the persons necessary for the purposes of the village. 1998, c. 18, s. 422; 2014, c. 21, s. 12.

Power to expend money

- 509 (1)** A village may expend money required by the village for
- (a) expenses of elections and plebiscites;
 - (b) premiums on any insurance policy for damage to property, personal injury or liability, including liability of members of the village commission or employees of the village and volunteer members of the fire departments and emergency services providers and volunteers in village programs;
 - (c) repayment of money borrowed by the village, the payment of interest on that money and payment of sinking funds;
 - (d) providing an emergency response system;
 - (e) snow and ice removal;
 - (f) procuring and providing for the village, or any part of it, a suitable system of fire protection or emergency services and may, for the purpose, purchase or otherwise acquire and equip, maintain and repair apparatus, machinery, implements and plan for use in extinguishing fires or providing emergency services;
 - (g) equipping and maintaining fire departments or emergency services providers;
 - (h) honoraria and training expenses for volunteer firefighters and emergency services volunteers;
 - (i) providing school crossing guards;
 - (j) recreational programs;
 - (k) advertising the opportunities of the village for business, industrial and tourism purposes and encouraging tourist traffic, with power to make a grant to a non-profit society for this purpose;
 - (l) lighting any part of the village;
 - (m) preventing or decreasing flooding;
 - (n) collecting, removing, managing and disposing of solid waste;
 - (o) salaries, remuneration and expenses of the village commissioners, officers and employees of the village;
 - (p) the reasonable expenses incurred by the village commissioners for attendance at meetings and conferences, if the permission of the village commission is obtained prior to the meeting or conference or if the attendance is in accordance with a resolution of the village commission;
 - (q) the contribution of the village to a pension or superannuation fund;
 - (r) payment to the Board of an assessment on a public utility owned or operated by the village, as determined by the Board;
 - (s) annual fees of municipal, village or professional associations;

- (t) public libraries;
- (u) lands and buildings required for any purpose of the village;
- (v) furnishing and equipping any village facility;
- (w) acquisition of equipment, materials, vehicles, machinery, apparatus, implements and plant for any village purpose;
- (x) placing the wiring and other parts of a system for the supply or distribution of electricity, gas, steam or other source of energy, or a telecommunications system, underground;
- (y) buildings for a medical centre to encourage medical doctors, dentists and other health professionals to locate in the village;
- (z) a fire alarm system;
- (aa) ponds, reservoirs, brooks, canals and other means of accumulating or directing the flow of water to be used in extinguishing fires;
- (ab) playgrounds, trails, bicycle paths, swimming pools, ice arenas and other recreational facilities;
- (ac) public grounds, squares, halls, museums, parks, tourist information centres and community centres;
- (ad) wastewater facilities and stormwater systems;
- (ae) water systems;
- (af) solid-waste management facilities;
- (ag) a system for providing electric light and power;
- (ah) parking lots and parking structures;
- (ai) wharves and public landings;
- (aj) constructing, maintaining and repairing streets, sidewalks, curbs, gutters and other improvements to streets and highways, provided that no improvement may be constructed without the permission of the owner of the street or highway;
- (ak) doing all things necessary or incidental to the exercise of any of the powers and duties of the village.

(2) A village may extend, construct, alter, improve, maintain and operate the wastewater facilities, stormwater system, water system or electric light system of the village outside the limits of the village and may enter into contracts to supply the services outside the village.

(3) Village property used for any of the purposes referred to in subsection (2) is deemed, for purposes of clause 5(r) of the *Assessment Act*, to be used exclusively for the purpose of village commissioners.

(4) A village may charge for any service provided outside the village in the same manner in which the service is charged for in the village provided

that any rates subject to the approval of the Board are approved by the Board. 1998, c. 18, s. 423; 2004, c. 7, s. 20; 2014, c. 21, s. 13.

Expense reports and hospitality expense reports

510 (1) A village shall prepare an expense report for each reportable individual within 90 days of the end of each fiscal quarter.

(2) An expense report must

(a) be posted on a publicly available website for the village; and

(b) comply with the regulations.

(3) A village shall prepare a hospitality expense report within 90 days of the end of each fiscal quarter.

(4) A hospitality expense report must

(a) comply with the hospitality policy of the village;

(b) be posted on a publicly available website for the village; and

(c) comply with the regulations.

(5) A village shall prepare an annual summary report that complies with any requirements prescribed by the Minister.

(6) A village shall file the annual summary report with the Minister by September 30th of each year. 2017, c. 13, s. 8.

Village expropriation powers

511 A village has the same powers of expropriation as a municipality, and shall follow the same procedure. 1998, c. 18, s. 424.

Assistance at fires, rescues and emergencies

512 (1) A village may assist at fires, rescues or other emergencies occurring outside its boundaries.

(2) A village may agree with municipalities, villages, federal and provincial departments and agencies or others to provide assistance at fires, rescues and other emergencies and to receive assistance at fires, rescues and other emergencies. 1998, c. 18, s. 425.

Power to make bylaws

513 A village commission may make bylaws for

(a) regulating proceedings and preserving order at meetings of the village commission;

(b) the government and procedure of meetings of the electors of the village;

- (c) regulating the management, and providing for the security of, public property of any kind belonging to the village, and providing for the permanent improvement of the village in all matters ornamental as well as useful;
- (d) protecting and preventing injury to streets, squares, sidewalks and pavements and to the posts, railings, trees and ornaments of the village;
- (e) regulating or protecting drains, sewers or watercourses in the village;
- (f) providing for any other purpose, matter or thing within the powers, duties or control of the village commissioners. 1998, c. 18, s. 426; 2014, c. 21, s. 14.

Snow and ice removal

514 (1) A village commission may, by bylaw,

- (a) require the owner, occupier or person in charge of a property to clear snow and ice from the sidewalks adjoining the property;
- (b) prescribe measures to be taken by the owners, occupiers or persons in charge for the abatement of dangerous conditions arising from the presence of snow and ice on the sidewalks adjoining the property.

(2) Where a person required by a bylaw made pursuant to subsection (1) fails to clear the ice and snow from the sidewalk forthwith after notice to do so, or to take the necessary measures for the abatement of any dangerous condition arising from the presence of the snow and ice, the village clerk may have the snow and ice cleared and any necessary measures taken to abate dangerous conditions and the cost of the work, with interest at the rate determined by the village commission, from the date of the completion of the work until the date of payment, is a first lien on the property.

(3) A village commission may, by bylaw, require the owner of a property to remove ice or icicles from part of a building overhanging or abutting a sidewalk. 1998, c. 18, s. 427; 2014, c. 21, s. 15.

Maintenance of area of vegetation

515 A village commission may, by bylaw, require the owner of lands abutting a street to maintain an area of vegetation between the streetline and the main travelled way. 1998, c. 18, s. 427; 2014, c. 21, s. 15.

Bylaws regarding charges

516 (1) A village commission may make bylaws imposing, fixing and providing methods of enforcing payment of charges for

- (a) wastewater facilities or stormwater systems, for the use of wastewater facilities or stormwater systems, and for connecting to wastewater facilities or stormwater systems;
- (b) the village portion of the capital cost of installing a water system;

(c) laying out, opening, constructing, repairing, improving and maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls whether the cost is incurred by the village directly or by, or pursuant to, an agreement with the Crown in right of the Province, the Minister of Public Works or any person;

(d) the village portion of the capital cost of placing the wiring and other parts of an electrical distribution system underground;

(e) a special purpose tax account to provide for future expenditures for wastewater facilities, stormwater systems, water systems, transportation facilities or other anticipated capital requirements.

(2) A village commission may, by bylaw,

(a) define classes of buildings to be erected or enlarged according to the varying loads that, in the opinion of the village commission, the buildings impose or may impose on the sewer system and levy a one-time redevelopment charge to pay for additional or trunk sanitary or storm sewer capacity required to accommodate the effluent from the buildings;

(b) impose a one-time oversized sewer charge on each property determined by the village commission to benefit from a sewer in the future to recover the cost of making the sewer an oversized sewer, and provide that the oversized sewer charge is not payable until the property is serviced by a sanitary sewer or a storm sewer;

(c) levy a one-time storm drainage charge on the owner of each lot of land in a drainage management area for which an application is made for a development permit to allow, on the lot, a development of a class designated by the village commission in the bylaw.

(3) A bylaw made pursuant to this Section may provide

(a) that the charges fixed by, or determined pursuant to, the bylaw may be chargeable in proportion to frontage, in proportion to area or in proportion to the assessment of the respective properties fronting on the street or according to another plan or method set out in the bylaw;

(b) that the charges may be made and collected only where the persons, owning more than 50% of the frontage of the real property fronting on the street or the portion of a street on which the work has been performed, have filed with the village clerk a petition requesting that the work be performed;

(c) that the charges may be different for different classes of development and may be different in different areas of the village;

(d) when the charges are payable;

(e) for total or partial exemption of persons and land from the charge and for adjustments to be made with respect to lots of land or developments where the proposals or applications change in order to reflect the changing nature of lots or developments;

(f) that the charges are first liens on the real property and may be collected in the same manner as other taxes;

(g) that the charges be collectable in the same manner as taxes, and at the option of the treasurer be collectable at the same time and by the same proceedings as taxes;

(h) a manner for determining when the lien becomes effective or when the charges become due and payable;

(i) that the amount payable may, at the option of the owner of the property, be paid in the number of annual instalments set out in the bylaw, and on default of payment of any instalment the balance becomes due and payable;

(j) that interest is payable annually on the entire amount outstanding and unpaid, whether or not the owner has elected to pay by instalments, at a rate and beginning on a date fixed by the bylaw.

(4) For greater certainty, no property is exempt from a charge levied pursuant to this Section, except property of the Crown in right of the Province. 1998, c. 18, s. 428; 2003, c. 9, s. 81; 2014, c. 21, s. 16.

Bylaws regarding taxation

517 (1) A village commission has the powers of a municipality to make bylaws pursuant to this Act for tax reductions, exemptions and deferrals.

(2) A bylaw passed pursuant to subsection (1) does not require the approval of the Minister. 1998, c. 18, s. 429.

Bylaw requiring connection with sewer

518 (1) Where a village is operating a sewer or drainage system, the village commission may, by bylaw, require the owner of every building to connect to the sewer line in the manner prescribed in the bylaw, and may exempt from the requirement buildings that

- (a) are adequately served with sewer and drainage;
- (b) do not require sewer service; or
- (c) would not be adequately or practically served by connection with the sewer line.

(2) The bylaw may require the owner of a septic tank or outhouse to remove and destroy the septic tank or outhouse and to fill any resulting cavity when the building served by the septic tank or outhouse is connected or required to be connected with the sewer.

(3) The village commission may serve notice on an owner requiring the owner to comply with the bylaw, and any person who does not comply with the notice within 30 days is guilty of an offence. 1998, c. 18, s. 430.

Penalties for bylaw violation

519 (1) Except as otherwise provided, a village commission may, by bylaw, prescribe a maximum penalty, not exceeding \$5,000, for the violation of a

bylaw of the village and may, in the bylaw, provide that in default of payment of the penalty the offender may be imprisoned for not more than 90 days.

(2) A village commission may, by bylaw, prescribe a minimum penalty not exceeding \$100 for the violation of a bylaw of the village.

(3) Where no penalty for violation of a bylaw of a village is prescribed, every person who violates a bylaw is liable upon summary conviction, to a penalty of not more than \$5,000 and in default of payment, to imprisonment for a period of not more than 90 days. 1998, c. 18, s. 431.

Separate offence

520 Every day during which a contravention of or failure to comply with a bylaw of a village continues is a separate offence. 1998, c. 18, s. 431.

Collection of penalties

521 (1) All penalties for violations of a bylaw of a village must, when collected, be paid to the village.

(2) A penalty pursuant to a bylaw of the village, if no other provision is made respecting it, belongs to and forms part of the general revenue of the village. 1998, c. 18, s. 432.

Ministerial approval and revocation of bylaws

522 (1) Except as otherwise specified in the enactment authorizing the bylaw, every bylaw made by a village commission pursuant to the authority of this Act or another Act of the Legislature is subject to the approval of the Minister and, when so approved, has the force of law.

(2) The Minister may subsequently revoke approval of a bylaw, or part of the bylaw and, after such revocation, the bylaw or the part in respect of which approval is revoked is repealed.

(3) Two copies of every bylaw enacted by a village commission must be certified by the village clerk to be true copies and must be provided to the Minister. 1998, c. 18, s. 433; 2014, c. 21, s. 17.

Bylaw records

523 (1) A village commission shall keep one copy of every bylaw of the village, certified by the village clerk under the seal of the village that it was passed or made and, in the case of a bylaw requiring the approval of the Minister, bearing the approval of the Minister.

(2) The bylaw records must be maintained by the village clerk.

(3) The original bylaws must be open to inspection by any person at any reasonable time, but shall not be removed from the office of the village and the production of the original bylaw in a court may not be required on subpoena but only upon order of the court or a judge after satisfactory cause is shown.

(4) The village clerk shall print all of the bylaws of the village from time to time in force and shall keep printed copies of the bylaws, amended to date, for sale.

(5) The village clerk shall provide a copy of any bylaw amended to date to any person requesting one, at a reasonable price, having regard to the cost of printing. 1998, c. 18, s. 434.

Prima facie proof of bylaw

524 (1) A copy of any bylaw made pursuant to this Act or another Act of the Legislature purporting to be certified by the village clerk under the seal of the village to be a true copy of a bylaw passed by the village commission and having received all necessary approvals must be received in evidence as prima facie proof of its passing, its having received all necessary approvals, its being in force and the contents of it without any further proof in any court, unless it is specially pleaded or alleged that the seal or the signature of the village clerk is forged.

(2) Printed documents certified by the village clerk purporting to be printed copies of any or all bylaws passed by the village commission must be admitted in evidence in all courts in the Province as prima facie proof of the bylaws and of the due passing of them. 1998, c. 18, s. 435.

Application for injunction

525 A village may apply to a judge of the Supreme Court of Nova Scotia for an injunction or other order, and the judge may make any order that the justice of the case requires, if

- (a) a building is erected, is being erected or is being used in contravention of a bylaw of the village;
 - (b) land is being used in contravention of a bylaw of the village;
 - (c) a breach of a bylaw is anticipated or is of a continuing nature;
- or
- (d) a person is carrying on business or is doing any thing without paying the licence or permit fee required. 1998, c. 18, s. 436.

Application to quash

526 (1) A person may, by notice of motion, apply to a judge of the Supreme Court of Nova Scotia to quash a bylaw, order, policy or resolution of the village commission, in whole or in part, for illegality.

(2) No bylaw may be quashed for a matter of form only or for a procedural irregularity.

(3) The judge may quash the bylaw, order, policy or resolution in whole or in part and may, according to the result of the application, award costs for or against the village and may determine the scale of the costs.

(4) The notice of motion must be served at least seven days before the day on which the motion is to be made.

(5) No application pursuant to this Section to quash a bylaw, order, policy or resolution, in whole or in part, may be entertained unless the application is made within three months after the publication of the bylaw or the making of the order, policy or resolution. 1998, c. 18, s. 437.

Borrowing

527 (1) A village may borrow the sums necessary to carry out any village service.

(2) No money may be borrowed by a village until the proposed borrowing is approved by a meeting of the electors of the village and by the Minister.

(3) Subject to subsection (2), the procedures for borrowing by a village are the same as for a municipality. 1998, c. 18, s. 438; 2003, c. 9, s. 82.

Estimates of required sums and setting of tax rates

528 (1) A village commission, before the annual meeting in each fiscal year, shall make estimates of all sums required for the lawful purposes of the village for the then current fiscal year after crediting the probable revenue from all sources other than rates, including any subsidy allowed by the council of the municipality within which the village is situate, and making due allowance for the abatement and losses which may occur in the collection of the taxes and for taxes for the current fiscal year which may not be collected or collectable.

(2) In preparing the estimates, the village commission shall include all sums which are required for the retirement of debenture debt, or debenture interest, or sinking fund deposits, if any, in respect of all debentures issued by the municipality for or on behalf of the village.

(3) Subject to subsection (4), a village commission shall authorize the levying and collecting of

(a) a commercial tax rate of so much on the dollar of the assessed value of taxable commercial property; and

(b) a residential tax rate of so much on the dollar of the assessed value of taxable residential property and resource property.

(4) The commercial tax rate may not exceed one and a half times the residential tax rate.

(5) The tax rates referred to in subsection (3) must be those that the village commission considers sufficient to raise the amount of money required to defray the estimated requirements of the village.

(6) The amount rated upon each ratepayer must be collected in the same manner as municipal rates and taxes with the same rights and remedies in the event of default of payment.

(7) Where the assessment for municipal purposes covers property in part outside the limits of the village, the village commission may allow such abatement of rates as the commission considers just.

(8) Where any expenditure is incurred for defraying the expenses of providing and operating a waterworks system, the amount of the expenditure must be paid out of the revenue received from the operation of the system pursuant to the *Public Utilities Act* so far as that revenue extends, and any deficit thereafter may be rated and collected. 1998, c. 18, s. 439; 2005, c. 9, s. 14.

Tax collection

529 (1) A village has the same power to prescribe due dates, instalment billing, interest, penalties and discounts as a municipality.

(2) A village has the same powers as a municipality to collect taxes.

(3) Village taxes are a first lien on the property with respect to which they are levied. 1998, c. 18, s. 440.

Delegation of tax collection to municipality

530 (1) A village may, with the consent of the municipal council, delegate its powers of tax collection to the municipality within which it is situate.

(2) Where a village delegates its powers of tax collection to a municipality, the village clerk shall provide the municipal treasurer with a requisition for the amount required for the current fiscal year and a list of the taxpayers of the village.

(3) Where any part of the amount required is an area charge, the requisition must state the amount to be raised as an area charge and the taxpayers liable for the charge.

(4) Where a property is partly within the village and partly outside, the list must show what proportion has been allowed as an abatement.

(5) Where a requisition and list are furnished to the municipal clerk pursuant to a delegation of tax collection powers agreed to by the municipal council, the sums required by the village, for the purposes of the village, must be levied and collected by the municipality in the same manner as if the amounts were area rates.

(6) After making an allowance for the abatement, losses, expenses, discounts and commissions which may occur in the collection of the taxes and for taxes for the current fiscal year which may not be collected or collectable, the amount set out in the requisition must be paid over by the treasurer of the municipality to the village in instalments from time to time as requested by the chair of the village commission.

(7) In determining the rate of taxation required to levy and collect the amount of the requisition, the municipality is not bound by the list of ratepayers provided by the village, but may use such other information as is available to it. 1998, c. 18, s. 441; 2014, c. 21, s. 18.

Village commission area rates

531 Where a village incurs an expenditure in an area of the village, the village commission may direct that the amount of the expenditure, together with an allowance for the abatement, losses and expenses which may occur in the collection and for amounts which may not be collected or collectable, be rated and collected by a rate of so much on the dollar on the assessed value of the property in the area as shown on the then current assessment roll of the municipality, and the amount so rated must be collected in the same manner as other rates of the village. 1998, c. 18, s. 442.

Borrowing to defray annual current expenditure

532 A village may, from time to time, borrow for the purpose of defraying the annual current expenditure of the village and the interest on the loans must be added to the current expenses for the fiscal year, provided that the loans must not in the aggregate at any time exceed 50% of the total amount of taxes levied for the current fiscal year. 1998, c. 18, s. 443; 2014, c. 21, s. 19.

Capital reserve fund

533 (1) A village shall maintain a capital reserve fund.

(2) The capital reserve fund of a village is subject to the same requirements and limitations as the capital reserve fund of a municipality.

(3) The village shall pay into a capital reserve fund the proceeds from the sale of any property of the village and the proceeds of any fire or other insurance. 1998, c. 18, s. 444.

Village auditor

534 (1) A village shall appoint an auditor, who must be a person registered as a municipal auditor.

(2) A village auditor has the powers and duties of the auditor for a municipality. 1998, c. 18, s. 445.

