

# Halifax Regional Municipality Charter

## CHAPTER 39 OF THE ACTS OF 2008

*as amended by*

2008, c. 41; 2009, cc. 15, 16; 2010, cc. 16, 52; 2010, c. 64, ss. 3, 4;  
2011, c. 4, ss. 2-5; 2011, c. 16; 2011, c. 17, s. 1; 2012, c. 59;  
2012, c. 63, ss. 5, 6; 2013, c. 18; 2014, c. 15; 2014, c. 16, ss. 1-10;  
2014, cc. 49, 50; 2015, c. 20; 2015, c. 24, ss. 4-6; 2016, c. 9;  
2016, c. 12, s. 2; 2016, c. 13, ss. 3, 4; 2016, c. 22;  
2016, c. 25, ss. 3, 4; 2017, c. 13, ss. 12, 15, 16



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2016, c. 25, ss. 3, 4; 2017, c. 13, ss. 12, 15, 16

**An Act Respecting  
the Halifax Regional Municipality**

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WHEREAS the Halifax Regional Municipality is the capital of Nova Scotia and includes within it Nova Scotia's seat of government;

AND WHEREAS the Halifax Regional Municipality plays an important role in supporting the economic well-being of Nova Scotia;

AND WHEREAS the Halifax Regional Municipality is the largest municipality in Atlantic Canada;

AND WHEREAS the Province of Nova Scotia recognizes the Halifax Regional Municipality as a regional centre of business and government in Atlantic Canada;

AND WHEREAS the Province of Nova Scotia recognizes that the Halifax Regional Municipality has legislative authority and responsibility with respect to the matters dealt with in this Act;

AND WHEREAS the Halifax Regional Municipality is a responsible order of government accountable to the people:

#### Short title

**1** This Act may be cited as the *Halifax Regional Municipality Charter*.  
2008, c. 39, s. 1.

#### Purpose of Act

**2** The purpose of this Act is to

(a) give broad authority to the Council, including broad authority to pass by-laws, and respect its right to govern the Municipality in whatever ways the Council considers appropriate within the jurisdiction given to it;

(b) enhance the ability of the Council to respond to present and future issues in the Municipality; and

(c) recognize that the functions of the Municipality are to

(i) provide good government,

(ii) 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

(iii) develop and maintain safe and viable communities.

2008, c. 39, s. 2.

#### Interpretation

**3** In this Act,

(a) "Administrator" means the employee of the 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;

~~(aa)~~[(aaa)] “annual summary report” means a summary of all the expense reports and hospitality expense reports of the Municipality for a fiscal year;

(b) “assessment appeal region” means an assessment appeal region designated pursuant to the *Assessment Act*;

(c) “assessment roll” means the assessment roll required to be prepared pursuant to the *Assessment Act*;

(d) “Auditor” means the Auditor appointed for the Municipality pursuant to Section 46;

(e) “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 Her Majesty in right of the Province or an agency of Her Majesty;

(f) “Board” means the Nova Scotia Utility and Review Board;

(g) “building service connection” means a piping system that conveys sewage, liquid waste, stormwater or surface runoff from a property to a municipal sewer;

(h) “business occupancy assessment” has the same meaning as in the *Assessment Act*;

(i) “Chief Administrative Officer” means the Chief Administrative Officer of the Municipality;

(j) “Clerk” means the Clerk of the Municipality;

(ja) “code of conduct” means the code of conduct established under Section 20A;

(k) “combined sewer” means a sewer intended to function simultaneously as a storm sewer and a sanitary sewer;

(l) “commercial property” has the same meaning as in the *Assessment Act*;

(m) “community” means an area in the Municipality entitled to elect a community council pursuant to this Act;

(n) “community council” means the council of a community established pursuant to this Act;

(na) “conservation property” has the same meaning as in the *Assessment Act*;

(o) “Council” means the Council of the Municipality;

(p) “councillor” means a Council member other than the Mayor;

(q) “dangerous or unsightly” means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing

(i) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or machinery, or bodies of these or parts thereof,

(ii) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material,

(iia) 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

(iii) any other thing that is dangerous, unsightly, unhealthy or offensive to a person,

and includes property or a building or structure with or without structural deficiencies

(iv) that is in a ruinous or dilapidated condition,

(v) the condition of which seriously depreciates the value of land or buildings in the vicinity,

(vi) that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,

(vii) that is an allurements to children who may play there to their danger,

(viii) constituting a hazard to the health or safety of the public,

(ix) that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure or the landscaping is not maintained,

(x) that is a fire hazard to itself or to surrounding lands or buildings,

(xi) that has been excavated or had fill placed on it in a manner that results in a hazard, or

(xii) that is in a poor state of hygiene or cleanliness;

(r) “debenture” includes any financial instrument approved by the Nova Scotia Municipal Finance Corporation;

(s) “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 twenty-one years;

(t) “Deputy Minister” means the Deputy Minister or Associate Deputy Minister of Service Nova Scotia and Municipal Relations;

(u) “derelict vehicle, vessel, item of equipment or machinery” includes a vehicle, vessel, item of equipment or machinery that

(i) is left on property, with or without lawful authority, and

(ii) 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;

(v) “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;

(w) “dog” means a dog, male or female, or an animal that is the result of the breeding of a dog and any other animal;

(x) “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;

(y) “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;

(z) “dwelling unit” means living quarters that

(i) are accessible from a private entrance, either outside the building or in a common area within the building,

(ii) are occupied or, if unoccupied, are reasonably fit for occupancy,

(iii) contain kitchen facilities within the unit, and

(iv) have toilet facilities that are not shared with the occupants of other dwelling units;

(aa) “elector” means elector as defined in the *Municipal Elections Act*;

(ab) “emergency services” means services related to the provision of emergency services, including fire services, emergency medical services, search and rescue, water rescue and assistance and protection for people and property in the event of disasters including, but not limited to, floods, hurricanes, motor vehicle accidents and chemical spills;

(ac) “Engineer” means the Engineer of the Municipality and includes a person acting under the supervision and direction of the Engineer;

(aca) “expense report” means a report on all amounts reimbursed for a reportable municipal expense to a reportable individual during a fiscal quarter;

- (ad) “farm property” has the same meaning as in the *Assessment Act*;
- (ae) “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 the Municipality or other body corporate;
- (af) “fire protection district” has the same meaning as in the *Rural Fire District Act*;
- (ag) “fire services” means services related to the prevention and suppression of fires;
- (ah) “fiscal year” means the period from April 1st in one year to March 31st in the following year, including both dates;
- (ai) “forest property” has the same meaning as in the *Assessment Act*;
- (aj) “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;
- (aja) “hospitality expense report” means a report on all hospitality expenses incurred by the Municipality during a fiscal quarter, including purchases of alcohol;
- (ak) “improve” includes lay out, open, construct, repair and maintain;
- (al) “Mayor” means the Council member elected at large to be the chair of the Council;
- (am) “Minister” means the Minister of Service Nova Scotia and Municipal Relations;
- (an) “mobile canteen” means a vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;
- (ao) “mobile vendor” means a person who vends from a mobile canteen or a stand;
- (ap) “municipal highway” means a highway owned by the Municipality, pursuant to this Act, the *Public Highways Act* or otherwise;
- (aq) “municipal sewer” means a sewer controlled by the Municipality;
- (ar) “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;
- (as) “municipality” means a regional municipality, town or municipality of a county or district, except where the context otherwise requires or as otherwise defined in this Act;

- (at) “Municipality” means the Halifax Regional Municipality;
- (au) “oversized sewer” means a sewer that is designed to benefit lands that are in addition to lands that will benefit from the sewer immediately upon its completion;
- (av) “owner” includes
- (i) 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,
  - (ii) as it refers to the owner of property
    - (A) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,
    - (B) in the case of the absence or incapacity of the person having title to the land or building, 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,
    - (C) a person who occupies shores, beaches or shoals, and
    - (D) in the absence of proof to the contrary, the person assessed for the property;
- (aw) “policy” means a resolution of the Council that is required, pursuant to this Act, to be recorded in the by-law records of the Municipality, except where the context otherwise requires, and includes an administrative order;
- (ax) “private on-site sewage disposal system” means a private system for sewage disposal serving one lot;
- (ay) “private wastewater facilities” means wastewater facilities that are privately owned and serving two or more properties;
- (az) “public place” includes streets, parks and entrances, halls, corridors, washrooms, parking areas, driveways, roads, streets, sidewalks and alleys of a shopping centre, shopping mall or other shopping complex, recreation centre, restaurant and retail store;
- (ba) “regional assessment appeal court” means a regional assessment appeal court appointed pursuant to the *Assessment Act*;
- (bb) “regional municipality” means a regional municipality established by, or continued pursuant to, the *Municipal Government Act* and includes the Municipality, the Cape Breton Regional Municipality and the Region of Queens Municipality and the area over which each of those bodies corporate has jurisdiction;
- (bc) “registered Canadian charitable organization” means a charitable organization registered pursuant to the *Income Tax Act* (Canada) and the regulations made pursuant to that Act;



(bd) “registrar of deeds” means a registrar of deeds appointed pursuant to the *Registry Act* and, in the case of an interest registered pursuant to the *Land Registration Act*, means a registrar appointed pursuant to that Act;

(be) “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;

(bea) “reportable individual” means an individual who holds one of the following positions:

(i) Mayor,

(ii) councillor,

(iii) Chief Administrative Officer, including an employee of the municipality appointed to act in place of the Chief Administrative Officer pursuant to subsection 35(5),

(iv) a position prescribed by the regulations;

(beb) “reportable municipal expense” means an expense for which reimbursement was provided by the Municipality and includes the following expense categories:

(i) travel and travel-related expenses, including accommodation, incidentals and transportation,

(ii) meals,

(iii) professional development and training,

(iv) expense categories prescribed by the regulations;

(bf) “residential property” has the same meaning as in the *Assessment Act*;

(bg) “resource property” has the same meaning as in the *Assessment Act*;

(bh) “sanitary sewer” means a sewer receiving and carrying liquid and water-carried wastes and to which storm, surface or groundwaters are not intentionally admitted;

(bi) “school board” means a school board as defined in the *Education Act* that, from time to time, may be responsible for the provision of schools in a municipality;

(bj) “service commission” means a board, commission or corporation created by, or under the authority of, an enactment that may

(i) 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

(ii) 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, committee created by an inter-municipal services agreement, village or school board;

(bk) “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;

(bl) “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, the Municipality or another municipality;

(bm) “solid-waste management facility” means a sanitary landfill licensed pursuant to the *Environment Act* or a location not required to be licensed pursuant to that Act, a recycling facility, a transfer station, a waste separation facility, a household hazardous waste facility, an incinerator, a composting site or any other facility for the management of solid waste including collection, recycling, treatment and disposal;

(bn) “special purpose tax” means a tax that the Council, by resolution, declares to be a special purpose tax;

(bo) “special purpose tax account” means the account to which the proceeds of a special purpose tax are credited;

(bp) “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;

(bq) “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;

(br) “stormwater” means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water;

(bs) “stormwater system” means a method or means of carrying stormwater, including ditches, swales, sewers, drains, canals, ravines, gullies, pumping stations, retention ponds, streams, watercourses, floodplains, ponds, springs, creeks, streets or private roads, roadways or driveways;

(bt) “storm sewer” means a sewer that carries stormwater and surface runoff water, excluding sewage;

(bu) “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;

(bv) “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;

(bw) “tax sale” includes a sale by public auction or a sale by tender, for the purpose of collecting taxes;

(bx) “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;

(by) “Treasurer” means the Treasurer of the Municipality, and includes a person acting under the supervision and direction of the Treasurer;

(bz) “tree” includes a bush, shrub and hedge;

(ca) “vending” means the sale, or offering for sale, of

(i) food, beverages or other merchandise, unless they are immediately delivered to a residence or shop by the person selling them,

(ii) services, unless they are provided in a building;

(cb) “vending machine” means a mechanical or electronic device that

(i) is operated by the introduction of a coin, counter or slug, and

(ii) dispenses food, beverages, goods, wares or services, including newspapers and other publications;

(cc) “village” means a village continued or incorporated pursuant to the *Municipal Government Act*;

(cd) “wastewater facilities” means the structures, pipes, devices, equipment, processes or other things used, or intended, for the collection, transportation, pumping or treatment of sewage and disposal of the effluent;

(ce) “water system” means the source, structures, pipes, hydrants, meters, devices, equipment or other things used, or intended, for the collection, transportation, pumping or treatment of water. 2008, c. 39, s. 3; 2010, c. 16, s. 1; 2010, c. 64, s. 3; 2011, c. 4, s. 2; 2012, c. 63, s. 5; 2017, c. 13, s. 12.

## PART I

### THE MUNICIPALITY

#### Application of Act

**4 (1)** This Act applies to the Municipality.

**(2)** Subject to this Act, the *Municipal Government Act* does not apply to the Municipality. 2008, c. 39, s. 4.

**Halifax Regional Municipality continued**

**5** The inhabitants of the County of Halifax are, and continue to be, a body corporate under the name “Halifax Regional Municipality”. 2008, c. 39, s. 5.

**References to municipalities**

**6 (1)** A reference in an enactment to a municipality pursuant to the *Municipal Act*, a city, a town, a municipality of a county or district or a rural municipality includes the 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 *Municipal Act*,

includes the Mayor. 2008, c. 39, s. 6.

**Municipal name change**

**7** The Governor in Council may, on the request of the Council, change the name of the Municipality to a name chosen by the Council. 2008, c. 39, s. 7.

**Government of Municipality**

**8 (1)** The Municipality is governed by a Council consisting of at least three members.

**(2)** One councillor shall be elected for each polling district in the Municipality. 2008, c. 39, s. 8.

**Election of Mayor**

**9 (1)** The Mayor shall be elected at large.

**(2)** Every person eligible to vote for a councillor is eligible to vote for the Mayor. 2008, c. 39, s. 9.

**Perpetual succession and seal**

**10 (1)** The Municipality has perpetual succession and shall have a common seal.

**(2)** The seal must be kept by the Clerk.

**(3)** The Mayor 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. 2008, c. 39, s. 10.

**Powers of Council**

**11 (1)** The powers of the Municipality are exercised by the Council.

(2) In the general exercise of its powers, the Council shall take into account the principle of accessibility for its citizens with disabilities.

(3) 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. 2008, c. 39, s. 11.

#### **Mayor presides**

**12** (1) The Mayor shall preside at all meetings of the Council.

(2) During the temporary absence of the Mayor, the Deputy Mayor shall preside and, where neither is present, the Council may appoint a person to preside from among the Council members present.

(3) The Mayor 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. 2008, c. 39, s. 12.

#### **Deputy Mayor**

**13** (1) The Council shall select one of its Council members to be the Deputy Mayor of the Council.

(2) Prior to the selection of a Deputy Mayor, the Council shall determine the term of office of the Deputy Mayor.

(3) The Deputy Mayor shall act in the absence or inability of the Mayor or in the event of the office of Mayor being vacant.

(4) The Council may prescribe, by policy, additional duties and responsibilities of the Deputy Mayor.

(5) The Deputy Mayor has all the power and authority and shall perform all the duties of the Mayor when the Deputy Mayor is notified that

(a) the Mayor is absent or unable to fulfil the duties of Mayor; or

(b) the office of Mayor is vacant. 2008, c. 39, s. 13.

#### **Mayor or councillor resignation**

**14** (1) The Mayor or a 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 meeting of the Council.

(2) A resignation may not be withdrawn once it has been delivered to the Clerk.

(3) The Mayor or a councillor who ceases to be ordinarily resident in the Municipality ceases to be qualified to serve as Mayor or as councillor.

(4) The Mayor or a councillor who, without leave of the Council, is absent from three consecutive regular meetings of the Council, ceases to be qualified to serve as Mayor or as a councillor.

(5) When a seat on the Council becomes vacant, the Clerk shall report the facts to the Council.

(6) Notwithstanding subsection (3), where the Mayor or a councillor has the approval of the Council, the 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. 2008, c. 39, s. 14.

#### **Employment restriction for former Council member**

**15** 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. 2008, c. 39, s. 15.

#### **Council meetings**

**16** (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 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 meeting of the Council when required to do so by the Mayor 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 the 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 meeting of the Council 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 by-laws, a policy or a notice of meeting. 2008, c. 39, s. 16.

#### **Quorum of Council**

**17 (1)** A majority of the maximum number of persons that may be elected to the Council is a quorum for every meeting of the Council.

**(2)** Where there is a vacancy in the Council's numbers, the Council may make a decision if a quorum is present at a meeting.

**(3)** Where the number of Council members is reduced due to vacancies in the Council's numbers below the number required for a quorum, the remaining Council members may make a decision at a meeting of the Council if

- (a) there are at least three remaining Council members;
- and
- (b) a majority of the remaining Council members is present at the meeting,

but the Council may not pass a by-law 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 three 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. 2008, c. 39, s. 17.

#### **Voting at Council meeting**

**18 (1)** Unless otherwise prescribed by statute or policy, a question arising at a Council meeting shall 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.

**(5)** The person presiding at a meeting of the Council may cause to be expelled and excluded any person, including a Council member, who is disrupting the proceedings of the Council. 2008, c. 39, s. 18; 2014, c. 16, s. 1.

**Open meetings and exceptions**

**19 (1)** Except as otherwise provided in this Section, Council meetings and meetings of committees appointed by the Council are open to the public.

**(2)** The Council or any committee appointed by the 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;
- (i) any subject, the discussion of which could, in the opinion of the Council or the committee, as the case may be, violate the confidentiality of information obtained from
  - (i) the Government of Canada or the Government of the Province,
  - (ii) an agency of the Government of Canada or the Government of the Province, or
  - (iii) a public body.

**(3)** No decision may be made at a private Council meeting except a decision concerning procedural matters or to give direction to staff of, or solicitors for, the Municipality.

**(4)** A record that is open to the public shall be made, noting the fact that the 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)** Any councillor or employee of the Municipality who discloses any report submitted to, or details of matters discussed at, a private meeting of the Council or a committee, as a result of which the Municipality has lost financially or the councillor or employee of the 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 473(2) of the *Municipal Government Act*. 2008, c. 39, s. 19; 2014, c. 16, s. 2.

### Council may make policies

**20 (1)** The Council may make policies

(a) respecting the date, hour and place of the meetings of the Council and the notice to be given for them;

(b) regulating its own proceedings and preserving order at meetings of the Council;

(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,

(ii) the annual remuneration to be paid to the Deputy Mayor,

(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 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.

**(1A)** The Council may, by policy, prescribe

(a) when a question arising at a meeting of the Council, a committee of Council or a community council must be decided by a majority of votes greater than a simple majority; and

(b) the size of the majority required to decide a question referred to in clause (a).

**(2)** The 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, excluding reimbursement of expenses, to which that Council member is entitled shall be paid to the Municipality.

- (3) Where
- (a) an expense by a Council member is authorized by an expense policy adopted by the Council; or
  - (b) no expense policy has been adopted by the Council but the expense is supported by proof that it has actually been incurred,

the expense may be reimbursed to the Council member. 2008, c. 39, s. 20; 2014, c. 16, s. 3.

#### **Standing, special and advisory committees**

**21** (1) The Council may establish standing, special and advisory committees.

(2) Each committee shall perform the duties conferred on it by this Act, any other Act of the Legislature or the by-laws or policies of the Municipality.

(3) The 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 the 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 person ceases to be a Council member. 2008, c. 39, s. 21.

#### **Vacancy on board, commission or committee**

**22** (1) A person appointed by the 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) The secretary of the board, commission or committee shall immediately notify the Council of a vacancy, and the Council shall fill the vacancy. 2008, c. 39, s. 22.

#### **Citizen advisory committees**

23 The Council may establish, by policy, citizen advisory committees which shall advise the Council, as directed by the Council. 2008, c. 39, s. 23.

#### **Community councils**

24 (1) The Council may, by policy, establish a community council for an area.

(2) A policy establishing a community council must define the boundaries of the community and the community must include the whole, or part of, at least three polling districts.

(3) The number of electors in a community must be at least twice the average number of electors per polling district in the Municipality.

(4) The community council for each community consists of the councillors elected from the polling districts included, in whole or in part, in the community. 2008, c. 39, s. 24.

#### **Powers and duties of community council**

25 The powers and duties of a community council include

(a) monitoring the provision of services to the community 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 committees;

(c) recommending to the Council appropriate by-laws, regulations, controls and development standards for the community;

(d) recommending to the Council appropriate user charges for the different parts of the community;

(e) making recommendations to the Council respecting any matter intended to improve conditions in the community including, but not limited to, recommendations respecting

(i) inadequacies in existing services provided to the community 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, and

(ii) the adoption of policies that would allow the people of the community to participate more effectively in the governance of the community; and

(f) making recommendations to the Council on any matter referred to it by the Council. 2008, c. 39, s. 25.

#### **Election of chair and rules**

**26 (1)** A community council shall annually elect its chair from among its members.

**(2)** The chair shall be elected at the first meeting of the community council after the members are elected.

**(3)** Subject to any policy adopted by the Council, a community council may make rules governing its procedures, the appointment of committees and the number and frequency of its meetings.

**(4)** Any rules passed by a community council must be filed with the secretary of the community council and the Clerk. 2008, c. 39, s. 26.

#### **Annual public meeting of community council**

**27 (1)** A community council shall hold an annual public meeting in the community in each year to report to the public concerning its activities and to receive the views of the public respecting all matters within its mandate.

**(2)** Except as otherwise provided in this Section, all meetings of a community council must be open to the public.

**(3)** A community council may meet privately to discuss matters relating to

- (a) acquisition, sale, lease and security of municipal property;
- (b) personnel matters;
- (c) litigation or potential litigation;
- (d) legal advice eligible for solicitor-client privilege;
- (e) public security.

**(4)** No decision may be made at a private community council meeting except a decision concerning procedural matters or to give direction to staff of the Municipality.

**(5)** A record that is open to the public must be made, noting the fact that the community council met in private, the type of matter that was discussed, as set out in subsection (3), and the date, but no other information. 2008, c. 39, s. 27.

**Secretary of community council**

**28 (1)** The Chief Administrative Officer shall appoint an employee of the Municipality to act as the secretary of a community council.

