Municipal Government Act

CHAPTER 18 OF THE ACTS OF 1998

as amended by

2000, c. 9, ss. 32-37, 39, 41-60; 2000, c. 28, s. 85;
2001, c. 6, s. 119(1), (2), (4)-(8); 2001, c. 14, ss. 2, 3;
2001, c. 35, ss. 2-28; 2002, c. 6, s. 56; 2002, c. 10, s. 22;
2002, c. 36, ss. 1-3; 2003, c. 9, ss. 49-95; 2004, c. 4, s. 116;
2004, c. 7, ss. 2-20; 2004, c. 38, s. 26; 2004, c. 44; 2005, c. 9, ss. 6-15;
2005, cc. 22, 55; 2006, cc. 38, 39, 40; 2007, c. 9, ss. 31, 32;
2007, c. 47; 2008, c. 25 (except s. 9); 2008, c. 26;
2008, c. 36, ss. 4, 5; 2008, c. 39, ss. 387-389; 2010, c. 22;
2010, c. 64, ss. 1, 2; 2011, c. 4, ss. 6-9; 2011, c. 17, ss. 2, 3;
2011, c. 68, s. 29; 2012, cc. 27, 28; 2012, c. 63, ss. 1-4

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CHAPTER 18 OF THE ACTS OF 1998

amended 2000, c. 9, ss. 32-37, 39, 41-60; 2000, c. 28, s. 85; 2001, c. 6, s. 119(1), (2), (4)-(8); 2001, c. 14, ss. 2, 3; 2001, c. 35, ss. 2-28; 2002, c. 6, s. 56; 2002, c. 10, s. 22; 2002, c. 36, ss. 1-3; 2003, c. 9, ss. 49-95; 2004, c. 4, s. 116; 2004, c. 7, ss. 2-20; 2004, c. 38, s. 26; 2004, c. 44; 2005, c. 9, ss. 6-15; 2005, cc. 22, 55; 2006, cc. 38, 39, 40; 2007, c. 9, ss. 31, 32; 2007, c. 47; 2008, c. 25 (except s. 9); 2008, c. 26; 2008, c. 36, ss. 4, 5; 2008, c. 39, ss. 387-389; 2010, c. 22; 2010, c. 64, ss. 1, 2; 2011, c. 4, ss. 6-9; 2011, c. 17, ss. 2, 3; 2011, c. 68, s. 29; 2012, cc. 27, 28; 2012, c. 63, ss. 1-4

An Act Respecting Municipal Government

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WHEREAS the Province recognizes that municipalities have legislative authority and responsibility with respect to the matters dealt with in this Act;

AND WHEREAS municipalities are a responsible order of government accountable to the people:

Short title

1 This Act may be cited as the *Municipal Government Act*. 1998, c. 18, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) give broad authority to councils, including broad authority to pass by-laws, and ~~to~~ respect their right to govern municipalities in whatever ways the councils consider appropriate within the jurisdiction given to them;

(b) enhance the ability of councils to respond to present and future issues in their municipalities; and

(c) recognize 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. 1998, c. 18, s. 2.

Interpretation

3 In this Act,

(a) "administrator" means the employee of a municipality or other person designated by the chief administrative officer to be responsible for the provisions of this Act respecting dangerous or unsightly premises, except where the context otherwise requires, and includes a person acting under the supervision and direction of the administrator;

(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 this Act, except where the context otherwise requires;

(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 the Province or an agency of the Province;

(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 a municipality;

(j) "clerk" means the clerk of a municipality;

(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 a regional 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 a municipality, except as otherwise defined in this Act;

(p) "councillor" means a council member other than the mayor;

(q) "county or district municipality" means a municipality incorporated as a municipality of a county or district pursuant to Chapter 295 of the Revised Statutes, 1989, the *Municipal Act*;

(r) "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 allurement 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;

(s) "debenture" includes any financial instrument approved by the Nova Scotia Municipal Finance Corporation;

(t) "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;

(u) "Deputy Minister" means the Deputy Minister or Associate Deputy Minister of Service Nova Scotia and Municipal Relations;

(v) "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;

(w) "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;

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

(y) "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;

(z) "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;

(aa) "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;

(ab) "elector" means elector as defined in the *Municipal Elections Act*;

(ac) "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;

(ad) "engineer" means the engineer of the municipality or the village and includes a person acting under the supervision and direction of the engineer;

(ae) "farm property" has the same meaning as in the *Assessment Act*;

(af) "fire department" means an incorporated body that provides fire services and that may, at its option, provide one or more other emergency services, and includes a fire or emergency services department of a municipality, village, fire protection district or other body corporate;

(ag) "fire protection district" has the same meaning as in the *Rural Fire District Act*;

(ah) "fire services" means services related to the prevention and suppression of fires;

(ai) "fiscal year" means the period from April 1st in one year to March 31st in the following year, including both dates;

(aj) "forest property" has the same meaning as in the *Assessment Act*;

(ak) "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;

(al) "improve" includes lay out, open, construct, repair and maintain;

(am) "incorporation date" means the date prescribed by the Governor in Council on which a regional municipality is established;

(an) "mayor" means the council member elected at large to be the chair of the council;

(ao) "Minister" means the Minister of Service Nova Scotia and Municipal Relations;

(ap) "mobile canteen" means a vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;

(aq) "mobile vendor" means a person who vends from a mobile canteen or a stand;

(ar) "municipal government" means a municipal unit, village or service commission in the area to be incorporated as a regional municipality, and includes every authority, board, commission, corporation or other entity of that municipal unit, village or service commission and every joint authority, board, commission, committee or other entity involving that municipal unit, village or service commission;

(as) "municipal highway" means a highway owned by a municipality, pursuant to this Act, the *Public Highways Act* or otherwise;

(at) "municipal sewer" means a sewer controlled by a municipality or a village;

(au) "municipal unit" means a city, a town or a county or district municipality in the area to be incorporated as a regional municipality;

(av) "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;

(aw) "municipality" means a regional municipality, town or county or district municipality, except where the context otherwise requires or as otherwise defined in this Act;

(ax) "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;

(ay) "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;

(az) "policy" means a resolution of the council that is required, pursuant to this Act, to be recorded in the by-law records of a municipality, except where the context otherwise requires;

(ba) "private on-site sewage disposal system" means a private system for sewage disposal serving one lot;

(bb) "private wastewater facilities" means wastewater facilities that are privately owned and serving two or more properties;

(bc) "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;

(bd) "regional assessment appeal court" means a regional assessment appeal court appointed pursuant to the *Assessment Act*;

(be) "regional municipality" means a regional municipality established by, or continued pursuant to, this Act and includes the Cape Breton Regional Municipality, the Halifax Regional Municipality and the Region of Queens Municipality and the area over which each of those bodies corporate has jurisdiction;

(bf) "registered Canadian charitable organization" means a charitable organization registered pursuant to the *Income Tax Act* (Canada) and the regulations made pursuant to that Act;

(bg) "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;

(bh) "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;

(bi) "residential property" has the same meaning as in the *Assessment Act*;

(bj) "resource property" has the same meaning as in the *Assessment Act*;

(bk) "sale price" or "value" means the entire consideration for the sale of the property and, without restricting the generality of the foregoing, includes

(i) money consideration paid together with the par or face value of promissory notes, cheques, bills of exchange, agreements and securities forming part of the consideration,

(ii) the gross value of real or personal property given in exchange, in whole or in part, including mortgages made by the grantee in favour of the grantor or any person on behalf of the grantor,

(iii) outstanding obligations or accounts ~~canceled~~ [cancelled], assumed or satisfied, and

(iv) taxes, liens, mortgages and encumbrances, including interest and expenses, assumed by the grantee;

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

(bm) "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;

(bn) "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 intermunicipal services agreement, village or school board;

(bo) "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;

(bp) "sewer" means a pipe or conduit for carrying sewage, groundwater, stormwater or surface runoff, and includes all sewer drains, storm sewers, clearwater sewers, storm drains and combined sewers vested in, or under the control of, a municipality or village;

(bq) "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;

(br) "special purpose tax" means a tax that the council, by resolution, declares to be a special purpose tax;

(bs) "special purpose tax account" means the account to which the proceeds of a special purpose tax are credited;

(bt) "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;

(bu) "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;

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

(bw) "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;

(bx) "storm sewer" means a sewer that carries stormwater and surface runoff water, excluding sewage;

(by) "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;

(bz) "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;

(ca) "tax sale" includes a sale by public auction or a sale by tender, for the purpose of collecting taxes;

(caa) "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;

(cb) "treasurer" means the treasurer of a municipality, and includes a person acting under the supervision and direction of the treasurer;

(cc) "tree" includes a bush, shrub and hedge;

(cd) "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;

(ce) "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;

(cf) "village" means a village continued or incorporated pursuant to this Act;

(cg) "village commissioner" means a commissioner of a village;

(ch) "warden" means the council member chosen by the council of a county or district municipality to be the chair of the council;

(ci) "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;

(cj) "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. 1998, c. 18, s. 3; 2000, c. 9, s. 32; 2001, c. 35, s. 2; 2001, c. 6, s. 119; 2003, c. 9, s. 49; 2006, c. 40, s. 1; 2008, c. 36, s. 4; 2010, c. 64, s. 1; 2011, c. 4, s. 6; 2012, c. 63, s. 1.

PART I

THE MUNICIPALITY

Every municipality subject to Act

4 Every municipality incorporated at the date this Act comes into force is subject to this Act. 1998, c. 18, s. 4.

Regional municipalities continued

5 (1) The inhabitants of the County of Cape Breton are, and continue to be, a body corporate under the name "Cape Breton Regional Municipality".

(2) *repealed 2008, c. 39, s. 387.*

(3) The inhabitants of the County of Queens are, and continue to be, a body corporate under the name "Region of Queens Municipality". 1998, c. 18, s. 5; 2008, c. 39, s. 387.

References to regional municipalities

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

(2) A reference in an enactment to the

(a) mayor of a city or town; or

(b) warden of a municipality of a county or district, a rural municipality or a municipality pursuant to the *Municipal Act,*

includes the mayor of a regional municipality. 1998, c. 18, s. 6.

Municipalities of counties and districts continued

7 **(1)** The inhabitants, other than the inhabitants of an incorporated town, of each of

(a) the counties of Annapolis, Antigonish, Colchester, Cumberland, Inverness, Kings, Pictou, Richmond and Victoria; and

(b) the districts of Argyle, Barrington, Chester, Clare, Digby, East Hants, Guysborough, Lunenburg, Shelburne, St. Mary's, West Hants and Yarmouth,

are and continue to be bodies corporate under the name of the "Municipality of the (County or District) of .....".

(2) A municipality continued pursuant to this Section is a county or district municipality.

(3) A reference in an enactment to a municipality of a county or district, rural municipality or municipality pursuant to the *Municipal Act* is a reference to a county or district municipality.

(4) A reference in an enactment to the warden of a municipality of a county or district, rural municipality or municipality pursuant to the *Municipal Act* is a reference to the mayor or warden of a county or district municipality.

(5) The powers and jurisdiction of a county or district municipality do not include an incorporated town within the boundaries of the county or district municipality. 1998, c. 18, s. 7.

Towns continued

8 The inhabitants of an incorporated town are and continue to be a body corporate under the name of the "Town of .....". 1998, c. 18, s. 8.

Municipal name change

9 The Governor in Council may, on the request of the council of a municipality, change the name of the municipality to a name chosen by the council. 1998, c. 18, s. 9.

Government of municipality

10 **(1)** A municipality is governed by a council consisting of at least three members.

(2) One councillor shall be elected for each polling district in a county or district municipality and in a regional municipality.

(3) No more than two councillors shall be elected for each polling district in a town. 1998, c. 18, s. 10; 2000, c. 9, s. 33.

Election of mayor for towns and regional municipalities

11 (1) The mayor of a town or regional municipality shall be elected at large.

(2) Every person eligible to vote for a councillor of a town or regional municipality is eligible to vote for the mayor. 1998, c. 18, s. 11.

Selection of mayor for county or district municipalities

12 (1) The warden of a county or district municipality shall be chosen by the council members from among themselves.

(2) The term of office of the warden expires when the term of office of the council expires, unless prior to the selection of a warden, the council adopts a shorter term of office for the warden.

(3) The warden shall be chosen

(a) at the first meeting of the council in a regular election year after the time for applying for a recount has expired; or

(b) at the first meeting of the council after the expiration of the term of a warden or when the office of warden otherwise becomes vacant.

(4) The clerk shall preside at the meeting of the council at which the warden is to be elected, until the warden is elected.

(5) If a majority of the council members are unable to agree upon the choice of a warden, the clerk shall determine the warden from the two leading candidates by lot as provided in the *Municipal Elections Act*.

(6) The council of a county or district municipality may, by policy, adopt rules governing the election of a warden by the council members.

(7) The council of a county or district municipality may

(a) by a vote of two thirds of the council members; and

(b) on twenty days notice in writing to the clerk, the warden and the councillors,

remove a warden from office as warden and proceed to elect a new warden.

(8) The council of a county or district municipality may, at any time not less than nine months prior to a regular municipal election, decide that the chair of the council be elected at large, in which case

(a) commencing at the next regular municipal election, a mayor shall be elected at large for the municipality;

(b) every person eligible to vote for a councillor of the municipality is eligible to vote for the mayor;

(c) the total number of council members is increased by one unless the municipality has applied to the Board and the Board has determined otherwise;

(d) subsections (1) to (7) do not apply to the municipality.

(9) A decision made pursuant to subsection (8) may not be reversed after February 15 in the year in which the first mayor is to be elected, or subsequently. 1998, c. 18, s. 12; 2006, c. 40, s. 2.

Perpetual succession and seal

13 (1) A municipality has perpetual succession and shall have a common seal.

(2) The seal shall be kept by the clerk.

(3) The mayor or warden and clerk or the persons designated by the council by policy may sign a deed or other document to which the municipality is a party on behalf of the municipality. 1998, c. 18, s. 13.

Powers of council

14 (1) The powers of a 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. 1998, c. 18, s. 14.

Mayor or warden

15 (1) The mayor or warden shall preside at all meetings of the council.

(2) During the temporary absence of the mayor or warden, the deputy mayor or deputy warden shall preside and, if neither is present, the council may appoint a person to preside from among the council members present.

(3) The mayor or warden may

(a) monitor the administration and government of the municipality; and

(b) communicate such information and recommend such measures to the council as will improve the finances, administration and government of the municipality. 1998, c. 18, s. 15.

Deputy mayor or deputy warden

16 (1) The council shall select one of its council members to be the deputy mayor or deputy warden of the council.

(2) Prior to the selection of a deputy mayor or deputy warden, the council shall determine the term of office of the deputy mayor or deputy warden.

(3) The deputy mayor or deputy warden shall act in the absence or inability of the mayor or warden or in the event of the office of mayor or warden being vacant.

(4) The council may prescribe, by policy, additional duties and responsibilities of the deputy mayor or deputy warden.

(5) The deputy mayor or deputy warden has all the power and authority and shall perform all the duties of the mayor or warden when the deputy mayor or warden is notified that

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

(b) the office of mayor or warden is vacant. 1998, c. 18, s. 16; 2006, c. 40, s. 3.