Sale or lease of village property at market value

535 With the consent of the Minister a village may sell any real or personal property at market value when the property is no longer required for the use of the village, or may lease any real or personal property for market value, but the consent is not required if the property so leased or sold does not exceed \$25,000 in value. 1998, c. 18, s. 446; 2014, c. 21, s. 20.

Sale or lease of village property at less than market value

536 (1) With the consent of the Minister, a village may sell or lease property at less than market value to a non-profit organization that the village commission considers to be carrying on an activity that is beneficial to the village.

(2) A resolution to sell or lease property referred to in subsection (1) at less than market value must be passed by at least a two-thirds majority of the village commissioners present and voting.

(3) Where a village commission proposes to sell property referred to in subsection (1) valued at more than \$10,000 at less than market value, the village commission shall first hold a special meeting of the electors respecting the sale.

(4) The village commission shall give 14 days notice of the special meeting of the electors by posting notices in conspicuous places in the village stating the date, time and place of the meeting, the location of the real property or a description of the tangible personal property, the estimated value of the property and the purpose of the sale.

(5) The village commission may advertise the meeting in a newspaper circulating in the village at least 14 days before the meeting in lieu of, or in addition to, posting notices. 2014, c. 21, s. 21.

Application to change village boundaries

537 (1) An application to change the boundaries of a village may be made to the Board by

- (a) the village commission; or
- (b) an owner of real property in the area proposed by the owner to be added to, or taken from, the village.

(2) An application to the Board by the village commission to change the boundaries must be accompanied by

- (a) a description of the boundary change; and
- (b) a petition of two thirds of the owners of real property in the area proposed to be added to, or taken from, the village, approving of the change.

(3) An application to the Board by an owner of real property in the area proposed to be added to or taken from the village must be accompanied by a petition of two thirds of the owners of real property in the area proposed to be added to or taken from the village, approving of the change, and the application must contain the name and mailing address of the person to whom notices and communication may be given with respect to the application.

(4) Upon receipt of an application to change the boundaries of a village, the Board shall give such public notice of the application as the Board considers appropriate and shall hold a hearing with respect to the application.

(5) Notice of the date, time and location of the hearing must be served upon the village clerk, the clerk of the municipality of which the village forms a part, an application, if any, and the Minister.

(6) At the hearing the Board shall hear any interested person or municipality.

- (7) The Board may, after inquiring into and taking into account
- (a) the necessity or expediency of the order applied for;
 - (b) the financial position and obligations of the village and municipalities affected;

(c) the burden of taxation upon the ratepayers of the village and the area proposed to be added to, or taken from, the village; and

(d) all other matters that in the opinion of the Board are relevant,

order that the boundaries of the village be changed.

(8) An order made pursuant to subsection (7) must

(a) define the boundaries of the village, with any alterations made as a result of the hearing;

(b) state when the new boundaries are to be effective; and

(c) contain such directions respecting the implementation of the new boundaries as the Board sees fit. 1998, c. 18, s. 447.

Dissolution of village

538 (1) The Minister may, by order, dissolve any village upon the request of the village commission authorized by a meeting of the electors of the village.

(2) The Minister may, by order, dissolve a village upon the request of a municipality if

(a) there has been, to the knowledge of the Minister and the clerk of the municipality, no meeting of the electors of the village for at least two years; and

(b) 90 days notice of the proposed dissolution has been served on the latest village commissioners and village clerk known to the Minister, and no objection to the proposed dissolution has been filed with the Minister.

(3) The Board may, by order, dissolve a village on the request of not less than 10% of the electors of the village.

(4) The Board shall serve notice of the proposed dissolution at least 60 days before the dissolution on

(a) the village clerk and any village commissioner;

(b) the clerk of the municipality in which the village is located; and

(c) the Minister.

(5) The notice shall provide that any objection to the proposal must be filed with the Board within 45 days of the service of the notice.

(6) Where any objections are received to the proposal, the Board shall hold a hearing with respect to the proposed dissolution, and the clerk of the Board shall notify the village clerk, the municipal clerk, any person who filed an objection and the Minister of the date and location of the hearing.

(7) Upon the making of an order dissolving the village, the village ceases to be a body corporate and this Act no longer applies to it.

(8) All assets and liabilities, including outstanding debentures, of the former village are vested in the municipality in which the former village is located and the municipality may transfer, free of cost, property of a village that is dissolved to a body incorporated to provide community services in the area served by the dissolved village.

(9) Any net liability must be funded by an area rate levied on the area of the former village.

(10) An order dissolving a village is a regulation within the meaning of the *Regulations Act*. 1998, c. 18, s. 448.

PART XIX

MUNICIPAL AFFAIRS

Interpretation

539 In this Part, “municipality” means a regional municipality, town or county or district municipality, except where the context otherwise requires or as otherwise defined in this Act, and includes a village, a committee created by an intermunicipal services agreement and a service commission. 1998, c. 18, s. 449; 2000, c. 9, s. 54.

Ministerial approval in place of Governor in Council approval

540 Where, by any Act of the Legislature, a resolution, regulation, bylaw or other act or matter of a municipality or of any board, committee or other body to which a municipality appoints members is subject to the approval of the Governor in Council or may be disallowed by the Governor in Council, the resolution, regulation, bylaw or other act or matter is subject to the approval of the Minister and does not have effect until it receives the approval of the Minister, but is not subject to the approval of, or disallowance by, the Governor in Council. 1998, c. 18, s. 450; 2000, c. 9, s. 55; 2020, c. 16, s. 2.

Ministerial regulations

541 (1) The Minister may prescribe

- (a) the system of accounting to be used by municipalities and the form in which records must be kept and funds accounted for;
- (b) the information to be provided by municipalities to the Minister and when it must be provided;
- (c) the manner in which municipal accounts are to be audited and the reports to be provided by municipal auditors;
- (d) the circumstances and manner in which a report or submission to the Minister is to be certified by an auditor;
- (e) the minimum information to be included in a management letter;

(f) the form to be used for a type of report or submission to the Minister.

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

(3) The Minister may prescribe different systems for different classes of municipality. 1998, c. 18, s. 451; 2017, c. 13, s. 9.

Ministerial powers

542 (1) The Minister may

(a) collect and analyze information relating to municipalities;

(b) prepare and publish information and advice relating to municipal affairs;

(c) study and advise upon the system of municipal institutions and the administration of municipal affairs;

(d) effect improvement in the conduct and administration of municipal affairs;

(e) consult with, assist and advise municipalities in the conduct and administration of municipal affairs;

(f) do anything necessary or incidental to the foregoing or directed to the improvement of municipal government in the Province.

(2) The Minister may enter into agreements with a municipality or a board, agency or commission of a municipality to assist in the achievement of any objects that are within the powers of the municipality or board, agency or commission and to effect improvement generally in the conduct and administration of municipal affairs.

(3) The Minister, with the approval of the Governor in Council, may enter into agreements with the Government of Canada or another province or any department or agency of either of them to assist in the achievement of any objects that are within the powers of a municipality or board, agency or commission of a municipality, and to effect improvement generally in the conduct and administration of municipal affairs. 1998, c. 18, s. 452.

Collection of debts by Province for municipality

543 (1) In this Section, “debts” means any amounts owing to a municipality or to a public utility owned by one or more municipalities.

(2) At the request of a municipality, the Minister may, by order, designate certain debts, or classes or categories of debts, and upon designation such debts are debts due to the Crown in right of the Province and the Minister, or the Minister’s designate, may collect such debts.

(3) Money collected in respect of the designated debts must be transferred to the municipality or the public utility from which the debt originated,

less any fees or other amounts prescribed by the Minister or prescribed by the regulations or as determined in any arrangement or agreement with the Minister.

(4) The Minister may, by order, transfer designated debts, or classes or categories of designated debts, or any part thereof, back to the municipality or public utility from which they originated and such debts, classes or categories of debts, or any part thereof, are the debt of the municipality or public utility from which the debt originated.

(5) A municipality, public utility or the Minister, or the Minister's designate, may collect, use and disclose personal information for any purpose under this Section, and such collection, use or disclosure constitutes authorized collection, use or disclosure of personal information for the purpose of the *Freedom of Information and Protection of Privacy Act* or Part XX.

(6) The Minister may, by order or by regulation, prescribe

(a) the terms and conditions of a designation of any debt, or class or category of debt, or the transfer of any such debt back to a municipality or public utility;

(b) the manner and timing of the transfer of money collected in respect of any debt to a municipality or a public utility owned by one or more municipalities;

(c) which debts qualify and which debts do not qualify for designation;

(d) fees or other amounts to be charged against money collected in respect of any debts;

(e) the manner and timing of requests from a municipality or a public utility owned by one or more municipalities respecting debts for designation;

(f) the manner and timing of a designated debt, or class or category of designated debt, to cease being a debt due to the Crown in right of the Province and revert to being the debt of the municipality or public utility from which it originated;

(g) such other matters and things the Minister considers necessary or advisable to effectively carry out the intent and purpose of this Section.

(7) Orders, regulations and other actions taken or made by the Minister for the purpose of this Section are not subject to Section 24 of the *Finance Act* or any equivalent provision in any successor legislation. 2010, c. 22, s. 1.

Extension of deadline fixed by enactment

544 (1) Where an enactment fixes a date for, or imposes a time restriction or limitation in respect of

(a) the determination or finalization of a budget of a municipality or a village of its estimates of revenues and expenditures;

(b) setting a tax rate by a municipality;

(c) the transmission of tax bills, statements or notices by a municipality;

(d) payment of taxes to a municipality, including imposition of penalties; or

(e) any other act relating to taxation by a municipality,

the Minister may, by order, upon the request of the council, extend the date or time restriction or limitation.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1998, c. 18, s. 453.

Audit or review of municipality

545 (1) The Minister may, at any time, direct an audit or review of a municipality by a person appointed by the Minister.

(2) The person appointed by the Minister to make an audit or review has, for that purpose, free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the municipality.

(3) A person who fails to give any information or thing reasonably required by the person appointed to make an audit or review for the purpose of the audit or review, or who destroys, mutilates or defaces any such thing, is guilty of an offence and is liable, upon summary conviction, to a penalty of not more than \$50,000 and, in default of payment, to imprisonment for a term of not more than 12 months. 1998, c. 18, s. 454.

Power to examine

546 The Minister, or any person to whom the Minister may, in writing, delegate the authority may, for any of the purposes of this Act, examine any municipality, person, company, property or thing whatsoever, at any time, and for the purpose has the same power, privileges and immunities as a commissioner appointed under the *Public Inquiries Act*. 1998, c. 18, s. 455.

Order of the Minister

547 (1) The Minister may order a municipality to do anything required by law or by agreement with the Minister or the Crown in right of the Province, or necessary or desirable in the interests of the municipality, or necessary or desirable for the due accounting for or collection or payment of any of a municipality's assets, liabilities, revenues, funds or money.

(2) Every person who fails to comply with an order of the Minister, votes in favour of any motion that would result in a failure to obey the order or votes against a motion to comply with the order is guilty of an offence and is liable, on summary conviction, to a penalty of not less than \$1,000 and not more than \$10,000 and, in default of payment, to imprisonment for a term of not less than three months and not more than 12 months. 1998, c. 18, s. 456.

Registration as municipal auditor

548 (1) A person licensed as a public accountant pursuant to the *Chartered Professional Accountants Act* may be registered as a municipal auditor.

(2) A firm or partnership may be registered as a municipal auditor if a majority of the members of the firm or partnership are licensed as public accountants pursuant to the *Chartered Professional Accountants Act*.

(3) A person, firm or partnership shall not act as, or exercise or perform any of the duties of, a municipal auditor unless registered as a municipal auditor pursuant to this Section.

(4) An application for registration as a municipal auditor must be filed with the Minister on or before June 30th in each year.

(5) An application for registration as a municipal auditor must be accompanied by an application fee in the amount determined by the Minister.

(6) The Minister may accept an application filed after June 30th but on or before December 31st in any year, upon payment of the additional fee determined by the Minister.

(7) The Minister may publish in the Royal Gazette the names of those persons, firms and partnerships whose applications for registration have been accepted and when so published the persons, firms and partnerships are registered as municipal auditors.

(8) Registration as a municipal auditor expires on July 31st in each year.

(9) The Minister may, at any time, cancel or suspend the registration of a municipal auditor for any reason that the Minister deems sufficient and may reinstate or restore any cancelled or suspended registration.

(10) A person, firm or partnership shall not, while registration is cancelled or suspended, exercise or perform the duties of a municipal auditor.

(11) An unabridged copy of every statement or report, of whatsoever nature or whether interim or final, made by a municipal auditor must forthwith be forwarded by the auditor to the Minister.

(12) A person who violates this Section is liable, on conviction, to a penalty of not more than \$10,000 and, in default of payment, to imprisonment for a period of not more than six months.

(13) A reference in any Act of the Legislature to a registered municipal auditor, an auditor registered pursuant to the former *Municipal Act* or like term is deemed to be a reference to a person, firm or partnership registered as a municipal auditor pursuant to this Section. 1998, c. 18, s. 457; 2011, c. 17, s. 3.

Declaration of council vacancy and appointment of council**549 (1)** Where a municipality

(a) fails, or in the opinion of the Governor in Council, is about to or may fail, to pay the amount due for principal and interest on any debenture;

(b) fails to pay into a sinking fund any amount it is required to pay;

(c) fails to pay any of its other debts or liabilities whatsoever when due;

(d) fails, in the opinion of the Governor in Council, to levy the amount required to meet the expenditures required for any fiscal year;

(e) fails, in the opinion of the Governor in Council, to comply with any order of the Minister; or

(f) has passed a resolution requesting the Governor in Council to do so,

the Governor in Council may, on the recommendation of the Minister, if considered expedient to do so, declare vacant the offices of mayor or warden and councillors of the municipality.

(2) Where the Governor in Council has declared vacant the office of mayor or warden and councillors, the Governor in Council shall appoint a mayor or warden and councillors to hold office during pleasure, to be the council of the municipality until the first meeting of a new council elected pursuant to an order of the Governor in Council.

(3) Any vacancy occurring in a council appointed by the Governor in Council must be filled by the Governor in Council.

(4) A member of a council appointed by the Governor in Council is not required to have the qualifications of a councillor prescribed by the *Municipal Elections Act*.

(5) Where the Governor in Council appoints a council, the tenure of every municipal employee is during the pleasure of the appointed council. 1998, c. 18, s. 458.

Election of new council after appointment of council

550 (1) After the Governor in Council appoints a council, no election may be held pursuant to the *Municipal Elections Act* until ordered by the Governor in Council.

(2) An order of the Governor in Council for the election of a new council must set out

(a) the dates for nomination day, advance polls and ordinary polling day for the election; and

(b) the date the new council takes office.

(3) When the Governor in Council orders the election of a new council, the tenure of every municipal employee ceases to be during the pleasure of the council. 1998, c. 18, s. 459.

Powers of council appointed by Governor in Council

551 (1) The council appointed by the Governor in Council has all of the powers of a council.

(2) The council appointed by the Governor in Council may, with the approval of creditors representing at least half of the aggregate indebtedness of the municipality,

(a) consolidate some or all of its debts and issue new debentures to effect the consolidation;

(b) issue debentures to pay any debt and compel acceptance of the debentures in payment of the debt;

(c) issue new debentures in exchange for any outstanding debentures and compel their acceptance;

(d) fix the terms, conditions, places and times for exchanges of debentures;

(e) postpone or vary the terms, times and places for payment of any outstanding debentures and other indebtedness and the interest;

(f) vary the rate of interest on any outstanding debentures and other indebtedness;

(g) sell any municipal assets.

(3) The council appointed by the Governor in Council may

(a) vary any tax rate or other charge imposed to pay any indebtedness;

(b) vary the basis, terms and times of payment of any tax rate or other charge imposed to pay any indebtedness;

(c) create sinking funds and reserves to pay debentures and other indebtedness;

(d) manage, invest and apply sinking funds, reserves and surpluses;

(e) ratify any agreement, arrangement or compromise entered into with creditors respecting debentures and other indebtedness;

(f) borrow any amount required to meet the current expenditures of the municipality until the taxes are collected.

(4) In the case of a village or service commission, the council appointed by the Governor in Council may require the county or district municipality in which the village or service commission is situate to pay an amount sufficient to provide for the orderly payment of the debts and liabilities of the village or service commission, and the amount so provided, with an allowance for collection

costs and losses, must be recovered by the county or district municipality as an area rate on the area of the village or service commission.

(5) In the case of a village or service commission, the council appointed by the Governor in Council may recommend the dissolution of the village or service commission and the Governor in Council may, by proclamation, dissolve the village or service commission, effective the date set out in the proclamation. 1998, c. 18, s. 460.

PART XX

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

Purpose of Part

552 The purpose of this Part is to

(a) ensure that municipalities are fully accountable to the public
by

- (i) giving the public a right of access to records,
- (ii) giving individuals a right of access to, and a right to correction of, personal information about themselves,
- (iii) specifying limited exceptions to the rights of access,
- (iv) preventing the unauthorized collection, use or disclosure of personal information by municipalities, and
- (v) providing for an independent review of decisions made pursuant to this Part;

(b) provide for the disclosure of all municipal information with necessary exemptions, that are limited and specific, in order to

- (i) facilitate informed public participation in policy formulation,
- (ii) ensure fairness in government decision-making, and
- (iii) permit the airing and reconciliation of divergent views;

and

(c) protect the privacy of individuals with respect to personal information about themselves held by municipalities and to provide individuals with a right of access to that information. 1998, c. 18, s. 462.

Interpretation

553 In this Part,

“background information” means

- (a) any factual material;
- (b) a public opinion poll;
- (c) a statistical survey;
- (d) an appraisal;

- (e) an economic forecast;
- (f) an environmental-impact statement or similar information;
- (g) a final report or final audit on the performance or efficiency of a municipality or on any of its programs or policies;
- (h) a consumer test report or a report of a test carried out on a product to test equipment of a municipality;
- (i) a feasibility or technical study, including a cost estimate, relating to a policy or project of a municipality;
- (j) a report on the results of field research undertaken before a policy proposal is formulated;
- (k) a report of an external task force, advisory board or similar body that has been established to consider any matter and make reports or recommendations to a municipality; or
- (l) a plan or proposal to establish a new program or to change a program, if the plan or proposal has been approved or rejected by the council;

“employee”, in relation to a municipality, includes a person retained under an employment contract to perform services for the municipality;

“law enforcement” means

- (a) policing, including criminal-intelligence operations;
- (b) investigations that lead, or could lead, to a penalty or sanction being imposed; and
- (c) proceedings that lead, or could lead, to a penalty or sanction being imposed;

“municipal body” means a committee, community council, agency, authority, board or commission, whether incorporated or not,

- (a) a majority of the members of which are appointed by;
- or

- (b) which is under the authority of,

one or more municipalities;

“municipality” means a regional municipality, town, county or district municipality, village, service commission or municipal body;

“personal information” means recorded information about an identifiable individual, including

- (a) the individual’s name, address or telephone number;
- (b) the individual’s race, national or ethnic origin, colour, or religious or political beliefs or associations;
- (c) the individual’s age, sex, sexual orientation, marital status or family status;
- (d) an identifying number, symbol or other particular assigned to the individual;

(e) the individual's fingerprints, blood type or inheritable characteristics;

(f) information about the individual's healthcare history, including a physical or mental disability;

(g) information about the individual's educational, financial, criminal or employment history;

(h) anyone else's opinions about the individual; and

(i) the individual's personal views or opinions, except if they are about someone else;

"prescribed" means prescribed by the regulations made pursuant to the *Freedom of Information and Protection of Privacy Act* or this Part;

"record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;

"responsible officer" means, in the case of a

(a) regional municipality, town or county or district municipality, the chief administrative officer, if one has been appointed or, if one has not been appointed, the clerk;

(b) village or service commission, the clerk;

(c) municipal body

(i) a majority of the members of which are appointed by one municipality, the responsible officer for the appointing municipality,

(ii) which is under the authority of one municipality, the responsible officer for that municipality, or

(iii) which is not described in subclause (i) or (ii), the chair or presiding officer;

"review officer" means the review officer appointed by the Governor in Council pursuant to the *Freedom of Information and Protection of Privacy Act*;

"third party", in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organization other than

(a) the person who made the request;

(b) the municipality to which the request is made; or

(c) a municipal body, a majority of the members of which are appointed by, or which is under the authority of, the municipality to which the request is made;

"trade secret" means information, including a formula, pattern, compilation, program, device, product, method, technique or process, that

(a) is used, or may be used, in business or for any commercial advantage;

(b) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use;

(c) is the subject of reasonable efforts to prevent it from becoming generally known; and

(d) the disclosure of which would result in harm or improper benefit. 1998, c. 18, s. 461.