**(2)** The secretary of a community council is responsible for maintaining the minutes of the community council and its books, records and accounts and for the certification of any document required to be certified as having been adopted by the community council. 2008, c. 39, s. 28.

**Area rates**

**29 (1)** This Section applies to a community council if the Council so provides in the policy establishing the community council.

**(2)** A community council may determine expenditures, to be financed by area rate, that should be made in, or for the benefit of, the community.

**(3)** Except in the first year that it is established, a community council shall submit to the Council its proposed operating budget for services to be provided to the community to be financed by area rate and its proposed capital budget for projects for which the Municipality will be required to borrow money and will charge back all or part of the debt charges to the community.

**(4)** The Council shall levy an area rate in the community to recover the cost of

(a) that part of the budget of the community council that is accepted by the Council;

(b) the debt charges applicable to capital expenditures in and for the benefit of the community that are approved by the Council, except those capital expenditures financed out of the general levy;

(c) the community's fair share of the cost of services provided generally in the Municipality and financed by area rates;

(d) the additional administrative costs, determined by the Council to have been imposed by any additional services provided to the community;

(e) the administrative costs of the community council, including any expenses paid to the members;

(f) the estimated deficit from the previous year; and

(g) a reasonable allowance, as determined by the Council, for the abatement, losses and expenses respecting any amounts that might not be collected or collectable,

less

(h) any subsidy to the area rate from the general levy that may be approved by the Council;

- (i) the estimated surplus from the previous year; and
  - (j) the revenues from the community attributable to charges levied with respect to services or capital facilities provided.
- (5) The area rate may be at different rates in different parts of the community.
- (6) A community council may determine upon what money contained in the budget approved by the Council is spent, if the sum of all expenditures does not exceed the sum so approved.
- (7) A community council is subject to the general purchasing, contracting and tendering policies established by the Council.
- (8) A community council may not expend funds with respect to a capital project that cannot be paid for in full out of the area rate, unless the project has been approved by the Council.
- (9) A community council may not, in any fiscal year, incur or make expenditures that will result in a total expenditure in excess of its budget for that year. 2008, c. 39, s. 29.

#### **Community planning advisory committee and land-use by-law**

- 30 (1) This Section applies to a community council if the Council so provides in the policy establishing the community council.
- (2) A community council may appoint a planning advisory committee for the community and Part VIII applies with all necessary changes.
- (3) A community council may amend the land-use by-law of the Municipality applicable to the community with respect to any property in the community if the amendment carries out the intent of any municipal planning strategy of the Municipality applicable to the property and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.
- (4) A community council stands in the place and stead of the Council with respect to variances and site-plan approvals and Part VIII applies with all necessary changes. 2008, c. 39, s. 30; 2010, c. 16, s. 2.

#### **Development agreements by community councils**

- 31 (1) This Section applies to a community council if the Council so provides in the policy establishing the community council.
- (2) Where a municipal planning strategy of the Municipality provides for development by agreement, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.

(3) A development agreement, or amendment to a development agreement, entered into by a community council must be signed by the Mayor and the Clerk on behalf of the Municipality.

(4) Where a development agreement entered into by a community council purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 39, s. 31.

#### **HRM by Design Downtown Plan Area and Centre Plan Area**

**31A (1)** This Section applies only with respect to the HRM by Design Downtown Plan Area and the Centre Plan Area.

(2) A community council stands in the place and stead of the Council with respect to incentive or bonus zoning agreements if the Council so provides in the policy establishing the community council.

(3) A development officer stands in the place and stead of the Council with respect to incentive or bonus zoning agreements to the extent that the Council so provides by land-use by-law.

(4) An incentive or bonus zoning agreement, or amendment to an incentive or bonus zoning agreement, entered into by a community council or a development officer must be signed by the Mayor and the Clerk on behalf of the Municipality.

(5) Where an incentive or bonus zoning agreement entered into by a community council or a development officer purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 41, s. 1; 2013, c. 18, s. 1.

#### **Community committees**

**32 (1)** The Council may establish, by policy, a community committee for an area.

(2) A policy establishing a community committee must

(a) define the boundaries of the area for which the committee is responsible and set out the duties of the committee; and

(b) include such other matters as the Council deems 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, but not limited to, 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) by-laws 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. 2008, c. 39, s. 32.

## PART II

### ADMINISTRATION

#### **Chief Administrative Officer**

**33** The Council shall employ a person to be the Chief Administrative Officer for the Municipality. 2008, c. 39, s. 33.

#### **Council and Chief Administrative Officer relationship**

**34 (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 by-laws of the Municipality and the policies adopted by the Council.

**(2)** The 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)** The Council shall provide direction on the administration, plans, policies and programs of the Municipality to the Chief Administrative Officer.

**(4)** 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. 2008, c. 39, s. 34.

#### **Responsibilities of Chief Administrative Officer**

**35 (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 budget is prepared and submitted to the Council;
- (c) be responsible for the administration of the budget after adoption;
- (d) review the drafts of all proposed by-laws 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, from time to time, 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 where 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 must 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 and Clerk on behalf of the Municipality.

(4) Notwithstanding subsections 37(1), 41(1) and 43(1) and Section 45, the Chief Administrative Officer may, with the consent of 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. 2008, c. 39, s. 35.

### **Reporting and accountability requirements**

**36 (1)** The directors of departments of the 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 shall be presented to the Council by the solicitor and the Chief Administrative Officer shall 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 the 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. 2008, c. 39, s. 36.

**Clerk**

**37 (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 by-laws and policies of the Municipality; and

(d) perform such other duties as are prescribed by the Chief Administrative Officer, the Council or an enactment. 2008, c. 39, s. 37.

**Policy for records management and destruction**

**38 (1)** The 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, by-laws, policies and resolutions of the Council must not be destroyed.

**(3)** The 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.

**(4)** 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. 2008, c. 39, s. 38.

**Sufficient proof in action or proceeding**

**39** Where, in an action or proceeding it is necessary to prove the authority of an employee of the 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. 2008, c. 39, s. 39.

**False certificate of Clerk**

**40** A Clerk who wilfully gives a false certificate is liable, on conviction, to a penalty not exceeding ten thousand dollars and, in default of payment, to imprisonment for a period of not more than one hundred and eighty days. 2008, c. 39, s. 40.

**Treasurer**

**41 (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. 2008, c. 39, s. 41.

**Duty of Treasurer to advise Council**

**42** The Treasurer shall promptly advise the Council of

(a) all moneys 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 moneys cannot be collected,

and the Council may write off the amounts determined to be uncollectible. 2008, c. 39, s. 42.

**Engineer**

**43 (1)** The Chief Administrative Officer shall designate an employee of the Municipality to be the Engineer for the Municipality.

**(2)** Where the Engineer has authority to require that action be taken by a person, the Engineer may direct that the action be taken.

**(3)** No person shall refuse or fail to take action when directed to do so by the Engineer.

**(4)** Where the Engineer directs that action be taken and no action is taken, the Engineer may cause the necessary work to be done.

**(5)** 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 by-law made pursuant to this Act. 2008, c. 39, s. 43.

**Approval or permission by Engineer**

**44 (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 fourteen days after the Engineer serves a written decision regarding the approval or permission on the owner. 2008, c. 39, s. 44.

**Administrator for dangerous and unsightly premises**

**45** 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. 2008, c. 39, s. 45.

**Municipal Auditor**

**46 (1)** The Council shall appoint a municipal auditor who is registered pursuant to the *Municipal Government 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) where the control is apparent or implied in the Council.

**(3)** The Auditor's report must contain the information, and be in the form, required pursuant to this Act.

**(4)** The Auditor's report shall be filed with the Council and the Minister by September 30th in 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 the Municipality, as reported on by the Auditor, shall set out the remuneration paid to each Council member and the Chief Administrative Officer.

(6A) The auditor shall certify reports to the Council and to the Minister if required by the regulations.

(7) No person may be appointed as the 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 re-appointed as Auditor. 2008, c. 39, s. 46; 2012, c. 63, s. 6; 2017, c. 13, s. 15.

#### Access by Auditor

47 (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 the Municipality shall, on request, promptly provide access, information and explanations to the Auditor. 2008, c. 39, s. 47.

#### Audit committee

48 (1) The 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) The audit committee shall meet at least twice in each fiscal year.

(4) Subject to subsection (5), the audit committee must include a minimum of one independent member who is not a member of council or an employee of the Municipality.

(5) Where the 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 Council or an employee of the Municipality at least once every six months until the requirement is met. 2008, c. 39, s. 48; 2017, c. 13, s. 16.

#### **Auditor General**

**49** (1) The Council shall appoint an Auditor General.

(2) The first Auditor General must take office no later than April 1, 2009.

(3) The Auditor General must be a qualified auditor.

(4) Subject to this Section, the Auditor General holds office for a term of seven years and may not be re-appointed.

(5) The Auditor General may be removed from office by the Council by a resolution carried by a vote of two thirds of the Council members and with the approval of the Minister.

(6) The Auditor General reports to the Council. 2008, c. 39, s. 49.

#### **Responsibilities of Auditor General**

**50** (1) The Auditor General is responsible for assisting the Council in holding itself and the Municipality's administrators accountable for the quality of stewardship over the public funds and for achievement of value for money in the Municipality's operations.

(2) The Auditor General shall examine, in the manner and to the extent the Auditor General considers necessary, the accounts, procedures and programs of the Municipality and any municipal body of the Municipality, as that term is defined in Section 461 of the *Municipal Government Act*, or person or body corporate receiving a grant from the Municipality, to evaluate

(a) whether the rules and procedures applied are sufficient to ensure an effective control of sums received and expended, adequate safeguarding and control of public property and appropriate records management;

(b) if money authorized to be spent has been expended with due regard to economy and efficiency;

(c) if money has been spent with proper authorization and according to an appropriation;

(d) if applicable procedures and policies encourage efficient use of resources and discourage waste and inefficiency; and

(e) whether programs, operations and activities have been effective.

(3) In addition to the duties under subsection (2), the Auditor General shall examine those programs, policies and procedures as are requested by the Council to the extent that such examination can be reasonable accommodated.

(4) The Auditor General shall file annually with the Council a work plan of the Auditor General's activities.

(5) The Auditor General shall update the Council on any substantial departure from the work plan.

(6) The Auditor General shall

(a) report annually to the Council in a public meeting;

(b) file such report with the Minister; and

(c) inform the Chief Administrative Officer of the contents of the report in advance of its submission to the Council, except when such report or such contents address issues involving the Chief Administrative Officer.

(7) In the report of the Auditor General, the Auditor General shall make recommendations, as appropriate, for improvements in the efficiency of the Municipality.

(8) Notwithstanding subsection (1), the responsibilities of the Auditor General do not include the matters described in subsections 46(2) and (3).

(9) The authority of the Auditor General to exercise powers and perform duties extends to any person, body corporate or association who or that receives a grant directly or indirectly from the Municipality and such authority applies only in respect of grants received by the grant recipient directly or indirectly from the Municipality or a municipal body of the Municipality, as that term is defined in Section 461 of the *Municipal Government Act*, after the date on which this Section comes into force.

(10) The Auditor General may delegate in writing to any person, other than a member of the Council, any of the Auditor General's powers and duties under this Section.



(11) The Auditor General may continue to exercise the delegated powers and duties, notwithstanding the delegation. 2008, c. 39, s. 50.

#### **Access by Auditor General**

51 (1) The Municipality, a municipal body of the Municipality, as that term is defined in Section 461 of the *Municipal Government Act*, and grant recipients referred to in subsections 50(2) and (9) shall give the Auditor General such information regarding their powers, duties, activities, organization, financial transactions and methods of business as the Auditor General believes to be necessary to perform the Auditor General's duties under Section 50.

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the Municipality, a municipal body of the Municipality, as that term is defined in Section 461 of the *Municipal Government Act*, or a grant recipient, as the case may be, that the Auditor General believes to be necessary to perform the Auditor General's duties under Section 50.

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. 2008, c. 39, s. 51.

#### **Powers, privileges and immunities of Auditor General**

52 (1) The Auditor General may examine any person on oath on any matter pertinent to an audit or examination under Section 50.

(2) The Auditor General has, in the performance of the Auditor General's duties, the same powers, privileges and immunities as a commissioner appointed under the *Public Inquiries Act*. 2008, c. 39, s. 52.

#### **Duty to preserve secrecy**

53 (1) The Auditor General, and every person acting under the instructions of the Auditor General, shall preserve secrecy with respect to all matters that come to the Auditor General's knowledge in the course of the Auditor General's duties under this Act.

(2) The Auditor General, or a person to whom powers are delegated pursuant to subsection 50(10), shall keep in confidence all information obtained in the exercise of a power or in the performance of a duty of the Auditor General and shall not communicate this information to any person except

- (a) in the course of the administration of an enactment; or
- (b) in court proceedings.

(3) A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General

under Section 51 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege. 2008, c. 39, s. 53.

**Auditor General and others not competent or compellable witnesses**

**54** Neither the Auditor General nor any person acting under the instructions of the Auditor General is a competent or compellable witness in a civil proceeding in connection with anything done under Sections 49 to 53. 2008, c. 39, s. 54.

**Disclosure of compensation paid by Municipality**

**54A (1)** The Council may adopt a policy requiring the Municipality to disclose to the public the amount of compensation the Municipality pays or provides to any person, in accordance with the policy.

(1), **(2)** The Council may, in a policy adopted pursuant to subsection

- (a) define “compensation” for the purpose of the policy;
- (b) establish a threshold amount at which compensation must be disclosed;
- (c) designate any person or class of persons whose compensation may be subject to disclosure;
- (d) set out the terms with respect to the timing, content and form of the disclosure required by the policy;
- (e) include any other matter that the Council considers necessary or advisable to carry out effectively the intent and purpose of this Section.

**(3)** The Council may adopt a policy

- (a) requiring any agency, board, commission or corporation to which the Council may appoint the majority of the members to disclose, and any such agency, board, commission or corporation shall disclose, to the Municipality, the amount of compensation it pays or provides to any person; and
- (b) requiring the Municipality to disclose to the public that compensation information,

in accordance with the policy.

(3), **(4)** The Council may, in a policy adopted pursuant to subsection

- (a) define “compensation” for the purpose of the policy;
- (b) establish a threshold amount at which compensation must be disclosed;

(c) designate any agency, board, commission or corporation to which the Council may appoint the majority of the members, or any class of such agencies, boards, commissions or corporations, as subject to the policy;

(d) designate any person or class of persons whose compensation may be subject to disclosure;

(e) set out the terms with respect to the timing, content and form of the disclosure required by the policy;

(f) include any other matter that the Council considers necessary or advisable to carry out effectively the intent and purpose of this Section.

(5) The disclosure of information pursuant to a policy adopted pursuant to this Section is deemed not to contravene any Act, regulation or agreement, whether the Act was enacted or the regulation or agreement was made before or after the coming into force of this Section and, for greater certainty, Part XX of the *Municipal Government Act* does not restrict disclosure pursuant to such a policy. 2015, c. 20, s. 1.

### **Pension plans**

**55 (1)** In this Section, “full-time employee” means an employee who is employed in full-time, continuous employment.

(2) The Council shall establish a pension plan to provide pensions for full-time employees in such manner as the Council shall, by policy, determine.

(3) The 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) The 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 must not exceed the lesser of

(a) six per cent; and

(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. 2008, c. 39, s. 55.

#### **Increases to pensions**

56 Notwithstanding subsection 55(7), the pension plan adopted by the Municipality pursuant to that Section may provide for increases in the pensions not exceeding the lesser of six per cent per year and the percentage increase in the cost of living as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada in the years since each such pension became payable, net of any increases previously provided. 2008, c. 39, s. 56.

#### **Employment not during pleasure**

57 Notwithstanding the *Interpretation Act*, no employee of the Municipality holds office during pleasure, unless a written agreement between the employee and the Municipality provides otherwise. 2008, c. 39, s. 57.

### PART III

#### POWERS

#### **Resolutions, policies, by-laws**

58 (1) The Council shall make decisions in the exercise of its powers and duties by resolution, by policy or by by-law.

(2) The Council may exercise any of its powers and duties by resolution unless a policy or a by-law is required by an enactment.

(3) The Council may exercise by by-law any of the duties and powers that it may exercise by resolution or policy.

(4) The Council may exercise by policy any of the duties and powers that it may exercise by resolution.

(5) The 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. 2008, c. 39, s. 58.

#### **Policies**

59 (1) Before a policy is passed, amended or repealed the Council shall give at least seven days notice to all Council members.

(2) The 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. 2008, c. 39, s. 59.

**Power to make policies**

**60 (1)** The 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 by-law of the Municipality,

(ii) an inspection required or conducted pursuant to a by-law 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 by-law of the Municipality or an enactment,

(iv) and expenses charged for the impoundment of animals;

(d) delegating the power to issue, refuse, suspend, cancel or revoke licences and permits, but not including building permits and development permits;

(e) establishing the amount that may be accepted by the Municipality in lieu of prosecution for breach of a by-law 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 to the Council must be included in the policy. 2008, c. 39, s. 60.

**By-laws respecting contributions and expenses for election campaigns**

**60A** The Council may make by-laws, not inconsistent with Sections 49A and 49B of the *Municipal Elections Act*, respecting contributions and expenses for the election campaigns of candidates for the office of Mayor or councillor including, without limiting the generality of the foregoing, election campaign spending limits, maximum contribution amounts, disclosure requirements, eligibility to contribute and dates for making contributions. 2016, c. 9, s. 1.

**Powers of Municipality regarding property**

**61 (1)** The 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 the 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 the 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 the Municipality does not give an estate, right or title to the property.

(5) The 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. 2008, c. 39, s. 61.

#### **Power of Council regarding property with vacant building**

**62** (1) In this Section, “vacant building” does not include a seasonal dwelling.

(2) The 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 by-law made pursuant to subclause 188(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 65 to acquire the property.

(6) The Council may spend money under Section 79 to acquire the property and improve it. 2008, c. 39, s. 62.

**Sale or lease of municipal property**

**63 (1)** The 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 shall be passed by at least a two thirds majority of the Council present and voting.

**(3)** Where the Council proposes to sell property referred to in subsection (1) valued at more than ten thousand dollars 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 fourteen days before the hearing.

**(5)** The notice of the public hearing shall 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. 2008, c. 39, s. 63.

**Sale to abutting owner**

**64** Where the Municipality holds land that is of insufficient size or dimensions to be capable of any reasonable use, in the opinion of the Council, 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 63, 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. 2008, c. 39, s. 64.

**Expropriation**

**65 (1)** Where the 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 the Municipality to expropriate property of another municipality.

**(2)** Where real property is proposed to be expropriated,

(a) the Municipality may 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 the Municipality. 2008, c. 39, s. 65; 2014, c. 16, s. 4.

#### **Dartmouth Common**

**66 (1)** In this Section, “Dartmouth Common” means the properties as identified by the PID numbers 00023267, 00045831, 00082628, 00082776, 00109280, 00109298, 00109561, 00109744, 00109769, 00109777, 00109819, 00109942, 00109959, 00109967, 00109975, 00109983, 00109991, 00110007, 00130013, 00130070, 00175182, 40506867, 40611667, 40847014 and 41339649 and such other properties as determined by the regulations made pursuant to subsection (8).

(2) The Dartmouth Common is held by the Municipality in trust for the inhabitants of the Municipality.

(3) The Municipality may not

(a) sell, lease, license or otherwise alienate the Dartmouth Common;

(b) build, improve or expand parking facilities on the Dartmouth Common without the approval of the Governor in Council; or

(c) subject to subsections (4), (5) and (7), build, expand or change the use of any building or structure on the Dartmouth Common without the approval of the Governor in Council.

(4) The Municipality may, on the Dartmouth Common,

(a) create or improve park spaces;

(b) install or improve open-air recreational facilities or equipment such as playgrounds and sports grounds;

(c) install or improve park maintenance and support structures;

(d) create or improve public botanical gardens;

(e) install or improve monuments, fountains or gazebos;

(f) create or improve interpretive centres;

(g) create or improve accessory structures such as wash-rooms, dugouts or change rooms, but not including parking facilities; and

(h) maintain or improve existing cemeteries,

and regulate activities on the Dartmouth Common, including by the issuing of permits.



(5) The Municipality may build, expand or improve public transit facilities on that part of the Dartmouth Common adjacent to Nantucket Avenue and not exceeding six acres, but any part of the six acres not required for public transit facilities reverts to public open space.

(6) The Municipality's activities, including planning, development and activities pursuant to this Section, on the Dartmouth Common and any activities permitted by the Municipality on the Dartmouth Common must be consistent with the following objectives:

- (a) public access: access for all;
- (b) connectivity: visual and physical continuity between open spaces and built elements;
- (c) pedestrian priority: safe and comfortable pedestrian circulation;
- (d) collaboration: the Municipality shall work collaboratively with the federal and Provincial governments and with the community; and
- (e) open space stewardship: protecting natural, historical and recreational open space to ensure public enjoyment and community character.

(7) A building or structure on the Dartmouth Common used at the time of the coming into force of this Section for a purpose not permitted by this Section may continue to be used for that purpose but no change in the use of that building or structure may be made unless approved by the Governor in Council and, when the building or structure is no longer required for that purpose and the Governor in Council has not approved its use for another purpose, the land occupied by that building or structure must revert to public open space.

(8) Notwithstanding anything in this Section, the Governor in Council may make regulations

- (a) determining additional properties to be included as part of the Dartmouth Common;
- (b) controlling, limiting or prohibiting any activity referred to in clause (3)(b) or subsection (4) or (5).

(9) The exercise by the Governor in Council of the authority contained in subsection (8) is regulations within the meaning of the *Regulations Act*, 2011, c. 16, s. 1.

#### **Halifax North Common**

**66A (1)** The Municipality may erect on the North Common of Halifax a permanent building to be used exclusively to support the Oval on the North Common.

(2) A building or structure on the North Common used at the time of the coming into force of this Section or erected pursuant to subsection (1) may continue to be used for its original purpose but no change in the use of that building or structure may be made unless approved by the Governor in Council and, when the building or structure is no longer required for that purpose and the Governor in Council has not approved its use for another purpose, the land occupied by that building or structure must revert to public open space. 2012, c. 59, s. 1.