Mayor or councillor resignation

17 (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) A mayor or councillor who ceases to be ordinarily resident in the municipality ceases to be qualified to serve as mayor or as councillor.

(4) A mayor or 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 a mayor or councillor has the approval of the council, a mayor or councillor may be ordinarily resident outside the municipality but within the Province for one period of not more than six months in a term. 1998, c. 18, s. 17; 2004, c. 7, s. 2.

Employment restriction for former council member

18 No council member may be employed by the municipality while a council member or for a period of six months after ceasing to be a council member. 1998, c. 18, s. 18.

Council meetings

19 **(1)** Notice of regular council meetings is not required.

(2) In addition to regular meetings, the council may hold such other meetings as may be necessary or expedient for the dispatch of business at such time and place as the council determines, if each council member is notified at least three days in advance and the clerk gives at least two days public notice of the meeting.

(3) Where the mayor or warden determines that there is an emergency, the council may meet without notice or with such notice as is possible in the circumstances.

(4) The clerk shall call a meeting of the council when required to do so by the mayor or warden or upon presentation of a written request signed by a majority of the councillors.

(5) When calling a meeting pursuant to subsection (4), the clerk shall give at least two days public notice of the meeting.

(6) Where 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. 1998, c. 18, s. 19; 2004, c. 7, s. 3.

Quorum of council

20 **(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 a 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 a council's numbers below the number required for a quorum, the remaining council members may make a decision at a meeting of 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

(a) three, for a council consisting of more than three members; or

(b) two, for a council consisting of three members,

due to vacancies in the council's numbers, the council may not make a decision except to take such steps as may be required to fill the vacancies. 1998, c. 18, s. 20.

Voting at a council meeting

21 **(1)** Unless otherwise prescribed by statute, 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. 1998, c. 18, s. 21.

Open meetings and exceptions

22 **(1)** Except as otherwise provided in this Section, council meetings and meetings of committees appointed by 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.

(3) No decision shall 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 which is open to the public shall be made, noting the fact that council met in private, the type of matter that was discussed, as set out in subsection (2) and the date, but no other information.

(5) Subsections (3) and (4) apply to committee meetings or parts of them that are not public.

(6) Any councillor or employee of a municipality who discloses any report submitted to, or details of matters discussed at, a private meeting of the council or committee, as a result of which the municipality has lost financially or the councillor or employee of a municipality has gained financially, is liable in damages to the municipality for the amount of the loss or gain.

(7) Subsection (6) does not apply to information disclosed pursuant to subsection (4) or subsection 473(2). 1998, c. 18, s. 22; 2000, c. 9, s. 34; 2003, c. 9, s. 50.

Council may make policies

23 **(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 or warden,

(ii) the annual remuneration to be paid to the deputy mayor or deputy warden,

(iii) the annual remuneration to be paid to councillors,

(iv) that part of the salary or remuneration that is an allowance for expenses incidental to the discharge of the duties of such persons as elected officers of the municipality,

(v) the deduction to be made from the remuneration of such persons for missing more than three council or committee meetings in a year, and

(vi) the rate per kilometre as a travelling allowance for such persons for actual distance travelled once each day to go to, and return from, every daily session of a meeting of the council or of a committee.

(2) 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. 1998, c. 18, s. 23.

Standing, special and advisory committees

24 (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. 1998, c. 18, s. 24.

Vacancy on board, commission or committee

25 **(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. 1998, c. 18, s. 25.

Citizen advisory committees

26 The council may establish, by policy, citizen advisory committees which shall advise the council, as directed by the council. 1998, c. 18, s. 26.

Community committees

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

(2) A policy establishing a community committee shall

(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 appropri-

ate 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. 1998, c. 18, s. 27.

PART II

ADMINISTRATION

Chief administrative officer

28 (1) Subject to subsection (2), the council may employ a person to be the chief administrative officer for the municipality.

(2) The council of a regional municipality shall employ a person to be the chief administrative officer for the regional municipality. 1998, c. 18, s. 28.

No chief administrative officer appointed

29 Where the council does not appoint a chief administrative officer, the council

(a) shall fulfil the responsibilities, and may exercise the powers, given to the chief administrative officer by this Act; and

(b) may delegate any of the responsibilities and powers of the chief administrative officer to an employee of the municipality. 1998, c. 18, s. 29.

Council and chief administrative officer relationship

30 (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. 1998, c. 18, s. 30.

Responsibilities of chief administrative officer

31 **(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 may not be filled by the same person,

(vi) determine the salaries, wages and emoluments to be paid to municipal officers and employees, including payment pursuant to a classification system,

(vii) where not otherwise provided for, fix the amount in which security is to be given by municipal officers and employees, the form of security, the manner in which security is to be given and approved and the nature of the security to be given;

(e) authorize, in the name of the municipality, the commencement or defence of a legal action or proceedings before a court, board or tribunal, including reporting the commencement of the legal action, defence or proceeding to the council at the next meeting and may, if the council so provides by policy, delegate this authority to employees of the municipality;

(f) where the council so provides by policy, settle a legal action or proceeding in accordance with the policy.

(3) A lease executed by the chief administrative officer is as binding on the municipality as if it had been specifically authorized by the council and executed by the mayor or warden and clerk on behalf of the municipality.

(4) Notwithstanding subsections 33(1), 37(1), 39(1) and Section 41, 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. 1998, c. 18, s. 31.

Reporting and accountability requirements

32 **(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 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. 1998, c. 18, s. 32.

Clerk

33 **(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. 1998, c. 18, s. 33.

Policy for records management and destruction

34 **(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 shall 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. 1998, c. 18, s. 34.

Sufficient proof in action or proceeding

35 Where, in an action or proceeding it is necessary to prove the authority of an employee of a municipality, a certificate under the hand of the clerk and the seal of the municipality stating that the employee has the authority is sufficient proof, without proof of the signature of the clerk or of the seal. 1998, c. 18, s. 35.

False certificate of clerk

36 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. 1998, c. 18, s. 36.

Treasurer

37 **(1)** The chief administrative officer shall designate an employee of the municipality to perform the duties of the treasurer of the municipality.

(2) The treasurer may delegate any of the powers or duties of the treasurer pursuant to this or any other Act of the Legislature to an employee of the municipality. 1998, c. 18, s. 37.

Duty of treasurer to advise council

38 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. 1998, c. 18, s. 38.

Engineer

39 **(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) A person shall not 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. 1998, c. 18, s. 39.

Approval or permission by engineer

40 (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 the

(a) 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. 1998, c. 18, s. 40.

Administrator for dangerous and unsightly premises

41 The chief administrative officer shall designate an employee of the municipality or other person to be the administrator responsible for the dangerous and unsightly premises provisions of this Act. 1998, c. 18, s. 41; 2000, c. 9, s. 35.

Municipal auditor

42 (1) The council shall appoint a municipal auditor who is registered pursuant to this Act to be the auditor for the municipality.

(2) The auditor shall report to the council on the accounts and funds

(a) administered by the council; and

(b) where the control is apparent or implied in the council.

(3) The auditor's report shall 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 30 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 a municipality, as reported on by the auditor, shall set out the remuneration paid to each council member and the chief administrative officer.

(7) No person shall be appointed as auditor who, at any time during the fiscal year in which the auditor is appointed, is or has been

(a) a council member;

(b) a contractor hired by the municipality; or

(c) an employee of the municipality,

except that an auditor may be reappointed as auditor. 1998, c. 18, s. 42; 2012, c. 63, s. 2.

Access by auditor

43 (1) The auditor has access at all times to the books, accounts and vouchers of the municipality and may require from the employees of the municipality such information and explanations as may be necessary for the performance of the auditor's duties.

(2) The employees of a municipality shall, on request, promptly provide access, information and explanations to the auditor. 1998, c. 18, s. 43.

Audit committee

44 (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. 1998, c. 18, s. 44.

Pension plans

45 **(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 shall not exceed the lesser of

(a) six per cent; or

(b) the percentage increase in the cost of living in the preceding year, as measured by the change in the Consumer Price Index for Canada prepared by Statistics Canada.

(8) The *Pension Benefits Act* applies to a pension plan established pursuant to this Section. 1998, c. 18, s. 45.

Employment not during pleasure

46 Notwithstanding the *Interpretation Act*, no employee of a municipality holds office during pleasure, unless a written agreement between the employee and the municipality provides otherwise. 1998, c. 18, s. 46.

PART III

POWERS

Resolutions, policies, by-laws

47 (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. 1998, c. 18, s. 47.

Policies

48 (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. 1998, c. 18, s. 48.

Power to make policies

49 (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 shall be included in the policy. 1998, c. 18, s. 49.

Powers of municipality regarding property

50 (1) A municipality may acquire and own property granted or conveyed to the municipality either absolutely or in trust for a public or charitable purpose.

(2) Where property is conveyed to a municipality in trust for a public or charitable purpose, the municipality holds the property according to the terms of the trust and may do anything necessary to carry out the objects of the trust.

(3) The property vested in a municipality, absolutely or in trust, is under the exclusive management and control of the council, unless an Act of the Legislature provides otherwise.

(4) Possession, occupation, use or obstruction of property of a municipality does not give an estate, right or title to the property.

(5) A municipality may

(a) acquire property, including property outside the municipality, that the municipality requires for its purposes or for the use of the public;

(b) sell property at market value when the property is no longer required for the purposes of the municipality;

(c) lease property owned by the municipality at market value;

(d) sell deeds for cemetery lots and certificates of perpetual care. 1998, c. 18, s. 50.

Sale or lease of municipal property

51 (1) A municipality may sell or lease property at a price less than market value to a nonprofit 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. 1998, c. 18, s. 51.

Sale to abutting owner

51A Where a 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 51, the sale price of the land so sold may be set by council at a price that is less than market value at the time of the sale. 2003, c. 9, s. 51.

Expropriation

52 (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 a municipality to expropriate property of another municipality.

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

(a) the municipality shall survey the property and prepare a description of it;

(b) municipal employees and agents of the municipality may enter upon the property to survey or examine it; and

(c) the municipality may make borings or other excavations in the property and shall reimburse the owner for any damage done if the expropriation is not completed.

(3) The *Expropriation Act* applies to expropriation proceedings by a municipality or a village. 1998, c. 18, s. 52.

Plebiscite

53 (1) A council may direct that a plebiscite be held in all or part of the municipality and that the clerk hold a public meeting in connection with the plebiscite.

(2) Where a plebiscite is directed, the clerk shall require the returning officer appointed pursuant to the *Municipal Elections Act* to conduct the plebiscite and it shall be conducted as closely as possible to the manner provided for the conduct of a special election pursuant to that Act.

(3) A plebiscite shall be held on a Saturday, as specified in the resolution, which shall be not less than ten weeks after the resolution directing the plebiscite is passed. 1998, c. 18, s. 53.

Police services

54 (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 a municipality has jurisdiction over the provision of the police services, notwithstanding that they are provided by a combination of methods.

(2) A municipality may contract with the Royal Canadian Mounted Police, the Minister of Justice or another municipality to provide police services. 1998, c. 18, s. 54.

Public transportation service

55 (1) A municipality may provide a public transportation service by

(a) the purchase of vehicles or vessels and operation of the service;

(b) providing financial assistance to a person who will undertake to provide the service; or

(c) a combination of these methods.

(2) The *Public Utilities Act* does not apply to a public transportation service within a municipality that provides the service. 1998, c. 18, s. 55.

Area improvement and promotion

56 (1) A municipality may

(a) beautify, improve and maintain property owned or leased by the municipality;

(b) pay grants to a body corporate for the purpose of promoting or beautifying a business district and for airport, wharf or waterfront development;

(c) identify and promote a business district as a place for retail and commercial activity;

(d) establish or maintain parking facilities.

(2) The municipality may levy an area rate applicable only to the commercial property 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. 1998, c. 18, s. 56.

Business and industrial development

57 **(1)** A 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) A municipality shall not grant a tax concession or other form of direct financial assistance to a business or industry. 1998, c. 18, s. 57.

Regional libraries

58 (1) A municipality may enter into and carry out agreements for providing regional libraries and other purposes pursuant to the *Libraries Act*.

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

(3) Where a regional municipality provides library services directly, it is the regional library board for purpose of grants made pursuant to the *Libraries Act*. 1998, c. 18, s. 58.

Highway and housing agreements

59 A municipality may enter into and carry out agreements

(a) for highway construction, improvement and maintenance and other purposes pursuant to the *Public Highways Act*;

(b) with

(i) the Minister of Community Services or Canada Mortgage and Housing Corporation with respect to housing projects, or

(ii) any body corporate or agency having similar objects to Canada Mortgage and Housing Corporation with respect to projects pursuant to the *National Housing Act* (Canada);

(c) with the Government of the Province with respect to the development, operation or maintenance of trails on land of Her Majesty in right of the Province. 1998, c. 18, s. 59; 2001, c. 35, s. 3.

Municipality and village service agreements

60 (1) A municipality or a village 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 a municipality or village pursuant to subsection (1) may

(a) include any service provided by the municipality or village, as the case may be;

(b) include the provision of services within or outside the municipality or village, as the case may be;

(c) delegate the power to provide the service to a committee representing each of the participating municipalities and villages, to a district planning commission or to a party to the agreement.

(3) An agreement made by a municipality or village 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 a municipality or village pursuant to subsection (1) creates a body corporate

(a) a copy of the agreement shall be filed with the Registrar of Joint Stock Companies; and

(b) the participating municipalities and villages may guarantee its borrowings. 1998, c. 18, s. 60; 2000, c. 9, s. 36; 2001, c. 35, s. 4.

Agreements

61 **(1)** A municipality or a village may agree with any person for the provision of a service or a capital facility that the municipality or village is authorized to provide.

(2) An agreement made pursuant to subsection (1) may allow for the lease, operation or maintenance of the facility or provision of the service by a person, including the sale or disposition to that person of property of the muni-

cipality or village that continues to be required for the purposes of the municipality or village, as the case may be. 1998, c. 18, s. 61.

Flag, symbol or coat-of-arms

62 **(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. 1998, c. 18, s. 62.

Municipal powers respecting trees

63 **(1)** A municipality may

(a) remove dead, dying or diseased trees on public and private property;

(b) recommend and encourage

(i) the proper pruning, protection and repair of privately owned trees in the municipality,

(ii) the planting of trees of suitable species at desirable sites within the municipality.

(2) A municipality shall 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 situate, 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) A 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 a municipality without the written consent of the municipality is guilty of an offence, and is guilty of a separate offence for each tree defaced, mutilated or cut.

(12) A municipality may borrow for a term not exceeding ten years for the cost of a major tree removal program. 1998, c. 18, s. 63.