Application of Part

554 (1) This Part applies to all records in the custody or under the control of a municipality.

(2) Notwithstanding subsection (1), this Part does not apply to

(a) published material or material that is available for purchase by the public;

(b) material that is a matter of public record;

(c) a note, communication or draft decision of a person acting in a judicial or quasi-judicial capacity;

(d) a record of a question that is to be used on an examination or test;

(e) material placed in the archives of a municipality by or for a person, agency or other organization other than the municipality;

(f) a record of each representation made on behalf of a municipality to the review officer in the course of a review pursuant to Section 580 and all material prepared for the purpose of making the representation; or

(g) a record relating to a prosecution, if all proceedings in respect of the prosecution have not been completed. 1998, c. 18, s. 463; 2003, c. 9, s. 83.

Limitations on effect of Part

555 This Part does not

(a) limit the information otherwise available by law to a party to litigation, including a civil, criminal or administrative proceeding;

(b) affect the power of any court or tribunal to compel a witness to testify or to compel the production of documents;

(c) prohibit the transfer, storage or destruction of any record in accordance with any other Act of the Legislature or any regulation;

(d) prevent access to records maintained in a public office for the purpose of providing public access to information; or

(e) restrict disclosure of information for the purpose of a prosecution. 1998, c. 18, s. 464.

Conflict with other enactments

556 (1) Where there is a conflict between this Part and any other enactment and the other enactment restricts or prohibits access by any person to a record, this Part prevails over the other enactment unless subsection (2) or the other enactment states that the other enactment prevails over this Part.

(2) The following enactments that restrict or prohibit access by any person to a record prevail over this Part:

- (a) Section 21 of the *Consumer Reporting Act*;
- (b) Section 51 of the *Corporation Capital Tax Act*;
- (c) Section 7 of the *Emergency "911" Act*;
- (d) Section 21 of the *Forests Act*;
- (e) Section 18 and subsection 106(2) of the *Health Protection Act*;
- (f) subsection 21 of the *Juries Act*;
- (g) Section 27 of the *Labour Standards Code*;
- (h) Section 47 of the *Maintenance Enforcement Act*;
- (i) subsection 105(2) and Sections 136 and 141 of the *Mineral Resources Act*;
- (j) subsection 113(6) of the *Motor Vehicle Act*;
- (k) Sections 55, 63 and 64 of the *Occupational Health and Safety Act*;
- (l) subsection 15(3) of the *Pension Benefits Act*;
- (m) Sections 72 and 100 of the *Petroleum Resources Regulations* made pursuant to the *Petroleum Resources Act*;
- (n) subsection 21(4) of the *Primary Forest Products Marketing Act*;
- (o) Section 56 of the *Public Trustee Act*;
- (p) Section 9 of the *Statistics Act*;
- (q) subsection 9(3) of the *Procedure Regulations* made pursuant to the *Trade Union Act*;
- (r) subsection 39(13) and Section 47 of the *Vital Statistics Act*;
- (s) Sections 31 and 32 of the *Youth Justice Act*.

(3) The Governor in Council may, by regulation, amend subsection (2) by

- (a) adding to that subsection a reference to an enactment;
- (b) deleting a reference to an enactment from that subsection.

(4) Notwithstanding anything contained in this Act, the provisions in the *Vital Statistics Act* relating to

- (a) rights of access to personal information, including the right to request a search of personal information;
- (b) remedial rights relating to the rights described in clause (a);
- (c) correction of personal information; and
- (d) procedures relating to the matters referred to in clauses (a) to (c), including the payment of fees and the searching of and obtaining access to personal information,

apply in place of the provisions in this Act respecting the matters in clauses (a) to (d). 2003, c. 9, s. 84; 2004, c. 4, s. 116; 2011, c. 41, s. 142.

Right of access and restriction

557 (1) A person has a right of access to any record in the custody, or under the control, of a municipality upon making a request as provided in this Part.

(2) The right of access to a record does not extend to information exempted from disclosure pursuant to this Part but, if that information can reasonably be severed from the record, an applicant has the right of access to the remainder of the record.

(3) Subject to subsection (4), notwithstanding anything contained in this Part, where the record is an executed contract

(a) in which provision is made for the municipality to make a substantial transfer of risk to a person, including risk related to the operation or financing, or both, of government activities; and

(b) that is, or is in a class of contracts that is designated, before or within 90 days of the execution of the contract by the legal decision-making authority by which the municipality acts,

the right of access extends to any information in the contract that, but for this subsection, would be exempted from disclosure pursuant to this Part.

(4) Subsection (3) does not apply in respect of any information in the contract, to which that subsection refers,

(a) respecting trade secrets;

(b) respecting the financial and business information of the persons to whom that subsection refers; and

(c) the disclosure of which may reasonably be expected to endanger the safety or health of the public, a person or a group of persons.

(5) For the purpose of this Part, an expense report, hospitality report or annual summary report is a matter of public record.

(6) Nothing in this Part restricts access to information provided by custom or practice prior to the effective date of this Part. 1998, c. 18, s. 465; 2003, c. 9, s. 85; 2017, c. 13, s. 10.

Procedure for obtaining access

- 558 (1)** A person may obtain access to a record by
- (a) making a request in writing to the municipality that has the custody or control of the record;
 - (b) specifying the subject matter of the record requested with sufficient particulars to enable an individual familiar with the subject matter to identify the record; and
 - (c) paying any fees required pursuant to this Part.

(2) The applicant may ask to examine the record or ask for a copy of the record. 1998, c. 18, s. 466.

Duty of responsible officer

559 (1) Where a request is made pursuant to this Part for access to a record, the responsible officer shall

- (a) make every reasonable effort to assist the applicant and respond without delay to the applicant openly, accurately and completely; and
- (b) consider the request and give written notice to the applicant of the decision with respect to the request.

(2) The responsible officer shall respond in writing to the applicant within 30 days after the application is received and the applicant has met the requirements of clauses 558(1)(b) and (c), stating

- (a) whether the applicant is entitled to the record or part of the record and
 - (i) where the applicant is entitled to access, stating that access will be given on payment of the prescribed fee and setting out where, when and how, or the manner in which, access will be given, or
 - (ii) where access to the record or part of the record is refused, the reasons for the refusal and the provision of this Part on which the refusal is based;
- (b) that the record is not in the custody or control of the municipality; or
- (c) where the record would contain information exempted pursuant to Section 567 if the record were in the custody or control of the municipality, that confirmation or denial of the existence of the record is refused,

and stating

- (d) the name, title, business address and business telephone number of an officer or employee of the municipality who can answer the applicant's questions about the decision; and
- (e) that the applicant may ask for review by a review officer within 60 days after the applicant is notified of the decision.

(3) A responsible officer who fails to give a written response is deemed to have given notice of a decision to refuse to give access to the record 30 days after the application was received.

(4) A responsible officer may refuse to disclose to an applicant information

(a) that is published and available for purchase by the public; or

(b) that is to be published or released to the public within 30 days after the applicant's request is received.

(5) A responsible officer shall notify an applicant of the publication or release of information that the officer has refused to disclose.

(6) Where the information is not published or released within 30 days after the applicant's request is received, the responsible officer shall reconsider the request as if it were a new request received on the last day of that period, but the information may not be refused solely because it is due to be published or released to the public. 1998, c. 18, s. 467; 2003, c. 9, s. 86.

Duties of responsible officer where access given

560 (1) Where an applicant is informed that access will be given, the responsible officer shall

(a) where the applicant has asked for a copy and the record can reasonably be reproduced,

(i) provide a copy of the record, or part of the record, with the response, or

(ii) give the applicant reasons for delay in providing the record; or

(b) where the applicant has asked to examine the record or where the record cannot reasonably be reproduced, permit the applicant to examine the record or part of the record.

(2) A responsible officer may give access to a record that is a microfilm, film, sound recording, or information stored by electronic or other technological means by

(a) permitting the applicant to examine a transcript of the record;

(b) providing the applicant with a copy of the transcript of the record;

(c) permitting, in the case of a record produced for visual or aural reception, the applicant to view or hear the record or providing the applicant with a copy of it; or

(d) permitting, in the case of a record stored by electronic or other technological means, the applicant to access the record or providing the applicant a copy of it.

- (3) A responsible officer shall create a record for an applicant if
- (a) the record can be created from a machine-readable record in the custody or under the control of the municipality using its normal computer hardware and software and technical expertise; and
 - (b) creating the record would not unreasonably interfere with the operations of the municipality. 1998, c. 18, s. 468.

Extension of time for response

561 (1) The responsible officer may extend the time provided for responding to a request for up to 30 days or, with a review officer's permission, for a longer period if

- (a) the applicant does not give enough detail to enable the municipality to identify a requested record;
- (b) a large number of records is requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the municipality; or
- (c) more time is needed to consult with a third party or other municipality before the responsible officer can decide whether or not to give the applicant access to a requested record.

(2) Where the time is extended, the responsible officer shall tell the applicant

- (a) the reason;
- (b) when a response can be expected; and
- (c) that the applicant may complain about the extension to a review officer. 1998, c. 18, s. 469.

Transfer of request

562 (1) Within 10 days after a request for access to a record is received, or such longer period as the review officer may determine, the responsible office of a municipality may transfer the request and, if necessary, the record to a municipal body to which the municipality appoints one or more members and that is not under the authority of the municipality, if

- (a) the record was produced by or for the municipal body;
 - (b) the municipal body was the first to obtain the record;
- or
- (c) the record is in the custody, or under the control of, the municipal body.

(2) Where a request is transferred pursuant to subsection (1)

- (a) the responsible officer who transferred the request shall notify the applicant of the transfer; and
- (b) the responsible officer to which the request is transferred shall respond to the applicant in accordance with this Part not

later than 30 days after the request is received. 1998, c. 18, s. 470; 2003, c. 9, s. 87.

Fees

563 (1) An applicant who makes a request pursuant to this Part shall pay to the municipality the prescribed application fee.

(2) A responsible officer may require an applicant who makes a request to pay fees for the following services:

- (a) locating, retrieving and producing the record;
- (b) preparing the record for disclosure;
- (c) shipping and handling the record;
- (d) providing a copy of the record.

(3) An applicant is not required pursuant to subsection (2) to pay a fee for the first two hours spent locating and retrieving a record.

(4) No fee may be charged for a request for the applicant's own personal information.

(5) Where an applicant is required to pay fees for services, the responsible officer shall give the applicant an estimate of the total fee before providing the services.

(6) The responsible officer may require the applicant to pay the estimated fee prior to providing the services.

(7) On request of the applicant, the responsible officer may excuse an applicant from paying all or part of a fee referred to in subsection (2) if, in the opinion of the responsible officer, the applicant cannot afford the payment or for any other reason it is fair to excuse payment.

(8) The fees that applicants are required to pay for services must not exceed the actual costs of the services. 1998, c. 18, s. 471; 2003, c. 9, s. 88; 2007, c. 9, s. 31.

Intergovernmental affairs

564 (1) A responsible officer may refuse to disclose information to an applicant, if the disclosure could reasonably be expected to

(a) harm the conduct by the municipality of relations between the municipality and any of the following or their agencies:

- (i) the Government of Canada or a province of Canada,
- (ii) the Government of the Province,
- (iii) another municipality,
- (iv) an education entity as defined in the *Education Act*,
- (v) an aboriginal government; or

(b) reveal information received in confidence from a government, body or organization listed in clause (a), or their agencies, unless the government, body, organization or its agency consents to the disclosure or makes the information public.

(2) The responsible officer shall not disclose information referred to in subsection (1) without the consent of the council.

(3) This Section does not apply to information in a record that has been in existence for 15 or more years. 1998, c. 18, s. 472; 2018, c. 1, Sch. A, s. 131.

Deliberations held in private

565 (1) The responsible officer may refuse to disclose to an applicant information that would disclose the minutes or substance of the deliberations of a meeting of the council, village commission or service commissioners or of the members of the municipal body held in private, as authorized by law.

(2) Subsection (1) does not apply to

(a) information in a record that has been in existence for 10 or more years; or

(b) background information in a record, the purpose of which is to present explanations or analysis to the council, committee, agency, authority, board or commission for its consideration in making a decision, if

(i) the decision has been made public,

(ii) the decision has been implemented, or

(iii) five or more years have passed since the decision was made or considered. 1998, c. 18, s. 473.

Advice to council or other body

566 (1) The responsible officer may refuse to disclose information that would reveal advice, recommendations or draft resolutions, policies, bylaws or special legislation developed by or for the

(a) council, village commission or service commissioners;
or

(b) members of the municipal body.

(2) The responsible officer shall not refuse to disclose background information used by the municipality.

(3) This Section does not apply to information in a record that has been in existence for five or more years.

(4) Nothing in this Section requires the disclosure of information that the responsible officer may refuse to disclose under Section 565. 1998, c. 18, s. 474; 2005, c. 55, s. 7.

Law enforcement

567 (1) The responsible officer may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

- (a) harm law enforcement;
- (b) prejudice the defence of Canada or of any foreign state allied to, or associated with, Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;
- (c) harm the effectiveness of investigative techniques or procedures currently used, or likely to be used, in law enforcement;
- (d) reveal the identity of a confidential source of law-enforcement information;
- (e) endanger the life or physical safety of a law-enforcement officer or any other person;
- (f) reveal any information relating to, or used in, the exercise of prosecutorial discretion;
- (g) deprive a person of a right to a fair trial or impartial adjudication;
- (h) reveal a record that has been confiscated from a person by a peace officer in accordance with an enactment;
- (i) be detrimental to the proper custody, control or supervision of a person under lawful detention;
- (j) facilitate the commission of an offence contrary to an enactment; or
- (k) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system.

(2) The responsible officer may refuse to disclose information to an applicant if the information is

- (a) in a law-enforcement record and the disclosure would be an offence pursuant to an enactment;
- (b) in a law-enforcement record and the disclosure could reasonably be expected to expose, to civil liability, the author of the record or a person who has been quoted or paraphrased in the record; or
- (c) about the history, supervision or release of a person who is in custody, or under supervision, and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.

(3) After a police investigation is completed, the responsible officer shall not refuse to disclose to an applicant the reasons for a decision not to prosecute if the applicant is aware of the police investigation, but nothing in this subsection requires disclosure of information mentioned in subsection (1) or (2).
1998, c. 18, s. 475.

Solicitor-client privilege

568 The responsible officer may refuse to disclose to an applicant information that is subject to solicitor-client privilege. 1998, c. 18, s. 476.

Financial or economic interests

569 (1) The responsible officer may refuse to disclose information to an applicant, the disclosure of which could reasonably be expected to harm the financial or economic interests of the municipality, another municipality or the Government of the Province or the ability of the Government of the Province to manage the economy and, without restricting the generality of the foregoing, may refuse to disclose the following information:

(a) trade secrets of the municipality, another municipality or the Government of the Province;

(b) financial, commercial, scientific or technical information that belongs to the municipality, another municipality or the Government of the Province and that has, or is reasonably likely to have, monetary value;

(c) plans that relate to the management or personnel of or the administration of the municipality or another municipality and that have not yet been implemented or made public;

(d) information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party;

(e) information about negotiations carried on by or for the municipality or another municipality or the Government of the Province.

(2) The responsible officer shall not refuse to disclose, pursuant to subsection (1) the results of product or environmental testing carried out by or for the municipality, unless the testing was done

(a) for a fee as a service to a person, a group of persons or an organization other than the municipality; or

(b) for the purpose of developing methods of testing. 1998, c. 18, s. 477.

Health and safety

570 (1) The responsible officer may refuse to disclose information to an applicant, including personal information about the applicant, if the disclosure could reasonably be expected to

(a) threaten anyone else's safety or mental or physical health; or

(b) interfere with public safety.

(2) The responsible officer may refuse to disclose to an applicant personal information about the applicant, if the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's safety or mental or physical health. 1998, c. 18, s. 478.

Conservation

571 The responsible officer may refuse to disclose information to an applicant, if the disclosure could reasonably be expected to result in damage to or interfere with the conservation of

- (a) fossil sites, natural sites or sites that have an anthropological or heritage value;
- (b) an endangered, threatened or vulnerable species, subspecies or race of plants, vertebrates or invertebrates; or
- (c) any other rare or endangered living resources. 1998, c. 18, s. 479.

Labour conciliation records

572 The responsible officer may refuse to disclose

- (a) any information of any kind obtained by a conciliation board, conciliation officer or mediator appointed pursuant to the municipality's collective agreement or appointed pursuant to the *Civil Service Collective Bargaining Act*, the *Municipal Corrections Act*, the *Highway Workers Collective Bargaining Act*, the *Teachers Collective Bargaining Act* or the *Trade Union Act* or by an employee of the Department of Labour, Skills and Immigration or an employee, appointee or member of the Labour Board for the purpose of any of those Acts or the municipality's collective agreement or in the course of carrying out duties under any of those Acts or the municipality's collective agreement;
- (b) any report of a conciliation board or conciliation officer appointed pursuant to any of those Acts or the municipality's collective agreement;
- (c) any testimony or proceedings before a conciliation board appointed pursuant to any of those Acts or the municipality's collective agreement. 2003, c. 9, s. 89; 2006, c. 40, s. 16.

Personal information

573 (1) The responsible officer shall refuse to disclose personal information to an applicant, if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) In determining whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the responsible officer shall consider all the relevant circumstances, including whether

- (a) the disclosure is desirable for the purpose of subjecting the activities of the municipality to public scrutiny;
- (b) the disclosure is likely to promote public health and safety or to promote the protection of the environment;
- (c) the personal information is relevant to a fair determination of the applicant's rights;
- (d) the disclosure will assist in researching the claims, disputes or grievances of aboriginal people;
- (e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable; and

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.

(3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information

(a) relates to a medical, dental, psychiatric, psychological or other healthcare history, diagnosis, condition, treatment or evaluation;

(b) was compiled, and is identifiable as, part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

(c) relates to eligibility for income assistance or social service benefits or to the determination of benefit levels;

(d) relates to employment or educational history;

(e) was obtained on a tax return or gathered for the purpose of collecting a tax;

(f) describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

(g) consists of personal recommendations or evaluations, character references or personnel evaluations;

(h) indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations; or

(i) consists of the third party's name together with the third party's address or telephone number and is to be used for mailing lists or solicitations by telephone or other means.

(4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if

(a) the third party has, in writing, consented to or requested the disclosure;

(b) there are compelling circumstances affecting any person's health or safety;

(c) an enactment authorizes the disclosure;

(d) the disclosure is for a research or statistical purpose and is in accordance with this Part;

(e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a municipality;

(f) the disclosure reveals the amount of taxes or other debts due by the third party to the municipality;

(g) the disclosure reveals financial and other similar details of a contract to supply goods or services to a municipality;

(h) the information is about expenses incurred by the third party while travelling at the expense of a municipality;

(i) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a municipality, not including personal information supplied in support of the request for the benefit; or

(j) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a municipality, not including personal information that is supplied in support of the request for the benefit or that relates to eligibility for or the level of income assistance or social service benefits.