### **Plebiscite**

**67** (1) The 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 ten weeks after the resolution directing the plebiscite is passed. 2008, c. 39, s. 67.

### **Police services**

**68** (1) The 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 the Municipality has jurisdiction over the provision of the police services, notwithstanding that they are provided by a combination of methods.

(2) The Municipality may contract with the Royal Canadian Mounted Police, the Minister of Justice or another municipality to provide police services. 2008, c. 39, s. 68.

### **Public transportation service**

**69** (1) The 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 the Municipality that provides the service. 2008, c. 39, s. 69.

**Area improvement and promotion**

**70 (1)** The 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 and business occupancy 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) different rates for business occupancy assessments and commercial property assessments; and
- (b) 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.  
2008, c. 39, s. 70.

**Business and industrial development**

**71 (1)** The Municipality may

- (a) solicit and encourage the establishment and development of new, 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) The Municipality may not grant a tax concession or other form of direct financial assistance to a business or industry. 2008, c. 39, s. 71.

### Regional libraries

72 (1) The Municipality may enter into and carry out agreements for providing regional libraries and other purposes pursuant to the *Libraries Act*.

(2) The Municipality has the powers of a regional library board pursuant to the *Libraries Act*.

(3) Where the Municipality provides library services directly, it is the regional library board for purpose of grants made pursuant to the *Libraries Act*. 2008, c. 39, s. 72.

### Highway, housing and trails agreements

73 The 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 Her Majesty in right of the Province. 2008, c. 39, s. 73.

### Municipality and village services agreements

74 (1) The Municipality may agree with one or more municipalities, villages, service commissions, the Government of the Province or of 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 the Municipality pursuant to subsection (1) may

(a) include any service provided by the Municipality;

(b) include the provision of services within or outside the Municipality;

(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 the Municipality pursuant to subsection (1) may include

- (a) a description of the services to be provided pursuant to 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 may determine.

(4) Where an agreement made by the Municipality 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 Municipality may guarantee its borrowings. 2008, c. 39, s. 74.

### Agreements

75 (1) The Municipality may agree with any person for the provision of a service or a capital facility that the Municipality 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 that continues to be required for the purposes of the Municipality. 2008, c. 39, s. 75.

#### **Flag, symbol or coat of arms**

**76 (1)** The 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. 2008, c. 39, s. 76.

#### **Municipal powers respecting trees**

**77 (1)** The 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)** The 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)** The Council may, by policy, authorize its employees to enter upon land within the Municipality to

(a) treat the trees on the land as approved and recommended by Forestry Canada;

(b) inspect the trees 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.

**(4)** The Council may, by policy, authorize an employee to order an owner of land, within thirty 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.

(5) An order to remove a tree or limb shall contain a description of the location of the tree or limb directed to be removed and a copy of the order shall be served upon the owner of the land.

(6) Where the owner fails to remove the tree or limb described in the order within thirty 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 situated, without warrant or other legal process, and remove the tree or limb.

(7) The actual cost of removal of the tree or limb pursuant to subsection (6) 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.

(8) 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.

(9) Upon an appeal pursuant to subsection (8), the Supreme Court of Nova Scotia may confirm, modify or set aside the order.

(10) The Municipality is not liable for failure to remove a diseased or dangerous tree or limb from property, whether publicly or privately owned.

(11) A person who defaces, mutilates or cuts a tree upon property of the 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.

(12) The Municipality may borrow for a term not exceeding ten years for the cost of a major tree removal program. 2008, c. 39, s. 77.

#### PART IV

#### FINANCE

##### **Fiscal year**

78 The fiscal year of the Municipality begins on April 1st and ends on March 31st in the following year. 2008, c. 39, s. 78.

##### **Power to expend money**

79 (1) The Council may expend money required by the Municipality for

(a) expenses of elections and plebiscites;

(b) premiums on an insurance policy for damage to property, personal injury or liability, including liability of members of the Council or employees of the Municipality, volunteer members of fire

departments, emergency services providers and volunteers in municipal programs;

(c) repayment of money borrowed by the Municipality, the payment of interest on that money and payment of sinking funds;

(d) police services;

(e) providing an emergency response system;

(f) snow and ice removal;

(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) emergency measures;

(k) recreational programs;

(l) advertising the opportunities of the Municipality for business, industrial and tourism purposes and encouraging tourist traffic, with power to make a grant to a non-profit society for this purpose;

(m) promotion and attraction of institutions, industries and businesses, the stabilization and expansion of employment opportunities and the economic development of the Municipality;

(n) lighting any part of the Municipality;

(o) public transportation services;

(p) preventing or decreasing flooding;

(q) collecting, removing, managing and disposing of solid waste;

(r) salaries, remuneration and expenses of the Mayor, councillors, officers and employees of the Municipality;

(s) the reasonable expenses incurred by the Mayor or a councillor for attendance at meetings and conferences, if the permission of the Council is obtained prior to the meeting or conference or the attendance is in accordance with a policy of the Council;

(t) the contribution of the Municipality to a pension or superannuation fund;

(u) where determined by the Board, payment to the Board of an assessment on a public utility owned or operated by the Municipality;

(v) annual subscription fees of the Union of Nova Scotia Municipalities and other municipal or professional associations;



- (w) public libraries;
- (x) lands and buildings required for a municipal purpose;
- (y) furnishing and equipping any municipal facility;
- (z) acquisition of equipment, materials, vehicles, machinery, apparatus, implements and plant for a municipal purpose;
- (aa) streets, culverts, retaining walls, sidewalks, curbs and gutters;
- (ab) private roads, culverts, retaining walls, sidewalks, curbs and gutters that are associated with private roads and are identified and approved for expenditure by the Council;
- (ac) placing underground 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;
- (ad) a system for the supply or distribution of electricity, gas, steam or other source of energy;
- (ada) providing for, financing and installing energy-efficiency equipment on private property including, without restricting the generality of the foregoing, solar panels;
- (adb) providing for, financing and installing equipment, including containers, on private property for the purposes of the supply, use, storage or conservation of water;
- (ae) pounds;
- (af) a fire alarm system;
- (ag) ponds, reservoirs, brooks, canals and other means of accumulating or directing the flow of water to be used in extinguishing fires;
- (ah) playgrounds, trails, including trails developed, operated or maintained pursuant to an agreement made under clause 73(c), bicycle paths, swimming pools, ice arenas and other recreational facilities;
- (ai) public grounds, squares, halls, museums, parks, tourist information centres and community centres;
- (aj) public markets;
- (ak) property held by trustees for the use of the public;
- (al) wastewater facilities and stormwater systems;
- (am) water systems;
- (an) solid-waste management facilities;

- (ao) buildings for a medical centre to encourage medical doctors, dentists and other health professionals to locate in the Municipality or a part of it;
- (ap) industrial parks, incubator malls and land and other facilities for the encouragement of economic development;
- (aq) parking lots and parking structures;
- (ar) landing strips and airports;
- (as) wharves and public landings;
- (at) carrying out an agreement with the Minister of Community Services, Canada Mortgage and Housing Corporation or a body corporate or agency made under clause 73(b);
- (au) contributing to a hospital to which the *Hospitals Act* applies, with power to raise the amount as an area rate in the area or areas primarily served by the hospital and to borrow for capital grants;
- (av) a grant or contribution to
  - (i) a society within the meaning of the *Children and Family Services Act*,
  - (ii) a mental health clinic in receipt of financial assistance from Her Majesty in right of the Province,
  - (iii) an exhibition held by an educational institution in the Municipality,
  - (iv) a club, association or exhibition within the meaning of the *Agriculture and Marketing Act*,
  - (v) any charitable, nursing, medical, athletic, educational, environmental, cultural, community, fraternal, recreational, religious, sporting or social organization within the Province,
  - (vi) a day care licensed under the *Day Care Act*,
  - (vii) a registered Canadian charitable organization;
- (aw) all other expenditures
  - (i) authorized by this Act or another Act of the Legislature,
  - (ii) that are required to be made under a contract lawfully made by, or on behalf of, the Municipality,
  - (iii) incurred in the due execution of the duties, powers and responsibilities by law vested in, or imposed upon, the Municipality, the Mayor, Council or officers.

(2) The Municipality shall publish annually a list of the organizations and grants or contributions made pursuant to clause (1)(av) in a newspaper circulating in the Municipality. 2008, c. 39, s. 79; 2010, c. 52, s. 1; 2016, c. 25, s. 3.

#### **Supplementary funding of Halifax Regional School Board**

**80** (1) The Council shall provide to the Halifax Regional School Board at least the amount of additional funding that was provided to the Halifax District School Board in the fiscal year beginning April 1, 1995.

(2) The guaranteed amount payable pursuant to subsection (1) must be recovered by area rate levied on the assessed value of the taxable property and business occupancy assessments.

(3) The Council shall provide to the Halifax Regional School Board at least the amount of additional funding that was provided to the Dartmouth District School Board in the fiscal year beginning April 1, 1995.

(4) The guaranteed amount payable pursuant to subsection (3) must be recovered by area rate levied on the assessed value of the taxable property and business occupancy assessments.

(5) The Council may levy a rate or an area rate to provide additional funding to the Halifax Regional School Board.

(5A) Rates levied pursuant to subsection (5) may be levied on the assessed value of the taxable property and business occupancy assessments and may be different for commercial property and business occupancy assessments than for residential and resource property.

(5B) Notwithstanding Section 96, the Municipality may levy or charge different area rates for different areas in the Municipality and the combined funds raised may be allocated by the Council for the use or benefit of the Halifax Regional School Board throughout the Municipality without restriction on area.

(6) Subject to subsection (7), the amounts guaranteed pursuant to subsections (1) and (3) must not be decreased by more than ten per cent of the amounts specified in subsections (1) and (3), respectively, in any year, beginning in the fiscal year commencing April 1, 1996.

(7) The Council and the Halifax Regional School Board may agree to reduce the amount of the guarantees at a faster rate than is permitted pursuant to subsection (6).

(8) Funding provided pursuant to this Section is in addition to funding provided pursuant to the *Education Act*. 2008, c. 39, s. 80; 2009, c. 15, s. 1.

**Supplementary funding for Conseil scolaire acadien provincial**

**81 (1)** For the purpose of this Section, “student” means the students who are counted for purposes of calculating the “funding enrolment” under Section 1 of Schedule “A” of the *Governor in Council Education Act Regulations* made under Section 146 of the *Education Act*.

**(2)** Where the Council provides additional funding to the Halifax Regional School Board under subsections 80(1) and (3), the Council shall provide additional funding to the *Conseil scolaire acadien provincial*.

**(3)** The additional funding for the *Conseil scolaire acadien provincial* must be

(a) a share of the additional funding provided under subsections 80(1) and (3); or

(b) an amount in addition to the amounts provided under subsections 80(1) and (3).

**(4)** The *Conseil scolaire acadien provincial*'s additional funding is determined by

(a) in the case of clause (3)(a), taking the additional funding provided under each of subsections 80(1) and (3), dividing those amounts, respectively, by the total number of students attending both the *Conseil scolaire acadien provincial* school and the Halifax Regional School Board school whose civic addresses are within each applicable area and multiplying the resulting amounts for each area by the number of students attending the *Conseil scolaire acadien provincial* school whose civic addresses are within in each area; and

(b) in the case of clause (3)(b), taking the additional funding provided under each of subsections 80(1) and (3), dividing those amounts, respectively, by the total number of students attending the Halifax Regional School Board school whose civic addresses are within each applicable area and multiplying the resulting amounts by the number of students attending the *Conseil scolaire acadien provincial* school whose civic addresses are within each area.

**(5)** The additional funding for the *Conseil scolaire acadien provincial* must be recovered by

(a) in the case of students attending the *Conseil scolaire acadien provincial* school whose civic addresses are within the area referred to in subsection 80(1), the area rate referred to in subsection 80(2); and

(b) in the case of students attending the *Conseil scolaire acadien provincial* school whose civic addresses are within the area referred to in subsection 80(3), the area rate referred to in subsection 80(4).

(6) The additional funding provided for the *Conseil scolaire acadien provincial* must be used solely for the benefit of schools in the Municipality.

(7) The Minister may make regulations respecting the information to be provided by the Halifax Regional School Board and the *Conseil scolaire acadien provincial* to the Municipality.

(8) The exercise by the Minister of the authority contained in subsection (7) is regulations within the meaning of the *Regulations Act*, 2008, c. 39, s. 81.

#### **Additional funding**

82 Where the Council provides additional funding to the Halifax Regional School Board other than under Subsection 80(1) or (3), the Council shall provide additional funding to the *Conseil scolaire acadien provincial* in the same manner as is set out in subsections 81(1) to (4). 2008, c. 39, s. 82; 2009, c. 15, s. 2.

#### **Power to borrow money**

83 (1) The 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 the Municipality 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 inter-municipal corporation will own the undertaking.

(4) The Municipality may borrow money

(a) with the approval of the Minister of Transportation and Infrastructure Renewal, to improve a street that is the property of Her Majesty in right of the Province;

(b) to pay and retire debentures;

(c) where the 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 73(c);

(e) to demolish a building or structure that is owned by the Municipality;

(f) for the purpose of making a loan to a registered fire department or registered emergency services provider. 2008, c. 39, s. 83.

**Sums spent by requirement of Legislature are for ordinary lawful purposes**

**84** Where an Act of the Legislature authorizes or directs the 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. 2008, c. 39, s. 84.

**Sharing of taxes or grants in lieu**

**85** The Municipality may agree with another municipality to share taxes or grants in lieu of taxes paid or payable to the Municipality. 2008, c. 39, s. 85.

**Low income tax exemption policy**

**86 (1)** In this Section and Section 88, “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).

**(2)** The 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.

**(3)** The 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.

**(4)** The policy to grant an exemption from taxation may

(a) specify that the exemption only extends 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 thirty days after the filing of the assessment roll, after which no application for an exemption will be received. 2008, c. 39, s. 86.

**Tax reduction policy respecting destroyed buildings**

**87 (1)** The 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, may not change the assessment of the property except in accordance with the *Assessment Act*. 2008, c. 39, s. 87.

**By-law for postponed payment of rates and taxes**

**88 (1)** The Council may, by by-law, 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 by-law.

**(2)** A by-law 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 by-law, including the required forms and affidavits;

(e) may provide for interest on the taxes postponed.

**(3)** A limitation period affecting the Municipality's entitlement to collect postponed taxes does not begin until the period of postponement expires.

**(4)** Where the 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 thirty 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 thirty days.

**(5)** Except as otherwise provided by this Act or another Act of the Legislature, the Council may not relieve a taxpayer from all or a portion of taxes. 2008, c. 39, s. 88.

**Tax exemption by-law for organizations**

**89 (1)** The Council may, by policy, exempt from taxation, to the extent and under the conditions set out in the policy

(a) property

(i) of a named registered Canadian charitable organization, and

(ii) 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;

(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)** The 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)** The 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 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. 2008, c. 39, s. 89.

**Tax reduction by-law for day cares**

**90 (1)** The Council may, by by-law, to the extent and under the conditions set out in the by-law, provide that the tax payable with respect to all or part of the taxable commercial property of any day care licensed under the *Day Care Act* be reduced to the tax that would be payable if the property were residential property, including area rates.



(2) A by-law made pursuant to this Section may have an effective date retroactive to the beginning of the current fiscal year. 2008, c. 39, s. 90.

#### **Business occupancy tax exemptions by-law for day cares**

**91** The Council may, by by-law, exempt any day care licensed under the *Day Care Act* from taxes payable in respect of business occupancy assessment. 2008, c. 39, s. 91.

#### **Taxation of property and assets of Regional Water Commission**

**92 (1)** For greater certainty, the Council may levy commercial and business occupancy taxes against the property and assets of the Halifax Regional Water Commission situated within the geographical boundaries of the Municipality.

(2) Notwithstanding subsection (1) and the *Assessment Act*, the Municipality may enter into agreements with the Halifax Regional Water Commission providing for the payment of grants in lieu of commercial and business occupancy rates and taxes against the property and assets of the Halifax Regional Water Commission within the geographical boundaries of the Municipality in such amounts annually as shall be agreed upon between the Council and the Halifax Regional Water Commission. 2008, c. 39, s. 92.

#### **Taxation of property of Halifax International Airport Authority**

**92A (1)** Notwithstanding any enactment, where there is an agreement pursuant to this Section, the Halifax International Airport Authority shall pay taxes with respect to property assessed to it within the Municipality in accordance with the agreement instead of the taxes otherwise payable, pursuant to the provisions of this Act, set out in the agreement.

(2) Notwithstanding any enactment, where the Council considers it necessary or advisable, the Municipality may enter into a taxation agreement with the Authority respecting the taxes payable to the Municipality by the Authority.

(3) A taxation agreement entered into pursuant to this Section does not apply with respect to property leased or occupied by a tenant of the Authority. 2014, c. 15, s. 1.

#### **Eligible industrial property**

**92B (1)** In this Section, “eligible industrial property” has the meaning prescribed by the regulations.

(2) Notwithstanding any enactment, where the Council 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 eli-

gible industrial property in accordance with the agreement instead of the taxes otherwise payable pursuant to the provisions of this Act.

(4) A taxation agreement does not take effect unless it is approved by by-law.

(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) A regulation made pursuant to subsection (6) may be made retroactive to April 1, 2014, or such later date as is specified by the regulation.

(8) The exercise by the Minister of the authority contained in subsection (7) is regulations within the meaning of the *Regulations Act*. 2014, c. 50, s. 1.

#### Commercial development district

92C (1) In this Section,

(a) “commercial development district” means a district, established by a by-law made pursuant to subsection (2), that comprises one or more eligible properties;

(b) “eligible commercial property” means a commercial property, except the forest property owned by a person who owns fifty thousand acres or more of forest property in the Province;

(c) “eligible contaminated property” means a property or part thereof that

(i) was an eligible commercial property,

(ii) is designated as a contaminated site pursuant to subsection 87(1) of the *Environment Act*, and

(iii) is the subject of an agreement entered into pursuant to clause 89(1)(b) of the *Environment Act*;

(d) “eligible property” means an eligible commercial property or eligible contaminated property.

(2) Notwithstanding subsection 71(2) but subject to Section 92D, where the Council considers it necessary or advisable, the Council may, by by-law, 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 ten 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 by-law 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 only be established in an area that is serviced by wastewater facilities and a water system.

(5) Subject to subsection (6), a by-law 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 by-law, authorize the refund of the amount by which the taxes paid exceed the taxes payable under the by-law;

(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 fifty per cent 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 71(2), where a by-law is made pursuant to subsection (2), the owner of an eligible property to which the by-law applies shall pay taxes with respect to the eligible property in accordance with the by-law instead of the taxes otherwise payable pursuant to this Act.

(8) Taxes payable in respect of an eligible property under a by-law 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 Section 94 for the area of the Municipality determined to be an urban area receiving an urban level of services. 2016, c. 13, s. 3.

#### **Review by Minister**

**92D (1)** Where the Council makes a by-law pursuant to subsection 92C(2), the clerk shall submit a certified copy of the by-law to the Minister.

(2) The Minister shall review the by-law and determine whether the by-law appears to affect a provincial interest or conflict with the law.

(3) Where the Minister determines that the by-law appears to affect a provincial interest, the Minister shall

- (a) approve the by-law;
- (b) approve the by-law with such amendments as the Minister considers necessary or advisable; or
- (c) refuse to approve the by-law.

(4) Where the Minister determines that the by-law appears to conflict with the law, the Minister shall

- (a) approve the by-law with such amendments as the Minister considers necessary or advisable to resolve the apparent conflict with the law; or
- (b) refuse to approve the by-law.

(5) The by-law is of no force and effect until the Minister

- (a) determines that the by-law does not appear to affect a provincial interest or conflict with the law; or
- (b) approves the by-law, with or without amendments,

and provides written notice to the clerk of the Minister's determination or approval. 2016, c. 13, s. 3.

#### **Quadrennial review**

**92E** A by-law made pursuant to subsection 92C(2) must be reviewed by the Municipality within four years of its coming into force and every four years thereafter. 2016, c. 13, s. 3.

#### **Estimates of required sums**

**93 (1)** The Council shall make estimates of the sums that are required by the Municipality for the fiscal year.

(2) The estimates shall include the probable revenue from all sources other than taxes for the fiscal year 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) The 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) The Council shall include in its estimates the deficit from the preceding fiscal year.

- (5) The 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) The 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 business occupancy assessment; 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 that the Council deems sufficient to raise the amount required to defray the estimated requirements of the Municipality. 2008, c. 39, s. 93.

#### **Tax rates**

- 94** (1) The Council shall 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.
- (2) The Council may
- (a) set different commercial tax rates for commercial property located in areas of the Municipality designated by Council, based on the assessment of commercial property under the *Assessment Act*;
  - (b) set different commercial tax rates for commercial property located in areas of the Municipality designated by Council, based on the length or proportion of frontage of a property on a street, including a private road;
  - (c) set different commercial tax rates for commercial property located in areas of the Municipality designated by Council, based on the number of square metres in a property, the number of square metres in all commercial buildings on a property, or the combined number of square metres in a property and all commercial buildings on that property;

(d) set additional tiered or escalating commercial tax rates based on the factors set out in clauses (a) to (c) that are in excess of the rates set in clauses (a) to (c); and

(e) set additional or different commercial tax rates using any combination of clauses (a) to (d).

(3) Commercial tax rates set by the Council under subsection (2) apply in place of the commercial tax rates set under subsection (1) in the areas designated by the Council.

(4) A commercial tax rate set under subsection (2) must be reviewed by the Minister four years after its coming into force and thereafter as provided by regulation.

(5) The Minister shall determine the process for the review under subsection (4) and may review more than one application of the commercial tax rate options set under subsection (2) at the same time.

(6) The Municipality shall participate in and co-operate with the review under subsection (4) as required by the Minister, including by providing reports, records or other documents requested by the Minister. 2008, c. 39, s. 94; 2016, c. 22, s. 1.

#### **Minimum tax**

95 (1) The 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 must be determined by the Director of Assessment whose decision may be appealed to the Board. 2008, c. 39, s. 95.