PART IV

FINANCE

Fiscal year

64 The fiscal year of a municipality begins on April 1 and ends on March 31 in the following year. 1998, c. 18, s. 64.

Power to expend money

65 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 nonprofit 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 or warden, councillors, officers and employees of the municipality;

(s) the reasonable expenses incurred by the mayor or warden 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;

(aaa) 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;

(ab) 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;

(ac) a system for the supply or distribution of electricity, gas, steam or other source of energy;

(aca) providing for, financing and installing energy-efficiency equipment on private property including, without restricting the generality of the foregoing, solar panels;

(ad) pounds;

(ae) a fire alarm system;

(af) ponds, reservoirs, brooks, canals and other means of accumulating or directing the flow of water to be used in extinguishing fires;

(ag) playgrounds, trails[,] including trails developed, operated or maintained pursuant to an agreement made under clause 59(c), bicycle paths, swimming pools, ice arenas and other recreational facilities;

(ah) public grounds, squares, halls, museums, parks, tourist information centres and community centres;

(ai) public markets;

(aj) property held by trustees for the use of the public;

(ak) wastewater facilities and stormwater systems;

(al) water systems;

(am) solid-waste management facilities;

(an) buildings for a medical centre to encourage medical doctors, dentists and other health professionals to locate in the municipality or a part of it;

(ao) industrial parks, incubator malls and land and other facilities for the encouragement of economic development;

(ap) parking lots and parking structures;

(aq) landing strips and airports;

(ar) wharves and public landings;

(as) carrying out an agreement with the Minister of Community Services, Canada Mortgage and Housing Corporation or a body corporate or agency made under clause 59(b);

(at) 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;

(au) 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 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,

(va) a day care licensed under the *Day Care Act*,

(vi) a registered Canadian charitable organization,

(vii) a village,

and the municipality shall publish annually a list of the organizations and grants or contributions made pursuant to this clause in a newspaper circulating in the municipality;

(av) 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, its mayor or warden, council or officers. 1998, c. 18, s. 65; 2001, c. 35, s. 5; 2003, c. 9, s. 52; 2004, c. 7, s. 4; 2005, c. 9, s. 6; 2012, c. 27, s. 1; 2012, c. 63, s. 3.

Power to borrow money

66 (1) A municipality may borrow to carry out an authority to expend funds for capital purposes conferred by this Act or another Act of the Legislature.

(2) The authority to borrow and expend money conferred by this Section may be exercised in respect of any land, building or undertaking owned by

the municipality, even if all or part of the land, building or undertaking is located in another municipality.

(3) Where a municipality or village enters into a joint undertaking with a municipality, village or service commission for a purpose for which it is authorized to borrow and expend money, it may borrow its portion of the cost of the undertaking irrespective of which party or inter-municipal corporation will own the undertaking.

(4) A municipality may borrow money

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

(b) to pay and retire debentures;

(c) where a municipality is authorized by an Act of the Legislature to give a guarantee, to honour such a guarantee that it is called upon to pay;

(d) to carry out an agreement made pursuant to clause 59(c);

(da) to demolish a building or structure that is owned by the municipality;

(e) for the purpose of making a loan to a registered fire department or registered emergency services provider. 1998, c. 18, s. 66; 2001, c. 35, s. 6; 2004, c. 7, s. 5; 2005, c. 55, s. 1; 2008, c. 25, s. 1.

Expenditure for municipal purpose

67 Where an Act of the Legislature authorizes or directs a municipality to make an expenditure, enter into a contract or guarantee or take action as a result of which it may be required to pay money, the sums required are for the ordinary lawful purposes of the municipality. 1998, c. 18, s. 67.

Sharing of taxes or grants in lieu

68 A municipality may agree with another municipality to share taxes or grants in lieu of taxes paid or payable to the municipality. 1998, c. 18, s. 68.

Low income tax exemption policy

69 (1) In this Section and Section 70, "income" means a person's total income from all sources for the calendar year preceding the fiscal year of the municipality and, if 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. 1998, c. 18, s. 69; 2004, c. 7, s. 6.

Policy for reduction of taxes where destruction

69A (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, shall not change the assessment of the property except in accordance with the *Assessment Act*. 2001, c. 14, s. 2.

By-law for postponed payment of rates and taxes

70 (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 a municipality's entitlement to collect postponed taxes does not begin until the period of postponement expires.

(4) Where a municipality provides that only a portion of the taxes due may be postponed and where the portion that is required to be paid is three years overdue, the period of postponement terminates 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, a council shall not relieve a taxpayer from all or a portion of taxes. 1998, c. 18, s. 70.

Tax exemption policy for certain organizations

71 (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 nonprofit 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) and (d) *repealed 2001, c. 14, s. 3.*

(e) 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 nonprofit 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 shall 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 or the fire protection rate unless specified in the policy.

(6) A policy made pursuant to this Section has effect in the fiscal year following the fiscal year in which it is published, unless the policy sets a different effective date, including an effective date retroactive to the beginning of the current fiscal year. 1998, c. 18, s. 71; 2001, c. 14, s. 3; 2001, c. 35, s. 7; 2005, c. 9, s. 7; 2008, c. 25, s. 2.

Tax reduction by-law for day cares

71A (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. 2004, c. 7, s. 7; 2005, c. 9, s. 8.

Business occupancy tax exemption by-law for day cares

71B 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. 2004, c. 7, s. 7.

Estimates of required sums

72 (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 which 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.

(6A) 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 shall be 75% of the commercial tax rate.

(7) The tax rates shall be those which the council deems sufficient to raise the amount required to defray the estimated requirements of the municipality. 1998, c. 18, s. 72; 2005, c. 9, s. 9.

Tax rates

73 **(1)** Subject to subsection (2), a council may set separate commercial and residential tax rates for the area of the municipality determined by the council to be

(a) a rural area receiving a rural level of services;

(b) a suburban area receiving a suburban level of services; and

(c) an urban area receiving an urban level of services.

(2) The council of Halifax Regional Municipality shall set separate commercial and residential tax rates for the area of the Halifax Regional Municipality determined by the council to be

(a) a rural area receiving a rural level of services;

(b) a suburban area receiving a suburban level of services; and

(c) an urban area receiving an urban level of services. 1998, c. 18, s. 73.

Minimum tax

74 (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 shall be determined by the Director of Assessment whose decision may be appealed to the Board. 1998, c. 18, s. 74.

Area rates and uniform charges

75 (1) The council may spend money in an area, or for the benefit of an area, for any purpose for which a municipality may expend funds or borrow.

(2) 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) A council may expend money within an area for any lawful purpose and may raise all, or part of it, by a general rate on the whole municipality.

(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. 1998, c. 18, s. 75; 2005, c. 9, s. 10.

Recreational property tax

76 (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. 1998, c. 18, s. 76.

Grant respecting conservation property

76A (1) The Minister of Environment shall in each year pay to the municipality in which conservation property exempt from taxation is situate a grant equal to the amount that would have been due and payable to the municipality had each conservation property in the municipality continued to be classified as it was immediately before becoming conservation property.

(2) Notwithstanding anything in this Act or any other Act of the Legislature authorizing a tax on the assessed value of property, no change in use tax is payable by reason of a property becoming conservation property.

(3) Where any land, or part thereof, to which this Section applies, ceases to be conservation property, a change in use tax, 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 in which the land is situate by the person determined by the assessor to have been responsible for the change in use.

(4) Notwithstanding subsection (3), no change in use tax is payable by reason of the ownership of conservation property being transferred to Her Majesty in right of the Province or Canada or to a municipality. 2008, c. 36, s. 5.

Farm property

77 (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 shall not exceed one acre or the minimum size required by any applicable law, whichever is larger; and

(d) change in use tax is not payable if the land ceases to be used for agricultural purposes.

(5) For the purpose of subsections (6) and (7), "transfer" includes conveyance, reservation to and setting aside for.

(6) The change in use tax is payable by the transferor of land referred to in subsection (4) in accordance with this Section if, within seven years of the date of the transfer, the owner of the lot, grantee of the lot or person for whom the lot is reserved or set aside transfers the lot to any person other than a 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). 1998, c. 18, s. 77; 2000, c. 9, s. 37.

Forest property tax

78 (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, village or commission rate is levied for fire protection, the owner is liable to pay an additional annual tax not exceeding one cent per acre, as the authority levying the area, village or commission rate determines.

(2) Where any land, or part thereof, to which this Section applies, ceases to be land used for forestry purposes, a change in use tax, 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) shall not exceed one acre or the minimum size required by any applicable law, whichever is larger.

(5) If, within seven years of the date of the transfer, conveyance or reservation to or setting aside for the owner of a lot referred to in subsection (3), the grantee of the lot or person for whom the lot is reserved or set aside transfers the lot to any person other than a 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). 1998, c. 18, s. 78.

Commercial rent increase where tax increase

78A (1) Notwithstanding any provision in a lease, licence or permit for commercial property that is in existence at the time of the coming into force of this Section, 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. 2005, c. 9, s. 11.

User charges

79 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. 1998, c. 18, s. 79.

Fire protection rate

80 (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. 1998, c. 18, s. 80; 2001, c. 35, s. 8; 2005, c. 9, s. 12.

By-law regarding payment of charges

81 **(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;

(ba) solid-waste management facilities;

~~(bc)~~[(bb)]transit facilities;

(c) the municipal portion of the capital cost of installing a water system;

(d) 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 Public Works or any person;

(da) laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with private roads, where the cost is incurred

(i) by the municipality, or

(ii) under an agreement between the municipality and a person;

(e) the municipal portion of the cost of a major tree removal program or the cost of removing trees from a private property;

(f) the municipal portion of the capital cost of placing the wiring and other parts of an electrical distribution system underground;

(g) depositing in a special purpose tax account to provide for future expenditures for wastewater facilities, stormwater systems, water systems, transit facilities or other anticipated capital requirements.

(2) The council may, by by-law

(a) define classes of buildings to be erected or enlarged according to the varying loads that, in the opinion of 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 installments set out in the by-law and, upon default of payment of any installment, 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 installments, 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) A municipality may install the wastewater facilities, stormwater system, water system and system for the supply or distribution of gas, steam or other source of energy of the municipality outside its boundaries and may enter into contracts to provide the services.

(6) A municipality may charge for services provided outside the municipality in the same manner in which the service is charged for within the municipality, provided that 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. 1998, c. 18, s. 81; 2001, c. 35, s. 9; 2004, c. 7, s. 8; 2006, c. 40, s. 4.

By-law regarding energy-efficient equipment charges

81A (1) The council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for the installation of energy-efficiency equipment on private property with the consent of the property owner including, without restricting the generality of the foregoing, solar panels.

(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. 2012, c. 27, s. 2.

Interest payable

82 Interest is payable on unpaid taxes and charges levied pursuant to this Part at the same rate as for other outstanding taxes. 1998, c. 18, s. 82.

Special purpose tax accounts

83 **(1)** All sums raised by a special purpose tax shall 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. 1998, c. 18, s. 83.

Borrowing limits

84 A municipality may borrow to cover the annual current expenditure of the municipality that has been authorized by the council, but the borrowing shall 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. 1998, c. 18, s. 84.

Borrowing for village or service commission

85 (1) A municipality within which all or part of a village or service commission lies may borrow money and pay it to the village or service commission for any of the purposes for which the commission has authority to expend money.

(2) A municipality may lend money to a village or service commission with interest at the rate, and on the terms, agreed upon.

(3) Where the municipality collects the taxes on behalf of the village or 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 village or service commission defaults in either principal or interest, the municipality shall recover the amounts in default by an area rate levied on the assessed value of the taxable property and occupancy assessment in the area of the village or 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. 1998, c. 18, s. 85; 2005, c. 9, s. 13.

Minister may establish borrowing limits

86 (1) The Minister may in each fiscal year, establish borrowing limits for a municipality, village or service commission.

(2) Where borrowing limits are established, a municipality, village or service commission may not borrow money pursuant to this Act or another Act of the Legislature, unless the proposed borrowing is within the limits established.

(3) Subsections (1) and (2) do not apply to borrowing for the purpose of defraying part of the annual current expenditure of a municipality, village or service commission. 1998, c. 18, s. 86.

Capital budget filing

87 The Minister shall not establish borrowing limits or approve a borrowing resolution for a municipality, village or service commission in a fiscal year

unless the municipality, village or service commission, as the case may be, has filed with the Minister its capital budget for that fiscal year in the form prescribed by the Minister. 1998, c. 18, s. 87.

Ministerial approval

88 (1) No money shall be borrowed by a municipality, village, committee created by an intermunicipal services agreement or service commission pursuant to the provisions of this Act or another Act of the Legislature until the proposed borrowing has been approved by the Minister.

(2) Subsection (1) and subsection 438(2) do not apply to a borrowing for the purpose of defraying part of the annual current expenditure of a municipality, village or service commission.

(3) A guarantee by, or on behalf of, a municipality, village or service commission of a borrowing or debenture is not effective unless the Minister has approved of the proposed guarantee.

(4) A municipality may enter into a lease, lease-purchase or other commitment to pay money over a period extending beyond the end of the current fiscal year, provided that where the total commitment exceeds one hundred thousand dollars, the proposed commitment has been approved by the Minister.

(5) Subsection (4) does not apply to an employment contract or collective agreement. 1998, c. 18, s. 88; 2000, c. 9, s. 39; 2001, c. 35, s. 10.

Guarantee payment of debentures

89 A county or district municipality may, subject to the approval of the Minister, guarantee the payment of the principal and interest of debentures of a village situate wholly or partly within it. 1998, c. 18, s. 89.

Village or service commission borrowing

90 (1) No money shall be borrowed by a village or service commission under the provisions of this Act or another Act of the Legislature until the commission obtains the approval of the electors for the proposed borrowing at a public meeting called by advertisement placed in a newspaper circulating in the area of the village or service commission, and posted in not less than two conspicuous places within the area, the advertisements to appear at least fourteen days before the date set for the meeting.

(2) Subsection (1) does not apply to a borrowing

(a) to pay and retire, at maturity, debentures of the village or service commission; or

(b) for the purpose of defraying the annual current expenditure of the village or service commission, if the aggregate borrowing

for the fiscal year does not, at any time, exceed one half of the total amount of taxes levied for the current fiscal year. 1998, c. 18, s. 90.

Approved borrowing requirements

91 **(1)** Where a 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 installments, 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 or warden and clerk or the persons designated by the council, by policy, shall sell and deliver the debentures on behalf of the municipality at the price, in the sums and in the manner they deem proper.

(3) The mayor or warden and clerk or the persons designated by the council, by policy, may

(a) change the sums of the debentures at any time from the amounts determined by the council, provided that the total principal amount payable in any one fiscal year is not changed;

(b) before the debentures are sold, reduce the rate of interest from that determined by the council;

(c) exchange debentures, provided the rate of interest is not increased and the total principal amount payable in any one fiscal year is not changed. 1998, c. 18, s. 91.

Debenture postponement

92 **(1)** Where a municipality is authorized to borrow money, the municipality may, with the approval of the Minister, postpone the issue of debentures and borrow the money on terms and conditions agreed upon with the lender.

(2) Money borrowed without the issue of debentures 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. 1998, c. 18, s. 92.

Debenture records

93 The treasurer shall keep a record of all debentures of the municipality. 1998, c. 18, s. 93.

Form of debenture

94 **(1)** A debenture shall be

(a) in the form approved by the council; and

(b) signed by the mayor or warden and clerk or the persons designated by the council, by policy, and sealed with the municipal seal.