(5) On refusing to disclose personal information supplied in confidence about an applicant, the responsible officer shall give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information, and may allow the third party to prepare the summary of personal information. 1998, c. 18, s. 480.

Confidential information

574 (1) The responsible officer shall, unless the third party consents, refuse to disclose to an applicant information

(a) that would reveal

(i) trade secrets of a third party, or

(ii) commercial, financial, labour relations, scientific or technical information of a third party;

(b) that is supplied, implicitly or explicitly, in confidence;

and

(c) the disclosure of which could reasonably be expected to

(i) harm significantly the competitive position, or interfere significantly with the negotiating position, of the third party,

(ii) result in similar information no longer being supplied to the municipality when it is in the public interest that similar information continue to be supplied,

(iii) result in undue financial loss or gain to any person or organization, or

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour-relations dispute.

(2) The responsible officer shall refuse to disclose to an applicant information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax, unless the third party consents.

(3) The responsible officer shall disclose to an applicant a report prepared in the course of inspections by an agency that is authorized to enforce compliance with an enactment. 1998, c. 18, s. 481.

Record containing third party information

575 (1) When a responsible officer receives a request for access to a record that contains or may contain information of or about a third party that cannot be disclosed, the responsible officer shall, where practicable, promptly give the third party a notice

(a) stating that a request has been made by an applicant for access to a record containing information the disclosure of which may affect the interests, or invade the personal privacy, of the third party;

(b) describing the contents of the record; and

(c) stating that, within 14 days after the notice is given, the third party may, in writing, consent to the disclosure or may make written representations to the responsible officer explaining why the information should not be disclosed.

(2) Notwithstanding subsection (1), that subsection does not apply if

(a) the responsible officer decides, after examining the request, any relevant records and the views or interests of the third party respecting the disclosure requested, to refuse to disclose the record; or

(b) where the regulations so provide, it is not practical to give notice pursuant to that subsection.

(3) When notice is given pursuant to subsection (1), the responsible officer shall also give the applicant a notice stating that

(a) the record requested by the applicant contains information the disclosure of which may affect the interests or invade the personal privacy of a third party; and

(b) the third party is being given an opportunity to make representations concerning disclosure.

(4) Within 30 days after notice is given to an applicant, the responsible officer shall decide whether to give access to the record or to part of the record, but no decision may be made before the earlier of

(a) 15 days after the day notice is given; or

(b) the day a response is received from the third party.

(5) For greater certainty, the time limited by subsection 559(2) for responding to a request for access to a record is not extended by reason only that a

notice is given to an applicant pursuant to subsection (3), but that time may be extended pursuant to Section 561.

(6) In complying with subsections (1) and (3), the municipality shall not disclose

- (a) the name of the applicant to the third party without the consent of the applicant; or
- (b) the name of the third party to the applicant without the consent of the third party.

(7) On reaching a decision, the responsible officer shall give written notice of the decision to the applicant and the third party.

(8) Where the responsible officer decides to give access to the record or part of the record,

- (a) the notice must state that the applicant will be given access after 20 days, unless, in that time, the third party asks for a review pursuant to this Part;
- (b) the notice must state that the third party may ask for a review pursuant to this Part within 20 days of the notice; and
- (c) access may not be provided until the expiry of the 20-day period.

(9) Notwithstanding anything contained in this Section, the responsible officer who has, pursuant to this Section, given notice to a third party of a request for access to a record may, with the consent of the third party, give access to the record to the person who has made the request before the expiration of the time limited by subsection (4) for the third party to ask for a review. 1998, c. 18, s. 482; 2003, c. 9, s. 90.

Treatment of personal information

576 (1) Personal information may not be collected by, or for, a municipality unless

- (a) the collection of that information is expressly authorized by, or pursuant to, an enactment;
- (b) that information is collected for the purpose of law enforcement; or
- (c) that information relates directly to, and is necessary for, an operating program or activity of the municipality.

(2) Where an individual's personal information will be used by a municipality to make a decision that directly affects the individual, the municipality shall make every reasonable effort to ensure that the information is accurate and complete.

(3) The responsible officer shall protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

(4) Where a municipality uses an individual's personal information to make a decision that directly affects the individual, the municipality shall retain that information for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it. 1998, c. 18, s. 483; 2000, c. 9, s. 56.

Correction of errors and omissions

577 (1) An applicant who believes there is an error or omission in the applicant's personal information may request the responsible officer to correct the information.

(2) Where no correction is made in response to a request, the responsible officer shall annotate the information with the correction that was requested but not made.

(3) On correcting or annotating personal information pursuant to this Section, the responsible officer shall notify any other municipality or any third party to whom that information has been disclosed during the one-year period before the correction was requested.

(4) On being notified of a correction or annotation of personal information, a municipality shall make the correction or annotation on any record of that information in its custody or under its control. 1998, c. 18, s. 484.

Use and disclosure of personal information

578 (1) A municipality may use personal information only

- (a) for the purpose for which that information was obtained or compiled, or for a use compatible with that purpose;
- (b) if the individual the information is about has identified the information and has consented to the use; or
- (c) for a purpose for which that information may be disclosed to the municipality pursuant to this Section.

(2) A municipality may disclose personal information only

- (a) in accordance with this Part or as provided pursuant to another enactment;
- (b) if the individual the information is about has identified the information and consented in writing to its disclosure;
- (c) for the purpose for which it was obtained or compiled, or for a use compatible with that purpose;
- (d) for the purpose of complying with an enactment or with a treaty, arrangement or agreement made pursuant to an enactment;
- (e) for the purpose of complying with a subpoena, warrant, summons or order issued or made by a court, person or body with jurisdiction to compel the production of information;
- (f) to an officer or employee of a municipality if the information is necessary for the performance of the duties of, or for the protection of the health or safety of, the officer or employee;

- (g) to a municipality to meet the necessary requirements of municipal operation;
- (h) for the purpose of
 - (i) collecting a debt or fine owing by an individual to the municipality, or
 - (ii) making a payment owing by the municipality to an individual;
- (i) to the auditor for audit purposes;
- (j) to a representative of the bargaining agent who has been authorized in writing by the employee, whom the information is about, to make an inquiry;
- (k) to the Public Archives of Nova Scotia, or the archives of a municipality, for archival purposes;
- (l) to a municipality or a law-enforcement agency in Canada to assist in an investigation
 - (i) undertaken with a view to a law-enforcement proceeding, or
 - (ii) from which a law-enforcement proceeding is likely to result;
- (m) if the information is disclosed by a law-enforcement agency to
 - (i) another law-enforcement agency in Canada, or
 - (ii) a law-enforcement agency in a foreign country under an arrangement, written agreement, treaty or legislative authority;
- (n) if the responsible officer determines that compelling circumstances exist that affect any person's health or safety;
- (o) in accordance with subsection (4) or (5);
- (p) so that the next of kin or a friend of an injured, ill or deceased individual may be contacted; or
- (q) for research, archival and historical purposes as provided in this Section.

(3) A use of personal information is a use compatible with the purpose for which the information was obtained, if the use

- (a) has a reasonable and direct connection to that purpose; and
- (b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the municipality that uses the information or to which the information is disclosed.

(4) A municipality may disclose personal information for a research purpose, including statistical research, if

(a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form;

(b) any record linkage is not harmful to the individuals that information is about and the benefits to be derived from the record linkage are clearly in the public interest;

(c) the responsible officer has approved conditions relating to

(i) security and confidentiality,

(ii) the removal or destruction of individual identifiers at the earliest reasonable time, and

(iii) the prohibition of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of the municipality; and

(d) the person to whom that information is disclosed has signed an agreement to comply with the approved conditions, this Part and any of the municipality's policies and procedures relating to the confidentiality of personal information.

(5) The Public Archives of Nova Scotia, or the archives of a municipality, may disclose personal information for archival or historical purposes where

(a) the disclosure would not be an unreasonable invasion of personal privacy;

(b) the disclosure is for historical research;

(c) the information is about someone who has been dead for 20 or more years; or

(d) the information is in a record that was in the custody or control of the archives and open for historical research immediately prior to April 1, 1999. 1998, c. 18, s. 485; 2008, c. 25, s. 10.

Disclosure in public interest

579 (1) Whether or not a request for access is made, the responsible officer may disclose to the public, to an affected group of people or to an applicant information

(a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people; or

(b) the disclosure of which is, for any other reason, clearly in the public interest.

(2) Before disclosing information pursuant to subsection (1), the responsible officer shall, if practicable, notify any third party to whom the information relates.

(3) Where it is not practicable to comply with subsection (2), the responsible officer shall mail a notice of disclosure to the last known address of the third party. 1998, c. 18, s. 486.

Reviews and appeals to court

580 (1) A person who makes any request for access or for correction of personal information may ask for a review of any decision, act or failure to act of the responsible officer that relates to the request.

(2) A third party notified of a request for access may ask for a review of any decision made about the request by the responsible officer.

(3) A person who makes a request pursuant to this Part for access to a record or for correction of personal information may, within 30 days after the person is notified of the decision or within 30 days after the date of the act or failure to act, appeal directly to the Supreme Court of Nova Scotia as provided in this Part, if no third party has been notified or if a third party who has been notified consents to that appeal. 1998, c. 18, s. 487; 2003, c. 9, s. 91; 2007, c. 9, s. 32.

Procedure for request for review

581 (1) A written request for a review may be filed with a review officer

- (a) within 60 days after the person asking for the review is notified of the decision;
- (b) within 60 days after the date of the act or failure to act;
- (c) by a third party, within 20 days after notice is given; or
- (d) within a longer period allowed by the review officer.

(2) The failure of the responsible officer to respond in time to a request for access to a record is to be treated as a decision to refuse access to the record, but the time limit for filing a request for review does not apply.

(3) On receiving a request for a review, a review officer shall forthwith give a copy to

- (a) the responsible officer concerned;
- (b) an applicant, if the review was requested by a third party; and
- (c) any other person that the review officer considers appropriate. 1998, c. 18, ss. 488, 489.

Settlement through mediation

582 (1) A review officer may try to settle a matter under review through mediation.

(2) Where a review officer is unable to settle a matter within 30 days through mediation, the review officer shall conduct a review. 1998, c. 18, s. 489.

Conduct of review

583 (1) A review officer may conduct a review in private.

(2) The following persons are entitled to make representations to a review officer in the course of a review:

- (a) the person who applies for the review;
- (b) a third party or applicant who is entitled to notice pursuant to this Part;
- (c) the responsible officer whose decision is the subject of the review; and
- (d) any other person the review officer considers appropriate.

(3) Where, pursuant to clause (2)(d), the review officer considers that a person is an appropriate person to make representations in the course of a review of a decision of the responsible officer of a municipality, then, notwithstanding anything contained in this Act, that person

- (a) is entitled to
 - (i) a copy of the report of the review officer pursuant to Section 585,
 - (ii) appeal the decision of the responsible officer pursuant to Section 587, and
 - (iii) written notice of an appeal under subsection 587(4); and
- (b) is party to the appeal to which the notice of appeal referred to in subclause (a)(iii) relates.

(4) A review officer may decide

- (a) whether the representations are to be made orally or in writing;
- (b) whether a person is entitled to be present during a review or to have access to, or comment on, representations made to the review officer by any other person. 1998, c. 18, s. 490; 2003, c. 9, s. 92.

Production of records and inspection of premises

584 (1) Notwithstanding another Act of the Legislature or any privilege that is available at law, a review officer may, in a review,

- (a) require to be produced and examine any record that is in the custody, or under the control, of the municipality named in the request made pursuant to this Part; and
- (b) enter and inspect any premises occupied by the municipality.

(2) A municipality shall comply with a requirement imposed by the review officer pursuant to clause (1)(a) within such time as is prescribed by the regulations.

(3) Where a municipality does not comply with a requirement imposed by the review officer pursuant to clause (1)(a) within the time limited for so doing by subsection (2), a judge of the Supreme Court of Nova Scotia may, on the application of the review officer, order the municipality to do so.

(4) In an application made pursuant to subsection (3), a judge may give such directions as the judge thinks fit, including ordering which persons are parties to the application, which persons must be given notice of the application and the manner in which such notice must be given.

(5) An order made pursuant to subsection (3) may contain such provisions and such terms and conditions as the judge thinks fit. 1998, c. 18, s. 491; 2000, c. 9, s. 57; 2003, c. 9, s. 93.

Duties and powers of review officer on completing review

585 (1) On completing a review, a review officer shall

(a) prepare a written report setting out the review officer's recommendations with respect to the matter and the reasons for those recommendations; and

(b) send a copy of the report to the responsible officer, and where the matter was referred to the review officer by

(i) an applicant, to the applicant and to any third party notified pursuant to this Part, or

(ii) a third party, to the third party and to the applicant.

(2) In the report, the review officer may make any recommendations with respect to the matter under review that the review officer considers appropriate. 1998, c. 18, s. 492.

Duties of responsible officer on receipt of report

586 (1) Within 30 days after receiving a report of a review officer, the responsible officer shall

(a) make a decision to follow the recommendation of the review officer or any other decision that the responsible officer considers appropriate; and

(b) give written notice of the decision to the review officer and the persons who were sent a copy of the report.

(2) The responsible officer shall give notice, in writing, to the persons who were sent a copy of the report and the decision of the responsible officer, of their right to appeal the decision of the responsible officer to the Supreme Court of Nova Scotia within 30 days of the date of making the decision.

(3) Where the responsible officer does not give notice within the time required, the responsible officer is deemed to have refused to follow the recommendation of the review officer. 1998, c. 18, s. 493; 2005, c. 55, s. 8.

Appeal to Supreme Court

587 (1) Within 30 days after receiving a decision of the responsible officer, an applicant or a third party may appeal that decision to the Supreme Court of Nova Scotia.

(2) An appeal is deemed not to have been taken pursuant to this Section unless a notice of appeal is given to the Minister of Justice by the person taking the appeal.

(3) Where a notice of appeal is given pursuant to subsection (2), the Minister of Justice may become a party to the appeal by filing with the prothonotary of the Supreme Court of Nova Scotia a notice stating that the Minister of Justice is a party to the appeal.

(4) The responsible officer who has refused a request for access to a record or part of a record shall, immediately on receipt of a notice of appeal by an applicant, give written notice of the appeal to any third party that the responsible officer

(a) has notified pursuant to this Part; or

(b) would have notified pursuant to this Part if the responsible officer had intended to give access to the record, or part of the record.

(5) The responsible officer who has granted a request for access to a record or part of a record shall, immediately on receipt of a notice of appeal by a third party, give written notice of the appeal to the applicant.

(6) An applicant or a third party who has been given notice of an appeal may appear as a party to the appeal.

(7) The review officer is not a party to an appeal.

(8) Where the responsible officer decides to give access to a record or part of a record after the review officer files a report setting out the review officer's recommendations respecting the matter, the responsible officer shall not give access until the time limited for a third party taking an appeal from the decision to the Supreme Court of Nova Scotia expires and

(a) no appeal has been taken by a third party from the decision within the time limited for so doing; or

(b) where an appeal has been taken within that time by a third party, it has subsequently been abandoned or withdrawn,

but, where an appeal is taken by a third party, the responsible officer shall not give access until either the decision of the responsible officer is upheld by an order of the Supreme Court and the order becomes final by lapse of time or the decision of the responsible officer is upheld by the highest authority to which any further appeal or appeals are taken. 1998, c. 18, s. 494; 2003, c. 9, s. 94; 2005, c. 55, s. 9.

Powers and duties of Supreme Court

588 (1) On an appeal, the Supreme Court of Nova Scotia may

(a) determine the matter *de novo*; and

(b) examine any record in camera in order to determine on the merits whether the information in the record may be withheld pursuant to this Part.

(2) Notwithstanding any other Part or any privilege that is available at law, the Supreme Court of Nova Scotia may, on an appeal, examine any record in the custody or under the control of a municipality, and no information may be withheld from the Court on any grounds.

(3) The Supreme Court of Nova Scotia shall take every reasonable precaution, including, where appropriate, receiving representations *ex parte* and conducting hearings in camera, to avoid disclosure by the Court or any person of any information

(a) or other material, if the nature of the information or material could justify a refusal by a responsible officer to give access to a record or part of a record; or

(b) as to whether a record exists, if the responsible officer, in refusing to give access, does not indicate whether the record exists.

(4) The Supreme Court of Nova Scotia may disclose to the Minister of Justice or the Attorney General of Canada information that may relate to the commission of an offence pursuant to another enactment by an officer or employee of a municipality.

(5) Where the responsible officer has refused to give access to a record or part of it, the Supreme Court of Nova Scotia, if it determines that the responsible officer is not authorized to refuse to give access to the record or part of it, shall

(a) order the responsible officer to give the applicant access to the record or part of it, subject to any conditions that the Court considers appropriate; or

(b) make any other order that the Court considers appropriate.

(6) Where the Supreme Court of Nova Scotia finds that a record falls within an exemption, the Court shall not order the responsible officer to give the applicant access to the record, regardless of whether the exemption requires, or merely authorizes, the responsible officer to refuse to give access to the record. 1998, c. 18, s. 495.

Exercise of right or power

589 Any right or power conferred on an individual by this Part may be exercised

(a) where the individual is deceased, by the individual's representative, if the exercise of the right or power relates to the administration of the individual's estate;

(b) where a personal guardian or property guardian has been appointed for the individual, by the guardian, if the exercise of the right or power relates to the powers and duties of the guardian;

(c) where a power of attorney has been granted, by the attorney if the exercise of the right or power relates to the powers and duties of the attorney conferred by the power of attorney;

(d) where the individual is less than the age of majority, by the individual's legal custodian in situations where, in the opinion of the responsible officer, the exercise of the right or power would not constitute an unreasonable invasion of the privacy of the individual; or

(e) by a person with written authorization from the individual to act on the individual's behalf. 1998, c. 18, s. 496.

Delegation of powers by responsible officer

590 (1) The responsible officer may delegate to one or more officers of the municipality a power granted to, or a duty vested in, the responsible officer.

(2) A delegation

(a) must be in writing; and

(b) may contain any limitations, restrictions, conditions or requirements that the responsible officer considers necessary or advisable. 1998, c. 18, s. 497.

Burden of proof

591 (1) At a review or appeal into a decision to refuse an applicant access to all or part of a record, the burden is on the responsible officer to prove that the applicant has no right of access to the record or part.

(2) Where the record or part that the applicant is refused access to contains personal information about a third party, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

(3) At a review or appeal into a decision to give an applicant access to all or part of a record containing information that relates to a third party

(a) in the case of personal information, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy; and

(b) in any other case, the burden is on the third party to prove that the applicant has no right of access to the record or part. 1998, c. 18, s. 498.

Limitation of liability

592 No action or other proceeding lies against the responsible officer or any person acting on behalf of, or under the direction of, the responsible officer for damages resulting from the

(a) disclosure in good faith of all, or part of, a record pursuant to this Part or any consequences of that disclosure; or

(b) failure to give any notice required pursuant to this Part, if reasonable care is taken to give the required notice. 1998, c. 18, s. 499.

Offence and penalty

593 (1) Every person who maliciously collects or discloses personal information in contravention of this Part or the regulations is guilty of an offence

and liable, on summary conviction, to a penalty of not more than \$5,000 or to imprisonment for six months, or both.

(2) Every person who knowingly alters a record that is subject to a request in order to mislead the person who made the request is guilty of an offence and liable on summary conviction to a fine of not more than \$2,000 or to imprisonment for six months, or both.

(3) Section 34 of the *Summary Proceedings Act* does not apply to this Part. 1998, c. 18, s. 500; 2003, c. 9, s. 95.