#### **Area rates and uniform charges**

96 (1) The Council may spend money in an area, or for the benefit of an area, for any purpose for which the Municipality may expend funds or borrow.

(2) The 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 or occupancy assessments in the area.

(3) The 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 and occupancy assessments in the area.

(4) The 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.

(5) Charges pursuant to subsection (4) are first liens on the real property and may be collected in the same manner as taxes.

(6) The 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.

(7) The area rate referred to in this Section may be different on commercial property and business occupancy assessments than on residential and resource property. 2008, c. 39, s. 96.

#### **Policy for reduction of tax increase**

97 (1) The Council may, by policy, to the extent and under the conditions set out in the policy, provide for the reduction of the taxes payable in respect of a residential property in a fiscal year set out in the policy, including being retroactive to the beginning of the fiscal year if the percentage increase in the assessed value of the property averaged over the fiscal year and such number of immediately previous fiscal years as prescribed by the policy is greater than the percentage prescribed by the policy for the fiscal year.

(2) Without limiting the generality of subsection (1), the policy may provide that

(a) the reduction in taxes

(i) does not apply to a property, the taxable assessed value of which is less than its assessed value pursuant to Section 45A of the *Assessment Act* in the fiscal year set out in the policy, including being retroactive to the beginning of the fiscal year, or

(ii) is reduced by the reduction in taxes resulting from the application of Section 45A of the *Assessment Act*;

(b) the reduction in taxes only applies if there has been no change in ownership of the property from the preceding fiscal year

other than a transfer or devolution of the property to a spouse, child, grandchild, great-grandchild, parent, grandparent, brother or sister of an owner of the property;

(c) the reduction in taxes only applies if the property is owned by an individual or individuals ordinarily resident in the Province or by corporations that are family trusts or farmers' co-operatives whose head offices are in the Province and in which the majority of the issued and outstanding shares are owned or beneficially owned by individuals who are ordinarily resident in the Province;

(d) the reduction in taxes only applies if the property was assessed as residential for all of the fiscal years prescribed by the policy and used in the calculation of the tax reduction;

(e) the reduction in taxes does not apply to vacant land;

(f) the reduction in taxes does not apply in respect of any improvements to the property to the extent provided by the policy; and

(g) the reduction in taxes is limited to properties owned by individuals who meet the income thresholds provided by the policy. 2008, c. 39, s. 97.

#### **Recreational property tax**

**98 (1)** An owner of land to which Section 29 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)** In the event that 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 fifty per cent 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. 2008, c. 39, s. 98.



**Conservation property**

**98A (1)** The Minister of Environment shall in each year pay to the Municipality in respect of conservation property exempt from taxation situate therein 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, determined by the assessor pursuant to the *Assessment Act*, equal to twenty per cent of the value of the land, or part thereof, that ceased to be conservation property is due and payable to the Municipality 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 Her Majesty in right of the Province or Canada or to a municipality. 2010, c. 16, s. 3.

**Farm property**

**99 (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, determined by the assessor pursuant to the *Assessment Act*, equal to twenty per cent of the value 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 of the owner's father, mother, brother, sister, son, daughter, grandson, granddaughter or spouse; 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) or subsection 77(4) of the *Municipal Government Act* 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 father, mother, brother, sister, son, daughter, grandson, granddaughter 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). 2008, c. 39, s. 99.

#### **Forest property tax**

**100 (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) twenty-five cents per acre, if the forest property is classified as resource property; and
- (b) forty cents per acre, if the forest property is classified as commercial property,

and, where an area rate is levied for fire protection, the owner is liable to pay an additional annual tax not exceeding one cent per acre, as the Municipality 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, determined by the assessor pursuant to the *Assessment Act*, equal to twenty per cent of the value 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 father, mother, brother, sister, son, daughter, grandson, granddaughter or spouse 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) or subsection 78(5) of the *Municipal Government Act*, 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 father, mother, brother, sister, son, daughter, grandson, granddaughter or spouse of the owner referred to in subsection (3) or to the owner, then 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). 2008, c. 39, s. 100.

#### **Commercial rent increase where tax increase**

101 (1) Notwithstanding any provision in a lease, licence or permit for commercial property that is 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 ninety 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. 2008, c. 39, s. 101.

**User charges**

**102** Subject to the approval of the Board for those services that are subject to the *Public Utilities Act*, the Council may, by by-law, 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 by-law. 2008, c. 39, s. 102.

**Fire protection rate**

**103 (1)** The Council may levy a rate on the value of all assessable property and business occupancy assessment 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 Her Majesty 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 by-law.

**(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 and business occupancy assessments than for residential and resource property. 2008, c. 39, s. 103.

**By-law regarding payment of charges**

**104 (1)** The Council may make by-laws 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 Her Majesty in right of the Province, the Minister of Transportation and Infrastructure Renewal or any person;

(g) laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, cul-

verts 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 requirement;
- (k) new or expanded parks, playgrounds, trails, bicycle paths, swimming pools, ice arenas, recreation centres and other recreational facilities;
- (l) new or expanded fire departments and other fire facilities;
- (m) new or expanded public libraries and other library facilities,

and costs for studies and engineering, surveying and legal costs incurred with respect to any of them.

**(2)** The Council may, by by-law

- (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 by-law.

- (3) A by-law passed pursuant to this Section may provide
- (a) that the charges fixed by, or determined pursuant to, the by-law 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 by-law;
  - (b) that the charges may be made and collected only where
    - (i) the persons owning more than fifty per cent 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 by-law,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 by-law 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 by-law.

(4) For greater certainty, no property is exempt from a charge levied pursuant to this Section except property of Her Majesty in right of the Province.

(5) The Municipality may install the wastewater facilities, storm-water 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) The 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 by-law made pursuant to this Section and any charge imposed or fixed pursuant to this Section do not require approval by the Board. 2008, c. 39, s. 104; 2014, c. 49, s. 1.

#### **By-law regarding enforcement of payment**

**104A (1)** The Council may make by-laws 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) equipment installed pursuant to an expenditure under clause 79(1)(ada);
- (b) equipment installed pursuant to an expenditure under clause 79(1)(adb).

(2) A by-law passed pursuant to this Section may provide

- (a) that the charges fixed by, or determined pursuant to, the by-law may be chargeable according to a plan or method set out in the by-law;
- (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 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
- (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 by-law 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 by-law. 2010, c. 52, s. 2; 2011, c. 17, s. 1; 2016, c. 25, s. 4.

**Interest payable**

**105** Interest is payable on unpaid taxes and charges levied pursuant to this Part at the same rate as for other outstanding taxes. 2008, c. 39, s. 105.

**Special purpose tax accounts**

**106 (1)** All sums raised by a special purpose tax must be credited to the account for that tax.

**(2)** The Council may withdraw money from a special purpose tax account for an expenditure on a purpose for which the account was established.

**(3)** The 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)** The 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) first holds a public hearing respecting the withdrawal;

(b) advertises the public hearing at least twice in a newspaper circulating in the Municipality, the first notice to appear at least fourteen 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)** The 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. 2008, c. 39, s. 106.

**Borrowing limits**

**107** The Municipality may borrow to cover the annual current expenditure of the Municipality that has been authorized by the Council, but the borrowing must not exceed fifty per cent 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 Her Majesty in right of Canada or in right of the Province or from an agency of Her Majesty. 2008, c. 39, s. 107.

**Borrowing for service commission**

**108 (1)** The Municipality may borrow money and pay it to a service commission for any of the purposes for which the commission has authority to expend money.



(2) The Municipality may lend money to a service commission with interest at the rate, and on the terms, agreed upon.

(3) Where the Municipality collects the taxes on behalf of the service commission, unless some other agreement is made, the Municipality shall deduct each fiscal year the amounts required to pay interest and repay principal on the loans from the amounts otherwise payable.

(4) Where a 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 and occupancy assessment in the area of the service commission and shall immediately notify the Minister of the default.

(5) The area rate referred to in subsection (4) may be different for commercial property and business occupancy assessments than for residential and resource property. 2008, c. 39, s. 108.

#### **Minister may establish borrowing limits**

**109** (1) Borrowing limits established by the Minister pursuant to the *Municipal Government Act* apply to the Municipality.

(2) Where borrowing limits are established, the Municipality 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 the Municipality. 2008, c. 39, s. 109.

#### **Capital budget filing**

**110** The Minister may not establish borrowing limits or approve a borrowing resolution for the Municipality in a fiscal year unless the Municipality has filed with the Minister its capital budget for that fiscal year in the form prescribed by the Minister. 2008, c. 39, s. 110.

#### **Ministerial approval**

**111** (1) In this Section, “commitment” means a commitment with respect to the possession, use or control of physical or intellectual property.

(2) No money may be borrowed by the Municipality or a committee created by an inter-municipal services agreement pursuant to the provisions of this Act or another Act of the Legislature until the proposed borrowing has been approved by the Minister.

(3) Subsection (2) does not apply to a borrowing for the purpose of defraying part of the annual current expenditure of the Municipality.

(4) A guarantee by, or on behalf of, the Municipality of a borrowing or debenture is not effective unless the Minister has approved of the proposed guarantee.

(5) The 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 if, where the total commitment exceeds five hundred thousand dollars, the proposed commitment has been approved by the Minister.

(6) Subsection (5) does not apply to an employment contract or collective agreement. 2008, c. 39, s. 111.

#### Approved borrowing requirements

112 (1) Where the Municipality is authorized to borrow money, subject to the approval of the Minister

(a) the sum shall 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 *Municipal Finance Corporation Act*, the Mayor 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 deem proper.

(3) The Mayor 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. 2008, c. 39, s. 112.

**Debenture postponement**

**113 (1)** Where the 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 shall 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 ten years. 2008, c. 39, s. 113.

**Debenture records**

**114** The Treasurer shall keep a record of all debentures of the Municipality. 2008, c. 39, s. 114.

**Form of debenture**

**115 (1)** A debenture must be

- (a) in the form approved by the Council; and
- (b) signed by the Mayor and Clerk or the persons designated by the Council, by policy.

**(2)** Interest coupons shall 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 shall be set out on the face of the debenture. 2008, c. 39, s. 115; 2016, c. 12, s. 2.

**Debenture payment requirements**

**116 (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 shall 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. 2008, c. 39, s. 116.

#### **Debenture certificate**

117 (1) Every debenture of the 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. 2008, c. 39, s. 117.

#### **Debenture a municipal lien**

118 The principal and interest of a debenture are a lien and charge on all assets of the Municipality. 2008, c. 39, s. 118.

#### **Debenture sinking fund**

119 (1) When the 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 the 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 shall be paid into the sinking fund, but, where there is no sinking fund, the premium may be used for any purpose for which the 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 the 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 the 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 shall be transferred to the Municipality's capital reserve fund. 2008, c. 39, s. 119.

#### Capital reserve fund

120 (1) The Municipality shall maintain a capital reserve fund.

(2) The capital reserve section of a special reserve fund in existence, on the coming into force of this Act, 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 *Municipal Finance Corporation 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 shall be authorized by the Council, by resolution, and may only be used 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) The 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.

(6) The Municipality may maintain other reserve funds for such purposes as the Council may determine. 2008, c. 39, s. 120.

#### **Investment of funds**

**121 (1)** Funds in a sinking fund, capital reserve fund, utility depreciation fund or other fund of the Municipality 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 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 otherwise provides.

(3) The Council may pledge any investments to the credit of the capital reserve fund as collateral security for a borrowing for a capital purpose. 2008, c. 39, s. 121.

#### **Regulations**

**121A (1)** The Minister may make regulations providing for the review of commercial tax rates pursuant to subsection 94(4).

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2016, c. 22, s. 2.

## PART V

## DEED TRANSFERS

**Deed transfer provisions of Municipal Government Act apply**

**122** Part V of the *Municipal Government Act* applies to the Municipality. 2008, c. 39, s. 122.

## PART VI

## TAX COLLECTION

**Payment of taxes**

**123 (1)** The Council may determine

- (a) the due date for taxes;
- (b) that taxes are payable in one sum or by instalments.

**(2)** Where the 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. 2008, c. 39, s. 123.

**Payment of taxes by instalments**

**124 (1)** The Council may, by policy, provide for the payment of taxes by instalments before the tax rate is set.

**(2)** The policy shall 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 shall be payable by the person assessed for the property for the current fiscal year.

**(4)** The amount of each instalment shall bear interest, beginning on the date on which it falls due, at the same rate of interest determined for overdue taxes.

**(5)** Instalments paid shall be applied in part payment of the taxes on that property for the current fiscal year. 2008, c. 39, s. 124.

**Incentives and interest**

**125 (1)** The Council may provide incentives for the early payment of taxes.

**(2)** The Council may impose interest, at a rate determined from time to time 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 must be calculated according to the length of default in payment.

(5) The Council may provide that interest be compounded, not more frequently than monthly.

(6) The Council may provide that interest is calculated from the date the tax rate is set if taxes are not paid within thirty days of the due date.

(7) The 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 must be 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. 2008, c. 39, s. 125.

#### **Tax collection where assessment appeal**

126 (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 shall be refunded to the appellant, together with interest at a rate set by the Council by policy.

(3) Where the Council has not adopted a policy on the rate of interest, the rate is the rate of interest on overdue taxes. 2008, c. 39, s. 126.

#### **Taxes are first liens**

127 Change in use tax, forest property tax and recreational property tax are first liens upon the property in respect of which they are levied. 2008, c. 39, s. 127.

#### **Taxes in respect of other properties**

128 Where property is

(a) vested in Her Majesty or any person for Imperial, Dominion 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. 2008, c. 39, s. 128.



**Tax bills**

**129 (1)** Every person liable to pay taxes shall 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 shall 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. 2008, c. 39, s. 129.

**Certificate as prima facie evidence**

**130** 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. 2008, c. 39, s. 130.

**Power to sue for and recover taxes**

**131 (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)** The Municipality may set off a sum due from a person to the Municipality against a claim that person has against the Municipality. 2008, c. 39, s. 131.

**Warrant**

**132 (1)** A judge of the provincial court, Mayor or councillor may, upon application by the Treasurer, issue a warrant in Form A in ~~the~~ Schedule [A], 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. 2008, c. 39, s. 132.

**Issue of warrant**

**133** At any time after the due date for taxes, the Treasurer may proceed to issue warrants, in Form A in ~~the~~ Schedule [A] or to like effect, for the collection of all taxes then due and unpaid. 2008, c. 39, s. 133.

**Articles exempt from seizure**

**134** Articles that are exempt from seizure under Section 45 of the *Judicature Act* are exempt from seizure under a warrant issued under Section 133. 2008, c. 39, s. 134.

**Limitation on issuance of warrant**

**135** A warrant may be issued at any time within six years from the time when the taxes become due and remains valid until executed. 2008, c. 39, s. 135.

**Warrant enforcement**

**136 (1)** A warrant issued pursuant to the authority of this Act may be directed to any police officer, civil constable, by-law 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 Form B in ~~the~~ Schedule [A] 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.

**(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 shall 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 shall be returned to the Treasurer. 2008, c. 39, s. 136.

#### **Sale of distrained goods**

137 (1) When 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 shall be sold at public auction to pay the taxes, costs, charges and expenses, including the expenses of the sale. 2008, c. 39, s. 137.

#### **Procedure for remaining balance**

138 (1) Where a balance remains after payment of the taxes, costs, charges and expenses, it shall be paid to the person in whose possession the property was when the distress was made if no claim to the balance is made by any other person within thirty days after the sale.

(2) A claim to the balance may be made within thirty 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 shall be paid over to the claimant.

(4) Where the claim is contested, the balance shall 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, the Treasurer or any other officer of the Municipality liable for costs 2008, c. 39, s. 138.

#### **Taxes on property of deceased person**

139 (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. 2008, c. 39, s. 139.

#### **Property assessed to person in representative capacity**

140 (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 must be kept separate and distinct from any 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. 2008, c. 39, s. 140.

#### **Security interest in personal property**

141 (1) In this Section and Section 142, “security interest” has the same meaning as in the *Personal Property Security Act*.

(2) Where personal property, other than a mobile home situated in the Municipality, 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 by the Municipality with respect to the business occupancy assessment of the owner or person who was in possession of the personal property.

(3) The Municipality shall issue a tax certificate binding on the Municipality, on request, stating the taxes referred to in subsection (2).

(4) The holder of a security interest, sheriff or other person selling the personal property may pay the business occupancy taxes before or after the sale and add them to the amount claimed.

(5) The holder of a security interest, sheriff or other person selling the personal property shall pay the taxes out of the proceeds of the sale and is personally liable to the Municipality for the business occupancy taxes to the extent of the total proceeds of the sale less the costs of conducting the sale.

(6) Where personal property, other than a mobile home situated in the Municipality, 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 business occupancy assessment of the owner or the person who was in possession of the personal property. 2008, c. 39, s. 141.

#### **Security interest in mobile home**

**142 (1)** Where a mobile home is taken or repossessed in the Municipality 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.

(2) 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.

(3) 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.

(4) Where a mobile home is taken or repossessed in the Municipality 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.

(5) 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. 2008, c. 39, s. 142.

#### **Priority for proceeds of sale of real property**

**143 (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. 2008, c. 39, s. 143.

**Power to sue tenant for rent arrears**

**144** 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. 2008, c. 39, s. 144.

**Partial payment of taxes**

**145 (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) firstly, to the payment of the taxes rated upon the person in respect of business occupancy assessment;

(b) secondly, to the payment of any other taxes that are not a lien on any property; and

(c) thirdly, 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, including any business occupancy tax owed by the vendor with respect to the vendor's occupancy of that property. 2008, c. 39, s. 145.

**Tax certificate**

**146 (1)** The 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;

(d) whether a change-in-use tax will be incurred if the use of the land is changed; and

(e) any sums due from the person assessed for business occupancy taxes that are required to be paid prior to payment of the real property taxes with respect to the property.

(2) The fee for a tax certificate shall be set by the Council, by resolution.

(3) A tax certificate binds the Municipality. 2008, c. 39, s. 146.

#### **Certain taxes are liens**

**147** (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.

(8) Taxes in respect of business occupancy assessments are not a lien upon property. 2008, c. 39, s. 147.

#### **Tax sale**

**148** (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 must 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.

- sale if
- (4) The 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 by-law; 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. 2008, c. 39, s. 148.

**Owner unknown tax sale**

- 149 (1) Where land assessed to “owner unknown” is liable to be sold for taxes, the Municipality shall notify the Minister of Natural Resources 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 has been notified at least one hundred and twenty days before the sale and has not acted to vest the land in Her Majesty in right of the Province.
- (3) The Minister of Natural Resources may require the 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 ten per cent as an allowance for expenses, the land vests absolutely in Her Majesty in the right of the Province, subject to this Section.
- (6) When land vests in Her Majesty in the right of the Province pursuant to this Section, the Minister of Natural Resources shall cause a certificate to be registered in the registry



- (a) stating that the land described in the certificate is vested in Her Majesty;
  - (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 Her Majesty if
    - (i) on application made within eighteen months of the vesting, a person proves to the satisfaction of the Minister of Natural Resources or a judge of the Supreme Court of Nova Scotia on appeal from the Minister of Natural Resources 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.
- (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 once a week, for three successive weeks.
- (8) A person may apply to the Minister of Natural Resources within eighteen months after land vests in Her Majesty in right of the Province pursuant to this Section to determine that the land ceases to vest in Her Majesty 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 for the land, the land ceases to vest in Her Majesty.
- (9) Where land ceases to vest in Her Majesty in right of the Province pursuant to this Section, the Minister of Natural Resources 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.
- (10) A decision of the Minister of Natural Resources may be appealed within thirty days to the Supreme Court of Nova Scotia.
- (11) Where land ceases to vest in Her Majesty in right of the Province pursuant to this Section, the land is deemed never to have vested in Her Majesty pursuant to this Section.
- (12) Where a dominant tenement vests in Her Majesty in right of the Province pursuant to this Section, an easement or a right-of-way appurtenant to it passes to Her Majesty, and where a servient tenement vests in Her Majesty pursuant to this Section, the vesting does not terminate or affect an easement or a right-of-way to which it is subject. 2008, c. 39, s. 149.

**Personal claims on Crown land**

**150 (1)** A person who claims to own land that vests in Her Majesty 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 Her Majesty, and the Court may direct that any necessary inquiries be made and may finally adjudicate the matter.

**(2)** An application pursuant to subsection (1) may be made within ten years after the land vests in Her Majesty in right of the Province or, where the person who claims to own the land is under the age of nineteen years or of unsound mind when the land vests in Her Majesty, within ten years after that person attains the age of nineteen years or becomes of sound mind, but no application may be made more than twenty years after the land vests in Her Majesty.

**(3)** Where the Supreme Court of Nova Scotia determines that a person owns land that has vested in Her Majesty in right of the Province pursuant to this Act, the Minister of Natural Resources, in the Minister's absolute discretion, shall

(a) pay to that person the value of the land at the date the land vested in Her Majesty, 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. 2008, c. 39, s. 150.

**Tax sale property list**

**151 (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. 2008, c. 39, s. 151.

**Tax sale preliminary notice**

**152** 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 fourteen days of the date of the preliminary notice, or such longer period as the Council may, by policy, prescribe. 2008, c. 39, s. 152.

#### **Title search and survey**

**153 (1)** After the time set out in the tax sale preliminary notice has expired, a title search shall 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. 2008, c. 39, s. 153.

#### **Application to court by Treasurer**

**154 (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 deems 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 167, and subject to the exceptions in subsection 171(3) and any exceptions, exclusions or partial interests set out in the order of the court. 2008, c. 39, s. 154.

#### **Notice of intent to sell**

**155 (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 shall 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) shall 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 sixty 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. 2008, c. 39, s. 155.

#### **Public auction**

**156 (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 prop-

erty might not realize sufficient to cover the outstanding taxes, interest and expenses.

(4) Where lands to be sold for taxes are partly in the Municipality and partly in another municipality, 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 shall be paid to the other municipality forthwith after the sale. 2008, c. 39, s. 156.

#### **Tax sale advertisement**

157 (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 thirty 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. 2008, c. 39, s. 157.