(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. 1998, c. 18, s. 94.

Debenture payment requirements

95 **(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. 1998, c. 18, s. 95.

Debenture certificate

96 **(1)** Every debenture of a municipality shall bear a certificate of the Deputy Minister to the effect that the debenture is valid and binding according to its terms, and the validity of every debenture is not open to question in any court in the Province.

(2) The certificate required pursuant to subsection (1), when signed by the Deputy Minister, is conclusive evidence that

(a) the municipality had authority to issue the debenture;

(b) the debenture was lawfully issued;

(c) the debenture is valid and binding on the municipality according to its terms; and

(d) the validity of the debenture is not open to question in any court in the Province.

(3) The Deputy Minister may sign the certificate if the Deputy Minister is of the opinion that the municipality has substantially complied with the provisions of the statutes pursuant to which the debentures are issued.

(4) The signature of the Deputy Minister may be reproduced by mechanical means.

(5) Non-compliance with this Act does not invalidate an irregular or informal debenture and the holder of such a debenture may, on an *ex parte* application, obtain from a judge of the Supreme Court of Nova Scotia an order requiring the issuance of a new and proper debenture in replacement of the irregular or informal debenture. 1998, c. 18, s. 96.

Debenture a municipal lien

97 The principal and interest of a debenture are a lien and charge on all assets of the municipality. 1998, c. 18, s. 97.

Debenture sinking fund

98 (1) When a municipality issues debentures, the municipality may provide for a sinking fund for the debentures.

(2) The municipality shall annually pay into the sinking fund an amount that the council considers sufficient to provide for the repayment of the debentures when they fall due.

(3) The Minister may require a municipality to establish a sinking fund for any issue of debentures and may specify the annual amount to be paid into it.

(4) A premium realized from the sale of debentures shall be paid into the sinking fund, but if there is no sinking fund the premium may be used for any purpose for which a municipality may borrow money.

(5) Except as provided in this Section, no part of a sinking fund or interest on it shall be used for any purpose but paying the principal of the debentures for which the fund was provided.

(6) The Minister may permit a municipality to cease paying into the sinking fund if the Minister determines that the amount in the sinking fund will be sufficient to provide for the payment of the debentures for which the fund was provided.

(7) The Minister may permit a municipality to withdraw from a sinking fund an amount not exceeding the amount by which the sinking fund exceeds the amount of the debentures for which the fund was provided.

(8) Any surplus remaining in a sinking fund after the debentures for which the fund was provided have been repaid shall be transferred to the municipality's capital reserve fund. 1998, c. 18, s. 98.

Capital reserve fund

99 **(1)** A 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 a 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) A municipality may maintain other reserve funds for such purposes as the council may determine. 1998, c. 18, s. 99.

Investment of funds

100 (1) Funds in a sinking fund, capital reserve fund, utility depreciation fund or other fund of a municipality or village shall be

(a) deposited in an interest bearing account at a bank doing business in the Province;

(b) invested pursuant to an investment policy adopted by the council or village commission, as the case may be, and approved by the Minister; or

(c) invested in investments in which a trustee is permitted to invest pursuant to the *Trustee Act*.

(2) Income arising from the investment of a fund is part of that fund unless the council or village commission otherwise provides.

(3) The council or village commission may pledge any investments to the credit of the capital reserve fund as collateral security for a borrowing for a capital purpose. 1998, c. 18, s. 100; 2012, c. 63, s. 4.

PART V

DEED TRANSFERS

Deed transfer affidavit

101 (1) Notwithstanding the *Registry Act*, the registrar of deeds shall not accept for registration a deed

(a) where the property, or any part thereof, is situate within a municipality that levies a deed transfer tax, unless it is accompanied by the affidavit required pursuant to this Part and a certificate issued by the treasurer stating that the deed transfer tax has been paid in full or that no deed transfer tax is payable;

(b) where the whole of the property is situate within a municipality that does not levy a deed transfer tax, unless it is accompanied by the affidavit required pursuant to this Part.

(2) The grantee shall file an affidavit made by the grantee or by someone having full knowledge of the facts setting out

(a) the names of the parties;

(b) the location of the property;

(c) the sale price of the property with full details of the consideration, including the amount of any lien or encumbrance subject to which the transfer was made; and

(d) any other information prescribed by the Minister.

(3) The affidavit shall be filed within ten days of the transfer.

(4) Where the affidavit is not made by the grantee, it shall state that the person making it has personal knowledge of the facts stated therein.

(5) Where the affidavit is made by a person other than the grantee, that person is personally liable, jointly and severally, with the grantee for payment of any deed transfer tax.

(6) Where the grantee claims exemption from the deed transfer tax, the affidavit shall set out the facts on which the grantee claims to be exempt and, in the case of a registered Canadian charitable organization, shall give the number of its registration pursuant to the *Income Tax Act* (Canada).

(7) Where it appears from the face of the certificates of execution that a deed was executed prior to the time that a municipality imposed a deed transfer tax and it is not practical to ascertain from any of the parties to the deed particulars of the sale price of the property, the affidavit may set out those facts in lieu of the sale price.

(8) Where the municipality levies a deed transfer tax, the affidavit shall be filed with the treasurer and where the municipality does not levy a deed transfer tax, the affidavit shall be filed in the registries for every registration district within which a part of the property is situate.

(9) The affidavit shall be in the form, and contain the information, prescribed by the Minister.

(10) The exercise by the Minister of the authority contained in subsection (9) is regulations within the meaning of the *Regulations Act*.

(11) Notwithstanding subsection (2), the treasurer may require that the affidavit be filed electronically.

(12) Notwithstanding subsection (2), the registrar may require that the affidavit or the affidavit and certificate, as the case may be, be filed electronically.

(13) An affidavit, including all signatures and the certificate of execution that is filed electronically, is deemed to be the original affidavit for all purposes.

(14) Where there is a difference between a copy of an affidavit that is filed electronically and one that is filed in writing, the copy that is filed electronically is deemed to be the original, even if the written copy contains an original signature of a party or witness.

(15) An affidavit or certificate filed electronically has the same legal effect as an affidavit or certificate filed in writing.

(16) An affidavit or certificate filed electronically that is certified as a true copy by the treasurer or registrar is admissible in court in the same manner as the original.

(17) Every person who makes an affidavit that contains a false statement is guilty of an offence. 1998, c. 18, s. 101; 2005, c. 55, s. 2.

Sale price may be published

101A (1) Notwithstanding any enactment, the registrar of deeds may publish

(a) sale price; and

(b) any related information prescribed by the Minister,

obtained from an affidavit that is filed pursuant to Section 101 on or after July 1, 2010.

(2) The exercise by the Minister of the authority contained in clause (1)(b) is regulations within the meaning of the *Regulations Act*. 2012, c. 28, s. 1.

Assessor always entitled to information in affidavit

101B For greater certainty, information contained in an affidavit filed pursuant to Section 101 or predecessor legislation is permitted to be disclosed, and has always been permitted to be disclosed, to an assessor for the purpose of the *Assessment Act*. 2012, c. 28, s. 1.

Deed transfer tax by-law

102 (1) A council may determine, by by-law, that a deed transfer tax applies in the municipality and the rate of the deed transfer tax, but the rate of the deed transfer tax shall not exceed one and one half per cent of the value of the property transferred.

(2) A deed transfer tax applies to the sale price of every property that is transferred by deed. 1998, c. 18, s. 102.

Apportionment of deed transfer tax

103 Where only part of a property is within a municipality, the deed transfer tax applies to that part of the value that is apportioned by the Director of Assessment to the part of the property within the municipality, and the decision of the Director of Assessment on such apportionment is final. 1998, c. 18, s. 103.

Deed transfer tax payment

104 The deed transfer tax shall be paid by the grantee named in the deed within ten days of the transfer. 1998, c. 18, s. 104.

Incorrect property sale price

105 (1) Where the treasurer is not satisfied that the affidavit sets out the correct sale price or is not able to determine the sale price from the affidavit, the treasurer may refuse to accept the affidavit and issue the certificate and shall so advise the grantee.

(2) The grantee may either tender a revised affidavit or may tender the affidavit to the regional assessment appeal court that has jurisdiction over the assessment appeal region that includes the municipality.

(3) The regional assessment appeal court shall proceed to determine the sale price and for that purpose may examine persons on oath.

(4) The determination of the regional assessment appeal court is final. 1998, c. 18, s. 105; 2005, c. 55, s. 3.

Treasurer to endorse deed

106 Where the municipality levies a deed transfer tax, the treasurer shall issue in writing, or electronically, a certificate stating that, as computed from the affidavit filed, the deed transfer tax is paid in full or no deed transfer tax is payable. 1998, c. 18, s. 106; 2005, c. 55, s. 4.

Interest on deed transfer tax

107 Where the grantee does not pay the deed transfer tax when due, the grantee shall pay interest at the rate determined by the council, by policy, until paid, beginning ten days after the transfer and shall pay an additional penalty of ten per cent on any deed transfer tax that remains unpaid after thirty days from the transfer. 1998, c. 18, s. 107.

Deed transfer tax is a lien

108 (1) The deed transfer tax, with interest and penalty, is a lien upon the property transferred.

(2) The lien attaches on the date when the deed transfer tax is due and may be collected in the same manner as taxes.

(3) The tax is a first lien on the real property and may be collected in the same manner as taxes. 1998, c. 18, s. 108.

Deed transfer tax exemptions

109 (1) Where a deed transfers property

(a) between persons married to one another;

(aa) to a municipality;

(b) between persons formerly married to one another, if the transfer is for the purpose of division of marital assets; or

(c) by way of gift, notwithstanding that

(i) the deed transfers property subject to an encumbrance, including a mortgage or a tax lien, and the grantee assumes the amount of the encumbrance, including interest and expenses, or

(ii) there is a nominal consideration therefor,

it is exempt from deed transfer tax.

(2) Where

(a) a deed merely confirms, corrects, modifies or supplements a deed previously given;

(b) there is no consideration beyond one dollar; and

(c) the deed does not include more property than the deed previously given,

it is exempt from deed transfer tax.

(3) A deed from the Nova Scotia Farm Loan Board to a borrower under the *Agriculture and Rural Credit Act* is not subject to deed transfer tax.

(4) A deed given pursuant to a tax sale is not subject to deed transfer tax.

(5) A deed is not subject to deed transfer tax if the certificates of execution for the deed show, on their face, that they were signed by the official prior to the date on which the municipality adopted a deed transfer tax.

(6) A deed which transfers property pursuant to an agreement of purchase and sale entered into prior to the date on which the municipality adopted a deed transfer tax, is not subject to deed transfer tax.

(7) Where the grantee is a registered Canadian charitable organization, a deed is exempt from the deed transfer tax if the property is not to be used for any commercial, industrial, rental or other business purpose and if an officer of the grantee makes and files an affidavit to that effect.

(8) Notwithstanding subsection (7), where, within three years after the filing of the affidavit, the property is used by the grantee for a commercial, industrial, rental or other business purpose or is sold or conveyed by the grantee, the treasurer shall compute the deed transfer tax for which the grantee would have been liable if the grantee had not been a registered Canadian charitable organization and the grantee is liable to pay the amount of the tax and interest on it at the rate of ten

per cent per annum computed from the date of the deed referred to in subsection (7). 1998, c. 18, s. 109; 2000, c. 9, s. 41; 2003, c. 9, s. 53.

Registrar of Deeds as agent and collector

110 Where the council and the Minister agree that the Registrar of Deeds is to be the municipality's agent and collector of the deed transfer tax, the Registrar is the municipality's agent and collector and has all of the powers of the treasurer pursuant to this Part. 1998, c. 18, s. 110.

PART VI

TAX COLLECTION

Payment of taxes

111 (1) The council may determine

(a) the due date for taxes;

(b) that taxes are payable in one sum or by installments.

(2) Where a council has not set a due date for payment of taxes, taxes are due and payable as soon as the tax rate is set.

(3) Where payment of taxes by installments is authorized, the council may provide that in default of payment of an installment when due, the balance of taxes outstanding are immediately due and payable. 1998, c. 18, s. 111.

Payment of taxes by installments

112 (1) The council may, by policy, provide for the payment of taxes by installments before the tax rate is set.

(2) The policy shall set out the date or dates on which the installments are due and the manner in which the amount of each installment is calculated.

(3) Each installment shall be payable by the person assessed for the property for the current fiscal year.

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

(5) Installments paid shall be applied in part payment of the taxes on that property for the current fiscal year. 1998, c. 18, s. 112.

Incentives and interest

113 (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 shall be added to the unpaid taxes and shall be collected as if the interest originally formed part of the unpaid taxes.

(4) Interest shall 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 shall be 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 shall 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. 1998, c. 18, s. 113.

Taxes paid in error or overpaid

113A (1) The Governor in Council may make regulations respecting taxes paid in error or overpaid and, without limiting the generality of the foregoing, may make regulations

(a) requiring a municipality to refund taxes paid in error or overpaid;

(b) limiting the time for applying for a refund;

(c) respecting the payment of interest.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2008, c. 26, s. 1.

Tax collection where assessment appeal

114 (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 a council has not adopted a policy on the rate of interest, the rate is the rate of interest on overdue taxes. 1998, c. 18, s. 114.

Taxes are first liens

115 Change in use tax, forest property tax and recreational property tax are first liens upon the property in respect of which they are levied. 1998, c. 18, s. 115.

Taxes in respect of other properties

116 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. 1998, c. 18, s. 116.

Tax bills

117 **(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 shall 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 shall contain a concise statement of the terms of incentives for early payment of taxes, interest on overdue taxes and installment payment options allowed by the council.

(5) Where there is an error in the name of a person in a tax bill, the taxes may be collected from the person intended to be taxed if the person is taxable and can be identified. 1998, c. 18, s. 117.

Certificate as prima facie evidence

118 A certificate purporting to be signed by the treasurer that a person is liable to the municipality for the sum claimed for taxes and that a specified balance has not been paid is, without proof of the signature or the official character of the treasurer, *prima facie* evidence in any court of the facts stated. 1998, c. 18, s. 118.

Power to sue for and recover taxes

119 **(1)** The treasurer may, at any time, sue for and recover all taxes and other sums due to the municipality in an action in the name of the municipality as if the amount were a debt.

(2) Any proceedings for the collection of taxes pursuant to this Act may be pursued even if a judgment for taxes has been entered.

(3) A municipality may set off a sum due from a person to the municipality against a claim that person has against the municipality. 1998, c. 18, s. 119.

Warrant

120 (1) A judge of the provincial court, mayor, warden or councillor may, upon application by the treasurer, issue a warrant in Form A in 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) shall be in the form of an affidavit setting out the

(a) amount in which the person is indebted to the municipality; and

(b) belief, with or without statement of the grounds of the belief, of the treasurer that unless the person's goods are distrained the taxes will be lost to the municipality. 1998, c. 18, s. 120.

Issue of warrant

121 At any time after the due date for taxes, the treasurer may proceed to issue warrants, in Form A in Schedule A or to like effect, for the collection of all taxes then due and unpaid. 1998, c. 18, s. 121.