Regulations

- 594 (1) The Governor in Council may make regulations
- (a) prescribing procedures to be followed in taking, transferring and processing requests for access;
 - (b) prescribing or limiting fees to be paid pursuant to this Part;
 - (c) prescribing additional circumstances in which a responsible officer may waive the payment of all, or any part, of a prescribed fee;
 - (d) prescribing the categories of sites that are considered to have heritage or anthropological value;
 - (e) prescribing requirements to be met with respect to disclosures of information to law enforcement agencies or investigative bodies;
 - (f) prescribing the form and manner of a review pursuant to this Part;
 - (g) prescribing the form and manner of an appeal pursuant to this Part;
 - (h) prescribing any matter that is to be included in a notice that is required pursuant to this Part;
 - (i) prescribing forms for the purpose of this Part;
 - (j) prescribing any other matter or thing required or authorized by this Part or the *Freedom of Information and Protection of Privacy Act* to be prescribed in regulations;
 - (k) respecting the application, with respect to this Part, of regulations made pursuant to the *Freedom of Information and Protection of Privacy Act*;
 - (l) defining any word or expression used, but not defined, in this Part;
 - (m) enlarging or restricting the meaning of any word or expression defined in this Part;
 - (n) for any purpose contemplated by this Part;
 - (o) to carry out effectively the intent and purpose of this Part.

(2) The regulations made pursuant to the *Freedom of Information and Protection of Privacy Act* apply with respect to this Part with all necessary changes, unless the Governor in Council determines otherwise, by regulations made pursuant to subsection (1).

(3) A regulation may apply to all persons or bodies, or to a class of persons or bodies, to whom this Part applies and there may be different regulations for different classes of persons.

(4) The exercise by the Governor in Council of the authority contained in this Section is a regulation within the meaning of the *Regulations Act*. 1998, c. 18, s. 501.

Amendments apply

595 Any amendments to the *Freedom of Information and Protection of Privacy Act* apply with necessary changes to this Part to the extent that they may be made to apply to this Part. 1998, c. 18, s. 502.

PART XXI

GENERAL

Municipality may act where direction not followed

596 (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 may 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. 1998, c. 18, s. 503; 2001, c. 35, s. 25.

Inspections

597 (1) Where an inspection is required or conducted pursuant to a bylaw or an enactment

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

(b) except in an emergency, an 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 24 hours in advance.

(2) Where a person refuses to allow an inspector to exercise, or attempts to interfere or interferes with an 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

(a) to allow the inspector entry to the building; and

(b) restraining a person from further interference.

(3) 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.

(4) No action may 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. 1998, c. 18, s. 503; 2001, c. 35, s. 25.

No liability regarding inspection of buildings or other property

598 (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. 1998, c. 18, s. 504; 2001, c. 35, s. 26.

No liability where expert certification or representation

599 Where 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. 1998, c. 18, s. 504.

Offence and penalty

600 (1) A person who

- (a) violates a provision of this Act or of an order, regulation or bylaw in force in accordance with this Act;
- (b) fails to do anything required by an order, regulation or bylaw in force in accordance with this Act;
- (c) permits anything to be done in violation of this Act or of an order, regulation or bylaw 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 bylaw in force in accordance with this Act,

is guilty of an offence.

(2) Unless otherwise provided in a bylaw, a person who commits an offence is liable, on summary conviction, to a penalty of not less than \$100 and not more than \$10,000 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 bylaw of a municipality made pursuant to this Act, a judge may order the person to comply with the provision, order, regulation or bylaw 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. 1998, c. 18, s. 505; 2005, c. 55, s. 10.

Offence and penalty regarding posted notice or order

601 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 \$100 nor more than \$5,000 and in default of payment, to imprisonment for a period of not more than 90 days. 1998, c. 18, s. 506; 2000, c. 9, s. 58.

Cost of work is first lien

602 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, by policy, or by the village commission, by bylaw, 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. 1998, c. 18, s. 507; 2001, c. 35, s. 27.

Offence and penalty where not otherwise specified

603 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 \$100 and not more than \$5,000 and in default of payment, to imprisonment for a period of not more than 90 days. 1998, c. 18, s. 508.

Service of notice

604 (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. 2000, c. 9, s. 59.

Service on clerk or village clerk sufficient

605 Where notice is authorized or required to be served on a municipality or village, service on the clerk or village clerk, respectively, is sufficient service. 1998, c. 18, s. 510; 2014, c. 21, s. 22.

Action brought in corporate name

606 An action brought by or against a municipality or village must be brought by or against it in its corporate name. 1998, c. 18, s. 511.

Limitation period and notice of intended action

607 (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 12 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 may 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. 1998, c. 18, s. 512.

No liability regarding services, public places or enforcement

608 A municipality, village or intermunicipal corporation created pursuant to Section 77, 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, village or intermunicipal corporation created pursuant to Section 77 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, village or intermunicipal corporation created pursuant to Section 77, in a reasonable state of repair, unless the municipality, village or intermunicipal corporation created pursuant to Section 77 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 bylaw, unless the decision not to enforce the bylaw is not made in good faith. 1998, c. 18, s. 513; 2008, c. 25, s. 11.

No liability—overflow of water

609 Where an overflow of water from a sewer, drain, ditch or watercourse is a consequence of snow, ice or rain, a municipality, village or intermunicipal corporation created pursuant to Section 77 is not liable for a loss as a result of the overflow. 1998, c. 18, s. 513; 2008, c. 25, s. 11.

No liability—sewage or water

610 A municipality, village or intermunicipal corporation created pursuant to Section 77, and its officers and employees, are not liable for damages caused directly or indirectly, by

(a) the operation, maintenance, repair, breaking or malfunction of wastewater facilities, a stormwater system or a water system; or

(b) interference with the supply of water through a water system, unless the damages are shown to be caused by the negligence of the municipality, village or intermunicipal corporation created pursuant to Section 77 or its officers or employees;

(c) 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, village or intermunicipal corporation created pursuant to Section 77 and should reasonably have been repaired; or

(d) where this Act or the bylaws of the municipality, village or intermunicipal corporation created pursuant to Section 77 have not been complied with by an owner or previous owner of the property. 1998, c. 18, s. 514; 2008, c. 25, s. 12.

No liability—operation of utility or provision of service

611 Where a municipality, village or intermunicipal corporation created pursuant to Section 77 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. 1998, c. 18, s. 515; 2008, c. 25, s. 13.

No liability—nuisance

612 A municipality, village or intermunicipal corporation created pursuant to Section 77 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. 1998, c. 18, s. 515; 2008, c. 25, s. 13.

Right of indemnity—street or sidewalk

613 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. 1998, c. 18, s. 516.

Right of indemnity against Crown

614 (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 the Crown 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 the Crown.

- (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 10 years from the date on which it was transferred to the municipality. 1998, c. 18, s. 517.

Requirement to consult with Federation

615 The Minister shall consult with the executive of the Nova Scotia Federation of Municipalities respecting any proposed amendment to this Act. 1998, c. 18, s. 518.

Requirement to notify Federation

616 (1) The Minister shall notify the Nova Scotia Federation of 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. 1998, c. 18, s. 519.

Regulations

- 617 (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) prescribing positions in respect of which the holder is a reportable individual;
 - (d) prescribing expense categories to be a reportable municipal expense;
 - (e) respecting expense policies, hospitality policies and codes of conduct, including requirements in respect of
 - (i) scope,
 - (ii) application,
 - (iii) content,
 - (iv) record-keeping,
 - (v) submission,

- (vi) publication, and
- (vii) frequency of posting or reporting;
- (f) for the effective administration of this Act; and
- (g) for the collection, standardization, maintenance and sharing of information related to the subdivision and development of land.

(2) The forms contained in Schedule A to Chapter 18 of the Acts of 1998 are deemed to be prescribed pursuant to clause (1)(b) and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Act.

(3) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1998, c. 18, s. 520; 2017, c. 13, s. 11.

PART XXII

TRANSITIONAL

Continuation in office

618 Town clerks, town treasurers, municipal clerks and municipal treasurers who held office during good behaviour immediately prior to April 1, 1999, continue to hold office during good behaviour until such time as they resign or retire. 1998, c. 18, s. 537.

Continuation in force

619 The bylaws, orders, policies and resolutions in force in a municipality or village immediately before April 1, 1999, continue in force to the extent that they are authorized by this Act or another Act of the Legislature until amended or repealed. 1998, c. 18, s. 538.

Dissolution of business commission

620 (1) Every business improvement district commission is dissolved and its assets and liabilities are vested in the municipality that established it.

(2) A municipality may transfer property of a business improvement district commission to a non-profit organization incorporated for purposes similar to those of the dissolved commission. 1998, c. 18, s. 539.

Dissolution of industrial commission

621 (1) Every industrial commission established by, or pursuant to, a statute is dissolved and its assets and liabilities are vested in the municipality that established it.

(2) A municipality may transfer property of an industrial commission dissolved by this Act to a non-profit organization incorporated for purposes related to the improvement of the economy and commerce of the municipality. 1998, c. 18, s. 540.

Dissolution of regional transit authority

622 (1) Every regional transit authority is dissolved and its assets and liabilities are vested in the municipality that established it.

(2) Municipalities that are members of a regional transit authority are deemed to have

(a) entered into an intermunicipal services agreement for the provision of public transportation services on the same terms and conditions as contained in the incorporating documents of the regional transit authority; and

(b) dedicated the property of the authority to that purpose.
1998, c. 18, s. 541.

Dissolution of corporations and commissions

623 (1) Every incorporated waterfront development corporation, parking commission, tree commission, parks commission or recreation commission established by a municipality or by statute is dissolved and its assets and liabilities are vested in the municipality that established it or in which it operated.

(2) A municipality may transfer property of a waterfront development corporation, parking commission, tree commission, parks commission or recreation commission dissolved by this Act to a non-profit organization incorporated for purposes similar to those of the dissolved body or related to the improvement of the municipality. 1998, c. 18, s. 542.

Transitional tax rates

624 (1) Where a regional municipality is incorporated, the council may authorize, for the 10 fiscal years commencing on the incorporation date,

(a) different commercial and residential tax rates in each former municipal unit by phasing down or up the rates that applied within the municipal unit immediately before the incorporation date; and

(b) the levying and collecting of a separate rate within each former municipal unit for debt charges arising from debt outstanding immediately prior to the incorporation date.

(2) A council may levy a rate on an area to recover outstanding deficits, debts, debt charges or other items of past expenditure that the council determines should be recovered from the ratepayers of the area.

(3) A rate levied pursuant to subsection (2) applies to the assessed value of all taxable property and business occupancy assessments in the area.

(4) In the first fiscal year of a regional municipality, the council may levy and collect taxes at the same rates as were levied by the municipal governments, applied to the assessed value of all taxable property and business occupancy assessments on the same basis as the rates levied by municipal governments, provided the total sum so levied will be sufficient to meet the estimated requirements of the regional municipality for that year.

(5) This Section applies to Cape Breton Regional Municipality, Halifax Regional Municipality and Region of Queens Municipality from the date of their respective incorporations. 1998, c. 18, s. 543.

Reference to municipality

625 A reference in an enactment to a municipality as defined in the former *Municipal Affairs Act* is a reference to a municipality, village or service commission as defined in this Act. 1998, c. 18, s. 544.

CHAPTER M-41

An Act to Provide for Grants to Municipalities

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Short title

- 1** This Act may be cited as the *Municipal Grants Act*. R.S., c. 302, s. 1.

Interpretation

- 2** In this Act,
- “dwelling unit” means living quarters, accessible from a private entrance either outside a building or in a common area within the building, that are occupied or, if unoccupied, are reasonably fit for occupancy, and that
- (a) contain kitchen facilities within the unit; and
 - (b) have toilet facilities that are not shared with the occupants of other dwelling units;
- “Minister” means the Minister of Municipal Affairs and Housing;
- “municipality” means a regional municipality, town or county or district municipality;

“property of a supported institution” means the residential property of a hospital or a post-secondary educational institution, whether the property of the Crown in right of the Province or not;

“Provincial property” means property of the Crown in right of the Province that is assessed pursuant to the *Assessment Act*, but does not include

- (a) public hospitals and other healthcare facilities;
- (b) educational institutions;
- (c) facilities for the permanent display of art and cultural and historical information and artifacts, including historical sites;
- (d) water and sewerage systems other than on-site systems;
- (e) any other property of the Crown in right of the Province that would be exempt from taxation even if it were not property of the Crown; and
- (f) property of any agency, authority, board, commission or Crown corporation of the Province that is not occupied by a department of the public service;

“Provincially-occupied federal property” means property of the Crown in right of Canada that is leased to and occupied by a department of the public service of the Province, excluding public hospitals, educational institutions and such other property of the Crown in right of the Province as would be exempt from taxation if it were not the property of the Crown in right of the Province, and in respect of which no grant in lieu of taxes is otherwise paid;

“service commission” means a board, commission or corporation created by or under the authority of any Act and having power to

- (a) provide for an area or the residents of an area services similar to one or more of those which may be provided by a municipality for its residents; and
- (b) levy rates and taxes, or to require a municipality or an official of a municipality to levy rates and taxes other than or in addition to water or electric rates fixed or approved under the *Public Utilities Act*,

but does not include a municipality, committee created by an inter-municipal service agreement, village or education entity;

“village” means a village as defined in the *Municipal Government Act*;

“year” means the fiscal year of a municipality as defined in the *Municipal Government Act*. R.S., c. 302, s. 2; 1990, c. 19, s. 72; 1994-95, c. 7, s. 65; 2003, c. 9, s. 96; O.I.C. 2014-71; 2018, c. 1, Sch. A, s. 132.

Grant in lieu of property tax

3

(1) The Minister shall pay out of the General Revenue Fund of the Province in each taxation year a grant in lieu of property assessment taxes to every municipality, village and service commission.

(2) A grant under subsection (1) is payable in respect of the Provincial property, Provincially occupied federal property and property of supported institutions located within the municipality or within the area of jurisdiction of a village or service commission as shown on the filed assessment roll for that year.

(3) Where taxes are collected by a municipality on behalf of any village or service commission, the grant is paid to the municipality for the account of the village or service commission.

(4) The grant is paid after receipt by the Minister of the information required from a municipality, village or service commission.

(5) The information required for a grant pursuant to subsection (4) must be submitted by a municipality, village or service commission

(a) in the same fiscal year as that for which the taxes were levied; and

(b) at the time and in the manner prescribed by the Minister. R.S., c. 302, s. 3; 2003, c. 9, s. 97; 2008, c. 63, s. 1; 2010, c. 2, s. 84; 2023, c. 14, s. 11.

Amount payable for certain property

4 (1) The grant payable in respect of Provincial property and Provincially-occupied federal property must be equal to the full taxes that would be payable in respect of the property assessment if it were not exempt from taxation.

(2) The grant payable in respect of property of supported institutions must be equal to the full taxes that would be payable in respect of the property assessment if it were not exempt from taxation. R.S., c. 302, s. 4; 1990, c. 39, s. 1; 1991, c. 15, s. 1; 1992, c. 25, s. 1; 1993, c. 33, s. 1; 1994, c. 27, s. 1; 1994-95, c. 7, s. 66; 2003, c. 9, s. 98; 2005, c. 6, s. 26; 2007, c. 21, s. 1; 2009, c. 8, s. 2; 2023, c. 14, s. 12.

Assessment and appeal of assessment

5 The assessment of Provincial property, Provincially-occupied federal property and property of supported institutions may be appealed in accordance with the provisions of the *Assessment Act*, and the assessment of the property, if not appealed or as altered or confirmed as the result of an appeal, binds the Minister. R.S., c. 302, s. 5.

No grant in lieu of property tax

6 A grant in lieu of property taxes must not be paid pursuant to this Act respecting

(a) property of the Crown in right of Canada or any other of the Crown's realms and territories except the Province;

(b) Provincial property occupied by any person other than in an official capacity;

(c) property of the Minister of Community Services pursuant to the former *Housing Act*;

(d) property of a college, academy or other public institution of learning used mainly for commercial, industrial, business, rental or other non-educational purposes. R.S., c. 302, s. 6; 2003, c. 9, s. 99.

Question as to whether grant payable

7 (1) Where any question arises between the Minister and a municipality, village or service commission as to whether a grant in lieu of property taxes is payable in respect of any property and cannot be otherwise resolved, either the Minister or the clerk of the municipality, village or service commission may apply to have the question determined by the Supreme Court of Nova Scotia according to the provisions of the *Assessment Act* within the time limited therefor.

(2) The owner and the occupant of the property in question must be served with notice of the application made pursuant to subsection (1).

(3) The court shall determine whether a grant in lieu of property taxes is payable in respect of the property.

(4) Where the court determines that a grant in lieu of property taxes is not payable but that the property is taxable or that the occupant thereof is taxable in respect of the property, the court shall order the property or occupant thereof to be entered on the assessment roll and the owner or occupant thereof shall be liable to pay the taxes thereon. R.S., c. 302, s. 7; 1992, c. 16, s. 5; 1994-95, c. 7, s. 67.

Municipal financial capacity grants

8 (1) Every municipality with a municipal financial capacity grant entitlement pursuant to this Act shall be paid in each year a municipal financial capacity grant pursuant to this Act.

(2) The total municipal financial capacity grants payable to municipalities in each year is the amount determined by the Governor in Council. 1994-95, c. 7, s. 68; 2002, c. 5, s. 34; 2019, c. 4, s. 29.

Classification of municipalities

9 For the purpose of calculating municipal financial capacity grant entitlements, municipalities are classified as follows:

- (a) Class I, comprising regional municipalities and towns;
- and
- (b) Class II, comprising county or district municipalities.

Number of dwelling units in municipality

10 (1) The number of dwelling units in a municipality must be determined by the Minister in each year, after the assessment rolls have been filed.

(2) Dwelling units of the Department of National Defence in respect of which the majority of the services used to calculate the standard expenditure per dwelling unit pursuant to this Act are not provided by a municipality and dwelling units located on Indian reserve lands must not be included as dwelling units for any purpose of this Act.

(3) A municipality may, within 60 days of the determination by the Minister of the number of dwelling units in a municipality, request a review by the Minister and the Minister's decision is final. R.S., c. 302, s. 9; 1994-95, c. 7, s. 69; 1995-96, c. 16, s. 212; 2002, c. 5, s. 35; 2003, c. 9, s. 100; 2019, c. 4, s. 30.

Standard expenditure per dwelling unit

11 For the purpose of the calculation of the municipal financial capacity grant for a municipality, the Minister shall prescribe a standard expenditure per dwelling unit for each class of municipality. R.S., c. 302, s. 11; 1990, c. 19, s. 75; 2003, c. 9, s. 101; 2019, c. 4, s. 31.

Calculation

12 (1) The standard expenditure per dwelling unit for the purpose of calculating the operating grant payable to each municipality is calculated for each class from the estimates of operating expenditures for the year in which the standard expenditure is prescribed.

(2) The estimates of operating expenditures referred to in subsection (1) must be provided to the Minister by the municipality by September 1st of the year in which the standard expenditure is being prescribed or such later date as the Minister determines.

(3) Where the estimates of operating expenditures are not provided under subsection (2), the standard expenditure per dwelling unit and any other calculation that would be calculated using the estimates of operating expenditures may be calculated using such information as the Minister determines.

(4) The standard expenditure per dwelling unit must approximately equal the average estimated operating cost per dwelling unit of the following services:

- (a) police protection;
- (b) fire protection;
- (c) transportation services, excluding public transit and operating grants from the Department of Transportation and Infrastructure Renewal;
- (d) 50% of environmental services,

all of which are defined in the *Municipal Accounting and Reporting Manual* prescribed by the Minister pursuant to the *Municipal Government Act*.

(5) The Minister shall provide the details of the calculation of the standard expenditure per dwelling unit to the clerk of a municipality upon request. R.S., c. 302, s. 12; 1994-95, c. 7, s. 70; 2002, c. 5, s. 36; 2004, c. 7, s. 22.

Calculation of standard expenditure for a municipality

13 The standard expenditure for a municipality equals the standard expenditure per dwelling unit for the class within which that municipality is included multiplied by the number of dwelling units in the municipality. R.S., c. 302, s. 13; 2003, c. 9, s. 102.