#### **Municipal purchase of tax sale property**

158 (1) The 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 the Municipality purchases land at a tax sale, the subsequent proceedings are the same as for a purchase by another person.

(4) 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.

(5) Subsections 157(2) and (3) apply to the advertising referred to in subsection (4). 2008, c. 39, s. 158.

### **Conflict of interest**

**159 (1)** No

- (a) Council member or employee of the Municipality that sells land for arrears of taxes;
- (b) spouse of a person referred to in clause (a); or
- (c) company in which a person referred to in clause (a) or (b) 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 five thousand dollars 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) forfeits that person's office or employment, as the case may be. 2008, c. 39, s. 159.

### **Arrears**

**160** Where the Municipality collects taxes for a 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. 2008, c. 39, s. 160.

### **Investment of purchase money**

**161 (1)** The purchase money received at a tax sale must be applied, so far as it extends

- (a) firstly, to payment of the taxes, interest and expenses owing with respect to the land; and

(b) secondly, 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. 2008, c. 39, s. 161.

#### **Application for order directing payment**

**162** (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 twenty 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).

(5) Where a balance remains in the tax sale surplus account twenty years after the sale, the Municipality shall transfer it to its capital reserve fund. 2008, c. 39, s. 162.

#### **Payment of purchase money**

**163** (1) Payment at a tax sale shall be by cash, certified cheque, money order, bank draft, irrevocable letter of credit or lawyer's trust cheque and not otherwise.

(2) 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.

(3) 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.

(4) The expenses of the resale must be deducted from the deposit and the balance must be refunded after the resale is held. 2008, c. 39, s. 163.

#### **Tenders**

**164** (1) Where the 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.

(2) Where the 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.

(3) 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.

(4) The expenses of the resale must be deducted from the deposit and the balance must be refunded after the resale is held. 2008, c. 39, s. 164.

#### **Sale certificate**

**165** (1) After land is sold for taxes and upon payment of the purchase money, the Treasurer shall give the purchaser a certificate of sale, in Form C in ~~the~~ Schedule [A] 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. 2008, c. 39, s. 165.

#### **Purchaser rights**

**166** 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. 2008, c. 39, s. 166.

**Redemption of tax sale property**

**167 (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 ten per cent per annum 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 Form D in ~~the~~ Schedule [A], 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. 2008, c. 39, s. 167.

#### **Repayment to purchaser**

**168 (1)** Where redemption of land is to take place, the purchaser shall, within fourteen 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 shall receive the

- (a) sum paid upon the purchase of the land;
- (b) interest on the purchase price; and
- (c) sums paid with respect to fire insurance premiums and repairs,

less any rent or other income earned by the purchaser from the property.

(3) 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. 2008, c. 39, s. 168.

#### **Purchaser rights cease**

**169** 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. 2008, c. 39, s. 169.

#### **Deed to purchaser**

**170 (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 Form E in ~~the~~ Schedule [A], or to like effect, to the purchaser, or as directed by the purchaser, at any time after the

- (a) sale if, at the time of the sale, taxes on the land were unpaid for more than six years before the sale; or
- (b) expiration of 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 and the Clerk; and

(c) be under the seal of the Municipality. 2008, c. 39, s. 170.

### **Tax sale deed**

**171 (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. 2008, c. 39, s. 171.

### **Persons with lien, charge or encumbrance**

**172** 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. 2008, c. 39, s. 172.

### **Cooperative housing**

**173** 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 Community Services, a copy of the tax bill and, where the real property is to be sold for taxes, a copy of the notice of sale shall be sent to the regional manager of the Department of Community Services for the area where the property is located. 2008, c. 39, s. 173.

### **Veterans' Land Act agreement**

**174 (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 Her Majesty in right of Canada.

(2) A copy of the notice of assessment, the tax bill and the notice of sale for taxes shall 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. 2008, c. 39, s. 174.

#### **Tax exemption notice**

**175 (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 thirty 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. 2008, c. 39, s. 175.

#### **Rebate for business occupancy assessment**

**176 (1)** Where property ceased to be occupied or used in the preceding fiscal year, the person who was assessed for business occupancy assessment in respect of it is entitled to a rebate of the taxes on the assessment.

(2) Where property ceases to be occupied or used in a fiscal year, the person who was assessed for business occupancy assessment in respect of it is entitled to a rebate of the taxes on the assessment for the portion of the fiscal year in which it is not used or occupied.

(3) The owner shall notify the Director of Assessment that the property has ceased to be used or occupied within thirty days after the cessation and, where the owner fails to do so, the rebate must be calculated from the earlier of the date

(a) of the notice; or

(b) another person is taxed with respect to occupancy of the same property.

(4) The Director of Assessment shall forthwith provide the Treasurer with a copy of the notice.

(5) Upon receipt of the notice, the Treasurer shall forthwith notify the person assessed of the amount of tax to be rebated.

(6) The notice from the Treasurer may be appealed pursuant to the *Assessment Act* as if it were a notice of assessment.

(7) 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. 2008, c. 39, s. 176.

#### **Business occupancy tax payable**

177 (1) Where a person commences a business, opens a business at a new or additional location or engages again in a business during a fiscal year and is assessed for business occupancy assessment as a result, the Director of Assessment shall forthwith notify the Treasurer.

(2) Upon receipt of the notice, the Treasurer shall forthwith notify the person assessed of the amount of the tax due.

(3) The tax payable pursuant to this Section is that proportion of the taxes for the full fiscal year, that the number of days from the day on which the person commenced the business, opened it at the new or additional location or engaged again in the business, as the case may be, until the last day of the fiscal year, bears to the total number of days in the fiscal year. 2008, c. 39, s. 177.

#### **Proceeding not brought by Municipality**

178 (1) A proceeding with respect to taxes based on an assessment, except an action or other proceeding brought by the Municipality for the collection of taxes, may only be brought

(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 regional assessment appeal court, within six months from the time limited for appealing to the Board; and

(c) where an appeal has been taken to the Board, within thirty days after the date of the Board's decision.

(2) Nothing that could have been raised

(a) by way of appeal to a regional assessment appeal court;

(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.

(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. 2008, c. 39, s. 178.

#### Validity of taxes

179 (1) No

(a) error, informality or irregularity on the part of the Council, the assessor, the regional assessment appeal court, 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. 2008, c. 39, s. 179.

#### Affidavit

180 (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. 2008, c. 39, s. 180.

#### Service

181 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. 2008, c. 39, s. 181.

#### Formula for rate of interest

182 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. 2008, c. 39, s. 182.

## PART VII

## BY-LAWS

**Adoption procedure**

**183 (1)** A by-law must be read twice.

**(2)** At least fourteen days before a by-law is read for a second time, notice of the Council's intent to consider the by-law must be published in a newspaper circulating in the Municipality.

**(3)** The notice must state the object of the by-law, the date and time of the meeting at which the Council proposes to consider it and the place where the proposed by-law may be inspected.

**(4)** The Council may require further advertising, including advertising by radio or television.

**(5)** The 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)** The 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 by-laws. 2008, c. 39, s. 183.

**Publication**

**184 (1)** A by-law has the force of law upon publication.

**(2)** A by-law 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 by-law and the place where it may be read.

**(3)** When a by-law is published, the Clerk shall file a certified copy of the by-law with the Minister.

**(4)** Failure to file with the Minister a copy of a by-law that is not subject to the approval of the Minister does not invalidate the by-law. 2008, c. 39, s. 184.

**Application area**

**185 (1)** A by-law

- (a) made pursuant to this Act or another Act of the Legislature may apply to an area defined in the by-law;
- (b) may set different charges for different areas;
- (c) unless otherwise stated in the by-law, applies to the Municipality.

**(2)** In addition to the powers specifically conferred pursuant to this Act or another Act of the Legislature, the Municipality may provide, in a by-law, for matters incidental or conducive to the exercise of the specified powers. 2008, c. 39, s. 185.

**Power to regulate, license and prohibit**

**186 (1)** 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.

**(2)** A by-law must not be inconsistent with an enactment of the Province or of Canada. 2008, c. 39, s. 186.

**General power not limited by specific power**

**187** Where this Act confers a specific power on the 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. 39, s. 187.

**Power to make by-laws**

**188 (1)** The Council may make by-laws, 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 and, without limiting the generality of the foregoing, by-laws
  - (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 by-law is prohibited,
- (v) authorizing the granting of exemptions in such cases as the by-law 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 plants and turf on the part of a property used for residential purposes and on property of the Municipality and, 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 may file with the clerk an objection to pesticides, herbicides and insecticides 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 by-law when pesticides, herbicides or insecticides are to be so used and regulate the form, time and manner of the notice,
  - (iv) providing that pesticides, herbicides and insecticides may not be so used within the distance of a registered property established by the by-law, the requirements respect-

ing notices to residents or owners of properties within the distance of a registered property established by the by-law and the effective date of the prohibition,

(v) specifying the circumstances in which posting or serving of notices is not required or the prohibition does not apply,

(vi) providing for all other matters necessary or incidental to the establishment of the registration scheme,

but, for greater certainty, not applying 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;

(ka) the maintenance and sightliness of property including grounds, lawns, buildings and structures;

(l) services provided by, or on behalf of, the Municipality;

(m) the enforcement of by-laws made under the authority of a statute, including

(i) procedures to determine if by-laws 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 by-laws, including undertaking or directing the remedying of a contravention, apprehending, removing, impounding or disposing, including the sale or destruction, of plants, animals, vehicles, improvements or other things and 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 ten thousand dollars 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 pen-

alty 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 by-law may pay an amount established by by-law and where the amount is paid the person will not be prosecuted for the contravention,

(viii) providing, with respect to a by-law, that in a prosecution for violation of the by-law, 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, the Council may, in any by-law

(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 by-law, 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 any or all of

(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 by-law or for any other reason specified in the by-law;

(f) where decision making is delegated by by-law 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. 2008, c. 39, s. 188; 2010, c. 64, s. 4.

### **Power to acquire or expropriate property with vacant building**

**189 (1)** In this Section, “vacant building” does not include a seasonal dwelling.

**(2)** The 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 by-law made pursuant to subclause 188(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 65 to acquire the property.

**(6)** The Council may spend money under Section 79 to acquire the property and improve it. 2008, c. 39, s. 189.

### **By-laws respecting trees or vegetation**

**190 (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 by-law.

**(2)** The Council may make by-laws, for municipal purposes, requiring that existing trees or vegetation be retained or only removed pursuant to a municipal permit in serviced areas.

**(3)** Subsection (2) does not apply to land used for agricultural or forestry purposes.

**(4)** The Council may make by-laws, for municipal purposes, establishing watercourse buffer zones in which existing trees or vegetation must be retained or only removed pursuant to a municipal permit. 2008, c. 39, s. 190; 2010, c. 16, s. 4.

**Vending on streets**

**191** Without limiting the generality of Section 188 but notwithstanding the *Motor Vehicle Act*, the Council may, by by-law, regulate vending, any class of vending, mobile vendors and the placement of vending machines on the streets of the Municipality. 2008, c. 39, s. 191.

**Power to make by-laws**

**192** Without limiting the generality of Section 188, the Council may make by-laws 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.

2008, c. 39, s. 192.

**Dog by-law**

**193 (1)** Without limiting the generality of Section 188, the Council may make by-laws

- (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 by-law 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 by-law;
- (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 by-law;
- (e) defining fierce or dangerous dogs, including defining them by breed, cross-breed, 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 the 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 by-law,

(ii) in respect of which the fee or tax imposed by a by-law 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 fees from public property and from 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 by-law, 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 by-law to do so, the owner of a dog may enter upon private property to remove the dog's fees. 2008, c. 39, s. 193.

### **Dangerous dogs**

**194 (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 by-law, 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 in safety, the person may destroy the dog. 2008, c. 39, s. 194.

#### **Additional penalty**

**195** 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 barking, howling or otherwise or that runs at large, contrary to a by-law, in addition to the penalty, the judge may order that the

- (a) dog be destroyed or otherwise dealt with; and
- (b) owner pay any costs incurred by the Municipality related to the dog, including costs related to the seizure, impounding, or destruction of the dog,

and it is not necessary to prove that

- (c) the dog previously attacked or injured a domestic animal, person or property;
- (d) the dog had a propensity to injure or to damage a domestic animal, person or property; or
- (e) the defendant knew that the dog had such propensity or was, or is, accustomed to doing acts causing injury or damage. 2008, c. 39, s. 195.

#### **Rabid animals**

**196** 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. 2008, c. 39, s. 196.

#### **Proof at trial**

**197** 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. 2008, c. 39, s. 197.

#### **Protected water supply area**

**198 (1)** The Council may, by by-law, designate lands owned by the 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.

(3) The *Angling Act* does not apply to a lake, river or stream forming part of a water supply area of the Municipality or to the land surrounding or adjacent to them. 2008, c. 39, s. 198.

#### **Minimum standards by-law**

**199 (1)** Without limiting the generality of Section 188, the Council may make by-laws

- (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 by-law;
- (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 by-law;
- (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 by-law; and
- (e) prescribing penalties for such residential use after notice to discontinue the use is given.

(2) The Council may make by-laws 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 by-law 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 by-law 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 by-law 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 by-law 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 shall 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 by-law passed pursuant to this Section shall be consistent with the standards prescribed pursuant to the *Building Code Act* and regulations. 2008, c. 39, s. 199.

#### **Offence**

**200** Every person who makes a false statement in an application for a licence to be issued by the Municipality is guilty of an offence. 2008, c. 39, s. 200.

#### **Recovery of penalties, fees or fines**

**201 (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 by-law 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 by-law of the Municipality, unless otherwise provided, belongs to, and forms part of, the general revenue of the Municipality. 2008, c. 39, s. 201.

#### **Application for injunction**

**202** Where

- (a) a building is erected, being erected or being used in contravention of a by-law of the Municipality;
- (b) land is being used in contravention of a by-law of the Municipality;
- (c) a breach of a by-law 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. 2008, c. 39, s. 202.

#### **No liability for damages**

**203** The 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. 2008, c. 39, s. 203.

#### **Ministerial approval not required for by-laws**

**204** Unless otherwise provided in an enactment, a by-law made by a Council pursuant to this Act or another Act of the Legislature is not subject to the approval of the Minister. 2008, c. 39, s. 204.

#### **Record of by-laws and policies**

**205 (1)** The Council shall keep one copy of every by-law 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 by-law 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 by-law with every by-law entered in the by-law records.

(3) The by-law records must be maintained by the Clerk.

(4) The original by-laws must be open to inspection by any person at a reasonable time, but must not be removed from the office of the Clerk and the production of an original by-law 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 by-laws of the Municipality from time to time in force;
  - (b) keep printed copies of the by-laws, amended to date, for sale; and
  - (c) provide a copy of a by-law, amended to date, to a person requesting one, at a reasonable price, having regard to the cost of printing the by-law. 2008, c. 39, s. 205.

**Prima facie proof**

**206 (1)** A copy of a by-law 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 by-law passed by the Council;
- (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 by-laws passed by the Council must be admitted in evidence in all courts in the Province as *prima facie* proof of the by-laws and of the due passing of them. 2008, c. 39, s. 206.

**Procedure for quashing by-law**

**207 (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 by-law, order, policy or resolution of the Council, in whole or in part, for illegality.

**(2)** No by-law may be quashed for a matter of form only or for a procedural irregularity.

**(3)** The judge may quash the by-law, 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)** An application pursuant to this Section to quash a by-law, order, policy or resolution, in whole or in part, must be made within three months of the publication of the by-law or the making of the order, policy or resolution, as the case may be. 2008, c. 39, s. 207.

## PART VIII

## PLANNING AND DEVELOPMENT

**Purpose of Part**

**208** The purpose of this Part is to

- (a) enable Her Majesty in right of the Province to identify and protect its interests in the use and development of land;
- (b) enable the Municipality to assume the primary authority for planning within its jurisdiction, consistent with its urban or rural character, through the adoption of municipal planning strategies and land-use by-laws consistent with interests and regulations of the Province;
- (c) 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 by-laws, including the right to be notified and heard before decisions are made pursuant to this Part; and
- (d) provide for the fair, reasonable and efficient administration of this Part. 2008, c. 39, s. 208.

**Interpretation**

**209** In this Part and Part IX, unless the context otherwise requires

- (a) “affordable housing” means housing in the Centre Plan Area that meets the needs of a variety of households in the low to moderate income range;
  - (aa) “aggrieved person” includes
    - (i) 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,
    - (ii) 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
    - (iii) an incorporated or unincorporated organization in which the majority of members are individuals referred to in sub-clause (i);
  - (ab) “Centre Plan Area” means the area delineated in the map in Schedule C to this Act, excluding the HRM by Design Downtown Plan Area;
- (b) “commission” means a district planning commission continued pursuant to this Act;

- (c) “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;
- (d) “development officer” means the person or persons appointed by a Council to administer a land-use or subdivision by-law;
- (e) “Director” means the Provincial Director of Planning appointed pursuant to the *Municipal Government Act*, and includes a person acting under the supervision and direction of the Director;
- (ea) “external appearance of structures” includes the exterior design of structures, the design features of structures and the facade of structures;
- (f) “former *Planning Act*” means Chapter 346 of the Revised Statutes, 1989, the *Planning Act* and any predecessor to that Act;
- (fa) “HRM by Design Downtown Plan Area” means the area delineated in the map in Schedule B to this Act;
- (g) “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;
- (h) “municipal planning strategy” means a municipal planning strategy, inter-municipal planning strategy or secondary planning strategy;
- (i) “non-conforming structure” means a structure that does not meet the applicable requirements of a land-use by-law;
- (j) “non-conforming use of land” means a use of land that is not permitted in the zone;
- (k) “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;
- (l) “planning area” means the area to which a municipal or inter-municipal planning strategy applies;
- (m) “planning documents” means
- (i) a municipal planning strategy and a land-use by-law adopted to carry out the municipal planning strategy,
  - (ii) an amendment to a municipal planning strategy and a land-use by-law amendment to carry out the municipal planning strategy amendment, and
  - (iii) a subdivision by-law and an amendment to it;
- (n) “prohibit” includes prohibit in part, limit, limit in number, control or regulate;
- (o) “regulate” does not include the power to prohibit;

(p) “statement of provincial interest” means a statement of provincial interest under the *Municipal Government Act*;

(q) “structure” includes a building;

(r) “subdivision” means the division of an area of land into two or more parcels, and includes a re subdivision or a consolidation of two or more parcels;

(s) “watercourse” means a lake, river, stream, ocean or other body of water. 2008, c. 39, s. 209; 2008, c. 41, s. 2; 2013, c. 18, s. 2.

#### **Statement of provincial interest**

**210** When preparing or amending a statement of provincial interest, the Minister shall seek the views of the Council if the Municipality would be affected by the proposed statement. 2008, c. 39, s. 210.

#### **Copy and notice of adoption or amendment**

**211** Upon the adoption or amendment by the Governor in Council of a statement of provincial interest that applies within the Municipality, the Minister shall send a copy of the statement to the Clerk and give notice of its adoption in a newspaper circulating in the affected area. 2008, c. 39, s. 211.

#### **Provincial activities reasonably consistent**

**212** The activities of Her Majesty in right of the Province must be reasonably consistent with a statement of provincial interest that applies within the Municipality. 2008, c. 39, s. 212.

#### **Requirement to consider planning document**

**213** A department of the Government of the Province, before carrying out or authorizing any development in the Municipality, shall consider the planning documents of the Municipality. 2008, c. 39, s. 213.

#### **Planning documents reasonably consistent**

**214 (1)** Planning documents adopted after the adoption of a statement of provincial interest that applies within the Municipality must be reasonably consistent with the statement.

**(2)** The Minister may request that the Council, within a prescribed time, adopt or amend its planning documents so that they are reasonably consistent with a statement of provincial interest that applies within the Municipality.

**(3)** Where

(a) the Council does not comply with a request pursuant to subsection (2); or

(b) development that is inconsistent with a statement of provincial interest that applies within the Municipality 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 a prescribed area.

(4) Within an interim planning area subdivision, development, or certain classes of subdivision or development, may be regulated or limited or prohibited in whole or in part, as necessary, to protect the provincial interest.

(5) 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 development in the interim planning area.

(6) The Minister shall

(a) send a copy of an order establishing an interim planning area and any order regulating or prohibiting development in the interim planning area to the Clerk; and

(b) give notice that an order is in effect in a newspaper circulating in the area affected.

(7) Where the Council adopts planning documents in a manner reasonably consistent with a statement of provincial interest and the documents are in effect, the Minister shall revoke the order establishing the interim planning area for the prescribed area. 2008, c. 39, s. 214.

#### **Planning advisory committee**

**215 (1)** The Municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the Municipality.

(2) The Municipality and one or more other 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.

(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 only be carried out by the committee.

(6) The Council shall appoint members of a planning advisory committee or a joint planning advisory committee by resolution. 2008, c. 39, s. 215.

#### **Area advisory committee**

**216 (1)** The 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) The Council shall appoint members of an area planning advisory committee by resolution. 2008, c. 39, s. 216.

#### **Policy establishing committee**

**217** 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 re-appointment;

(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. 2008, c. 39, s. 217.

#### **Open meetings and exceptions**

**218 (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, labour relations, contract negotiations, litigation or potential litigation or legal advice eligible for solicitor-client privilege; or

(b) a potential application for a development permit, land-use by-law 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 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. 2008, c. 39, s. 218.

#### **Public participation program**

219 (1) The Council shall adopt, by policy, a public participation program concerning the preparation of planning documents.

(2) The 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. 2008, c. 39, s. 219.

#### **Requirements for adoption of planning documents**

220 (1) The Council shall adopt, by by-law, planning documents.

(2) A by-law 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) The 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 by-law.

(6) Second reading must 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) The Council shall adopt planning documents, at second reading, by majority vote of the maximum number of members that may be elected to the Council. 2008, c. 39, s. 220.

**Public hearing**

**221 (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 fourteen 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) give a synopsis of the proposed documents, if the public hearing is with respect to an amendment to a municipal planning strategy or land-use by-law or the approval or amendment of a development agreement.

**(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. 2008, c. 39, s. 221.

**Joint public hearing**

**222 (1)** The Council and the councils of one or more other municipalities, two or more community councils or the Council and one or more community councils may agree to hold a joint public hearing regarding the adoption or amendment of an inter-municipal planning strategy.