Articles exempt from seizure

121A Articles that are exempt from seizure under Section 45 of the *Judicature Act* are exempt from seizure under a warrant issued under Section 121. 2005, c. 55, s. 5.

Limitation on issuance of warrant

122 A warrant may be issued at any time within six years from the time when the taxes become due and remains valid until executed. 1998, c. 18, s. 122.

Warrant enforcement

123 (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 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 that issued it.

(4) The person to whom a warrant is directed shall levy the taxes for which the warrant was issued, with collection costs and expenses, by distress and sale of the goods and chattels of the person or of the goods and chattels in that person's possession, wherever situate.

(5) The property levied upon may be removed to any place for safekeeping and the cost of removal and storage are part of the collection expenses.

(6) The person executing a warrant is entitled to the fees set by 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. 1998, c. 18, s. 123.

Sale of distrained goods

124 (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) If 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. 1998, c. 18, s. 124.

Procedure for remaining balance

125 (1) If 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, its treasurer or other officer liable for costs. 1998, c. 18, s. 125.

Taxes on property of deceased person

126 (1) The property of a deceased person is liable for taxes levied with respect to the property before or after death, and the property is liable to be sold for non-payment of taxes.

(2) The tax bills may be served on the executor or administrator, sent to the last address of the deceased person or posted upon the property.

(3) Where there is no executor or administrator, property of a deceased person may be levied on and sold for non-payment of taxes.

(4) The executors or administrators shall pay the taxes out of the property of the deceased person that comes into their hands and are personally liable for the taxes to the extent of the property or income of the deceased person that comes under their control. 1998, c. 18, s. 126.

Property assessed to person in representative capacity

127 (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 shall 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. 1998, c. 18, s. 127.

Security interest in personal property

128 **(1)** In this Section and Section 129, "security interest" has the same meaning as in the *Personal Property Security Act*.

(2) Where personal property, other than a mobile home, is taken or repossessed pursuant to a security interest and sold, or is sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied by the municipality in which the personal property was situate when taken with respect to the business occupancy assessment of the owner or person who was in possession of the personal property.

(3) A 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, 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 in which the property was situate when taken 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. 2000, c. 28, s. 85.

Security interest in mobile home

129 **(1)** Where a mobile home is taken or repossessed pursuant to a security interest and sold, or is sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the mobile home by the municipality in which the mobile home was situate when taken.

(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 pursuant to a security interest and is not sold within six months of the taking or repossession, the

holder of the security interest is personally liable to the municipality for the taxes levied with respect to the mobile home by the municipality in which the mobile home was situate when taken.

(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. 2000, c. 28, s. 85.

Priority for proceeds of sale of real property

129A (1) Where real property is taken or sold under execution, other legal process or court order, the proceeds of the sale are first liable for any taxes that have been levied with respect to the property.

(2) The holder of the security interest, sheriff or other person selling the property shall pay the taxes out of the proceeds of the sale and is personally liable to the municipality for the real property taxes to the extent of the total proceeds of the sale less the costs of conducting the sale. 2000, c. 28, s. 85.

Power to sue tenant for rent arrears

130 A landlord who pays any taxes or expenses due from a tenant may sue for and recover them from the tenant or may distrain upon the tenant's property for the amount paid, in the same manner as distraint upon the tenant's property for arrears of rent. 1998, c. 18, s. 130.

Partial payment of taxes

131 (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 installment of taxes.

(4) Where taxes are paid on behalf of a purchaser of real property, the taxes shall 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. 1998, c. 18, s. 131; 2006, c. 40, s. 5.

Tax certificate

132 **(1)** A municipality shall issue a tax certificate, on request, stating

(a) the current taxes on the property;

(b) the total taxes due by the owner to the municipality with respect to the property;

(c) any sums due from an owner of property for work done on the property by the municipality, the engineer, the administrator or any other authorized person, the cost of which forms a lien on the property;

(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. 1998, c. 18, s. 132.

Certain taxes are liens

133 **(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. 1998, c. 18, s. 133.

Tax sale

134 (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 shall not commence before June 30th in the year immediately following that taxation year.

(2) Property shall be put up for tax sale if taxes are in arrears for the preceding three fiscal years.

(3) The council may defer tax sale proceedings for a property for up to two years.

(4) A municipality is not required to put a property up for tax sale

(a) if the solicitor for the municipality advises that a sale of the property would expose the municipality to an unacceptable risk of litigation;

(b) if the amount of taxes due is below the collection limit established by the council, by policy;

(c) if 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) if the taxes have been deferred pursuant to a by-law; or

(e) if the municipality and the taxpayer have entered into a tax arrears payment arrangement and the taxpayer is in compliance with the agreement.

(5) Where the municipality and a taxpayer have entered into a tax arrears payment arrangement, the period for which the tax lien is effective is extended by the period of the tax arrears payment arrangement. 1998, c. 18, s. 134.

Owner unknown tax sale

135 (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" shall 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 a municipality to furnish a statement concerning a specified property assessed to "owner unknown".

(4) A notice or statement required pursuant to this Section shall 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 shall be published in a newspaper circulating in the municipality in which the land is situate 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 if 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. 1998, c. 18, s. 135.

Personal claims on Crown land

136 (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. 1998, c. 18, s. 136.

Tax sale property list

137 (1) Where land is to be sold for taxes, a list of the properties to be put up for sale shall be prepared setting out, with respect to each lot

(a) the name and address of the person assessed;

(b) a brief description of the lot sufficient to identify and locate it;

(c) the amount of arrears, including interest; and

(d) the years in which the arrears were levied.

(2) The tax sale list, or a copy certified by the treasurer, is conclusive evidence of the facts stated therein. 1998, c. 18, s. 137.

Tax sale preliminary notice

138 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. 1998, c. 18, s. 138.

Title search and survey

139 (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 shall include an estimate of the cost of the survey.

(5) Where the title search or survey is done by an employee of the municipality, the cost included in the expenses of the sale is the amount determined

by the treasurer to be the reasonable cost of having the same work performed by a solicitor or surveyor in private practice. 1998, c. 18, s. 139.

Application to court by treasurer

139A (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 152, and subject to the exceptions in subsection 156(3) and any exceptions, exclusions or partial interests set out in the order of the court. 2003, c. 9, s. 54.

Notice of intent to sell

140 (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 shall 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;

(f) a statement to the effect that if the owner challenges the right of the municipality to set the land up for sale the owner should obtain legal advice and contact the municipality. 1998, c. 18, s. 140.

Public auction

141 (1) Unless the arrears of taxes, interest and expenses are paid, the treasurer shall proceed to sell land liable to be sold for taxes at public auction.

(2) The treasurer may, with the consent of the council, call tenders for property rather than put the property up for sale at public auction.

(3) The council may direct the treasurer as to what constitutes an acceptable minimum tender or bid, if the treasurer is of the opinion that the property might not realize sufficient to cover the outstanding taxes, interest and expenses.

(4) Where lands to be sold for taxes are partly in one municipality and partly in another, the treasurer may sell the entire lot if

(a) notice of the sale is given to the other municipality; and

(b) the taxes, interest and expenses due to the other municipality are included in the amount for which the land is to be sold,

and the taxes, interest and expenses shall be paid to the other municipality forthwith after the sale. 1998, c. 18, s. 141.

Tax sale advertisement

142 (1) After the notice of intent to sell land for taxes has been served

(a) the land liable to be sold for taxes shall be advertised for sale at public auction; or

(b) tenders shall be called for the land.

(2) Notice of the sale at public auction or the call for tenders shall 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. 1998, c. 18, s. 142.

Municipal purchase of tax sale property

143 (1) A municipality, by an official or agent, may bid for and purchase land at a tax sale for any municipal purpose.

(2) Where no bid is received for land sufficient to satisfy the full amount of the taxes, interest and expenses due in respect of the land, the treasurer may bid the amount of the taxes, interest and expenses and purchase the land for the municipality.

(3) Where a municipality purchases land at a tax sale the subsequent proceedings shall be 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 142(2) and (3) apply to the advertising referred to in subsection (4). 1998, c. 18, s. 143; 2003, c. 9, s. 55.

Conflict of interest

144 (1) *repealed 2001, c. 35, s. 11.*

(2) No

(a) council member or employee of a municipality that sells land for arrears of taxes;

(b) member of a village commission or employee of a village that sells land for arrears of taxes;

(c) spouse of a person referred to in clause (a) or (b); or

(d) company in which a person referred to in clause (a), (b) or (c) owns or beneficially owns the majority of the issued and outstanding shares,

shall purchase the land at the sale either directly or through an agent.

(3) 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.

(4) Where there is a conviction pursuant to subsection (3), the relevant person referred to in clause (2)(a) or (b) forfeits their office or employment, as the case may be. 1998, c. 18, s. 144; 2001, c. 35, s. 11.

Arrears

145 Where a municipality collects taxes for a village, service commission or any other body, the arrears of the taxes are deemed to be those of the municipality in all proceedings for the sale of land for taxes. 1998, c. 18, s. 145.

Investment of purchase money

146 (1) The purchase money received at a tax sale shall be applied, so far as it extends

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

(b) secondly, to payment of any taxes due by the owner of the land to a village;

(c) thirdly, 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 shall be deposited to the credit of the tax sale surplus account.

(2) Where the land sold for taxes is redeemed, the balance shall be applied to reduce the amount that the person redeeming is required to pay.

(3) Where the owner of land sold for taxes owes the municipality any taxes or charges not secured by a lien on the land sold, the taxes or charges may be paid from the balance.

(4) Except as provided in this Section, no part of the balance may be withdrawn from the tax sale surplus account during the period in which the land may be redeemed. 1998, c. 18, s. 146.

Application for order directing payment

147 (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. 1998, c. 18, s. 147.

Payment of purchase money

148 (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 shall again be advertised and put up for sale.

(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held. 1998, c. 18, s. 148; 2004, c. 7, s. 9.

Tenders

149 (1) Where a municipality calls tenders for land to be sold for taxes, the municipality may reject all tenders if

(a) the price tendered is less than the taxes, interest and expenses; and

(b) the council considers that the best price offered is inadequate,

and may again put the land up for sale, by tender or by public auction.

(2) Where a municipality calls tenders for land to be sold for taxes, the person whose tender is accepted shall pay the tender price within three business days after being notified of the acceptance.

(3) Where the balance of the purchase money is not paid within three business days, the land shall again be advertised and put up for sale.

(4) The expenses of the resale shall be deducted from the deposit and the balance shall be refunded after the resale is held. 1998, c. 18, s. 149.

Sale certificate

150 (1) After land is sold for taxes, upon payment of the purchase money the treasurer shall give the purchaser a certificate of sale, in Form C in Schedule A or to like effect, describing the land sold and stating the sum for which it was sold.

(2) The certificate shall state that a deed conveying the land to the purchaser, or as directed by the purchaser, shall 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 shall be served on each owner of the land sold and, if the land may be redeemed, a notice that the land may be redeemed shall be included with the copy of the certificate of sale. 1998, c. 18, s. 150.

Purchaser rights

151 On receipt of the certificate of sale, the purchaser

(a) has all the rights of action and powers of an owner needed to protect the land and may collect rents due, or to grow due, and use the land without diminishing its value, but shall not cut down any trees on the land, injure the premises or knowingly allow any other person to do so;

(b) is not liable for damage done to the land without the purchaser's knowledge; and

(c) shall insure any buildings on the land, if the buildings are insurable, and is deemed to have an insurable interest in the land. 1998, c. 18, s. 151.

Redemption of tax sale property

152 (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;

(ba) the full amount of any outstanding taxes arising before the tax sale where the purchaser paid less than the amount of the outstanding taxes on the land;

(c) taxes levied on the land after the sale and any interest;

(d) the fee to record the certificate of discharge;

(e) all sums paid by the purchaser for fire insurance premiums to insure buildings on the land; and

(f) 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 shall 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 Schedule A, or to like effect, shall be prepared and registered in the registry.

(6) The registrar of deeds shall make a marginal note referring to the registry of the certificate of discharge on the recorded copy of the certificate of sale. 1998, c. 18, s. 152; 2008, c. 25, s. 3.

Repayment to purchaser

153 (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. 1998, c. 18, s. 153.

Purchaser rights cease

154 From the time of the payment to the treasurer of the full amount for redemption, the purchaser of the land ceases to have a right to it. 1998, c. 18, s. 154.

Deed to purchaser

155 (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 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 shall

(a) fully describe the land conveyed;

(b) be signed by the mayor or warden and the clerk; and

(c) be under the seal of the municipality. 1998, c. 18, s. 155.

Tax sale deed

156 (1) A deed to land sold for taxes is conclusive evidence that the provisions of this Act with reference to the sale of the land described in the deed have been fully complied with and each act and thing necessary for the legal perfection of the sale has been duly performed.

(2) The deed has the effect of vesting the land in the grantee in fee simple, free and discharged from all encumbrances.

(3) Notwithstanding subsection (1), where a dominant tenement is sold for taxes, an easement or right-of-way appurtenant to it passes to the purchaser and where a servient tenement is sold for taxes, the sale does not terminate or affect an easement or right-of-way to which it is subject. 1998, c. 18, s. 156.

Persons with lien, charge or encumbrance

157 A mortgagee, judgment creditor or other person having a lien, charge or encumbrance on land liable to be sold for taxes, or in respect of which taxes are due

(a) may pay the taxes, interest and expenses;

(b) may add the amount paid for taxes, interest, expenses and any amount paid to redeem the property after a tax sale to the mortgage, judgment or other security;

(c) has, in respect of the amount paid, the same rights, remedies and privileges as under the security; and

(d) may sue for, and recover, the amount paid, with interest, from the person primarily liable to pay it. 1998, c. 18, s. 157.

Cooperative housing

158 Where real property is held by a company incorporated for cooperative housing purposes and is subject to a mortgage held by the Minister of Housing and Municipal Affairs, 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 Housing and Municipal Affairs for the area where the property is located. 1998, c. 18, s. 158.

Veterans' Land Act agreement

159 (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. 1998, c. 18, s. 159.

Tax exemption notice

160 (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 if the owner fails to do so, the rebate shall be calculated from the date notice is given.

(3) The Director of Assessment shall forthwith provide the treasurer with a copy of the notice.

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

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

(6) Upon expiration of the period of appeal or upon the appeal having been disposed of, where the person entitled to the rebate pays the taxes, the treasurer shall pay the rebate to the person and where the person is indebted to the municipality, the treasurer shall apply the rebate to reduce the indebtedness. 1998, c. 18, s. 160.

Rebate for business occupancy assessment

161 (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 if the owner fails to do so, the rebate shall 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. 1998, c. 18, s. 161.

Business occupancy tax payable

162 (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. 1998, c. 18, s. 162.

Proceeding not brought by municipality

163 (1) A proceeding with respect to taxes based on an assessment, except an action or other proceeding brought by a municipality for the collection of taxes, may 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 shall be quashed for a matter of form only and no tax levy shall be quashed for an illegality except as to an individual person's taxes. 1998, c. 18, s. 163.

Validity of taxes

164 (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. 1998, c. 18, s. 164.