Calculation of uniform assessment for a municipality

14 (1) The uniform assessment of a municipality is equal to the taxable assessment of the municipality less 25% of the taxable assessment of commercial properties identified on the assessment roll as being occupied by a seasonal tourist business plus the capitalized value of payments made to the municipality in

lieu of taxes and payments made to the municipality by a utility with respect to taxes, but does not include

(a) the building, pump stations, deep-well pumps, main transmission lines, meters and associated plant and equipment of a municipal water utility; or

(b) the assessed value of property of a named registered Canadian charitable organization or non-profit community, charitable, fraternal, educational, recreational, religious, cultural or sporting organization or a day care licensed under the *Early Learning and Child Care Act*, if

(i) the property is exempt by municipal bylaw to the extent and under the conditions set out in the bylaw, and

(ii) the bylaw referred to in subclause (i) is provided to the Minister by September 1st of the year to which the bylaw relates, or such later date as the Minister permits.

(2) For the purpose of calculating the uniform assessment of a municipality pursuant to subsection (1), where pursuant to an enactment the municipal tax revenue in respect of an assessment in a municipality is shared by another municipality, the assessment is deemed to be in that other municipality to the extent that the revenue is shared by that other municipality.

(3) The Minister may make further adjustments to the figure obtained pursuant to subsection (1) if, in the Minister's opinion, it is required to achieve uniformity among municipal units.

(4) The Minister shall inform each municipality of the uniform assessment calculated for it.

(5) A municipality may within 60 days of the calculation by the Minister of its uniform assessment request a review by the Minister, and the Minister's decision is final.

(6) Where

(a) the total assessed value of a person's properties in a municipality included in the uniform assessment of the municipality for a taxation year is reduced as a result of assessment appeals by an amount that is three per cent or more of the municipality's uniform assessment that was calculated using that value; and

(b) all assessment appeals by that person respecting the properties included in that value have been determined or abandoned, including any appeals from those determinations,

the uniform assessment for the area that is the municipality must be calculated to reflect the reduction by deducting the amount of the reduction related to the earliest taxation year so long as

(c) the amount has not already been deducted in calculating the municipality's uniform assessment for this or a previous taxation year;

(d) reductions related to different taxation years are deducted in successive taxation years to ensure that the uniform assessment is only reduced for one taxation year for any one person assessed; and

(e) the assessment appeals are determined or abandoned on or after November 1, 2001. R.S., c. 302, s. 14; 2001, c. 35, s. 29; 2002, c. 15, s. 4; 2003, c. 9, s. 103; 2004, c. 27, s. 13; 2005, c. 9, s. 16; 2018, c. 33, s. 22.

Standard tax rate

15 (1) A standard tax rate must be calculated for Class I and Class II municipalities.

(2) The standard tax rate equals

(a) the total standard expenditures for all municipalities in the class for which the standard tax rate is being calculated,

divided by

(b) the total uniform assessment for all municipalities in the class for which the standard tax rate is being calculated. 2002, c. 5, s. 37; 2003, c. 9, s. 105.

Municipal financial capacity grant entitlement

16 (1) The municipal financial capacity grant entitlement of each municipality is equal to the standard expenditure for the municipality less the standard tax rate multiplied by the uniform assessment for the municipality.

(2) Where the municipal financial capacity grant entitlement for a municipality is less than zero, the municipal financial capacity grant entitlement is deemed to be zero.

(3) The municipal financial capacity grant for a municipality is equal to the proportion that the municipal financial capacity grant entitlement for the municipality is of the total municipal financial capacity grant entitlements for all municipalities times the total municipal financial capacity grants.

(4) Notwithstanding subsection (3), the Minister may make adjustments to the figure obtained pursuant to subsection (3) so that the municipal financial capacity grant for a municipality is not less than the municipal financial capacity grant paid to the municipality in the year 2001-2002 or an amount determined by the Minister. 1994-95, c. 7, s. 72; 2002, c. 5, s. 38; 2003, c. 9, s. 106; 2019, c. 4, s. 32.

Payment by instalment

17 The municipal financial capacity grant for a municipality must be paid by four quarterly instalments in each year. R.S., c. 302, s. 19; 1990, c. 19, s. 76; 1994-95, c. 7, s. 73; 2003, c. 9, s. 107; 2019, c. 4, s. 33.

Foundation Grant

18 The Minister may pay in each year to each town a foundation grant in the amount determined by the Minister. 2002, c. 5, s. 39.

Information required

19 (1) No grant may be paid pursuant to this Act until all information requested by the Minister has been provided by the municipality.

(2) Where a grant is not paid because information requested by the Minister has not been provided by a municipality, no interest is payable in respect to the grant that is not paid.

(3) Where information requested by the Minister that is required for a calculation is not provided by the municipality by the date required by the Minister, the Minister may make the calculation using such information as the Minister determines. 2002, c. 5, s. 39; 2004, c. 7, s. 23.

Financial assistance

20 (1) The Minister may, with the approval of the Governor in Council, provide financial assistance to individual municipalities in cases in which, in the Minister's opinion, it is necessary and expedient to do so and the municipality faces extraordinary financial difficulty.

(2) No such financial assistance may be provided until the municipality has filed with the Minister a detailed proposal satisfactory to the Minister designed to remedy the financial difficulty of the municipality and has complied with any further conditions imposed by the Minister.

(3) Except as provided by this or any Provincial enactment or by an agreement made pursuant thereto, the Minister shall not provide financial assistance to an individual municipality except according to grant programs applicable to all municipalities or to any class of them. R.S., c. 302, s. 36.

Regulations

21 The Governor in Council may make regulations

(a) defining any expression used in this Act and not defined herein;

(b) respecting any matter or thing, whether of the foregoing kind or not, that is necessary to effectively carry out the intent and purpose of this Act. R.S., c. 302, s. 37; 1994-95, c. 7, s. 76.

Regulations Act

22 The exercise by the Governor in Council of the authority contained in Section 21 is a regulation within the meaning of the *Regulations Act*. R.S., c. 302, s. 38; 1994-95, c. 7, s. 77.

CHAPTER M-42

Municipal Housing Corporations Act

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Short title

1 This Act may be cited as the *Municipal Housing Corporations Act*.
R.S., c. 304, s. 1.

Interpretation

2 In this Act,
“bylaws” means bylaws of a corporation;
“corporation” means a non-profit corporation wholly owned by a municipality;
“Minister” means Minister of Municipal Affairs and Housing;
“municipality” means a regional municipality, an incorporated town or a county or district municipality. R.S., c. 304, s. 2.

Municipal housing corporation

3 A municipality or two or more municipalities, by instrument in writing approved by resolution of the council or councils thereof and executed in a manner provided in this Act, may establish a municipal housing corporation. R.S., c. 304, s. 3.

Instrument of incorporation

4 (1) An instrument of incorporation must include a statement of the name of the corporation, the number of members, the manner of their appointment, the name of the provisional chair of the corporation and such other matters as appear to the municipality or municipalities to be advisable, and may be in the form prescribed by the regulations.

(2) The instrument must be executed on behalf of a municipality by the mayor or warden and by the clerk or by such other officers as the council authorizes or directs. R.S., c. 304, s. 4.

Certificate of incorporation

5 (1) Where an instrument of incorporation of a corporation is delivered to the Minister and the Minister is satisfied that it conforms to this Act and has been approved and executed as required by this Act, the Minister may register the instrument in the Minister's office and issue a certificate of incorporation to the corporation.

(2) Upon the issue of the certificate of incorporation, the corporation is constituted a body corporate under the name and in accordance with the particulars contained in the instrument of incorporation.

(3) A certificate of the Minister that a corporation is incorporated is conclusive evidence that the corporation is incorporated under this Act without proof of signature or office.

(4) The Minister shall send or deliver the certificate of incorporation to the person named in the instrument of incorporation as the provisional chair of the corporation. R.S., c. 304, s. 5.

Notice of incorporation

6 (1) Upon receiving the certificate of incorporation, the provisional chair shall notify the clerk of the municipality or municipalities that established the corporation and all other persons or organizations entitled to appoint members to the corporation that the corporation is established and request them to appoint to the corporation the number of members that each is entitled to appoint.

(2) As soon as conveniently may be, each municipality, person and body entitled to appoint a member or members shall make the appointments and send to the provisional chair the names and addresses of the persons so appointed.

(3) Upon receiving the names of all persons appointed to be members of the corporation the provisional chair shall convene an organizational meeting of the members at a place and time chosen by the provisional chair. R.S., c. 304, s. 6.

Officers

7 (1) The provisional chair shall preside at the organizational meeting until the members of the corporation have chosen a chair from among their number, whereupon the provisional chair shall relinquish the office of chair to the person so chosen.

(2) Subject to the bylaws, a member holds office until the member's successor is appointed.

(3) The members shall elect from among themselves a chair, a vice-chair, a secretary and such other officers, if any, as they consider advisable, who, subject to the bylaws, hold office until their successors are elected.

(4) Subject to the bylaws a majority of the members of the corporation constitutes a quorum. R.S., c. 304, s. 7.

Remuneration

8 Each member of the corporation shall be paid such remuneration as may be fixed by bylaw and may be reimbursed by the corporation for reasonable expenses necessarily incurred by the member in performing the member's functions as a member. R.S., c. 304, s. 8.

Personnel

9 A corporation may appoint or engage such officials and employees and professional, scientific or technical experts and other staff as it considers advisable for the attainment of its objects or the exercise of its powers and may pay them such remuneration as the corporation determines. R.S., c. 304, s. 9.

Committees

10 Subject to the bylaws, a corporation may appoint such standing or special committees as it considers desirable for the carrying out of its objects and may prescribe their functions and powers. R.S., c. 304, s. 10.

Objects

11 The objects of the corporation are

(a) to construct, hold and manage accommodation for the aged, mentally handicapped or physically disabled or others requiring nursing or custodial care; and

(b) in combination with the objects set out in clause (a), to provide personal-care programs and rehabilitative programs for the aged, mentally handicapped or physically disabled. R.S., c. 304, s. 11.

Powers

12 A corporation may

(a) receive from any government or governmental body or agency grants of money or land and use, apply or convey them in accordance with the terms upon which they were made or for any purposes of the corporation that are not inconsistent with the grant;

(b) accept gifts, assignments, devises and bequests of real and personal property and apply them to the general purposes of the corporation or to a specific purpose of the corporation;

(c) acquire real and personal property by deed, will, gift or lease or in any other manner and, with the approval of the municipalities partici-

pating in the formation of the corporation, mortgage, lease, sell or otherwise dispose of it or any part of it;

(d) borrow on the security of its real and personal property, or either of them or any part thereof, or any other security or without security such money as the corporation considers necessary and mortgage, pledge or otherwise charge its property or any part of it for the purpose of securing any money borrowed;

(e) improve, enlarge, repair, alter, equip, service, insure and maintain any building or buildings owned or leased by it;

(f) invest and deal with funds of the corporation not immediately required for its purposes in such securities and in such manner as the corporation from time to time determines;

(g) do such other acts and things as are incidental to the attainment of its objects or the exercise of its powers. R.S., c. 304, s. 12.

Execution of document

13 Subject to the provisions of this Act, a corporation may at any duly called meeting by a majority of the members present direct or authorize its chair or vice-chair and its secretary to make and execute under its corporate seal any deed, lease, mortgage or instrument relating to its real and personal property. R.S., c. 304, s. 13.

Bylaws

- 14** (1) A corporation may make bylaws with respect to
- (a) meetings of the corporation and committees, the method of calling those meetings, their frequency, the conduct of business at them and rules of order and proceedings at meetings;
 - (b) the election or appointment and term of office of members and officers of the corporation;
 - (c) the filling of vacancies in the corporation or in offices of the corporation;
 - (d) the qualifications of members and officers;
 - (e) vacating or terminating membership or office in the corporation;
 - (f) the appointment or election of standing or special committees and their functions, duties and powers;
 - (g) the general management, use and good government of any project or accommodation owned, held, or managed by the corporation, the medical attendants, officers and employees thereof, the discipline and admission of tenants or patients thereto, and their discharge therefrom, including all things and matters incidental to any of the matters mentioned in this clause;
 - (h) any matter relating to the conduct of the business and affairs of the corporation not specifically provided for in this Act.

(2) A bylaw of a corporation or an amendment or repeal of a bylaw comes into force when approved by, and filed in the office of, the Minister. R.S., c. 304, s. 14.

Amendment of instrument of incorporation

15 (1) A corporation, with the approval of the council or councils of the municipality or municipalities that establish the corporation, may amend the instrument of incorporation by which it was established by changing its name, the number of its members, the manner of appointment of members or any of them.

(2) Where an amendment of an instrument of incorporation provides for participation by an additional municipality in the activities of a corporation or the appointment of members, the amendment is not effective unless the council of the additional municipality consents to it.

(3) An amendment to an instrument of incorporation has effect when it is filed in the office of the Minister. R.S., c. 304, s. 15.

Annual report and financial statement

16 Not later than February 1st of each year, each corporation shall submit to the council of each municipality that executed the instrument of incorporation or consented to an amendment to the instrument a report covering the activities of the corporation in the preceding year, together with a financial statement of the corporation for that year. R.S., c. 304, s. 16.

Grant or loan by municipality

17 (1) A municipality that executed the instrument of incorporation of a corporation or consented to an amendment to the instrument may grant or lend to or guarantee a borrowing by the corporation to assist the corporation in carrying out its objects such sums and on such terms as the council of the municipality determines.

(2) Any money required by a municipality for the purpose of subsection (1) may be raised, levied and collected in the same manner as money required for its ordinary purposes is raised, levied and collected or may be borrowed by the municipality pursuant to the statutes applying to the municipality and in that event the making of a grant is deemed to be a purpose of the municipality for the purposes of the *Municipal Government Act*. R.S., c. 304, s. 17.

Qualifications for membership

18 A person who is otherwise qualified is not disqualified from being appointed and acting as a member of a corporation by reason only of a provision similar to Sections 38 and 39 of the former *Municipal Act* in any Act relating to a municipality. R.S., c. 304, s. 18.

Property held in trust

19 Any corporation incorporated under this Act shall hold all property both real and personal and the profits and income arising therefrom, acquired by it by purchase, gift, bequest or otherwise in trust for the objects and purposes for which the company may be incorporated and no part of the income of the said corporation shall be payable to or otherwise available for the personal benefit of any

member thereof nor shall the company carry on any trade or business for the profit of its members. R.S., c. 304, s. 19.

Regulations prescribing forms

20 (1) The Minister may make regulations prescribing forms for the purpose of this Act.

(2) The form contained in the Schedule to Chapter 304 of the Revised Statutes, 1989, is deemed to be prescribed pursuant to subsection (1) and to have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to that Act.

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

CHAPTER M-43

An Act to Provide for a Municipal Loan Fund and Building Fund

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Short title

1 This Act may be cited as the *Municipal Loan and Building Fund Act*.
R.S., c. 305, s. 1.

Interpretation

2 In this Act,

“Building Fund” means such sums of money as are from time to time provided for the purposes of this Act as a building fund;

“Loan Fund” means such sums of money as are from time to time provided for the purposes of this Act as a municipal loan fund;

“municipality” includes a regional municipality, town and county or district municipality and any village to which the *Municipal Government Act* applies. R.S., c. 305, s. 2.

Source of funds

3 For the purposes of this Act, the Governor in Council may from time to time, out of sums chargeable to Capital Account or out of the Special Reserve Account of the Province or out of the revenues of the Province, pay into the Building Fund sums not exceeding in the aggregate \$2,750,000 and into the Loan Fund sums not exceeding in the aggregate \$40,000,000. R.S., c. 305, s. 3.

Use of Loan Fund

4 The Governor in Council may out of the Loan Fund make loans to any municipality for the purpose of constructing, altering, extending or improving the waterworks or water system or the public sewers or drains in the municipality and acquiring or purchasing materials, equipment and plant considered requisite or

advisable therefor or for the purpose of erecting, acquiring, purchasing or adding to buildings for public schools or city or town halls or for courthouses or municipal buildings. R.S., c. 305, s. 4.

Use of Building Fund

5 (1) The Governor in Council may out of the Building Fund make grants to any city or town for the purpose of aiding the construction or extension of buildings for junior or senior high schools in the city or town.

(2) Where the said construction or extension is partly for the purpose of a junior or senior high school and partly for the purpose of a grade school, the payments authorized by this Act must be in relation only to that portion of the building to be used or occupied for the purpose of a junior or senior high school in accordance with a certificate of the Minister of Education and Early Childhood Development. R.S., c. 305, s. 5.

Special accounts

6 For the purposes of this Act, there is established in the office of the Minister of Finance and Treasury Board a special account to be known as the "Municipal Loan Fund" into which must be paid or credited all sums that may from time to time be provided for the purposes of this Act as a municipal loan fund and a special account to be known as the "Municipal Building Fund" into which must be paid or credited all sums that may from time to time be provided for the purposes of this Act as a municipal building fund. R.S., c. 305, s. 6.

Loan or repayment of loan

7 All loans made under this Act must be made out of the Loan Fund and all repayments in respect of any such loans must be credited to the Loan Fund and subject to the other provisions of this Act may be reloaned by the Governor in Council for the purposes of this Act. R.S., c. 305, s. 7.

Administration expenses

8 Any administration expenses in connection with any such loan or grant are administration expenses of the Department of Municipal Affairs and Housing but are not a charge upon either of the funds. R.S., c. 305, s. 8.

Regulations

9 (1) The Governor in Council may make regulations not inconsistent with this Act

- (a) limiting the amounts of loans;
- (b) prescribing or limiting the purposes for which loans may be made;
- (c) prescribing the nature of the security to be required before a loan is made;
- (d) prescribing the manner in which applications for loans shall be made;
- (e) fixing the interest rates on loans;

(f) classifying the cities and towns of the Province for the purpose of this Act;

(g) prescribing in respect of any class the percentage of the cost of any junior or senior high school that may be paid out of the Building Fund;

(h) limiting the amount of grants from the Building Fund;

(i) prescribing in respect of any matter for which no provision or incomplete provision has been made.

(2) Regulations made under subsection (1) must be published in the Royal Gazette and upon such publication become effective in all respects as if enacted in this Act. R.S., c. 305, s. 9.

CHAPTER M-44

An Act to Provide for the Formation of Mutual Insurance Companies

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Short title

1 This Act may be cited as the *Mutual Insurance Companies Act*. R.S., c. 306, s. 1.

Formation of mutual fire insurance company

2 Any three freeholders of any municipality, who consider it expedient to establish a mutual fire insurance company, may open and keep a subscription book in which the owners of property, movable or immovable, within the Province, may sign their names and enter the sums for which they respectively bind themselves to effect insurance with the said company. R.S., c. 306, s. 2.

Subscription

3 Whenever 50 or more persons, being owners of movable or immovable property in the Province, have signed their names in said subscription book, and bound themselves to effect insurances in the said company that in the aggregate amount to at least \$100,000, a meeting must be called, as hereinafter provided. R.S., c. 306, s. 3.

First meeting of company

4 (1) As soon as convenient after the subscription book has been completed in the aforesaid manner, any 10 of the subscribers thereto may call the first meeting of the company, at such time and place within the municipality as they determine.

(2) A meeting under subsection (1) must be called by sending a printed notice by mail, addressed to each subscriber at the subscriber's post office address, at least 10 days before the day of such meeting, and by advertisement in one or more papers published in the county in which the municipality is situate, the notice and advertisement to contain the object of the meeting and the time and place at which it will be held. R.S., c. 306, s. 4.

Business conducted at first meeting

5 (1) At a meeting under subsection 4(1), the name and style of the company, including the appellations "fire" and "mutual", must be adopted, an interim secretary appointed, a board of not more than 20 nor fewer than five directors must be elected and the place named in the municipality at which the head office of such company must be located, and thereupon copies of the resolutions adopting such name or style and the place of the head office of the company and of such subscription book and the names of the directors elected, and all such documents, being certified as correct under the hands of the chair and secretary, must be filed in the office of the registrar of deeds of the registration district within which the municipality is situate.