**(2)** When 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. 2008, c. 39, s. 222.

**Requirement for review by Director**

**223 (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; or
  - (d) in the case of a subdivision by-law, may conflict with the provincial subdivision regulations,
- the planning documents are subject to the Minister's approval.
- (4) Within thirty 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 sixty 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 sixty-first 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 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 by-law for the purposes 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 by-law are in effect. 2008, c. 39, s. 223.

#### **Repeal of planning documents**

224 Planning documents may be repealed and the procedure for repealing them is the same as the procedure for adopting them. 2008, c. 39, s. 224.

#### **Amendment of land-use by-law**

225 (1) An amendment to a land-use by-law 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 by-law 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 by-law 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 by-law referred to in subsection (1) is published, the Clerk shall file a certified copy of the amending by-law with the Minister.

(5) Within seven days after a decision to refuse to amend a land-use by-law 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 one hundred and twenty days after receipt of a completed application to amend a land-use by-law referred to in subsection (1), commenced the procedure required for amending the land-use by-law 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 by-law, 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 by-law 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. 2008, c. 39, s. 225.

#### **Certain amendments by policy**

**226 (1)** The Council may, by policy, adopt amendments to

(a) the engineering specifications in a subdivision by-law;

(b) the processing fees set out in a land-use by-law or in a subdivision by-law;

(c) a subdivision by-law 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. 2008, c. 39, s. 226.

#### **Municipal planning strategy**

**227** The Council may adopt a municipal planning strategy for all, or part, of the Municipality and there may be separate strategies for different parts of the Municipality. 2008, c. 39, s. 227.

#### **Purpose of municipal planning strategy**

**228** The purpose of a municipal planning strategy is to provide statements of policy to guide the development and management of the Municipality and, to further this purpose, to establish

(a) policies that address problems and opportunities concerning the development of land and the effects of the development;

(b) policies to provide a framework for the environmental, social and economic development within the Municipality;

(c) 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. 2008, c. 39, s. 228.

**Statements of policy in planning strategy**

**229 (1)** A municipal planning strategy may include statements of policy with respect to any or all of the following:

- (a) the goals and objectives of the Municipality for its future;
- (b) the physical, economic and social environment of the Municipality;
- (c) the protection, use and development of lands within the Municipality, including the identification, protection, use and development of lands subject to flooding, steep slopes, lands susceptible to subsidence, erosion or other geological hazards, swamps, marshes or other environmentally sensitive areas;
- (d) stormwater management and erosion control;
- (e) in connection with a development, the excavation or filling in of land, the placement of fill or the removal of soil, unless these matters are subject to another enactment of the Province;
- (f) in connection with a development, retention of trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
- (g) studies to be carried out prior to undertaking specified developments or developments in specified areas;
- (h) the staging of development;
- (i) the provision of municipal services and facilities;
- (j) municipal investment for public and private development and the coordination of public programs relating to the economic, social and physical development of the Municipality;
- (k) non-conforming uses and structures;
- (l) the subdivision of land;
- (m) the use and conservation of energy, including the height and siting of developments;
- (n) measures for informing, or securing, the views of the public regarding contemplated planning policies and actions or by-laws arising from such policies;
- (o) policies governing
  - (i) land-use by-law matters,
  - (ii) amendment of the land-use by-law,
  - (iii) the acceptance and use of cash-in-lieu of required parking,
  - (iv) the use of development agreements,

- (v) the establishment of comprehensive development districts,
- (vi) the use of site-plan approval areas, including whether notice must be given to owners and tenants of property that is thirty metres or more from the applicant's property,
- (vii) the establishment of transportation reserves,
- (viii) the use of infrastructure charges,
- (ix) the eligibility criteria for the establishment of a commercial development district including, without limiting the generality of the foregoing, the percentage increase in the taxable assessed value of the eligible properties, as defined in subsection 92C(1), within the proposed commercial development district and the period over which the increase in the taxable assessed value of the properties occurs;
- (p) the regulation or prohibition of development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (q) any other matter relating to the physical, social or economic environment of the Municipality.

(2) The Council shall include policies in the municipal planning strategy on how it intends to review the municipal planning strategy and land-use by-law. 2008, c. 39, s. 229; 2014, c. 16, s. 5; 2016, c. 13, s. 4.

#### **Inter-municipal planning strategy**

**230 (1)** The Council and the councils of one or more other municipalities may agree to adopt a mutually binding inter-municipal planning strategy.

(2) The provisions of the *Municipal Government Act* that apply to a municipal planning strategy apply to an inter-municipal planning strategy. 2008, c. 39, s. 230.

#### **Secondary planning strategy**

**231 (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. 2008, c. 39, s. 231.

**Planning strategy and by-law for HRM by Design Area**

**231A** Where the Council adopts a secondary municipal planning strategy and land-use by-law for the HRM by Design Downtown Plan Area, the Council shall conduct a review of the planning documents and report on the review to the public within ten years of their adoption. 2008, c. 41, s. 3.

**No action inconsistent with planning strategy**

**232 (1)** The Municipality may 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. 2008, c. 39, s. 232.

**Acquisition of land for development**

**233 (1)** The 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) by agreement with the owners of the land, acquire 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. 2008, c. 39, s. 233.

**Adoption of land-use by-law or amendment**

**234 (1)** Where the 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 by-law or land-use by-law amendment that enables the policies to be carried out.

**(2)** The Council may amend a land-use by-law in accordance with policies contained in the municipal planning strategy on a motion of the Council or on application.

**(3)** The Council may not adopt or amend a land-use by-law except to carry out the intent of a municipal planning strategy. 2008, c. 39, s. 234.

**Content of land-use by-law**

**235 (1)** A land-use by-law must include maps that divide the planning area into zones.



- (2) A land-use by-law 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 by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.
- (4) A land-use by-law 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 by-law or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use by-law 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, as long as 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 purposes 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) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
- (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
- (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
- (n) prohibit development or certain classes of development where, in the opinion of the Council, the
  - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
  - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or

- (iii) cost of maintaining municipal streets would be prohibitive;
- (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
- (p) 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;
- (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
- (r) 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.

(6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development. 2008, c. 39, s. 235; 2008, c. 41, s. 4; 2010, c. 16, s. 5; 2013, c. 18, s. 3; 2014, c. 16, s. 6.

#### Notification and costs

**236 (1)** A land-use by-law may identify the class or classes of by-law 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 by-law for this purpose; and
- (b) a sign to be posted on the affected property describing the requested by-law amendment, development agreement or amendment to a development agreement.

(2) The Council may by resolution provide that any person applying for a land-use by-law 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 land owners;
- (c) posting a sign. 2008, c. 39, s. 236.

#### **Future public use**

**237 (1)** The Council may zone privately owned land for future public use other than transportation reserves if the by-law 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. 2008, c. 39, s. 237.

#### **Parking cash-in-lieu**

**238 (1)** Where provided for in a municipal planning strategy, the 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, if 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 by-law and must 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. 2008, c. 39, s. 238.

#### **Transportation reserve**

**239 (1)** Where a municipal planning strategy identifies property required for the purposes of widening, altering or diverting an existing street or pathway or for the purposes of a new street or pathway, the Council may, in a land-use by-law identify the transportation reserve and

- (a) set out its intention to acquire property for the purposes of widening, altering or diverting an existing street or pathway, or for the purposes 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 by-law.

(3) Where the Council adopts by-law provisions in accordance with this Section, it shall provide for an alternative zone on the property to be acquired.

(4) The alternative 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 the 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 alternative zone on the property comes into effect. 2008, c. 39, s. 239.

#### **Development agreements**

**240 (1)** The Council may consider development by development agreement where 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 the Council must consider prior to the approval of a development agreement.

(2) The land-use by-law must identify the developments to be considered by development agreement. 2008, c. 39, s. 240.

#### **Comprehensive development districts**

**241 (1)** The Council may regulate the development of a district by development agreement by establishing a comprehensive development district for which 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 the 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 by-law 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. 2008, c. 39, s. 241.

### Content of development agreements

242 (1) A development agreement may contain terms with respect to

- (a) matters that a land-use by-law 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, stormwater 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 the 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 the Council without the concurrence of the property owner. 2008, c. 39, s. 242.

#### **Requirements for effective development agreement**

**243 (1)** A development agreement must 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)** The 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. 2008, c. 39, s. 243.

#### **Discharge of development agreement**

**244 (1)** A development agreement is in effect until discharged by the Council.

**(2)** The 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 by-law. 2008, c. 39, s. 244.

**Adoption or amendment of development agreement by policy**

**245 (1)** The Council shall adopt or amend a development agreement by policy.

**(2)** The 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 the approval of 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 is approved and setting out the right of appeal.

**(5)** The Clerk shall file a certified copy of a development agreement or amendment with the Minister when notice of the development agreement or an amendment to it 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, if the substantive items were identified in the agreement, or that were not identified as being substantive, do not require a public hearing. 2008, c. 39, s. 245.

**Incentive or bonus zoning agreements**

**245A (1)** Where a municipal planning strategy so provides, a land-use by-law may provide for incentive or bonus zoning agreements respecting the HRM by Design Downtown Plan Area and the Centre Plan Area.

**(2)** A land-use by-law that provides for incentive or bonus zoning agreements must

**(a)** identify the developments that are subject to an incentive or bonus zoning agreement;

**(b)** identify the area or areas where the developments may be located;

**(c)** set out the matters that the Council may consider before approving an incentive or bonus zoning agreement; and

**(d)** set out the method to be used to determine the contribution for incentive or bonus zoning.



- (3) An incentive or bonus zoning agreement may
- (a) include plans or maps;
  - (b) provide for the time when the conditions under which the incentive or bonus zoning agreement may be discharged with or without the concurrence of the property owner;
  - (c) provide that, upon completion of the development or phases of the development, the incentive or bonus zoning agreement, or portions of it, may be discharged by the Council;
  - (d) provide that, where the development does not commence or is not completed within the specified time in the incentive or bonus zoning agreement, the incentive or bonus zoning agreement or portions of it may be discharged by the Council without the concurrence of the property owner;
  - (e) include any terms respecting incentive or bonus zoning and the external appearance of structures.

(4) Where the land-use by-law provides for incentive or bonus zoning agreements within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development, in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

(5) Notwithstanding subsection (4), the land-use by-law may provide that the Council may accept money in lieu of a contribution under this Section.

(6) The Municipality shall use any money accepted in lieu of a contribution under this Section for the purpose for which the money was accepted. 2008, c. 41, s. 5; 2013, c. 18, s. 4.

#### **Adoption or amendment of agreement**

**245B (1)** The Council may, by resolution, adopt or amend an incentive or bonus zoning agreement.

(2) A public hearing is not required before approving an incentive or bonus zoning agreement or an amendment to an incentive or bonus zoning agreement.

(3) An incentive or bonus zoning agreement, an amendment to an incentive or bonus zoning agreement and a discharge of an incentive or bonus zoning agreement must be filed in the registry. 2008, c. 41, s. 5.

#### **Duration of agreement**

**245C (1)** An incentive ~~agreement~~ or bonus zoning [agreement] is in effect until discharged by the Council.

(2) The Council may discharge an incentive or bonus zoning agreement in whole or in part, in accordance with the terms of the incentive or bonus zoning agreement or with the concurrence of the property owner.

(3) After an incentive or bonus zoning agreement is discharged, the land to which it related continues to be subject to the land-use by-law and any site plan approval. 2008, c. 41, s. 5.

### Site-plan approval

**246 (1)** Where a municipal planning strategy so provides, a land-use by-law 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 by-law that may be varied by a site-plan approval;
- (e) the criteria the development officer must consider prior to granting site-plan approval;
- (f) the notification area;
- (g) the form and content of an application for site-plan approval; and
- (h) with respect to the HRM by Design Downtown Plan Area and the Centre Plan Area, the requirements for public consultation that must take place prior to an application for site plan approval being submitted to the Municipality.

(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 by-law and the development is otherwise consistent with the requirements of the land-use by-law; 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 by-law.

(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) the external appearance of structures in the HRM by Design Downtown Plan Area and the Centre Plan Area;
- (m) provisions for the maintenance of any of the items referred to in this subsection. 2008, c. 39, s. 246; 2008, c. 41, s. 6; 2013, c. 18, s. 5.

#### **Design review committees**

**246A (1)** The Council may, by by-law, establish one or more design review committees for the HRM by Design Downtown Plan Area and the Centre Plan Area.

**(2)** Subject to subsection (3), the design review committee shall exercise the powers of the development officer with respect to any matter set out in subsection 246(3) to the extent, for the area and under the conditions set out in the by-law and, for greater certainty, a decision of the design review committee is in substitution for a decision of the development officer.

**(3)** A decision of the design review committee is not in substitution of a decision of the development officer for the issuance of any permits.

**(4)** The by-law referred to in subsection (1) must

- (a) provide for the membership of the design review committee;
- (b) provide for the appointment of the chair and other officers of the committee;
- (c) fix the terms of appointment and set out provisions respecting re-appointment if any;
- (d) fix the remuneration, if any, to be paid to the chair of the committee, if the chair is not a Council member;

- (e) determine the reimbursement of members of the committee for expenses incurred as members;
- (f) establish the duties and procedure of the committee;
- (g) provide for the matters the committee may consider when reviewing the external appearance of structures for a development; and
- (h) list non-substantive matters that may not be appealed.

(5) The by-law referred to in subsection (1) may provide that the members are to be appointed by resolution.

(6) There is an appeal to the Council from a decision of the design review committee, except in relation to those non-substantive matters listed in the by-law pursuant to clause (4)(h).

(6A) The results of all public consultation with respect to the Centre Plan Area pursuant to clause 246(1)(h) or regulations made pursuant to clause 277A(1)(b) must be submitted to the design review committee.

(7) The design review committee shall approve or refuse an application within sixty days from the date of the application.

(8) An application that is not approved or refused within sixty days is deemed to have been refused.

(9) An appeal to the Council, pursuant to subsection (6) must be heard by the Council within sixty days unless the parties to the appeal agree otherwise and the Council shall render its decision within thirty days after having heard the appeal.

(10) Where a design review committee approves or refuses to approve an application for 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. 2008, c. 41, s. 7; 2013, c. 18, s. 6.

#### **Site-plan approval**

**247 (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 by-law; 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), the Council may require a larger notification distance for site-plan approvals in its land-use by-law 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) The Council may by resolution provide that any person applying for approval of a site plan must pay the Municipality the cost of

- (a) notifying affected land owners; 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.

(7) Subsections (8) and (9) apply only with respect to the HRM by Design Downtown Plan Area and the Centre Plan Area.

(8) A development officer may, with concurrence of the property owner, amend the site plan for matters that are non-substantive.

(9) For those amendments consisting of non-substantive matters listed in the by-law pursuant to clause 246A(4)(h), there is no appeal. 2008, c. 39, s. 247; 2008, c. 41, s. 8; 2013, c. 18, s. 7.

#### **Development permit in site-plan approval area**

**248** A development officer shall issue a development permit for a development in a site-plan approval area if a site plan is approved, the development otherwise complies with the land-use by-law 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. 2008, c. 39, s. 248.

#### **Conveyance to person not a party**

**249** 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 the site plan continues to apply to the property until, in the case of a development agreement, it is discharged by the Council and, in the case of a site-plan, it is discharged by the development officer. 2008, c. 39, s. 249.

**Variance**

**250 (1)** A development officer may grant a variance in one or more of the following terms in a development agreement, if provided for by the development agreement, or in land-use by-law 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 by-law, or
  - (ii) a variance was granted for the lot at the time of subdivision approval.

**(2)** Where a municipal planning strategy and land-use by-law so provide, a development officer may grant a variance in one or more of the following terms in a development agreement, if provided for by the development agreement, or in land-use by-law 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) external appearances of structures in the HRM by Design Downtown Plan Area and the Centre Plan Area;
- (e) 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 by-law;
- (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 by-law. 2008, c. 39, s. 250; 2008, c. 41, s. 9; 2013, c. 18, s. 8.

**Variance procedures**

**251 (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 thirty metres of the applicant's property, or such greater distance as determined by the Council by policy or, where the municipal planning strategy so provides, in the land-use by-law.

**(1A)** Where the Council has increased the distance for notice under subsection (1), the development officer shall, within fourteen days after granting a variance,

(a) give notice in writing of the variance granted to every assessed owner whose property is within the distance specified in the policy of the applicant's property; or

(b) advertise the granting of the variance in a newspaper circulating in the Municipality.

(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 fourteen days after receiving the notice.

(4) Where a variance is refused, the applicant may appeal the refusal to the 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 thirty metres of the applicant's property, or such greater distance as determined by the Council by policy.

(5A) Where the Council has increased the distance for notice under subsection (5), the Clerk or development officer shall

(a) give seven days written notice of the hearing to every assessed owner whose property is within the distance specified in the policy of the applicant's property; or

(b) advertise seven days notice of the hearing in a newspaper circulating in the Municipality.

(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 the Council will hear the appeal. 2008, c. 39, s. 251; 2008, c. 41, s. 10.

### Variance appeals and costs

252 (1) Where the 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 by-law, 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) The Council may by resolution provide that any person applying for a variance shall pay the Municipality the cost of

(a) notifying affected land owners;

(b) posting a sign. 2008, c. 39, s. 252.

#### **Non-conforming structure or use**

**253** (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 by-law.

(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 by-law 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 twelve 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 by-law 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 twelve 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. 2008, c. 39, s. 253.

#### **Non-conforming structure for residential use**

**254 (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, it may be

(a) rebuilt, replaced or repaired, if destroyed or damaged by fire or otherwise, it is substantially the same as it was before the destruction or damage and it is occupied by the same use;

(b) 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 by-law, and

(ii) all other applicable provisions of the land-use by-law 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 be rebuilt or repaired, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance with the land-use by-law, and after the repair or rebuilding it may only be occupied by a use permitted in the zone. 2008, c. 39, s. 254.

#### **Non-conforming use of land**

**255** 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. 2008, c. 39, s. 255.

#### **Non-conforming use in a structure**

**256 (1)** Where there is a non-conforming use in a structure, the structure may not be

(a) 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) repaired or rebuilt, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance

with the land-use by-law and after the repair or rebuilding it may only be occupied by a use permitted in the zone.

(2) Where there is a non-conforming use in a structure, the non-conforming use may be extended throughout the structure.

(3) Where there is a non-conforming use in a structure, the non-conforming use

(a) may not be changed to any other use except a use permitted in the zone; or

(b) may not be recommenced, if discontinued for a continuous period of six months. 2008, c. 39, s. 256.

#### **Relaxation of restrictions**

257 (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 by-law and may require a development agreement. 2008, c. 39, s. 257.

#### **Development officer**

258 (1) The Council shall appoint a development officer to administer its land-use by-law and subdivision by-law.

(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. 2008, c. 39, s. 258.

**Development permit**

**259 (1)** Before any development is commenced, a development permit must be obtained if the Council has adopted a land-use by-law.

**(2)** A land-use by-law may specify developments for which a development permit is not required. 2008, c. 39, s. 259.

**Time limits for development permit application**

**260 (1)** Within fourteen 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 thirty 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. 2008, c. 39, s. 260.

**Limitations on granting development permit**

**261 (1)** A development permit must be issued for a proposed development if the development meets the requirements of the land-use by-law, the terms of a development agreement or an approved site plan.

**(2)** Where a land-use by-law 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 the Council has been affirmed by the Board.

**(3)** A development permit that is inconsistent with a proposed land-use by-law or a proposed amendment to a land-use by-law may not be issued for one hundred and fifty days from the publication of the first notice advertising the Council's intention to adopt or amend the by-law.

**(4)** Where the proposed land-use by-law or by-law amendment has not come into effect after the expiry of one hundred and fifty days from the publication of the first notice advertising the Council's intention to adopt or amend the by-law, the development officer shall issue the development permit if the proposed development meets the requirements of the land-use by-law. 2008, c. 39, s. 261.

**Appeals to the Board**

**262 (1)** The approval or refusal by the Council to amend a land-use by-law may be appealed to the Board by

- (a) an aggrieved person;

- (b) the applicant;
- (c) an adjacent municipality;
- (d) the Director.

(2) The approval, or refusal to approve, and the amendment, 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) the Director.

(3) The refusal by a development officer to

- (a) issue a development permit; or
- (b) approve a tentative or final plan of subdivision or a concept plan,

may be appealed by the applicant to the Board. 2008, c. 39, s. 262.

#### **No appeal permitted**

**263** The following are not subject to an appeal:

- (a) an amendment to a land-use by-law to make the by-law consistent with a statement of provincial interest;
- (b) an amendment to a land-use by-law 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 by-law that is required to carry out a concurrent amendment to a municipal planning strategy;
- (e) the adoption or amendment of an incentive or bonus zoning agreement. 2008, c. 39, s. 263; 2008, c. 41, s. 11.

#### **Service of appeal**

**264** An appeal must be served on the Board within fourteen days after the date

- (a) of publication of notice of the adoption of the land-use by-law amendment;
- (b) of written notice of the Council's decision refusing to amend the land-use by-law;
- (c) of publication of notice of the approval or amendment of a development agreement;

- (d) of written notice of the 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. 2008, c. 39, s. 264.

**Restrictions on appeals**

**265 (1)** An aggrieved person or an applicant may only appeal

(a) an amendment or refusal to amend a land-use by-law, on the grounds that the decision of the Council does not reasonably carry out the intent of the municipal planning strategy;

(b) the approval or refusal of a development agreement or the approval of an amendment to a development agreement, on the grounds that the decision of the Council does not reasonably carry out the intent of the municipal planning strategy;

(c) the refusal of an amendment to a development agreement, 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 only appeal a refusal to issue a development permit on the grounds that the decision of the development officer does not comply with the land-use by-law, 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 only appeal a refusal to approve a concept plan or a tentative or final plan of subdivision on the grounds that the decision of the development officer does not comply with the subdivision by-law.

(4) The Director may only appeal 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. 2008, c. 39, s. 265.

**Procedures on appeal**

**266 (1)** The Municipality shall file a complete appeal record with the Board, and any other person as the Board may require, within fourteen business days of the Municipality being notified by the Board of the appeal.