Affidavit

165 (1) Where a notice is required pursuant to this Act, the person who served or gave the notice may make an affidavit setting out that the notice was served or given in compliance with this Act and setting out how the notice was given.

(2) The affidavit is *prima facie* evidence that the notices were served or given in the manner required pursuant to this Act. 1998, c. 18, s. 165.

Service

166 Service of a notice required pursuant to this Part is sufficient

(a) if it is mailed by ordinary mail to the last known address of the person on whom the notice is to be served; or

(b) where the address of the person is unknown, if it is mailed to a tenant or occupant of the land or a copy of the notice is posted in a conspicuous place on the premises. 1998, c. 18, s. 166.

Formula for rate of interest

167 Where the council is authorized or required, pursuant to this Act, to set a rate of interest, the council may instead adopt a formula by which the rate of interest may be determined and automatically adjusted. 1998, c. 18, s. 167.

PART VII

BY-LAWS

Adoption procedure

168 (1) A by-law shall 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 shall be published in a newspaper circulating in the municipality.

(3) The notice shall 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. 1998, c. 18, s. 168.

Publication

169 **(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. 1998, c. 18, s. 169.

Application area

170 **(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, a municipality may provide, in a by-law, for matters incidental or conducive to the exercise of the specified powers. 1998, c. 18, s. 170.

Power to regulate, license and prohibit

171 **(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 shall not be inconsistent with an enactment of the Province or of Canada. 1998, c. 18, s. 171.

Specific power does not limit general power

171A Where this Act confers a specific power on a municipality in relation to a matter that can be read as coming within a general power also conferred by this Act, the general power is not to be interpreted as being limited by the specific power. 2008, c. 25, s. 4.

Power to make by-laws

172 (1) A 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 shall 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 tranquility of a neighbourhood;

(e) transport and transport systems;

(f) businesses, business activities and persons engaged in business;

(g) automatic machines;

(h) the appointment of a day to be a civic holiday;

(i) a requirement that pawnbrokers report all transactions by pawn or purchase;

(j) regulation of the application and use of pesticides, herbicides and insecticides for the maintenance of outdoor trees, shrubs, flowers, other ornamental plants and turf on the part of a property used for residential purposes and on property of the municipality and, without restricting the generality of the foregoing, the by-law may

(i) require 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) establish a registration scheme, that is open to the public, in which a resident who has a medical reason for objecting to pesticides, herbicides and insecticides being so used may file with the clerk an objection to them being so used in the vicinity of the property on which the person resides,

(iii) require 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, and

(iv) specify the circumstances in which the posting or serving of notices is not required,

but a by-law may not prohibit the use of pesticides, herbicides and insecticides and a by-law pursuant to this clause does not apply to property used for agricultural or forestry purposes;

(ja) 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;

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

(k) services provided by, or on behalf of, the municipality;

(l) 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 penalty relates to a fee, cost, rate, toll or charge that is associated with the conduct that gives rise to the offence,

(vi) providing for imprisonment, for not more than one year, for non-payment of a fine or penalty,

(vii) providing that a person who contravenes a by-law may pay an amount established by by-law and if 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, a 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 shall 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. 1998, c. 18, s. 172; 2004, c. 7, s. 10; 2010, c. 64, s. 2.

Acquisition of vacant building

172A (1) In this Section, "vacant building" does not include a seasonal dwelling.

(2) The council of a municipality 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 172(1)(ja)(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 52 to acquire the property.

(6) The council may spend money under Section 65 to acquire the property and improve it. 2008, c. 25, s. 5.

Retention of trees and vegetation

172B (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) A council may make by-laws, for municipal purposes, requiring that existing trees or vegetation be retained or only removed pursuant to a municipal permit.

(3) Subsection (2) does not apply to

(a) land used for agricultural or forestry purposes;

(b) land that is in a serviced area and is only capable of being subdivided into three or fewer lots of a size that could be used for development; and

(c) land that is in an unserviced area and is only capable of being subdivided into ten or fewer lots that could be used for development. 2008, c. 25, s. 5.

Vending on streets

173 Without limiting the generality of Section 172, notwithstanding the *Motor Vehicle Act*, a 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. 1998, c. 18, s. 173.

Power to make by-laws

174 Without limiting the generality of Section 172, a 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. 1998, c. 18, s. 174.

Dog by-law

175 (1) Without limiting the generality of Section 172, a 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 feces 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 shall bear a serial number and the year in which it is issued and a record shall 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 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 feces. 1998, c. 18, s. 175.

Dangerous dogs

176 (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.

(3) *repealed 2004, c. 7, s. 11.*

1998, c. 18, s. 176; 2003, c. 9, s. 56; 2004, c. 7, s. 11.

Additional penalty

177 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 the

(c) dog previously attacked or injured a domestic animal, person or property;

(d) dog had a propensity to injure or to damage a domestic animal, person or property; or

(e) defendant knew that the dog had such propensity or was, or is, accustomed to doing acts causing injury or damage. 1998, c. 18, s. 177; 2000, c. 9, s. 42.

Rabid animals

178 A person may kill or destroy a rabid dog or other rabid animal found at large and may secure and confine a dog or other animal at large and appearing to be rabid or exhibiting symptoms of canine madness. 1998, c. 18, s. 178.

Proof at trial

179 Upon the trial of an action brought against the owner or harbourer of a dog for any injury caused, or damage occasioned by, such dog, it is not necessary to prove knowledge by, or notice to, the owner or harbourer of any mischievous propensity of the dog. 1998, c. 18, s. 179.

Protected water supply area

180 (1) The council may, by by-law, designate lands owned by a municipality as protected water supply areas.

(2) No person shall

(a) place, or permit to escape, any matter or thing of an offensive nature, deleterious nature or likely to impair the quality of water for use for domestic purposes, upon land in a protected water supply area;

(b) fish or bathe in a lake, or other body of water, in a protected water supply area;

(c) camp on land in a protected water supply area;

(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 a municipality or village or to the land surrounding or adjacent to them. 1998, c. 18, s. 180.

Minimum standards by-law

181 (1) Without limiting the generality of Section 172, a 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. 1998, c. 18, s. 181.

Offence

182 Every person who makes a false statement in an application for a licence to be issued by a municipality is guilty of an offence. 1998, c. 18, s. 182.

Recovery of penalties, fees and fines

183 (1) A

(a) penalty;

(b) 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 shall, 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. 1998, c. 18, s. 183.

Application for injunction

184 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. 1998, c. 18, s. 184.

No liability for damages

185 A municipality and its officers and employees are not liable for damages caused by it in remedying or attempting to remedy a contravention unless the municipality was grossly negligent. 1998, c. 18, s. 185.

Ministerial approval not required for by-laws

186 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. 1998, c. 18, s. 186.

Record of by-laws and policies

187 (1) A 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 shall be maintained by the clerk.

(4) The original by-laws shall be open to inspection by any person at a reasonable time, but shall not be removed from the office of the clerk and the production of an original by-law in a court shall not be 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. 1998, c. 18, s. 187.

Prima facie proof

188 (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,

shall 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 shall 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. 1998, c. 18, s. 188.

Procedure for quashing by-law

189 (1) A person may, by notice of motion which shall be 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 of a municipality, 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) No application shall be entertained pursuant to this Section to quash a by-law, order, policy or resolution, in whole or in part, unless the application is 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. 1998, c. 18, s. 189.

PART VIII

PLANNING AND DEVELOPMENT

Purpose of Part

190 The purpose of this Part is to

(a) enable the Province to identify and protect its interests in the use and development of land;

(b) enable municipalities to assume the primary authority for planning within their respective jurisdictions, consistent with their urban or rural character, through the adoption of municipal planning strategies and land-use 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. 1998, c. 18, s. 190.

Interpretation

191 In this Part and Part IX, unless the context otherwise requires

(a) "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 subclause (i);

(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 this Part, and includes a person acting under the supervision and direction of the Director;

(f) "former *Planning Act*" means Chapter 346 of the Revised Statutes, 1989, the *Planning Act* and any predecessor to that 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, intermunicipal planning strategy or secondary planning strategy;

(i) "nonconforming structure" means a structure that does not meet the applicable requirements of a land-use by-law;

(j) "nonconforming use of land" means a use of land that is not permitted in the zone;

(k) "nonconforming use in a structure" means a use in a structure that is not permitted in the zone in which the structure is located;

(l) "participating municipality" means a municipality participating in a commission;

(m) "planning area" means the area to which a municipal or ~~inter-municipal~~ [intermunicipal] planning strategy applies;

(n) "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;

(o) "regulate" does not include the power to prohibit;

(p) "structure" includes a building;

(q) "subdivision" means the division of an area of land into two or more parcels, and includes a resubdivision or a consolidation of two or more parcels;

(r) "watercourse" means a lake, river, stream, ocean or other body of water. 1998, c. 18, s. 191.

Provincial Director of Planning

192 (1) The Minister shall appoint from the public service an officer in the Department of Housing and Municipal Affairs to be known as the Provincial Director of Planning.

(2) The Minister may, from time to time, authorize another person in the Department of Housing and Municipal Affairs to act in the Director's stead.

(3) The Minister may appoint an Assistant Provincial Director of Planning to perform the duties of the Provincial Director subject to the Director's supervision and direction. 1998, c. 18, s. 192; 2006, c. 40, s. 6.

Statement of provincial interest

193 The Governor in Council, on the recommendation of the Minister, may adopt or amend a statement of provincial interest necessary to protect the provincial interest in the use and development of land. 1998, c. 18, s. 193.

Requirements for statement of provincial interest

194 **(1)** When preparing or amending a statement of provincial interest, the Minister shall seek the views of councils affected by the proposed statement.

(2) The statements of provincial interest in Schedule B are deemed to be statements of provincial interest pursuant to this Part.

(3) The Minister may, at any time, review a statement of provincial interest.

(4) The Governor in Council may amend or repeal a statement of provincial interest, including a statement of provincial interest included in Schedule B.

(5) A statement of provincial interest is regulations within the meaning of the *Regulations Act*. 1998, c. 18, s. 194.

Copy and notice of adoption or amendment

195 Upon the adoption or amendment by the Governor in Council of a statement of provincial interest, the Minister shall send a copy of the statement to the clerk of each municipality affected by it and give notice of its adoption in a newspaper circulating in the affected area. 1998, c. 18, s. 195.

Provincial activities reasonably consistent

196 The activities of the Province shall be reasonably consistent with a statement of provincial interest. 1998, c. 18, s. 196.

Requirement to consider planning documents

197 A department of the Province, before carrying out or authorizing any development in a municipality, shall consider the planning documents of the municipality. 1998, c. 18, s. 197.

Planning documents reasonably consistent

198 **(1)** Planning documents adopted after the adoption of a statement of provincial interest shall be reasonably consistent with the statement.

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

(3) Where

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

(b) development that is inconsistent with a statement of provincial interest might occur and the Minister is satisfied that there

are necessary and compelling reasons to establish an interim planning area to protect the provincial interest,

the Minister may, by order, establish an interim planning area for 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 of each municipality affected; and

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

(7) Where a 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 an order establishing an interim planning area for the prescribed area. 1998, c. 18, s. 198; 2004, c. 44, s. 1.

Repeal of Regional Development Plan

199 The Halifax-Dartmouth Metropolitan Regional Development Plan and Regulations, adopted and amended pursuant to the former *Planning Act*, are repealed. 1998, c. 18, s. 199.

Planning advisory committee

200 (1) A municipality may, by policy, establish a planning advisory committee and may establish different planning advisory committees for different parts of the municipality.

(2) Two or more municipalities may, by policy, establish a joint planning advisory committee.

(3) A planning advisory committee or joint planning advisory committee shall 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 shall 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. 1998, c. 18, s. 200.

Area advisory committee

201 (1) A municipality may establish, by policy, one or more area planning advisory committees to advise the planning advisory committee or joint planning advisory committee on planning matters affecting a specific area.

(2) An area planning advisory committee shall include members of the public.

(3) An area planning advisory committee, with jurisdiction over an area that includes all or part of a village, shall include at least one member appointed by the village commission.

(4) The council shall appoint members of an area planning advisory committee by resolution. 1998, c. 18, s. 201.

Policy establishing committee

202 In the policy establishing a planning advisory committee, joint planning advisory committee or area planning advisory committee the council shall

(a) fix the term of appointment and any provisions for reappointment;

(b) fix the remuneration, if any, to be paid to the chair of the committee, if the chair is not a council member;

(c) fix the remuneration, if any, to be paid to those members of the committee who are not council members;

(d) establish the duties and procedures of the committee; and

(e) provide for the appointment of the chair and other officers of the committee. 1998, c. 18, s. 202.

Open meetings and exceptions

203 (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 shall 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. 1998, c. 18, s. 203.

Public participation program

204 (1) A council shall adopt, by policy, a public participation program concerning the preparation of planning documents.

(2) A council may adopt different public participation programs for different types of planning documents.

(3) The content of a public participation program is at the discretion of the council, but it shall identify opportunities and establish ways and means of seeking the opinions of the public concerning the proposed planning documents. 1998, c. 18, s. 204.

Requirements for adoption of planning documents

205 (1) A council shall adopt, by by-law, planning documents.

(2) A by-law adopting planning documents shall be read twice.

(3) Before planning documents are read for a second time the council shall hold a public hearing.

(4) A council shall complete the public participation program before placing the first notice for a public hearing in a newspaper circulating in the municipality.

(5) The notice for the public hearing is sufficient compliance with the requirement to advertise second reading of a by-law.

(6) Second reading shall not occur until the council has considered any submissions made or received at the public hearing.

(7) Only those council members present at the public hearing may vote on second reading of the planning documents.

(8) A council shall adopt planning documents, at second reading, by majority vote of the maximum number of members that may be elected to council. 1998, c. 18, s. 205; 2004, c. 7, s. 12.

Public hearing

206 (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 shall be published at least fourteen days before the date of the public hearing.

(3) The notice of the public hearing shall

(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 shall be provided to a person, on request, upon payment of a reasonable fee set by the council, by policy, sufficient to recover the cost of providing the copies.

(5) Upon the publication of the first notice of the public hearing, the clerk shall send a copy of the notice to the clerk of every municipality that immediately abuts an area affected by the proposed documents.

(6) Upon the publication of the first notice of the public hearing, the clerk shall send a copy of the notice to the clerk of every village in which an affected property is situate. 1998, c. 18, s. 206.

Joint public hearing

207 (1) The councils of two or more municipalities, two or more community councils or the council of a regional municipality and one or more commu-

nity councils may agree to hold a joint public hearing regarding the adoption or amendment of an ~~inter-municipal~~ [intermunicipal] 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. 1998, c. 18, s. 207.

Requirement for review by Director

208 **(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. 1998, c. 18, s. 208.

Repeal of planning documents

209 Planning documents may be repealed and the procedure for repealing them is the same as the procedure for adopting them. 1998, c. 18, s. 209.

Amendment of land-use by-law

210 **(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. 1998, c. 18, s. 210; 2004, c. 7, s. 13.

Certain amendments by policy

211 **(1)** A 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. 1998, c. 18, s. 211.