(2) Upon the filing of the documents referred to in subsection (1) with the certificate referred to in subsection (1), the several subscribers above-named, and all other persons thereafter effecting insurance therein, become mem-

bers of the company and are a body corporate and politic by and under such name so adopted, and which may not thereafter be changed.

(3) As soon after the meeting as convenient, the interim secretary shall call a meeting of the board of directors for the election of a president and vice-president from amongst themselves, for the appointment of a secretary, treasurer or manager and the transaction of such other business as may be brought before them. R.S., c. 306, s. 5.

Membership

6 The company may admit, as a member, the owner of any property, movable or immovable, and may insure the same whether the owner is or is not a freeholder, and every person admitted a member of the company by such insurance is entitled to the like rights and be subjected to the like liabilities as other members of the company. R.S., c. 306, s. 6.

GENERAL MEETINGS

Election of directors

7 A meeting of the members for the election of directors must be held in every year, within three months after December 31st, at such time and place as may be prescribed by the bylaws of the company. R.S., c. 306, s. 7.

Annual report

8 At annual meetings, in addition to the election of directors, a report of the transactions of the company for the year that has ended on the previous December 31st must be presented and read together with a full and unreserved statement of its affairs, exhibiting receipts and expenditures, assets and liabilities. R.S., c. 306, s. 8.

Notice of meeting

9 Notice of any annual or special meetings of the members of the company must be published in one or more newspapers for at least two weeks previous to the day of such meeting and the board of directors may convene at any time a general meeting of the company upon any urgent occasion, giving notice as herein provided. R.S., c. 306, s. 9.

Voting

10 (1) Each member of the company is entitled, at all meetings of the company, to the number of votes proportioned to the amount insured by the member, according to the following rates:

- (a) for any sum under \$1,500, one vote;
- (b) from \$1,500 to \$3,000, two votes;
- (c) from \$3,000 to \$6,000, three votes;
- (d) one vote for every additional \$3,000.

(2) No member is entitled to vote while in arrears for any assessment or premium due by the member to the company. R.S., c. 306, s. 10.

ELECTION OF BOARD OF DIRECTORS

Election of directors

11 The election of directors must be held and made by such members of the company as attend for that purpose in their own proper persons. R.S., c. 306, s. 11.

Election by ballot

12 The election of directors must be by ballot. R.S., c. 306, s. 12.

Tie vote and election of officers

13 (1) Where at any election two or more members have an equal number of votes, in such manner that a less number of persons than the whole number to be elected appear to have been chosen directors by a majority of votes, the members of the company shall proceed to elect by ballot until it is determined which of the persons so having an equal number of votes is the director or directors, so as to complete the whole number of directors to be elected.

(2) The directors shall at their first meeting after any such election proceed to elect by ballot among themselves a president and vice-president, and at such election the secretary presides. R.S., c. 306, s. 13.

Qualification of director

14 The directors must be members of the company, and insurers therein, for the time they hold office, to the amount of at least \$800. R.S., c. 306, s. 14.

Manager

15 The manager of any mutual insurance company may be a director of the company and may be paid an annual salary, but only under a bylaw of the company. R.S., c. 306, s. 15.

Ineligibility of employee or agent

16 No agent or paid officer, or person in the employment of any company, other than the manager, is eligible to be elected a director or is allowed to interfere in the election of directors for such company. R.S., c. 306, s. 16.

Quorum and equality of votes

17 Three directors constitute a quorum for the transaction of business and, in case of an equality of votes at any meeting of the board, the question is defeated. R.S., c. 306, s. 17.

Record of dissent

18 Any director disagreeing with the majority of the board at any meeting may have the director's dissent recorded with the director's reasons. R.S., c. 306, s. 18.

Vacancy

19 Where any vacancy happens among the directors during the term for which they may have been elected, by death, resignation, ceasing to have the necessary qualification under Section 14, insolvency or being absent without previous

leave of the board from the board for three consecutive regular meetings, that creates a vacancy, the vacancy must be filled for the remainder of the term by any person duly qualified, to be nominated by a majority of the remaining directors, and as soon as may be after the vacancy occurs. R.S., c. 306, s. 19.

Failure to hold election

20 Where an election of directors is not made on the day on which it ought to have been made, the company is not for that cause dissolved, but the election may be held on any subsequent day at a meeting to be called by the directors or as otherwise provided by the bylaws of the company, and in such case the directors continue to hold office until their successors are elected. R.S., c. 306, s. 20.

GENERAL POWERS OF THE BOARD OF DIRECTORS

Powers of board of directors

21

The board may

(a) appoint a manager, secretary, treasurer and such other officers, agents or assistants as to the board may seem necessary, prescribe their duties, fix their compensations or allowances, take such security from them as may be required by this Act for the faithful performance of their respective duties and remove them and appoint others instead;

(b) adopt a tariff of rates for insurance and vary the same from time to time and determine the sum to be insured on any property;

(c) hold their meetings monthly, or oftener if necessary, for transacting the business of the company,

and the board shall keep a record of its proceedings. R.S., c. 306, s. 21.

Bylaws

22

(1) The board of directors may make such bylaws as to them may appear needful and proper respecting

(a) the funds and property of the company;

(b) the duty of the officers, agents and assistants thereof;

(c) the effectual carrying out of the objects contemplated by this Act;

(d) the holding of the annual meeting;

(e) all such other matters as appertain to the business of the company and are not contrary to law,

and may amend the bylaws, except in cases with regard to which it is provided that any such bylaw may not be repealed, or if such repeal would affect the rights of others than the members of the company, in any of which cases such bylaw may not be repealed.

(2) Every bylaw of the board must be duly entered on the minutes and, when confirmed at any subsequent meeting of the members, is held to be and have the same force and effect as a bylaw of the company. R.S., c. 306, s. 22.

Management powers

23 The board of directors shall superintend and have the management of the funds and property of the company, and of all matters relating thereto and not otherwise provided for. R.S., c. 306, s. 23.

Reinsurance of risks

24 The board of directors may make arrangements with any mutual or other insurance company for the reinsurance of risks, on such conditions with respect to the payment of premiums thereon as may be agreed between them. R.S., c. 306, s. 24.

Cancellation of policy

25 (1) The company may cancel any policy by

(a) giving to the insured notice to the effect that they have cancelled or will cancel the same, by registered letter, signed by the secretary of the company, addressed and sent by mail postage paid to the post office address of the insured as given by the insured in the application for insurance, or subsequent writing to the company; or

(b) giving to the insured personally, notice in writing, signed by the secretary or an officer or agent of the company, to such effect.

(2) The party insured is nevertheless liable to pay the party insured's proportion of the losses and expenses of the company to the time of cancelling the policy, and on payment of the party insured's proportion of all assessments then payable and to become payable in respect of losses and expenses sustained up to such period, is entitled to a return of the party insured's premium note or undertaking, and such portion of the premium paid by the party insured as has not been absorbed by the losses and expenses of the company up to such period.

(3) A condition to this effect must be endorsed on the policy. R.S., c. 306, s. 25.

Bonus or dividend

26 (1) In this Section, "surplus" means the excess of assets over liabilities including the reserve of unearned premiums calculated pro rata for the unexpired term of the policies of the company in force.

(2) When and so long as the surplus of the company exceeds one and one half per cent of the total amount of insurance in force at the end of the preceding calendar year, the board of directors may declare a bonus or a dividend to be applied in the reduction of the cash premium, payable on the renewal of policies expiring during the 12 months ending the December 31st next succeeding the declaration. R.S., c. 306, s. 26.

Withdrawal of member

27 Any member of such company may, with the consent of the directors, withdraw therefrom upon such terms as the directors may require. R.S., c. 306, s. 27.

Investment

28 Any company may from time to time invest the capital and funds of the company in any securities in which a trust company is authorized to invest trust funds by Section 80 of the *Trustee Act* except securities described in clause (b) of that Section. R.S., c. 306, s. 28.

Debenture or promissory note

29 The board of directors of any such company may issue debentures or promissory notes in favour of any person, firm, building society, banking or other company, for the loan of money, and may borrow money therefrom on such debentures or promissory notes for any term not exceeding 12 months, and on such conditions as they may think proper, and may renew the same for any such term, the whole of the assets, including premium notes of the company, being held liable to pay the same at maturity, but no such debenture or promissory note may be for a sum less than \$100, and provided always all the debentures and promissory notes at any one time outstanding do not exceed one fourth of the amount remaining unpaid upon the same premium notes. R.S., c. 306, s. 29.

POLICIES OF INSURANCE**Term of policy**

30 The company may issue policies of insurance for any time not exceeding five years. R.S., c. 306, s. 30.

Conditions for issue of policy

31 No policy of insurance may be issued by any such company until application has been made for insurance to the extent of at least \$100,000, and approved of by the board. R.S., c. 306, s. 31.

Renewal of policy

32 Any policy issued on or after April 30, 1930, may be renewed at the discretion of the board of directors of the insuring company by the renewal receipt instead of policy upon the insured giving the insured's premium note and making the required cash payment. R.S., c. 306, s. 32.

Unreasonable condition void

33 Every condition endorsed upon or affecting any policy of insurance that is held by the court or judge before whom any question relating thereto is tried not to be just and reasonable, is absolutely null and void. R.S., c. 306, s. 33.

Insurable items

34 (1) In this Section, "surplus" has the same meaning as in Section 26.

(2) The company may insure dwelling houses, stores, shops and other buildings, household furniture, merchandise, machinery, livestock, farm produce and other commodities against damage or loss by fire or lightning, whether the same happens by accident or any other means, except that of design on the part of the insured, or by the invasion of an enemy or by insurrection.

(3) The company may also insure school buildings, and the trustees of schools are authorized and empowered to pay premiums, and make and sign premium notes or undertakings for such insurance.

(4) A company that has a surplus of \$300,000 or more may insure any property, that is insured under a fire insurance policy of the company, against the following additional perils, namely, damages resulting from civil commotion, earthquake, falling aircraft, hail, impact by vehicles, limited or inherent explosion, sprinkler leakage, water damage, weather and windstorm, as those classes of insurance are defined in the regulations from time to time made under the *Insurance Companies Act* (Canada).

(5) Notwithstanding subsection (4), a company that has a surplus of less than \$300,000 may insure property that is insured under a fire insurance policy of the company against the perils enumerated in subsection (4) if

(a) the fire insurance policy under which the additional insurance is included is in an amount of not less than \$4,000;

(b) the insurance against the additional perils is not more than \$1,500;

(c) the company has made and maintains in effect a reinsurance arrangement with respect to the insurance against the additional perils that is approved by the Minister of Service Nova Scotia; and

(d) the insurance against the additional perils is granted on terms and conditions that are prescribed or approved by the Minister of Service Nova Scotia. R.S., c. 306, s. 34.

Minimum rate

35 The minimum rate to be charged or taken by any company for insuring first-class isolated non-hazardous property must be not less than 20¢ per centum per year, and the minimum rate of insurance upon other property must be increased relatively with the increased risk, according to the nature of such property. R.S., c. 306, s. 35.

Validity of policy

36 All policies of insurance issued by the board of directors, sealed with the seal of the company, signed by the president or vice-president and countersigned by the secretary or acting secretary, are binding on the company, if

(a) any fraudulent misrepresentation contained in the application therefor;

(b) any false statement respecting the title or ownership of the applicant or applicant's circumstances;

(c) the concealment of any encumbrance on the insured property, or on the land on which it may be situate; or

(d) the failure to notify the company of any change in the title or ownership of the insured property and to obtain the written consent of the company thereto,

renders the policy void, and no claim for loss is recoverable thereunder unless the board of directors in its discretion sees fit to waive the defect. R.S., c. 306, s. 36.

Double insurance

37 Where an insurance subsists by the act or with the knowledge of the insured in the company and in any other office at the same time, the insurance in the company is void unless the double insurance subsists with the consent of the directors, signified by endorsement on the policy signed by the secretary or other officer authorized to do so or otherwise acknowledged in writing. R.S., c. 306, s. 37.

Additional insurance

38 Whenever notification in writing is received by a company from an applicant for insurance, or from a person already insured, of the person's intention to insure or of the person having insured an additional sum on the same property in some other company, the additional insurance is deemed to be assented to unless the company so notified signifies, within two weeks after the receipt of such notice, to the party in writing their dissent and, in case of dissent, the liability of the insured on the premium note or undertaking ceases from the date of such dissent on account of any loss that may occur to such company thereafter, and the policy of the assured is void at the option of the directors of the company. R.S., c. 306, s. 38.

Effect of alienation of property

39 (1) In case any property, real or personal, is alienated by sale, insolvency or otherwise, the policy is void and must be surrendered to the directors of the company to be cancelled, and thereupon the assured is entitled to receive the assured's deposit note or notes upon payment of the assured's proportion of all losses and expenses that had accrued prior to such surrender, but the assignee may have the policy transferred to the assignee and, upon application to the directors such assignee, on giving proper security to their satisfaction for such portion of the deposit or premium note or undertaking as remains unpaid, and with their consent within 30 days next after such alienation, may have the policy ratified and confirmed to the assignee, and by such ratification and confirmation said assignee is entitled to all the rights and privileges, and be subject to all the liabilities and conditions, to which the original party insured was entitled and subject.

(2) Notwithstanding subsection (1), in cases where the assignee is a mortgagee, the directors may permit the policy to remain in force and to be transferred to the assignee by way of additional security, without requiring any premium note or undertaking from such assignee, or the assignee becoming in any manner personally liable for premiums or otherwise, but in such cases the premium note or undertaking and liability of the mortgagor in respect thereof continues unaffected. R.S., c. 306, s. 39.

Alteration of insured property

40 Where any alteration is made in any house or building insured by the proprietor thereof, or where the risk on any house or building or other property insured is increased by any means whatever, after the insurance has been made thereon with the company, whereby it is exposed to greater risk or hazard from fire than it was when insurance was effected, the insurance is void unless previous notice thereof is given in writing, and the requisite additional premium note or deposit after such alteration is given or paid to the directors, but no alterations or

repairs in buildings not increasing such risk or hazard affects the insurance previously made. R.S., c. 306, s. 40.

PREMIUM NOTES AND ASSESSMENTS

Premium note or undertaking

41 The company may accept premium notes or the undertaking of the insured for insurances and may issue policies on the notes or undertakings to be assessed for the losses and expenses of the company in the manner hereinafter provided. R.S., c. 306, s. 41.

Demand for payment

42 The directors may demand a part or first payment of the premium note or undertaking at the time that application for insurance is made, and such first payment may be in cash or by promissory note and may be credited upon said premium note or undertaking or against future assessments. R.S., c. 306, s. 42.

Assessment

(1) All premium notes or undertakings belonging to the company must be assessed under the direction of the directors, at such intervals from their respective dates, for such sums as the directors determine and for such further sums as they may think necessary to meet the losses and other expenditures of said company during the currency of the policies for which said notes or undertakings were given, and in respect to which they are liable to assessment.

(2) Every member of the company or person who has given a premium note or undertaking shall pay the sums from time to time payable by the member or person to the company during the continuance of the member's or person's policy, in accordance with such assessment.

(3) Any such assessment becomes payable 30 days after notice of such assessment is mailed to such member or person who has given the premium note or undertaking, directed to the member's or person's post office address as given in the member's or person's original application, or in writing to the secretary of the company. R.S., c. 306, s. 43.

Failure to pay

44 Where the assessment on the premium note or undertaking upon any policy is not paid within 30 days after the day on which the assessment has become due, the policy of insurance for which such assessment has been made is null and void as respects all claim for losses occurring during the time for such non-payment, provided that the policy is revived when such assessment has been paid, unless the secretary gives notice to the contrary to the assessed party in the manner as in this Act provided, but nothing relieves the assured party from the assured party's liability to pay such assessment or any subsequent assessments, nor is such assured party entitled to recover the amount of any loss or damage that may happen to property insured under such policy while such assessment remains due and unpaid, unless the board of directors in their discretion decides otherwise. R.S., c. 306, s. 44.

Notice of assessment

45 A notice of assessment upon any premium note or undertaking, mailed as aforesaid, is deemed sufficient if it embodies the number of the policy, the period over which the assessment extends, the amount of the assessment and the time when and the place where payable. R.S., c. 306, s. 45.

Factors considered

46 The assessment upon premium notes or undertakings must always be in proportion to the amount of the notes or undertakings, having regard to the branch or department to which their policies respectively appertain. R.S., c. 306, s. 46.

Recovery of assessment

47 Where any member or other person who has given a premium note or undertaking, for 30 days after notice of assessment has been mailed to the member or other person in manner aforesaid, neglects or refuses to pay the assessment, the company may sue for and recover the same with costs of suit, and such proceedings is not a waiver of any forfeiture incurred by such non-payment. R.S., c. 306, s. 47.

Certificate is prima facie evidence

48 Whenever any assessment is made on any premium note or undertaking given to the company for any risk taken by the company or as a consideration for any policy of insurance issued or to be issued by the company, and an action is brought to recover such assessment, the certificate of the secretary of the company specifying such assessment and the amount due to the company on such note or undertaking by means thereof must be taken and received as prima facie evidence thereof in any court in the Province. R.S., c. 306, s. 48.

Reserve fund

49 The company may form a reserve fund, consisting of all money that remains on hand at the end of each year, after payment of the ordinary expenses and losses of the company and, for that purpose, the board of directors may levy an annual assessment not exceeding 10% on the premium notes or undertakings held by the company and such reserve fund may be applied by the directors to pay off such liabilities of the company as may not be provided for out of the ordinary receipts for the same or any succeeding year, provided that such reserve fund is invested either in debentures or other securities of Canada or of the Province or in municipal debentures, or may remain in a chartered bank of the Province on deposit at interest. R.S., c. 306, s. 49.

Return of premium note or undertaking

50 Forty days after the expiration of the term of insurance, the premium note or undertaking given for such insurance must, on application therefor, be given up to the signer thereof, provided all losses and expenses with which the note or undertaking may be chargeable have been paid. R.S., c. 306, s. 50.

Mutual principle

51 Any mutual fire insurance company to be incorporated under this Act may not issue policies otherwise than upon the mutual principle. R.S., c. 306, s. 51.

PAYMENT OF LOSSES

Payment for loss

52 In case of any loss or damage by fire happening to a member upon property insured with the company, the member shall give notice of the loss or damage to the secretary of the company forthwith, and the proofs, declarations, evidences and examinations called for by or under the policy must be furnished to the company within 30 days after the loss, and upon receipt of notice and proofs of claim as aforesaid the board of directors shall ascertain and determine the amount of such loss or damage, and such amount is payable in three months after the receipt by the company of such proofs. R.S., c. 306, s. 52.

Dispute over value of property

53 Where the party is not satisfied with the determination of the board of directors, all questions as to the value of property damaged or destroyed may be submitted to three disinterested persons as referees, one of whom is named by the board and one by the suffering party and the third by the two referees, or, on their failing to agree on their choice, by a judge of the Supreme Court of Nova Scotia in the district in which the loss may have taken place, and the decision or award of a majority of them is binding. R.S., c. 306, s. 53.

Limitation of action

54 (1) No action or suit, either at law or in equity, may be brought against such company upon any policy or contract of insurance granted or entered into by such company, after the lapse of one year next after the happening of the loss or damage in respect of which such action is brought, saving in all cases the right of parties under legal disability.

(2) All policies to be issued by such company must have a condition to this effect endorsed thereon. R.S., c. 306, s. 54.

Judgment and costs against company

55 Where upon the trial of such action a greater sum is recovered than the amount determined upon by the directors, the party suffering has judgment therefor against the company, with interest thereon from the time such loss or damage would become payable under Section 52 of this Act, with costs of suit. R.S., c. 306, s. 55.

Judgment but no costs

56 Where no more be recovered than the amount so previously determined upon by the directors, the plaintiff in the suit has judgment for such amount only, and the plaintiff is not entitled to costs against the defendants, and the defendants are entitled to costs against the plaintiff as in the case of a verdict for the defendant. R.S., c. 306, s. 56.