(2) A hearing must begin within forty-five 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.

(3) The Board shall render its decision within sixty 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.

(4) 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 sixty days after the close of submissions.

(5) In the event that the Board directs the filing of post-hearing written submissions, such submissions must be filed with the Board within fourteen 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.

(6) Notwithstanding subsection 28(1) of the *Utility and Review Board Act*,

(a) the Board shall, by order, impose costs on the Municipality if it 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.

(7) 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.

(8) This Section only applies to appeals to the Board made pursuant to this Part.

(9) This Section only applies to proceedings commenced on or after the coming into force of this Section. 2008, c. 39, s. 266.

#### **Powers of Board on appeal**

267 (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 by-law or to approve or amend a development agreement;

(c) allow the appeal and order the Council to amend the land-use by-law 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 by-law or the subdivision by-law. 2008, c. 39, s. 267.

#### **Restrictions on powers of Board**

**268 (1)** The Board may not order the granting of a development permit, the approval of a plan of subdivision, a land-use by-law 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. 2008, c. 39, s. 268.

#### **Use of mediation**

**269** 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. 2008, c. 39, s. 269.

#### **No injurious affection**

**270** 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 by-law, municipal planning strategy, land-use by-law or the entering into, amending or discharging of a development agreement. 2008, c. 39, s. 270.

#### **Plans, by-laws and strategies under other legislation**

**271** A municipal development plan and zoning by-law or municipal planning strategy and land-use by-law adopted pursuant to the *Municipal Government Act* or a former *Planning Act* are a municipal planning strategy and land-use by-law within the meaning of this Act, to the extent they are consistent with this Act. 2008, c. 39, s. 271.

#### **Conflict**

**272** In the event of a conflict between this Part and this Act or another Act of the Legislature, this Part prevails. 2008, c. 39, s. 272.

**Prohibition on breach of agreement or site plan**

**273** No person shall breach the terms of a development agreement, site plan, or an incentive or bonus zoning agreement. 2008, c. 41, s. 12.

**Breach of development agreement**

**274 (1)** Upon the breach either of a development agreement or an incentive or bonus zoning agreement, the Municipality may, where thirty 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 the incentive or bonus zoning agreement, or take such remedial action as is considered necessary to correct a breach of the development agreement or an incentive or bonus zoning agreement, including the removal or destruction of any thing that contravenes the terms of a development agreement or an incentive or bonus zoning 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 or the incentive or bonus zoning agreement.

**(3)** No action lies against the Municipality or against any agent, servant or employee of the Municipality for anything done pursuant to this Section. 2008, c. 39, s. 274; 2008 c. 41, s. 13.

**Breach of approved site plan**

**275 (1)** The Municipality may, upon the breach of an approved site plan, where thirty 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 the Municipality or against any agent, servant or employee of the Municipality for anything done pursuant to this Section. 2008, c. 39, s. 275.

**Remedies where offence**

**276 (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) the Director, in the name of Her Majesty in right of the Province, when authorized by the Minister,

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 by-law, 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 by-law or development agreement and for costs as is deemed 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 by-laws, 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. 2008, c. 39, s. 276.

#### **Right of entry**

277 (1) This Section applies to this Part and Part IX.

(2) A person authorized by the Minister or by the Council has the right to enter at all reasonable times in or upon any property within the Municipal-

ity, without a warrant, for the purposes of an inspection necessary to administer an order, land-use by-law, 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 twenty-four hours in advance of the entry.

(4) Where a justice or a judge of the Supreme Court of Nova Scotia is satisfied, on evidence under oath, that the entry is refused or no person is present to grant access, the justice or judge may by order authorize entry into or on the property during reasonable hours set by the justice or judge.

(5) Any order made by a justice or a judge of the Supreme Court of Nova Scotia continues in force until the purpose for which entry is required is fulfilled. 2008, c. 39, s. 277; 2014, c. 16, s. 7.

### Regulations

277A (1) The Minister may make regulations

(a) respecting the nature and extent of affordable housing to be required by subsections 235(6) and 245A(4) and the enforcement of the affordable housing requirements;

(b) with respect to the Centre Plan Area, prescribing additional requirements for public consultation that must take place prior to an application for site-plan approval being submitted to the Municipality.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2013, c. 18, s. 9.

## PART IX

### SUBDIVISION

#### Requirements for subdivision approval

278 (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 ten hectares in area;

(b) resulting from an expropriation;

- (c) resulting from an acquisition or disposition of land by Her Majesty in right of the Province or in right of Canada or by an agency of Her Majesty;
- (d) of a cemetery into burial lots;
- (e) resulting from an acquisition of land by a municipality for municipal purposes;
- (f) resulting from the disposal, by the Municipality or Her Majesty 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;
- (g) 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;
- (h) of an abandoned railway right of way;
- (i) that is a consolidation of a part of an abandoned railway right of way with adjacent land;
- (j) resulting from a lease of land for twenty years or less, including any renewal provisions of the lease;
- (k) 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*;
- (l) resulting from the quieting of a title; or
- (m) 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. 2008, c. 39, s. 278; 2015, c. 24, s. 4.

### **Deemed consolidation**

**279 (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 regis-

ters 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. 2008, c. 39, s. 279; 2015, c. 24, s. 5.

#### **Registrar General may validate subdivision**

**279A** 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. 6.

#### **Provincial subdivision regulations**

**280 (1)** Provincial subdivision regulations prescribed by the Minister pursuant to the *Municipal Government Act* apply to the Municipality except as otherwise provided by those regulations or this Act.

(2) At least thirty days before prescribing or amending provincial subdivision regulations that apply to the Municipality, the Minister shall

(a) send a copy of the proposed regulations to the Clerk 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.

(3) Where, on the coming into force of the *Municipal Government Act*, the Municipality had not adopted a subdivision by-law, the Municipality is deemed to have adopted the provincial subdivision regulations applicable to the Municipality as its subdivision by-law.

(4) A subdivision by-law that is inconsistent with the provincial subdivision regulations is deemed to be amended by the subdivision regulations applicable to the Municipality, unless the by-law provisions are more stringent, implement the municipal planning strategy. 2008, c. 39, s. 280.

#### **Subdivision by-law**

**281 (1)** A subdivision by-law applies to the whole of the Municipality, but the by-law may contain different requirements for different parts of the Municipality.

- (2) A subdivision by-law 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.
- (3) A subdivision by-law 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 by-law, minimum lot frontage and minimum lot area;
  - (d) provisions allowing a waiver of certain requirements of the by-law 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) requirements for the design and construction of streets, private roads, wastewater facilities, stormwater systems, water systems and other services;
  - (g) requirements for part of a system for the supply or distribution of electricity or other source of energy or a telecommunications system to be placed underground;
  - (h) 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, so long as 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) ten per cent 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;

(i) procedures and requirements for concept plan approval;

(j) the identification of transportation reserves and requirements that lots be designed so as not to impede a transportation reserve;

(ja) with respect to subdivision applications that are located outside the serviced area as that term is defined in Section 190 and that are for the creation of ten or more lots, requirements for hydrogeological impact assessments including an evaluation of the quality, quantity and sustainability of water supply within the proposed subdivision and an evaluation of the cumulative impacts on water supplies outside of the proposed subdivision;

(jb) in areas where hydrogeological impact assessments are required, water supply standards that must be met before a subdivision can be approved, for quantity, sustainability of water supply and for the cumulative impact on water supplies outside of the proposed subdivision;

(k) regulate the width of streets or private road rights-of-way on which subdivisions are permitted.

**(4)** Where a municipal planning strategy so provides, a subdivision by-law 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.

**(5)** A subdivision by-law 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 the 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 the trees along streets, bus bays, sidewalks and pathways required by the by-law; 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.

(6) A subdivision by-law 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.

(7) A subdivision by-law 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.

(8) Any cost to the Municipality pursuant to subsection (7) may, at the option of the Council, be recovered by the Municipality in the same manner as an infrastructure charge or in another manner.

(9) The procedure for the adoption, amendment, repeal, approval and publication of a subdivision by-law is the same as the procedure prescribed for planning documents.

(10) Notwithstanding the *Public Utilities Act* and for greater certainty, any by-law 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. 2008, c. 39, s. 281; 2010, c. 16, s. 6.

#### **Contents of subdivision by-law**

**282 (1)** The Council may, in the subdivision by-law, 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 by-law 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 by-law and to provide security satisfactory to the engineer to secure performance of the agreement.

(2) A subdivision by-law may

(a) specify standards and requirements for an easement required by the subdivision by-law;

(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. 2008, c. 39, s. 282.

#### **Land or cash-in-lieu**

**283 (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 by-law 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 by-law.

(3) The subdivision by-law may specify the cases in which land only, equivalent value only, or land and equivalent value in a specified combination shall 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.



- transfer
- (6) Notwithstanding subsections (5) and (14), the Council may
- (a) the funds referred to in subsections (5) and (14) to a 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 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 by-law 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 by-law.
- (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 the 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 the 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 fourteen 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. 2008, c. 39, s. 283.

### **Infrastructure charges**

**284 (1)** A municipal planning strategy may authorize the inclusion of provisions for infrastructure charges in a subdivision by-law.

- (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;
  - (g) new or expanded parks, playgrounds, trails, bicycle paths, swimming pools, ice arenas, recreation centres and other recreational facilities;
  - (h) new or expanded fire departments and other fire facilities;
  - (i) new or expanded public libraries and other library facilities,

may be imposed in a subdivision by-law to recover all, or part, of the capital costs incurred, or anticipated to be incurred, by the 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 by-law 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 only be used 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 by-law in effect on the date this Act comes into force that provides for a trunk sewer tax imposed on each lot in a new or existing subdivision is deemed to be a by-law made pursuant to this Section.

(10) Notwithstanding the *Public Utilities Act* and for greater certainty, any by-law made pursuant to this Section and any charge set, levied or imposed pursuant to this Section do not require the approval of the Board. 2008, c. 39, s. 284; 2014, c. 16, s. 8.

#### **Infrastructure charges agreement**

**285** (1) An applicant and the 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 by-law may prescribe the circumstances in which an infrastructure charges agreement may be entered into and the general terms that such an agreement shall contain. 2008, c. 39, s. 285.

#### **Effect of infrastructure charges agreement**

**286** 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 shall 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. 2008, c. 39, s. 286.

#### **Time limits for subdivision approval application**

**287 (1)** Within fourteen 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 ninety 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. 2008, c. 39, s. 287.

#### **Limitations on granting subdivision approval**

**288 (1)** Subject to Section 295, 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 by-law;
  - (b) the proposed lots do not comply with a requirement of the land-use by-law, 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, or a person designated by that Minister;
  - (d) the development officer is made aware of a discrepancy among survey plans that, where 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 Her Majesty in right of the Province;
  - (f) the proposed subdivision does not meet the requirements of the subdivision by-law and no variance is granted; or

(g) the proposed subdivision is inconsistent with a proposed subdivision by-law or a proposed amendment to a subdivision by-law, for a period of one hundred and fifty days from the publication of the first notice advertising the Council's intention to adopt or amend the subdivision by-law. 2008, c. 39, s. 288.

#### **Lots not meeting requirements**

**289** Where a subdivision by-law or a land use by-law specifies minimum lot dimensions or lot area and the subdivision by-law 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 ninety per cent of the required minimums. 2008, c. 39, s. 289.

#### **Streets**

**290 (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 Her Majesty in right of the Province, unless the intersection has been approved by the Minister of Transportation and Infrastructure Renewal, or a person designated by that Minister; or

(c) the Minister of Transportation and Infrastructure Renewal, 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. 2008, c. 39, s. 290.

#### **Requirement to approve plan of subdivision**

**291** 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 by-law, notwithstanding that the plan does not comply with the subdivision by-law, if the plan complies with the terms of the agreement. 2008, c. 39, s. 291.

**Underlying lots deemed consolidated**

**292** 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 and if

- (a) subsection 293(1) is complied with; and
- (b) the remainder lot is ten hectares or less in area, the subdivision plan includes a survey of the entirety of the remainder lot,

in which case, the development officer shall register the deeds respecting the remainder lot, if any, with the approved plan. 2008, c. 39, s. 292.

**Subdivision that adds or consolidates**

**293 (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. 2008, c. 39, s. 293.

**Approval by development officer**

**294 (1)** No plan of subdivision that, under the *Land Registration Act*, is not acceptable for registration pursuant to the *Registry 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 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 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 293 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 of subdivision contrary to subsection (1) or (2) must be cancelled if the plan of subdivision is not accepted for registration pursuant to the *Land Registration Act*. 2008, c. 39, s. 294.

**Tentative plan of subdivision**

**295** Where a tentative plan of subdivision is approved pursuant to the subdivision by-law, 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 by-law 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.

2008, c. 39, s. 295.

**Appeals to the Board**

**296** 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. 2008, c. 39, s. 296.

**Filing of approved final plan of subdivision**

**297 (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. 2008, c. 39, s. 297.

**Lot crossing municipal boundary**

**298** Where a lot to be created by a plan of subdivision crosses a municipal boundary, an approval is also required from each other municipality in which the proposed lot is located. 2008, c. 39, s. 298.

**When subdivision takes effect**

**299 (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 that results in the subdivision of land in accordance with a plan of subdivision duly approved and filed in the registry, the amendment of the plan 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. 2008, c. 39, s. 299.

**Amendment of approved final plan of subdivision**

**300 (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. 2008, c. 39, s. 300.

**Subdivision for which no approval required**

**301** Nothing in this Act prevents an application for approval of or the approval of, a subdivision for which no approval is required. 2008, c. 39, s. 301.

**Title or interest not affected**

**302 (1)** A failure to comply with

(a) this Act;



- (b) the *Municipal Government Act*; or
- (c) the former *Planning Act*,

or a regulation or by-law 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. 2008, c. 39, s. 302.

#### **Subdivisions under other legislation**

**303** A subdivision by-law adopted pursuant to the *Municipal Government Act* or a former *Planning Act* is a subdivision by-law within the meaning of this Act, to the extent that it is consistent with this Act. 2008, c. 39, s. 303.

### PART X

#### FIRE AND EMERGENCY SERVICES

##### **Municipal role**

**304** The 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. 2008, c. 39, s. 304.

##### **Registration as fire department**

**305 (1)** A body corporate may apply to the Municipality for registration as a fire department.

(2) The 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 the Municipality or fire protection district, shall register in the Municipality if it provides emergency services in the Municipality.

(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) The Municipality may grant or lend money to, or guarantee a loan for, a registered fire department for operating or capital purposes.

(7) The Municipality may grant or lend assets, without charge, to a registered fire department.

(8) Registration does not make a fire department an agent of the Municipality.

(9) A registered fire department is not a municipal enterprise pursuant to the *Municipal Finance Corporation Act*. 2008, c. 39, s. 305.

#### **Registration as emergency services provider**

**306 (1)** A body corporate may apply to the Municipality for registration as an emergency services provider to provide emergency services other than fire services.

(2) The Municipality shall 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) The Municipality may grant or lend money to, or guarantee a loan for, a registered emergency services provider for operating or capital purposes.

(7) The 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 the Municipality.

(9) A registered emergency services provider is not a municipal enterprise pursuant to the *Municipal Finance Corporation Act*. 2008, c. 39, s. 306.

### Policies

**307 (1)** The 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) The Council may require proof of compliance with its policies before advancing any funds. 2008, c. 39, s. 307.

### Powers where fire

**308 (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 for the purpose of ascertaining 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) The Municipality, 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. 2008, c. 39, s. 308.

#### **Offence**

**309** 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 or privately-owned fire-fighting, rescue or emergency facilities and equipment and hydrants. 2008, c. 39, s. 309.

#### **No liability**

**310** The Municipality, an employee of the Municipality, a member of the fire department of the Municipality, 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. 2008, c. 39, s. 310.

#### **When action lies**

**311 (1)** No action lies with respect to an act or omission in providing, or failing to provide, an emergency service against an employee of the Municipality or fire protection district, a member of the fire department of the Municipality, fire protection district, registered fire department or registered emergency services provider.

(2) Notwithstanding subsection (1) and subject to Section 310, an action may lie against the Municipality, fire protection district, registered fire

department or registered emergency services provider with respect to its employee, member of its fire department or member. 2008, c. 39, s. 311.

#### **Mutual aid**

**312 (1)** The Municipality may assist at fires, rescues or other emergencies occurring outside its boundaries.

**(2)** The Municipality may agree with other 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. 2008, c. 39, s. 312.

### PART XI

#### ELECTRICAL SERVICES

##### **Contract with Nova Scotia Power or municipality**

**313 (1)** Subject to the *Public Utilities Act*, the Council may contract with Nova Scotia Power Incorporated or another municipality for transmission and supply of electric power.

**(2)** Where the Municipality has entered into a contract for electric power or generates electric power, the Municipality 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. 2008, c. 39, s. 313.

#### **Lien and power cut-off**

**314 (1)** The amount due to the 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 ninety days.

(3) Where a person fails to pay the 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.

(4) 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.

(5) 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.

(6) 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. 2008, c. 39, s. 314.

**Nova Scotia Power Inc. powers**

**315 (1)** Nova Scotia Power Incorporated may extend the time for payment of any sum due it by the 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 annum, 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 to be determined by Nova Scotia Power Incorporated. 2008, c. 39, s. 315.

**Power to sell system**

**316** The Municipality may sell its system for developing or distributing electric power, including property used in connection with it. 2008, c. 39, s. 316.

## PART XII

## STREETS AND HIGHWAYS

**Interpretation**

**317** 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 bridges vested in the Halifax-Dartmouth Bridge Commission and streets vested in Her Majesty in right of the Province. 2008, c. 39, s. 317.

**Streets vested in Municipality**

**318 (1)** All streets in the Municipality are vested absolutely in the Municipality.

**(2)** In so far as is consistent with their use by the public, the 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. 2008, c. 39, s. 318.

**By-laws for protection of streets**

**319 (1)** The Council may make by-laws for the protection of streets and may limit the by-law to certain streets, or to certain times of the year, or to both.

(2) For the purpose of the *Motor Vehicle Act*, the Council is a local authority.

(3) The 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.

(4) The Council may, by by-law,

(a) establish a pedestrian mall on a street or any other land owned by the Municipality;

(b) prohibit any person from using any vehicle or apparatus on a sidewalk in the Municipality;

(c) prohibit any person from taking or riding any animal on any sidewalk in the Municipality;

(d) designate any street as a controlled access street;

(e) regulate or prohibit access to a controlled access street.

(5) No person shall

(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. 2008, c. 39, s. 319.

#### Power to make by-laws

320 (1) The Council may, by by-law,

(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 by-law 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) The Council may, by by-law,

(a) require the owner of a property to remove ice or icicles from part of a building overhanging or abutting a sidewalk;



(b) require the owner of lands abutting a street to maintain an area of vegetation between the streetline and the main travelled way. 2008, c. 39, s. 320.

### Traffic authority

**321 (1)** In this Section, “highway” and “Provincial Traffic Authority” have the same meaning as in the *Motor Vehicle Act*.

**(2)** The 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 the Council, the Minister of Transportation and Infrastructure Renewal may appoint a traffic authority to hold office until the Council appoints a traffic authority.

**(6)** Where it appears to the Minister of Transportation and Infrastructure Renewal that a traffic authority appointed by the Council is not performing the duties and functions of a traffic authority, the Minister of Transportation and Infrastructure Renewal may cancel the appointment of the traffic authority.

**(7)** The Provincial Traffic Authority has, with respect to

(a) highways vested in Her Majesty in right of the Province;

(b) highways in areas of the Municipality for which there is no traffic authority; and

(c) highways in the Municipality that have been designated by the Minister of Transportation and Infrastructure Renewal 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 the 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*. 2008, c. 39, s. 321.

### Street related powers

**322 (1)** The 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 shall be filed in the registry.

(3) The 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. 2008, c. 39, s. 322.

#### **Civic addresses**

**323** The Council may

(a) by by-law, adopt a system for assigning civic numbers to properties, including buildings, and other locations;

(b) by by-law, 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;

(c) by policy, name or rename any street or private road;

(d) post the name of any street or private road, including posting the name on private property;

(e) by by-law, require the owner of land that is a private road to

(i) apply for permission to erect a sign or signpost that identifies the road by the name assigned to it pursuant to clause (c) 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

(ii) erect a sign or signpost of such size and design, in such location and in such a manner as is prescribed by the by-law, if permission is obtained to erect the sign or signpost in accordance with subclause (i). 2008, c. 39, s. 323; 2010, c. 16, s. 7.

#### **Street encroachment**

**324 (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 by-law 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) The Council may, by by-law, 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. 2008, c. 39, s. 324.

**Street closure**

**325 (1)** The 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 fifty thousand dollars.

**(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 Transportation and Infrastructure Renewal 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 Transportation and Infrastructure Renewal.

**(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. 2008, c. 39, s. 325.

**Contribution to cost of underground wiring**

**326** Where the Council determines that wires and other parts of an electrical distribution or telecommunications system be placed underground, the Council may contribute to the cost. 2008, c. 39, s. 326.

**Work on a street**

**327 (1)** No person shall break the surface of a street without the permission of the Engineer.

(2) The 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.

(3) No person shall construct or widen a driveway, or other access to a street, without the permission of the Engineer. 2008, c. 39, s. 327.

#### **Obstruction of street**

**328 (1)** Except as otherwise provided in this Act, no person shall

- (a) obstruct a street in the 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 the 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 deemed expedient. 2008, c. 39, s. 328.

#### **Public Utilities Act applies**

**329** Section 78 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. 2008, c. 39, s. 329.

#### **Removal of sign or billboard**

**330 (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 fourteen days after receipt of notice from the Engineer, the Engineer may cause the sign or billboard to be removed. 2008, c. 39, s. 330.

#### **Dangerous vegetation**

**331 (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 or remove or alter a fence 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 or remove or alter a fence within fourteen days after receipt of notice from the Engineer, the Engineer may cause the vegetation to be removed or trimmed or the fence to be removed or altered, as the case may be. 2008, c. 39, s. 331; 2010, c. 16, s. 8.