Municipal planning strategy

212 A 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. 1998, c. 18, s. 212.

Purpose of municipal planning strategy

213 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 which 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 a 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 ~~planning~~ strategy. 1998, c. 18, s. 213.

Statements of policy in planning strategy

214 (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;

(p) the regulation or prohibition of development and the use of land in order to carry out an agreement pursuant to the *Aeronautics Act* (Canada);

(q) any other matter relating to the physical, social or economic environment of the municipality.

(2) A council shall include policies in the municipal planning strategy on how it intends to review the municipal planning strategy and land-use by-law. 1998, c. 18, s. 214; 2003, c. 9, s. 57.

Intermunicipal planning strategy

215 (1) Councils of two or more municipalities may agree to adopt a mutually binding intermunicipal planning strategy.

(2) The provisions of this Act that apply to a municipal planning strategy apply to an intermunicipal planning strategy. 1998, c. 18, s. 215.

Secondary planning strategy

216 (1) A municipal planning strategy may provide for the preparation and adoption of a secondary planning strategy which 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, which may not, in the opinion of the council, be adequately addressed in the municipal planning strategy alone. 1998, c. 18, s. 216.

No action inconsistent with planning strategy

217 (1) A municipality shall not act in a manner that is inconsistent with a municipal planning strategy.

(2) The adoption of a municipal planning strategy does not commit the council to undertake any of the projects suggested in it. 1998, c. 18, s. 217.

Acquisition of land for development

218 (1) A municipality may

(a) acquire and assemble land for the purpose of carrying out a development consistent with the municipal planning strategy, whether the development is to be undertaken by the municipality or not; or

(b) 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. 1998, c. 18, s. 218.

Adoption of land-use by-law or amendment

219 (1) Where a council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that shall enable the policies to be carried out.

(2) A council may amend a land-use by-law in accordance with policies contained in the municipal planning strategy on a motion of council or on application.

(3) A council shall not adopt or amend a land-use by-law except to carry out the intent of a municipal planning strategy. 1998, c. 18, s. 219; 2004, c. 7, s. 14.

Content of land-use by-law

220 (1) A land-use by-law shall include maps that divide the planning area into zones.

(2) A land-use by-law shall

(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;

(ca) regulate the location of a structure on a lot;

(d) regulate the height of structures;

(e) regulate the percentage of land that may be built upon;

(f) regulate the size, or other requirements, relating to yards;

(g) regulate the density of dwelling units;

(h) require and regulate the establishment and location of off-street parking and loading facilities;

(i) regulate the location of developments adjacent to pits and quarries;

(j) regulate the period of time for which temporary developments may be permitted;

(k) 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;

(ka) regulate the floor area ratio of a building;

(l) 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, provided that a lot has access to at least one street;

(b) regulate or prohibit the type, number, size and location of signs and sign structures;

(c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;

(d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the 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;

(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 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 in excess of 30 NEF/NEP (thirty noise exposure forecast/noise exposure projections) as set out on maps produced by an airport authority, as revised from time to time, and reviewed by 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) *repealed 2008, c. 25, s. 6.*

1998, c. 18, s. 220; 2000, c. 9, s. 43; 2003, c. 9, s. 58; 2006, c. 40, s. 7; 2008, c. 25, s. 6; 2011, c. 17, s. 2.

Notification and costs

221 (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) A 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. 1998, c. 18, s. 221.

Future public use

222 (1) A 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. 1998, c. 18, s. 222.

Parking cash-in-lieu

223 (1) Where provided for in a municipal planning strategy, council may accept money instead of all or part of any required off-street parking lot or facility.

(2) Council shall use any money received to construct or maintain municipally owned parking or transit facilities to serve the immediate area of the development with respect to which the payment was made, provided the facilities are located in an area identified in the municipal planning strategy.

(3) The method used to determine the contribution for parking or transit facilities shall be set out in the land-use by-law and shall take into account the cost of construction of an individual parking space, including costs of land, grading and paving or any other standard determined by the council. 1998, c. 18, s. 223.

Transportation reserve

224 (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, 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 shall 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 alternate zone on the property to be acquired.

(4) The alternate zone comes into effect if the municipality does not acquire the property in the right-of-way within five years of the effective date of the provisions.

(5) Where council adopts provisions in accordance with this Section, an affected property owner may make a written request to council to acquire the property or acquire an interest in the property, at the discretion of council.

(6) Where council does not acquire the property or acquire the interest in the property within one year of the written request of an affected property owner, the alternate zone on the property comes into effect. 1998, c. 18, s. 224.

Development agreements

225 (1) A 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 council shall consider prior to the approval of a development agreement.

(2) The land-use by-law shall identify the developments to be considered by development agreement. 1998, c. 18, s. 225.

Comprehensive development districts

226 (1) A council may regulate the development of a district by development agreement by establishing a comprehensive development district where the municipal planning strategy identifies

(a) the classes of uses permitted in a district;

(b) developments or uses in a district, if any, that are permitted without a development agreement;

(c) the area or areas where a district may be established; and

(d) the matters that council shall 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 shall include a comprehensive development district zone.

(3) No development may occur in a comprehensive development district unless it is consistent with the development agreement or it is a development permitted without a development agreement. 1998, c. 18, s. 226.

Content of development agreement

227 **(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 which are not substantive or, alternatively, identify matters that are substantive;

(aa) identify if the variance provisions are to apply to the development agreement;

(b) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;

(c) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by council;

(d) provide that if the development does not commence or is not completed within the time specified in the development agreement, the development agreement or portions of it may be discharged by council without the concurrence of the property owner. 1998, c. 18, s. 227; 2003, c. 9, s. 59.

Requirements for effective development agreement

228 **(1)** A development agreement shall not be entered into until

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.

(2) A council may stipulate that a development agreement shall be signed by the property owner within a specified period of time.

(3) A development agreement does not come into effect until

(a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board;

(b) the development agreement is signed by the property owner, within the specified period of time, if any, and the municipality; and

(c) the development agreement is filed by the municipality in the registry.

(4) The clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry. 1998, c. 18, s. 228.

Discharge of development agreement

229 **(1)** A development agreement is in effect until discharged by the council.

(2) A council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner.

(3) After a development agreement is discharged, the land is subject to the land-use by-law. 1998, c. 18, s. 229.

Adoption or amendment of development agreement

230 **(1)** A council shall adopt or amend a development agreement by policy.

(2) A council shall hold a public hearing before approving a development agreement or an amendment to a development agreement.

(3) Only those members of the council present at the public hearing may vote on the development agreement or the amendment.

(4) Upon approving a development agreement or an amendment to a development agreement, the clerk shall place a notice in a newspaper circulating in the municipality stating that the development agreement 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. 1998, c. 18, s. 230; 2003, c. 9, s. 60.

Site-plan approval

231 (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 shall consider prior to granting site-plan approval;

(ea) the notification area;

(f) the form and content of an application for site-plan approval.

(2) *repealed 2003, c. 9 s. 61.*

(3) No development permit shall 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.

(4) A site-plan approval may deal with

(a) the location of structures on the lot;

(b) the location of off-street loading and parking facilities;

(c) the location, number and width of driveway accesses to streets;

(d) the type, location and height of walls, fences, hedges, trees, shrubs, ground cover or other landscaping elements necessary to protect and minimize the land-use impact on adjoining lands;

(e) the retention of existing vegetation;

(f) the location of walkways, including the type of surfacing material, and all other means of pedestrian access;

(g) the type and location of outdoor lighting;

(h) the location of facilities for the storage of solid waste;

(i) the location of easements;

(j) the grading or alteration in elevation or contour of the land and provision for the management of storm and surface water;

(k) the type, location, number and size of signs or sign structures;

(l) provisions for the maintenance of any of the items referred to in this subsection. 1998, c. 18, s. 231; 2003, c. 9, s. 61.

Site-plan approval

232 (1) A development officer shall approve an application for site-plan approval, unless the

(a) matters subject to site-plan approval do not meet the criteria set out in the land-use by-law; or

(b) 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.

(2A) Notwithstanding subsection (2), council may require a larger notification distance for site-plan approvals in its land-use by-law where the municipal planning strategy so provides.

(3) The council, in hearing an appeal concerning a site-plan approval, may make any decision that the development officer could have made.

(4) A council may by resolution provide that any person applying for approval of a site plan shall pay the municipality the cost of

(a) notifying affected land owners;

(b) posting a sign.

(5) A development officer may, with the concurrence of the property owner, discharge a site-plan, in whole or in part. 1998, c. 18, s. 232; 2003, c. 9, s. 62; 2006, c. 40, s. 8.

Development permit in site-plan approval area

233 A development officer shall issue a development permit for a development in a site-plan approval area if a site plan is approved and the development otherwise complies with the land-use 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. 1998, c. 18, s. 233.

Conveyance to person not a party

234 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 council and, in the case of a site-plan, it is discharged by the development officer. 1998, c. 18, s. 234; 2006, c. 40, s. 9.

Variance

235 (1) A development officer may grant a variance in one or more of the following terms in a development agreement, if provided for in the development agreement, or land-use 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 in the development agreement, or 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) height and area of a sign.

(3) A variance may not be granted where the

(a) variance violates the intent of the development agreement or land-use by-law;

(b) difficulty experienced is general to properties in the area; or

(c) difficulty experienced results from an intentional disregard for the requirements of the development agreement or land-use by-law. 1998, c. 18, s. 235; 2003, c. 9, s. 63.

Variance procedures

236 (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 the greater of thirty metres and the distance set by the land-use by-law or by policy of the applicant's property.

(2) The notice shall

(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 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.

(6) The notice shall

(a) describe the variance applied for and the reasons for its refusal;

(b) identify the property where the variance is applied for; and

(c) state the date, time and place when council will hear the appeal. 1998, c. 18, s. 236; 2008, c. 25, s. 7.

Variance appeals and costs

237 (1) Where a council hears an appeal from the granting or refusal of a variance, the council may make any decision that the development officer could have made.

(2) A development officer shall issue a development permit for any development for which a variance has been granted and which 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) A 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. 1998, c. 18, s. 237; 2003, c. 9, s. 64.

Nonconforming structure or use

238 (1) A nonconforming structure, nonconforming use of land or nonconforming 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 nonconforming 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 the

(a) nonconforming structure was lawfully under construction and was completed within a reasonable time; or

(b) 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 nonconforming 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 nonconforming 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

(c) 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 nonconforming structure or a structure containing a nonconforming use.

(5) A change of tenant, occupant or owner of any land or structure does not of itself affect the use of land or a structure. 1998, c. 18, s. 238.

Nonconforming structure for residential use

239 (1) Where a nonconforming 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, if 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 where

(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 nonconforming 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. 1998, c. 18, s. 239; 2004, c. 44, s. 2.

Nonconforming use of land

240 A nonconforming 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; and

(c) recommenced, if discontinued for a continuous period of six months. 1998, c. 18, s. 240.

Nonconforming use in a structure

241 (1) Where there is a nonconforming 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;

(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 nonconforming use in a structure, the nonconforming use

(a) may be extended throughout the structure;

(b) may not be changed to any other use except a use permitted in the zone;

(c) may not be recommenced, if discontinued for a continuous period of six months. 1998, c. 18, s. 241.

Relaxation of restrictions

242 (1) A municipal planning strategy may provide for a relaxation of the restrictions contained in this Part respecting nonconforming structures, nonconforming uses of land, and nonconforming uses in a structure and, in particular, may provide for

(a) the extension, enlargement, alteration or reconstruction of a nonconforming structure;

(b) the extension of a nonconforming use of land;

(c) the extension, enlargement or alteration of structures containing nonconforming uses, with or without permitting the expansion of the nonconforming use into an addition;

(d) the reconstruction of structures containing nonconforming uses, after destruction;

(e) the recommencement of a nonconforming use of land or a nonconforming use in a structure after it is discontinued for a continuous period in excess of six months;

(f) the change in use of a nonconforming use of land or a nonconforming use in a structure, to another nonconforming use.

(2) The policies adopted in accordance with this Section shall be carried out through the land-use by-law and may require a development agreement. 1998, c. 18, s. 242; 2003, c. 9, s. 65.

Development officer

243 (1) A 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. 1998, c. 18, s. 243.

Development permit

244 (1) Before any development is commenced, a development permit shall 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. 1998, c. 18, s. 244.

Time limits for development permit application

245 (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. 1998, c. 18, s. 245.

Limitations on granting development permit

246 (1) A development permit shall 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 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. 1998, c. 18, s. 246.

Appeals to the Board

247 **(1)** The approval or refusal by a 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) a village in which an affected property is situated;

(e) 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) a village in which an affected property is situated;

(e) the Director.

(3) The refusal by a development officer to

(a) issue a development permit;

(b) approve a tentative or final plan of subdivision or a concept plan,

may be appealed by the applicant to the Board. 1998, c. 18, s. 247; 2000, c. 9, s. 44.

No appeal permitted

248 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. 1998, c. 18, s. 248.

Service of appeal

249 An appeal shall 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 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 council's decision refusing to approve or amend a development agreement;

(e) of written notice of the development officer's decision refusing to issue a development permit or refusing to approve a tentative or final plan of subdivision or a concept plan;

(f) a decision is deemed to be refused. 1998, c. 18, s. 249; 2000, c. 9, s. 45.

Restrictions on appeals

250 (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. 1998, c. 18, s. 250.

Time limits

250A (1) A 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 a municipality that fails to file a complete appeal record within the time referred to in subsection (1); and

(b) the Board may, by order, impose costs on any party to an appeal that fails to meet any deadline or time limit established pursuant to this Section or otherwise established or imposed by the Board.

(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. 25, s. 8.

Powers of Board on appeal

251 (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 shall not allow an appeal unless it determines that the decision of 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. 1998, c. 18, s. 251; 2001, c. 35, s. 12; 2003, c. 9, s. 66.

Restrictions on powers of Board

252 (1) The Board shall 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 shall not make any decision that commits the council to make any expenditures with respect to a development. 1998, c. 18, s. 252.

District planning commissions

253 (1) A district planning commission established by an order of the Minister pursuant to a former *Planning Act* continues to be a body corporate.

(2) Municipalities that are members of a district planning commission are deemed to have entered into an intermunicipal services agreement for the provision of the services provided by the commission on the same terms and conditions as contained in the order of the Minister establishing the commission, and such an agreement may be varied or rescinded with the agreement of all participating municipalities and the approval of the Minister to the variation or rescission is not required.

(3) A participating municipality may withdraw from a commission effective April 1 without the agreement of the remaining participating municipalities but shall, before withdrawing, give the other participating municipalities notice before March 31 of the preceding year.

(4) A participating municipality that withdraws from a commission is

(a) not entitled to receive any assets of the commission without the approval of the remaining participating municipalities; and

(b) responsible for severance costs or other costs imposed by its withdrawal and for its share of any liabilities of the commission existing at the time of its withdrawal.

(5) Where all the participating municipalities have agreed to dissolve the commission, they shall, by agreement, provide for the distribution of the assets and liabilities of the commission among the participating municipalities upon its dissolution.