Execution

57 No execution may issue against the company upon any judgment until after the expiration of three months from the recovery thereof. R.S., c. 306, s. 57.

Taking of evidence

58 Any justice of the peace, or any person having lawful authority to administer an oath or affirmation in any legal proceeding, may examine on oath or solemn affirmation any party or person who comes before the justice of the peace or person having lawful authority to give evidence touching any loss by fire in which any mutual insurance company is interested, and may administer any oath or affirmation required under this Act. R.S., c. 306, s. 58.

Effect of loss

59 Where there is any loss on property insured by the company, the board of directors may retain the amount of the premium note or undertaking given for insurance thereof until the time has expired for which insurance has been made, and at the expiration of the time the insured has the right to demand and receive such part of the retained sum as has not been assessed for. R.S., c. 306, s. 59.

BRANCHES OR DEPARTMENTS**Branches or departments**

60 Any mutual company may separate its business into branches or departments with reference to the nature or classification of the risks of the localities in which insurance may be effected. R.S., c. 306, s. 60.

Separation of accounts

61 The directors of every such company so separating its business shall make a scale of risks and tariff of rates for each branch and direct that the accounts of each be kept separate and distinct the one from the other. R.S., c. 306, s. 61.

Independence of branch

62 Members of any such company insuring in one branch are not liable for claims on any other branch. R.S., c. 306, s. 62.

Apportionment of expenses

63 All necessary expenses incurred in the conducting and management of such companies must be assessed upon and divided between the several branches in such proportion as the directors may determine. R.S., c. 306, s. 63.

MISCELLANEOUS PROVISIONS**Liability of member**

64 No member of any mutual insurance company to which this Act applies is liable in respect of any loss or other claim or demand against the company, otherwise than upon and to the extent of the amount unpaid upon the member's premium note or undertaking. R.S., c. 306, s. 64.

Security by treasurer

65 The treasurer or other officer having charge of the money of the company shall give security to the satisfaction of the board of directors in a sum of not less than \$2,000 for the faithful discharge of the treasurer's or other officer's duties. R.S., c. 306, s. 65.

Head office

66 The location of head offices of companies in existence on March 3, 1904, and the original of head offices of companies formed after that date, may only be changed by a two-thirds vote of the members of the company at a special meeting called for that purpose. R.S., c. 306, s. 66.

Acquisition and alienation of land

67 Every mutual insurance company may hold lands, but only such lands as are requisite for the accommodation of the company in relation to the transaction of their business, or such lands as have been mortgaged to them in good faith by way of security or conveyed to them in satisfaction of debts contracted in the course of their dealings previously to such conveyance or purchased at sales upon judgments obtained for such debts, and may sell and convey or lease any such lands. R.S., c. 306, s. 67.

No loan to officer and no guarantee fund

68 No guarantee capital or fund may be raised by any company to which this Act is applicable, except as hereinafter mentioned, nor may any such company contract with any director or officer thereof for any loan or borrowing of money or credit, and every such attempted loan or borrowing is prohibited and declared void. R.S., c. 306, s. 68.

Annual statement

69 (1) It is the duty of the president or manager and secretary of each mutual fire insurance company incorporated under this Act and transacting the business of fire insurance in the Province, annually on January 1st, or within one month thereafter, to prepare and deposit in the office of the Minister of Service Nova Scotia, a statement verified by their own oath, of the condition of such company on December 31st then next preceding, exhibiting the following facts and items in the following form:

- (a) the assets of the company, specifying
 - (i) the value of real estate,
 - (ii) the amount of cash on hand and deposited in banks to the credit of the company, naming the banks and the amount in each,
 - (iii) the amount of cash in the company's office and in agents' hands respectively,
 - (iv) the amount of any loans or investments, and the nature of the security held therefor, in detail, and what, if any, payments in arrears thereon,
 - (v) the amount of assessments on premium notes or undertakings unpaid,
 - (vi) the amount still payable upon premium notes or undertakings on hand,
 - (vii) other amounts due the company;
- (b) the liability of the company, specifying
 - (i) the amount of losses due and yet unpaid,

- (ii) the amount of claims for losses resisted,
- (iii) the amount of losses incurred during the year, including those claimed but not adjusted,
- (iv) the amount payable for money borrowed, and security given, and interest payable,
- (v) the amount of all other existing claims against the company,
- (vi) the amount covered by policies in force in respect of each class of risk;
- (c) the income of the company for the preceding year, specifying
 - (i) the amount of cash received on premium notes,
 - (ii) the amount of premium notes or undertakings,
 - (iii) the amount of interest received,
 - (iv) the amount of income from all other sources;
- (d) the expenditure during the preceding year, specifying
 - (i) the amount of losses paid during the year, stating how much of the same accrued prior and how much subsequent to the date of the preceding statement, and the amount at which such prior accrued losses were estimated in such preceding statement,
 - (ii) the amount of expenses paid during the year,
 - (iii) the amount of taxes,
 - (iv) the amount paid for reinsurance,
 - (v) the amount of all other payments and expenditures, under their appropriate heads.

(2) Any company shall further, when required, make prompt and explicit answer in reply to any inquiries in relation to its transactions that may be required by the Governor in Council.

(3) Any such mutual fire insurance company that fails to make and deposit such statement so verified, or to reply to such inquiry, its manager and secretary, are subject, respectively, for each offence, to a fine or penalty of \$50, to be recovered on behalf of the Crown in right of the Province, for the use of the Province.

(4) It is the duty of the Minister of Service Nova Scotia to publish in the Royal Gazette on or before March 1st in each year a synopsis of such returns, as well as the names of such companies that have not made returns. R.S., c. 306, s. 69.

Examination of affairs of company

70 (1) The Governor in Council, whenever the Governor in Council considers it expedient, may appoint any one or more qualified persons, not being officers of any other fire insurance company, to examine into the affairs of any

mutual fire insurance company incorporated under this Act, or to which the provisions of this Act apply, and it is the duty of the officers or agents of any such company to cause their books to be opened for the inspection of the person or persons so appointed and otherwise to facilitate such examinations.

(2) For that purpose, such person or persons may examine under oath the company's officers and agents.

(3) Whenever it appears from such examination that the assets and financial position of the company are such as not to justify the continuance in business of any such company, the Minister of Service Nova Scotia may apply in a summary manner, on motion, to the Supreme Court of Nova Scotia, for an order requiring such company to show cause why the business of the company should not be closed.

(4) The Court shall thereupon proceed to hear the allegations and proofs of the respective parties, and where it appears to the satisfaction of the Court that the assets and funds of the company are not sufficient as aforesaid, or that the interests of the public so require, the said Court shall decree a dissolution of said company's affairs, and may appoint a receiver and take possession of, collect and get in the assets and effects of the said company, and otherwise to wind up the affairs thereof. R.S., c. 306, s. 70.

Powers of receiver

71 (1) A receiver has full power under the authority of the Court appointing the receiver to make all such assessments on the premium notes or undertakings held by the company as may be necessary to pay its debts and claims against it, as the directors would have authority to make.

(2) The notice of assessments may be given in the same manner as is hereinbefore provided.

(3) The receiver has the like rights and remedies upon and in consequence of the non-payment of such assessments as are given to the company or the directors thereof.

(4) The receiver may receive a surrender of any policy of said company or cancel any policy in all cases where the directors are authorized to receive the surrender of or cancel policies. R.S., c. 306, s. 71.

Order to repay misapplied asset

72 (1) The Court by which a receiver is appointed, may also upon the receiver's application examine by a reference or otherwise, as it considers proper, into the proceedings and acts of the company.

(2) Where it appears upon an examination under subsection (1) that the directors or officers of such company, or any of them, have in any manner misapplied or improperly disposed of the funds, property or effects of such company, it is lawful for the Court to order and decree that a person found guilty of such misapplication or improper disposition, pay the amount thereof to such receiver, and to enforce such order or decree by the ordinary process of the Court. R.S., c. 306, s. 72.

Transmission of formation documents

73 When a mutual fire insurance company has been formed under this Act and has filed in the registry of deeds office in the county in which it is situate, copies of the resolution and the subscription books and the names of the directors, under Section 5, and before they transact or are entitled to transact any insurance business, the chair and secretary must also transmit or deliver like copies duly certified to by them to the Minister of Service Nova Scotia, accompanied by a statement signed by the chair and secretary of the kind and character of the risks intended to be taken by the company, including whether the business to be is the insurance of farm and isolated buildings and property or of commercial, manufacturing and other hazardous and extra hazardous properties. R.S., c. 306, s. 73.

Duty of Registrar of Joint Stock Companies

74 Upon the receipt of such certified copies by the Minister of Service Nova Scotia, it is the duty of the Registrar of Joint Stock Companies to ascertain whether the proceedings for the incorporation of the company have been taken in accordance with this Act in that behalf, and whether the subscriptions are in good faith and by persons possessing property to insure, and may require the declaration of any person or persons upon oath to be filed with the Registrar touching any matter concerning which the Registrar is called upon to make inquiry. R.S., c. 306, s. 74.

Certificate of Registrar

75 (1) Where upon an examination under Section 74 the Registrar of Joint Stock Companies finds that the provisions of this Act have been complied with and that the subscriptions have been made in good faith by persons entitled to make them, the Registrar of Joint Stock Companies shall so certify to the Minister of Service Nova Scotia.

(2) The Minister of Service Nova Scotia may thereupon issue a certificate in duplicate under the Minister's hand and seal to the company, setting forth that

(a) it has been made to appear to the Minister that they have become a body corporate and politic by the name of "Mutual Fire Insurance Company of";

(b) they have complied with this Act in that behalf; and

(c) they will, from and after the filing of one of the duplicate copies of such certificate in the office of the registrar of deeds for the county in which the company has been established is situate, be entitled to receive applications to issue policies of insurance and to transact all the business that a mutual fire insurance company formed under this Act may lawfully do in respect of that kind of business mentioned in their statement to the Registrar.

(3) The Registrar of Joint Stock Companies shall keep or file said papers so furnished to the Registrar, and shall keep a book in which must be entered the name of the company, the statement delivered by the company and a copy of the Minister of Service Nova Scotia's certificate. R.S., c. 306, s. 75.

Fee

76 There must be paid to the Minister of Service Nova Scotia upon the delivery of any such certificate to the said company, the sum of \$20. R.S., c. 306, s. 76.

Extension of insurable risks

77 (1) A mutual fire insurance company formed under the provisions of this Act may, by resolution passed by a majority of not less than three fourths of the members entitled to vote at a general meeting of which notice specifying the intention to propose the resolution has been duly given, extend the kind and character of the risks that the company may undertake to include any or all of the classes of risks set out in Section 34 and thereupon file a certified copy of the same in the registry of deeds office in the county in which the company is situated.

(2) The company shall transmit or deliver to the Minister of Service Nova Scotia a certified copy of the resolution and a certificate of the registrar of deeds that a copy of the resolution was filed as required by subsection (1).

(3) Where the Minister of Service Nova Scotia is satisfied that the provisions of this Section have been complied with, the Minister may issue a new certificate in duplicate under the Minister's hand and seal to include the kind and character of the risks set forth in the said resolution and from and after the filing of one of the duplicate copies of the certificate in the office of the registrar of deeds for the county in which the company is situated, the company is entitled to receive application to issue policies of insurance for the kind and character of the risks set out in the certificate. R.S., c. 306, s. 77.

GUARANTEE CAPITAL**Guarantee capital**

78 (1) Any mutual insurance company formed under this Act may raise by subscription of its members or some of them, or by the admission of new members, not persons insured in the company, or by loan or otherwise, a guarantee capital of any sum not less than \$20,000, nor exceeding \$200,000.

(2) A guarantee capital raised under subsection (1) belongs to the company, and the company is liable for all losses, debts and expenses of the company, and subscribers of such capital have, in respect thereof, such rights as the directors of the company declare and fix by a bylaw to be passed before such capital is subscribed.

(3) Unless such capital is paid off or discharged, such bylaw may not be repealed or altered without the consent of the majority of votes of the shareholders or subscribers of such capital who represent a majority of the shares subscribed, either personally or by proxy at a meeting held for that purpose by the holders of such capital, each shareholder or subscriber being entitled to a vote for every share of \$50 held by the shareholder or subscriber. R.S., c. 306, s. 78.

Subscribers to guarantee capital

79 (1) Capital raised under subsection 78(1) must be subscribed by not fewer than 10 persons, and no one person may subscribe or hold, or receive dividend, interest or commission upon, more than 20% of the guarantee capital of said stock, and the original list of the subscribers to a guarantee capital must be trans-

ferred to and deposited with the Minister of Service Nova Scotia and must be held as security for the payment of all losses and other policy liabilities of the company.

(2) The company may from time to time, in accordance with any bylaw in that behalf, require any portion of the subscribed guarantee capital to be paid over to the company for the purpose of settling any losses of the company, any sums so advanced must be repaid by the company within one year thereafter, from the proceeds of assessments upon the premium notes liable to assessment for such purposes, and such assessments may be made from time to time by the company for the purpose of repaying such advances. R.S., c. 306, s. 79.

Withdrawal of guarantee capital

80 (1) A guarantee capital raised under subsection 78(1), or any part thereof, may not be withdrawn until the premium notes held by such company for insurance actually in force amount to three per cent of the amount of property covered by policies in the company, nor until one year's notice has been given to the Registrar of Joint Stock Companies, stating the intention to withdraw the same.

(2) Whenever the premium notes held by such company have reached the above amount, the president and secretary, or the directors of the company, may file a certificate, under oath, with the Registrar of Joint Stock Companies, stating that the company holds premium notes of the amount and kind aforesaid, and publish a copy of said certificate, once a week or oftener, for at least four weeks, in some newspaper published in the county where such company has its principal office and two newspapers in Halifax. R.S., c. 306, s. 80.

Discharge of guarantors

81 (1) When the company has filed a certificate under subsection 80(2) and also proof of such publication with the Registrar of Joint Stock Companies, the Registrar may make or cause an examination to be made, and where the Registrar finds that the company has the above amount of premium notes of the kind and character aforesaid, and is in a sound and solvent condition, the Registrar shall report the same to the Minister of Service Nova Scotia, who may give such company a certificate discharging the fund from all its obligations and liabilities, upon which the fund must be surrendered to the parties depositing or entitled to receive the same, and they may be discharged from their obligations as such guarantors as aforesaid.

(2) Immediately after the discharge or withdrawal of a guarantee fund or capital, the company shall give notice thereof in a newspaper published in the county town of the county in which the company has its head office, by insertion of such notice once a week for at least three consecutive weeks in the newspaper. R.S., c. 306, s. 81.

SHARE OR STOCK CAPITAL

Share or stock capital

82 Any mutual fire insurance company incorporated under this Act may raise a share or stock capital of not less than \$100,000, and may increase the same from time to time to a sum not exceeding \$500,000. R.S., c. 306, s. 82.

Shareholder to be member

83 Every subscriber, on allotment of one or more shares to the subscriber, becomes a member of the said company with all incidental rights, privileges and liabilities. R.S., c. 306, s. 83.

Transfer of share

84 The shares are personal estate and are transferable, but no transfer is valid unless made on the books of the said company and until fully paid up, and no shares are transferable without the consent of the board of directors, nor is any transfer valid while any call previously made remains unpaid, and the company has a lien on the shares of any shareholder for unpaid calls or other debts due by the shareholder to the company, and for any obligation held by the company against the shareholder, and after such call, debt or obligation becomes due, the company may upon one month's notice to the shareholder, the shareholder's executors or administrators, sell such shares or a sufficient portion thereof to pay the call, debt or obligation, and transfer the shares so sold to the purchaser. R.S., c. 306, s. 84.

Forfeiture for non-payment

85 The company may also, after default made in the payment of any call upon any share for one month, and after notice having first been given, under Section 84, declare such share and all sums previously paid thereon forfeited to the company, and the company may sell or reissue forfeited shares on such terms as they believe is for the benefit of the company. R.S., c. 306, s. 85.

Cash premium business

86 After the sum of \$200,000 has been subscribed in good faith, and 20% paid thereon into the funds of the company, the company may make insurance premiums payable wholly in cash, but no insurance on the wholly cash principle makes the insured a member of the company or make the insured liable to contribute or pay any sum to the company or to its funds or to any member thereof, beyond the cash premium agreed upon, or give the insured any right to any participation in the profits or surplus funds of the company, but the company shall not transact any such business on the wholly cash principle without first procuring a licence from the Minister of Service Nova Scotia under such rules and conditions as the Governor in Council may order or appoint. R.S., c. 306, s. 86.

Disposition of profit

87 The net annual profits and gains of the company, not including therein any premium notes or undertakings, must be applied in the first place to pay a dividend on the share capital, not exceeding the rate of 10% per year, and the surplus, if any, must be applied in the manner provided by the bylaws of the company. R.S., c. 306, s. 87.

Qualification of director

88 After the share capital has been subscribed as aforesaid, at least two-thirds of the persons to be elected directors of the company must be holders of shares of the capital stock to the amount of \$2,000 on which all calls have been fully paid up and the other one third of the directors to be elected must be members of the company and insurers therein for the time they hold office to the amount of at least \$800. R.S., c. 306, s. 88.

Approval of bylaw

89 The board of directors of any company that raises a share or stock capital under this Act may make such bylaws, subject to the provisions of this Act and not inconsistent with or contrary to law, as may be necessary to carry out the objects and intentions of this Act, and to give effect to the provisions thereof, and may rescind, vary, alter or add to the same from time to time, but all such bylaws and every amendment, repeal or re-enactment thereof must have approval of the Governor in Council before becoming law. R.S., c. 306, s. 89.

Books of account and audit

90 (1) Any insurance company or association formed under this Act shall keep such classification of its risks and such registers and books of account, as may be directed by the Governor in Council.

(2) Where it appears at any time to the Registrar of Joint Stock Companies that such books are not kept in such a business-like way as to make at any time a proper showing of the affairs and standing of the company, the Registrar shall report the same to the Minister of Service Nova Scotia, who shall thereupon nominate a competent accountant to proceed under the direction of the Registrar of Joint Stock Companies to audit such books and give such instruction as will enable the officer of such company to keep them correctly thereafter.

(3) The expenses of an accountant appointed under subsection (2) must be borne by the company to which the accountant is sent, and must not exceed five dollars per day and necessary travelling expenses. R.S., c. 306, s. 90.

Conversion to joint stock company

91 (1) Any mutual insurance company that is incorporated or organized under any of the laws of the Province on March 3, 1904, having surplus assets aside from premium notes or undertakings sufficient to reinsure all its outstanding risks, after having given notice once a week for four weeks of their intention, and of the meeting hereinafter provided for, in a newspaper published in the county wherein such company is located, and in two newspapers published in Halifax, may, with the consent

(a) of two-thirds of the members present at any regular annual meeting, and of two-thirds of the subscribers of guarantee capital, or shares, or stock capital, or at any special meeting duly called for the purpose; or

(b) in writing of two-thirds of the members of such company, and also of three-fourths of the directors and of two-thirds of the subscribers to the guarantee capital and share of stock capital,

notwithstanding anything contained in Section 2 or any other Section, become a joint stock company under this Act by conforming to and otherwise proceeding in accordance with the provisions of this Act.

(2) Every member of such company on the day of such annual or special meeting, or the date of such written consent, is entitled to priority in subscribing to the capital stock of the company for one month after the opening of the books of subscription to such capital stock in proportion to the amount of insurance held by such member on unexpired risks in force on the day of the annual or special

meeting, or the date of such written consent, and every company so changed or organized comes under and is subject to this Act. R.S., c. 306, s. 91.

Transfer of assets and liabilities

92 Any company formed under the provisions of Section 91 is answerable for all the liabilities of the company from which it has been formed, and may be sued therefor by or under its new corporate name, and the assets, real and personal, of the old company passes to and becomes vested in the new company. R.S., c. 306, s. 92.