#### **Temporary purposes**

**332** 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. 2008, c. 39, s. 332.

#### **Power to enter land**

**333 (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. 2008, c. 39, s. 333.

**Motor Vehicle Act does not apply**

334 A by-law passed pursuant to this Part is not subject to the *Motor Vehicle Act*. 2008, c. 39, s. 334.

PART XIII

SOLID-WASTE RESOURCE MANAGEMENT

**By-law regarding solid waste**

335 The Council may make by-laws 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. 2008, c. 39, s. 335.

#### **Solid-waste management**

**336 (1)** The 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)** The Municipality may contract with other municipalities or persons for the use of any component of its solid-waste management program. 2008, c. 39, s. 336.

### PART XIV

#### SEWERS

#### **Prohibition**

**337** No person shall injure or remove any portion of wastewater facilities or a stormwater system, except as directed by the Engineer. 2008, c. 39, s. 337.

#### **Policy for standards and specifications**

**338 (1)** The 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 by-law made pursuant to this Act;

(b) without the approval of the Engineer. 2008, c. 39, s. 338.

#### **Building service connection**

**339 (1)** An owner is responsible for the design, construction and maintenance of that part of a building service connection determined by the Council by by-law, 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. 2008, c. 39, s. 339.

#### **Sewer connection abandoned**

**340 (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 shall 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 twenty-four hours from the receipt of a notice from the Engineer to do so, the Engineer may cause it to be done. 2008, c. 39, s. 340.

#### **Repairs required**

**341 (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. 2008, c. 39, s. 341.

#### **Connection required to municipal sewer**

**342 (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. 2008, c. 39, s. 342.

#### **Prohibition and power to make by-laws**

**343 (1)** No person shall permit the discharge into wastewater facilities or a stormwater system of the Municipality or into wastewater facilities or a stormwater system or building service connection connecting with the wastewater facilities or stormwater system of the Municipality of

- (a) a liquid or vapour having a temperature higher than that specified by the Council, by by-law;
- (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, by by-law;
- (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 by by-law;
- (k) sewage that exerts or causes biological oxygen demand and chemical oxygen demand greater than amounts specified by the Council, by by-law, 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, by by-law; or

(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) The Council may, by by-law,

(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 by-law may be permitted, and shall in the by-law 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 by-law.

(3) A treatment or flow quantity control equalizing facility installed pursuant to a by-law 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. 2008, c. 39, s. 343.

#### **Requirement for interceptors**

**344 (1)** The Engineer may require an owner of land that is connected to wastewater facilities or a stormwater system of the Municipality 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. 2008, c. 39, s. 344.

#### **Control service area**

**345 (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. 2008, c. 39, s. 345.

#### **By-law regarding private systems**

**346** The Municipality may, by by-law, 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 by-law. 2008, c. 39, s. 346.

#### **Requirement to connect to municipal sewer**

**347 (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 property 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 an official of the Government of the Province, pursuant to a by-law 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. 2008, c. 39, s. 347.

#### **Prohibition**

**348** 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. 2008, c. 39, s. 348.

#### **Private wastewater facilities requirements**

**349 (1)** A person who owns, maintains or operates private wastewater facilities or who owns or occupies land on or under which there is 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 is 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. 2008, c. 39, s. 349.

#### **Requirement to connect to municipal sewer**

**350 (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 it 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. 2008, c. 39, s. 350.

#### **Abandonment of private wastewater facilities**

**351 (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 it 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. 2008, c. 39, s. 351.

#### **By-law for wastewater management districts**

**352 (1)** The Council may, by by-law, establish wastewater management districts.

(2) A by-law 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 by-law, charge any or all of the costs to the owners of the property served by the system. 2008, c. 39, s. 352.

#### **By-law regarding stormwater**

**353 (1)** The Council may make by-laws,

- (a) setting standards and requirements respecting stormwater management;
- (b) requiring stormwater to be directed to or retained in areas specified in the by-laws;

(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 by-law, 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 by-law;

(l) prohibiting the issuance of any municipal permits or approvals if a by-law 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 by-law made pursuant to this Section and may direct restoration to the original condition if any work is done contrary to the by-law.

**(3)** Where the Engineer undertakes the work required to connect stormwater systems to a municipal stormwater system pursuant to a by-law, the cost may be recovered from the owner of land that the stormwater system benefits and is a first lien on that land. 2008, c. 39, s. 353.

## PART XV

## DANGEROUS OR UNSIGHTLY PREMISES

**Requirement to maintain property**

**354** Every property in the Municipality must be maintained so as not to be dangerous or unsightly. 2008, c. 39, s. 354.

**Authority to delegate and requirement to report**

**355 (1)** The 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)** The 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. 2008, c. 39, s. 355; 2011, c. 4, s. 3.

**Order to remedy condition**

**356 (1)** Where a property is dangerous or unsightly, the 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, before the order is made 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.

**(3A)** Where the Council or the 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.

**(4)** The notice may be served by being posted in a conspicuous place upon the property or may be served upon the owner. 2008, c. 39, s. 356; 2011, c. 4, s. 4.

**Order to remedy condition**

**357 (1)** The Municipality may apply to a court of competent jurisdiction for a declaration that a property is dangerous or unsightly and an order specify-

ing 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. 2008, c. 39, s. 357.

#### **Effect of order**

**358 (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 one hundred dollars and not more than five thousand dollars, and in default of payment to imprisonment for not more than three months.

(4A) 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 a person required to pay the penalty.

(5) Every day during which the condition is not remedied is a separate offence.

(6) 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. 2008, c. 39, s. 358; 2011, c. 4, s. 5.

#### **Order to vacate unsafe property**

**359 (1)** A property within the 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. 2008, c. 39, s. 359.

#### **Immediate action**

**360** 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. 2008, c. 39, s. 360.

#### **Notice**

**361** 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. 2008, c. 39, s. 361.

#### **Power to enter land**

**362 (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 twenty-four hours in advance.

(3) Where 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 justice or 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. 2008, c. 39, s. 362; 2014, c. 16, s. 9.

#### **No action lies**

**363** No action lies against the Municipality or against the Administrator or any other employee of the Municipality for anything done pursuant to this Part. 2008, c. 39, s. 363.

## PART XVI

## BOUNDARIES

**Municipal Government Act provisions apply**

**364** Part XVI of the *Municipal Government Act* applies to the Municipality. 2008, c. 39, s. 364.

## PART XVII

## MUNICIPAL AFFAIRS

**Municipal Government Act provisions apply**

**365** Part XIX of the *Municipal Government Act* applies to the Municipality. 2008, c. 39, s. 365.

## PART XVIII

FREEDOM OF INFORMATION AND  
PROTECTION OF PRIVACY**Municipal Government Act provisions apply**

**366** Part XX of the *Municipal Government Act* applies to the Municipality. 2008, c. 39, s. 366.

## PART XIX

## GENERAL

**Lawful direction to act and inspections**

**367 (1)** Where the Council, a committee or a community council or the Engineer, the Administrator or another employee of the Municipality lawfully directs that anything be done and it is not done, the Council, Engineer, Administrator or employee may cause it to be done at the expense of the person in default.

**(2)** No action lies against the Municipality or any agent, servant or employee of the Municipality for anything done pursuant to this Section.

**(3)** Where an inspection is required or conducted pursuant to a by-law 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 twenty-four hours in advance;

(c) 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 justice or a judge of the Supreme Court of Nova Scotia for an order

(i) to allow the inspector entry to the building, and

(ii) restraining a person from further interference;

and

(d) 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. 2008, c. 39, s. 367; 2014, c. 16, s. 10.

#### No liability

**368 (1)** Where the Municipality inspects buildings or other property pursuant to this Act or another enactment, the Municipality 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 was requested to inspect at appropriate stages, and within a reasonable time, before the inspection was required, and either the Municipality 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 could have ordered corrected.

**(3)** Notwithstanding the *Limitation of Actions Act* or another statute, the Municipality 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.

**(4)** Where the Municipality 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 and its officers and employees are not liable for any loss or damage caused by the negligence of the person so certifying or representing. 2008, c. 39, s. 368.

#### Offence and penalty

**369 (1)** A person who

(a) violates a provision of this Act or of an order, regulation or by-law in force in accordance with this Act;

(b) fails to do anything required by an order, regulation or by-law in force in accordance with this Act;

(c) permits anything to be done in violation of this Act or of an order, regulation or by-law 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 by-law in force in accordance with this Act,

is guilty of an offence.

(2) Unless otherwise provided in a by-law, a person who commits an offence is liable, upon summary conviction, to a penalty of not less than one hundred dollars and not more than ten thousand dollars 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 by-law of the Municipality made pursuant to this Act, a judge may order the person to comply with the provision, order, regulation or by-law under which the person was convicted, within the time specified in the order. 2008, c. 39, s. 369.

#### **Offence and penalty**

**370** 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 one hundred dollars nor more than five thousand dollars and in default of payment, to imprisonment for a period of not more than ninety days. 2008, c. 39, s. 370.

#### **Limitation period**

**370A** Notwithstanding the *Summary Proceedings Act*, the limitation period for the prosecution of an offence under a land-use by-law or a development agreement is two years from the date of the commission of the alleged offence. 2010, c. 16, s. 9.

#### **Cost of work is first lien**

**371** Where the Council, a committee or a community council or the Engineer, the Administrator or another employee of the 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, 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. 2008, c. 39, s. 371.

**Offence and penalty**

**372** 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 one hundred dollars and not more than five thousand dollars and in default of payment, to imprisonment for a period of not more than ninety days. 2008, c. 39, s. 372.

**Service of notice**

**373 (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. 2008, c. 39, s. 373.

**Service on Clerk sufficient**

**374** Where notice is authorized or required to be served on the Municipality, service on the Clerk is sufficient service. 2008, c. 39, s. 374.

**Action brought in corporate name**

**375** An action brought by or against the Municipality must be brought by or against it in its corporate name. 2008, c. 39, s. 375.

**Limitation of Actions Act**

**376 (1)** For the purpose of the *Limitation of Actions Act*, the limitation period for an action or proceeding against the Municipality, the Council, a Council member, an officer or employee of the Municipality or against any person acting under the authority of any of them, is twelve months.

**(2)** Subsection (1) applies, with all necessary changes, to a service commission and a board, commission, authority, agency or corporation of the Municipality or a board, commission, authority, agency or corporation jointly owned or established by the Municipality and one or more other municipalities or villages.

**(3)** Notice must be served on the intended defendant at least one month prior to the commencement of an action against any parties listed in subsection (1) or (2) 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. 2008, c. 39, s. 376.

**No liability**

**377 (1)** The Municipality or an inter-municipal corporation created pursuant to Section 74, 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 or inter-municipal corpo-

ration 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 or inter-municipal corporation, in a reasonable state of repair, unless the Municipality or inter-municipal corporation 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 by-law, unless the decision not to enforce the by-law is not made in good faith.

(2) Where an overflow of water from a sewer, drain, ditch or watercourse is a consequence of snow, ice or rain, the Municipality or inter-municipal corporation is not liable for a loss as a result of the overflow. 2008, c. 39, s. 377.

#### **No liability**

**378** The Municipality or an inter-municipal corporation created pursuant to Section 74, and its officers and employees, are not liable for damages caused

(a) directly or indirectly, by

(i) the operation, maintenance, repair, breaking or malfunction of wastewater facilities, a stormwater system or a water system, or

(ii) interference with the supply of water through a water system,

unless the damages are shown to be caused by the negligence of the Municipality or inter-municipal corporation or its officers or employees;

(b) 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 or inter-municipal corporation and should reasonably have been repaired; or

(c) in any case, where this Act or the by-laws of the Municipality or inter-municipal corporation have not been complied with by an owner or previous owner of the property. 2008, c. 39, s. 378.

#### **No liability**

**379 (1)** Where the Municipality or an inter-municipal corporation created pursuant to Section 74 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.

(2) The Municipality or inter-municipal corporation 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. 2008, c. 39, s. 379.

#### **Right of indemnity**

**380** Where the Municipality 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 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. 2008, c. 39, s. 380.

#### **Right of indemnity**

**381 (1)** Where the 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 Her Majesty 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 Her Majesty.

- (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 ten years from the date on which it was transferred to the Municipality. 2008, c. 39, s. 381.

#### **Requirement to consult with Municipality**

**382 (1)** The Minister shall consult with the Municipality respecting any proposed amendment to this Act.

(2) The Municipality shall consult with the Minister respecting any proposed amendment to this Act. 2008, c. 39, s. 382.

#### **Regulations**

- 383 (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) altering forms set out in this Act;
- (d) for the effective administration of this Act; and
- (e) for the collection, standardization, maintenance and sharing of information related to the subdivision and development of land.

(2) Regulations made pursuant to Section 520 of the *Municipal Government Act* are regulations pursuant to subsection (1) to the extent that they may be applicable to the Municipality except as otherwise provided by those regulations or regulations made pursuant to this Section.

(3) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2008, c. 39, s. 383.

#### **Solid-waste landfills**

**384 (1)** The provisions of Parts VIII and IX and the municipal planning strategies, land-use by-laws and subdivision by-laws in force in the Municipality do not apply to the development, establishment, siting, operation or use of a site acquired in the Municipality as a solid-waste landfill site or to the subdivision of land in connection therewith.

(2) Where the solid-waste landfill is sited outside the bounds of the Municipality, Parts VIII and IX and the municipal planning strategies, land-use by-laws and subdivision by-laws in force in the host Municipality apply.

(3) The Municipality may not charge any costs incurred by the former Halifax County Municipality in designing or siting the sanitary landfill and in developing the integrated solid-waste resource management strategy of the Municipality solely to residents of the former Halifax County Municipality, and all such costs incurred after July 1, 1994, must be paid by the Municipality from its general rate. 2008, c. 39, s. 384.

#### **Motor Vehicle Act**

**385 (1)** Notwithstanding the *Motor Vehicle Act*, the use of a red light on a vehicle operated by a special constable employed by the Municipality, in the course of the special constable's duties, is permitted within municipal parks.

(2) Where subsection 194(2) of the *Motor Vehicle Act* requires that signs be erected to make effective a resolution restricting the use of a highway, the local authority of the Municipality, at least three days before the effective date of such a resolution, may cause a notice to be published in a newspaper circulating in the Municipality stating the effect of the resolution, and the publication of the notice fulfils the requirement of subsection 194(2) of the *Motor Vehicle Act* to erect signs. 2008, c. 39, s. 385.



## PART XX

## TRANSITIONAL AND REPEAL

**Continuation in force**

**386** The by-laws, orders, policies and resolutions in force in the Municipality immediately prior to the coming into force of this Act continue in force to the extent that they are authorized by this Act or another Act of the Legislature until amended or repealed. 2008, c. 39, s. 386.

**Municipal Government Act amended**

**387** *amendment*

**Municipal Government Act amended**

**388** *amendment*

**Municipal Government Act amended**

**389** *amendment*

**Reference to Municipal Government Act**

**390** A reference in an enactment to the *Municipal Government Act*, or part thereof, is, to the extent that it relates to the Municipality, to be read as including a reference to the provisions of this Act relating to the same subject-matter. 2008, c. 39, s. 390.

**Proclamation**

**391** This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2008, c. 39, s. 391.

Proclaimed - January 13, 2009  
In force - January 13, 2009

## SCHEDULE A

## FORM A

## WARRANT

TO: Any police officer, civil constable, by-law enforcement officer or other municipal employee

[*taxpayer*] is indebted to the Halifax Regional Municipality for [*amount*] taxes and interest.

You are required forthwith to distrain the goods and chattels of [*taxpayer*] for that amount and for the expenses of collection, and if need be to remove them to some place of safekeeping.

If the property distrained is not redeemed by payment of that amount, with the expenses of collection, and any additional charges and expenses, you shall sell the goods and chattels distrained upon to satisfy the amount due.

Given under my hand and the municipal seal  
this day of , 20 .

\_\_\_\_\_  
Treasurer

**FORM B  
RETURN**

The warrant of distress for taxes hereto annexed was directed to me to be executed, and I have executed it by

[or I have been unable to find sufficient goods to realize the amount due for taxes, and interest and costs, fees and expenses and that the amount remaining due after the levy and sale is ]

[or I have been unable to find any goods whereon to levy]

\_\_\_\_\_  
date

**FORM C  
CERTIFICATE OF SALE FOR TAXES**

**THIS IS TO CERTIFY** that on [date] , [purchaser] of [address] purchased for the sum of \$ the lands and premises described in Schedule "A" hereto annexed, which were sold for arrears of taxes due to the Halifax Regional Municipality, the same having been assessed to [assessed owner] , and described in a deed recorded in Book at Page .

A deed conveying the property 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.

Given under the hand of the Treasurer and the seal of the Halifax Regional Municipality  
this day of , 20 .

\_\_\_\_\_  
Treasurer

**FORM D  
CERTIFICATE OF DISCHARGE**

**THIS IS TO CERTIFY** that the Halifax Regional Municipality has been paid the amount required to redeem the land described in Schedule "A" hereto annexed, which had been assessed to [assessed owner] and was on [date] sold for arrears of taxes to [purchaser] , and with respect to which a certificate of sale for taxes was issued and was recorded in Book at Page .

The certificate of sale for taxes is now released.

Given under the hand of the Treasurer and the seal of the Halifax Regional Municipality  
this day of of , 20 .

\_\_\_\_\_  
Treasurer

FORM E  
TAX DEED

THIS TAX DEED is made this      day of      , 20

BETWEEN:

The Halifax Regional Municipality of      ,  
hereinafter called the "Grantor"

OF THE ONE PART

- and -

*purchaser's name*  
hereinafter called the "Grantee"

OF THE OTHER PART

Whereas the Grantor did advertise and sell on [date] the land assessed to described in Schedule "A" hereto annexed for arrears of taxes, interest and expenses.

Now This Indenture Witnesses that in consideration of the sum of One Dollar and other good and valuable consideration the Grantor hereby conveys to the Grantee all the lands or interests described in Schedule "A".

In Witness Whereof, we have set our hands and affixed the seal of the Municipality the day and year first above written.

SIGNED, SEALED AND DELIVERED	)	HALIFAX REGIONAL
in the presence of	)	MUNICIPALITY
	)	
	)	per: _____
	)	Mayor
	)	
	)	per: _____
	)	Clerk

PROVINCE OF NOVA SCOTIA      )  
COUNTY OF      )

**ON THIS**      day of      , A. D., 20      , before me, the subscriber, personally came and appeared      , the subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that      and      , the Mayor and Clerk of the Grantor herein, signed, sealed and delivered the same in h      presence.

\_\_\_\_\_  
A Barrister / Commissioner  
of the Supreme Court of Nova Scotia

Note: Schedule "A" is to contain a full metes and bounds description of the property being conveyed, and must also contain a proper back reference to the next earlier deed, and to the deed to the delinquent taxpayer.

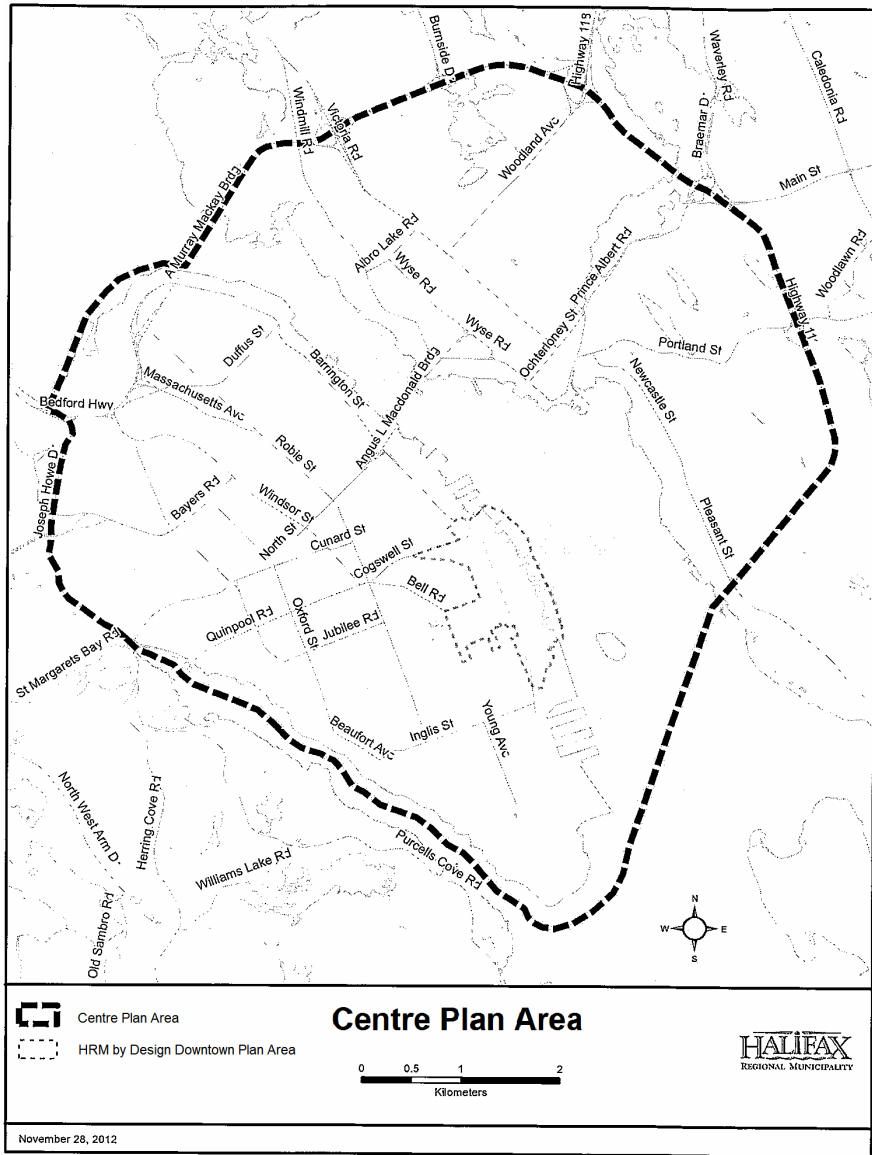
SCHEDULE B



2008, c. 41, s. 14.

OCTOBER 26, 2017

SCHEDULE C



2013, c. 18, s. 10.