(6) Where all the participating municipalities cannot agree on the distribution of the assets and liabilities of the commission, one or more of them may make an application to the Supreme Court of Nova Scotia to determine an equitable distribution of them. 1998, c. 18, s. 253; 2003, c. 9, s. 67.

District planning commission members

254 (1) A member of a commission who is a council member of a participating municipality ceases to be a member of the commission when the member ceases to be a council member.

(2) Where a member is no longer able to act, the council that appointed the member may appoint another member for the balance of the term. 1998, c. 18, s. 254.

Powers of commission

255 (1) A commission may

(a) advise and assist the council of any participating municipality in the preparation or amendment of planning documents

and in the provision of any service related to planning or delegated to the commission by one or more of the participating municipalities;

(b) exercise rights and powers and perform duties that may be delegated to it by the council of a participating municipality;

(c) expend its funds for any of the purposes of the commission;

(d) retain the services of those persons necessary for the purposes of the commission and determine their remuneration;

(e) do any other things necessary for the attainment of its purposes.

(2) A commission may acquire and dispose of real property to the extent authorized and approved by all the councils of the participating municipalities. 1998, c. 18, s. 255.

Auditor and financial report required

256 (1) A commission shall annually appoint a registered municipal auditor to be its auditor.

(2) On or before June 30 in each year, a commission shall provide the councils of the participating municipalities with a financial report for the preceding year signed by the commission's auditor. 1998, c. 18, s. 256.

Annual report required

257 On or before June 30 in each year, a commission shall make an annual report to the councils of the participating municipalities setting out its activities for the preceding year. 1998, c. 18, s. 257.

Commission's estimates

258 (1) On or before January 15 in each year, a commission shall submit to the clerk of each of the participating municipalities an estimate of its revenues and expenditures for the next fiscal year after adding any anticipated deficit or deducting any anticipated surplus for the current fiscal year.

(2) The participating municipalities may agree on a method for approving or questioning the estimates of a commission.

(3) The council of each participating municipality shall include in its annual estimate of expenditures its proportion of the commission's estimates.

(4) A commission may at any time prepare supplementary estimates subject to the approval of the councils of the participating municipalities.

(5) The council of each participating municipality shall pay the commission its share of the estimates of the commission in accordance with any

terms or payment schedule included in the order establishing the commission. 1998, c. 18, s. 258.

Use of mediation

259 The Minister, a council or the Board may, if the person or body considers it appropriate, at any time before a decision is made pursuant to this Part, use mediation, conciliation or other dispute resolution methods to attempt to resolve concerns or disputes. 1998, c. 18, s. 259.

260 *repealed 2000, c. 9, s. 46.*

No injurious affection

261 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. 1998, c. 18, s. 261.

Former Planning Act

262 A municipal development plan and zoning by-law or municipal planning strategy and land-use by-law adopted pursuant to 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. 1998, c. 18, s. 262.

Conflict

263 In the event of a conflict between this Part and this Act or another Act of the Legislature, this Part prevails. 1998, c. 18, s. 263.

Prohibition on breach of development agreement or site plan

263A No person shall breach the terms of a development agreement or site plan. 2004, c. 7, s. 15.

Breach of development agreement

264 (1) A municipality may, upon the breach of a development agreement, if 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 take such remedial action as is considered necessary to correct a breach of the development agreement, including the removal or destruction of any thing that contravenes the terms of a development agreement.

(2) All reasonable expenses, whether arising out of the entry on the land or from the performance of the terms, are a first lien on the land that is the subject of the development agreement.

(3) No action shall be maintained against a municipality or against any agent, servant or employee of a municipality for anything done pursuant to this Section. 1998, c. 18, s. 264; 2001, c. 35, s. 13.

Breach of approved site plan

265 (1) A municipality may, upon the breach of an approved site plan, if 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 shall be maintained against a municipality or against any agent, servant or employee of a municipality for anything done pursuant to this Section. 1998, c. 18, s. 265.

Remedies where offence

266 (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 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 shall 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. 1998, c. 18, s. 266, 2004, c. 7, s. 16.

Right of entry

267 **(1)** This Section applies to this Part and Part IX.

(2) A person authorized by the Minister or by a council has the right to enter at all reasonable times in or upon any property within the municipality, without a warrant, for the 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 judge is satisfied, on evidence under oath, that the entry is refused or no person is present to grant access, the judge may by order authorize entry into or on the property during reasonable hours set by the judge.

(5) Any order made by a judge shall continue in force until the purpose for which entry is required is fulfilled. 1998, c. 18, s. 267.

PART IX

SUBDIVISION

Requirements for subdivision approval

268 **(1)** An application for subdivision approval shall

(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) where 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 the Queen 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;

(ea) resulting from an acquisition of land by a village for village purposes;

(f) resulting from the disposal, by a municipality or Her Majesty the Queen 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;

(fa) 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;

(g) of an abandoned railway right of way;

(h) that is a consolidation of a part of an abandoned railway right of way with adjacent land;

(i) resulting from a lease of land for twenty years or less, including any renewal provisions of the lease;

(ia) 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*;

(ib) resulting from the quieting of a title;

(j) resulting from a devise of land by will executed on or before January 1, 2000.

(3) An affidavit of the person making a disposition or encumbrance of land that would create a subdivision that specifies the exemption from the requirement for approval and the facts that entitle the subdivision to the exemption is sufficient proof that approval of the subdivision is not required, unless the person to whom the disposition or encumbrance is made has notice to the contrary. 1998, c. 18, s. 268; 2002, c. 10, s. 22; 2003, c. 9, s. 68; 2004, c. 7, s. 17; 2006, c. 40, s. 10.

Deemed consolidation

268A (1) Two or more lots that 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 appropriate registry of deeds or records a statutory declaration in the land registration office 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, the present descriptions of the lots including any property identifiers assigned by Service Nova Scotia and Municipal Relations and the description of the consolidated single lot.

(2) Registration or recording of the statutory declaration referred to in subsection (1) is deemed to consolidate the lots as of the date of registration or recording.

(3) Subdivision approval of the consolidation is not required. 2003, c. 9, s. 69.

Instrument of subdivision

269 (1) Notwithstanding clause 268(1)(b), in a county or district municipality where so provided in the provincial subdivision regulations or a subdivision by-law, an application for subdivision approval may be made by instrument of subdivision rather than by a plan of subdivision.

(2) This Section applies only where the subdivision does not create a street or private road and results in

(a) each lot created being at least one hundred thousand square feet in area and having dimensions that would permit it to contain a two hundred and fifty foot diameter circle within its boundaries; or

(b) an increase in size of an existing lot by the addition of a part or all of an abutting lot, if the lot reduced in area complies after the subdivision with the frontage and area if any requirements set out in the provincial subdivision regulations or municipal subdivision by-law, as the case may be.

(3) An instrument of subdivision shall be in the form prescribed in the provincial subdivision regulations.

(4) Except as otherwise provided in this Act, the procedure and requirements for approval of a subdivision apply to subdivision by instrument and a reference to a plan of subdivision includes an instrument of subdivision.

(5) For greater certainty, no instrument of subdivision that adds or consolidates parcels or areas of land in different ownerships may be approved by a development officer until the development officer is provided with

(a) executed deeds suitable for registering to effect the addition or consolidation; and

(b) the fees for registering the deeds,

and the development officer shall register the deeds with the approved instrument. 1998, c. 18, s. 269; 2000, c. 9, s. 47; 2005, c. 55, s. 6.

Provincial subdivision regulations

270 **(1)** The Minister shall prescribe provincial subdivision regulations.

(2) Provincial subdivision regulations shall include

(a) procedures for preliminary evaluation and tentative and final approvals;

(b) requirements for preliminary evaluation and tentative and final approvals;

(c) the form of a notice of approval of subdivision;

(d) provisions for the repeal of a subdivision; and

(e) provisions for the referral of an application to a department or agency of the Province or of a municipality.

(3) Provincial subdivision regulations may include

(a) requirements for access to a lot;

(b) requirements respecting the shape of a lot;

(c) where they are not prescribed in a land-use by-law, requirements for minimum lot frontage and minimum lot area;

(d) provisions allowing a waiver of any requirements of the regulations and the circumstances in which a waiver may be allowed;

(e) the fee for the processing of applications for approval or repeal of a subdivision, including registration, recording and filing fees;

(f) procedures and requirements for concept plans;

(g) procedures for the approval of, form of and requirements for approval and registration of instruments of subdivision in a county or district municipality;

(h) requirements for private roads;

(i) any other matter relating to the division of land.

(4) At least thirty days before prescribing or amending provincial subdivision regulations, the Minister shall

(a) send a copy of the proposed regulations to the clerk of every municipality that will be affected by the regulations and invite written comments; and

(b) place a notice in a newspaper circulating in the area that will be affected by the regulations stating where the proposed regulations may be inspected and invite written comments.

(5) Where, on the coming into force of this Act, a municipality has 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.

(6) 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 or, with respect to the regulations concerning instruments of subdivision, do not provide for instruments of subdivision. 1998, c. 18, s. 270; 2001, c. 6, s. 119; 2003, c. 9, s. 70.

Subdivision by-law

271 (1) A subdivision by-law applies to the whole of a municipality, but the by-law may contain different requirements for different parts of the municipality.

(2) A subdivision by-law shall 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 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) procedures for the approval of, form of and requirements for approval and registration of instruments of subdivision in a county or district municipality;

(f) the fee for the processing of applications for approval or repeal of a subdivision, including registration, recording and filing fees;

(g) requirements for the design and construction of streets, private roads, wastewater facilities, stormwater systems, water systems and other services;

(ga) 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, if the land being subdivided has frontage on the ocean, a river or a lake, the land transferred include land with frontage on the ocean, river or lake or land to provide public access to the ocean, river or lake, provided that the land required to be transferred does not exceed

(i) five per cent of the area of the lots shown to be approved on the final plan of subdivision, or

(ii) 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;

(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 where, 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 a 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. 1998, c. 18, s. 271; 2001, c. 35, s. 14; 2001, c. 6, s. 119; 2003, c. 9, s. 71; 2004, c. 7, s. 18.

Contents of subdivision by-law

272 **(1)** A 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. 1998, c. 18, s. 272.

Land or cash-in-lieu

273 (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 shall 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.

(5A) Notwithstanding subsections (5) and (13), the council may transfer

(a) the funds referred to in subsections (5) and (13) to a village or non-profit organization that is providing parks, playgrounds or other recreational facilities in the municipality to be used for the acquisition of and capital improvements to those parks, playgrounds or other recreational facilities; and

(b) the interest on the funds referred to in subsections (5) and (13) to a village or non-profit organization that is providing parks, playgrounds or other recreational facilities in the municipality to be used for the operation or maintenance of those parks, playgrounds or other recreational facilities.

(6) 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.

(7) Useable land does not include any streets or easements conveyed to the municipality.

(8) 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.

(9) A development officer shall accept any land offered by an applicant that meets the definition of useable land contained in the subdivision by-law.

(10) 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.

(11) 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.

(12) Any land conveyed to a municipality pursuant to this Section shall 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.

(13) Where council determines that any land transferred pursuant to this Section might 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 shall be used for parks, playgrounds and similar public purposes. 1998, c. 18, s. 273; 2003, c. 9, s. 72; 2004, c. 7, s. 19; 2006, c. 40, s. 11.

Infrastructure charges

274 (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;

(da) new or expanded solid-waste management facilities;

(e) new traffic signs and signals and new or expanded transit 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 a municipality by reason of the subdivision and future development of land and infrastructure charges for land, planning, studies, engineering, surveying and legal costs incurred with respect to any of them.

(3) The subdivision by-law shall 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 shall 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. 1998, c. 18, s. 274; 2001, c. 35, s. 15; 2003, c. 9, s. 73; 2006, c. 40, s. 12.

Infrastructure charges agreement

275 (1) An applicant and a municipality may enter into an infrastructure charges agreement that may

(a) provide for the payment of infrastructure charges in installments;

(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. 1998, c. 18, s. 275.

Effect of infrastructure charges agreement

276 An infrastructure charges agreement

(a) is binding on the land that is subdivided;

(b) shall be registered in the registry or, in the case of land registered pursuant to the *Land Registration Act*, shall 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. 1998, c. 18, s. 276; 2001, c. 6, s. 119.

Time limits for subdivision approval application

277 (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. 1998, c. 18, s. 277; 2003, c. 9, s. 74.

Limitations on granting subdivision approval

278 (1) Subject to Section 283, an application for subdivision approval shall 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 shall be refused where

(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 the Environment, or a person designated by that Minister;

(d) the development officer is made aware of a discrepancy among survey plans that, if either claimant were completely successful in a claim, would result in a lot that cannot be approved;

(e) the proposed access to a street does not meet the requirements of the municipality or the Province;

(f) the proposed subdivision does not meet the requirements of the subdivision 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. 1998, c. 18, s. 278; 2001, c. 35, s. 16.

Lots not meeting requirements

279 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, provided that the lot dimensions and area are not less than ninety per cent of the required minimums. 1998, c. 18, s. 279; 2004, c. 44, s. 3.

Streets

280 (1) No plan of subdivision may be approved by a development officer where

(a) the plan shows a street to be owned by the municipality, unless the engineer has approved the design and construction standards of the street, and any intersection with a street, owned by the municipality;

(b) the plan shows a proposed intersection with a street owned by the Province, unless the intersection has been approved by

the Minister of Transportation and Public Works, or a person designated by that Minister; or

(c) the Minister of Transportation and Public Works, or a person designated by that Minister, or the engineer advises that the probable volume of traffic from the development will create unsafe conditions for which no remedial arrangements have been made.

(2) The owners of lots shown on a plan of subdivision as abutting on a private right of way are deemed to have an easement over the private right of way for vehicular and pedestrian access to the lot and for the installation of electricity, telephone and other services to the lot.

(3) The new streets and new extensions of streets shown on a plan of subdivision, excluding roads that are shown on the plan as private roads, are vested absolutely in the municipality in which they are situate when the final approved plan is filed in the registry. 1998, c. 18, s. 280.

Requirement to approve plan of subdivision

281 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. 1998, c. 18, s. 281.

Underlying lots deemed consolidated

281A 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 282(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. 2003, c. 9, s. 75.

Subdivision that adds or consolidates

282 (1) No plan of subdivision that adds or consolidates parcels or areas of land in different ownerships may be approved by a development officer until the development officer is provided with

(a) executed deeds suitable for registering to effect the addition or consolidation; and

(b) the fees for registering the deeds.

(2) The development officer shall register the deeds with the approved plan. 1998, c. 18, s. 282; 2000, c. 9, s. 48.

Approval by development officer

282A (1) No plan or instrument 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 or instrument of subdivision that adds or consolidates parcels or areas of land, that, under the *Land Registration Act*, is not acceptable for registration pursuant to the *Registry 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 282 shall, where the deed is to be registered pursuant to the *Land Registration Act*, include a legal description of the consolidated parcel.

(4) The approval of a plan or instrument of subdivision contrary to subsection (1) or (2) shall be cancelled if the plan or instrument of subdivision is not accepted for registration pursuant to the *Land Registration Act*. 2001, c. 6, s. 119; 2004, c. 38, s. 26.

Tentative plan of subdivision

283 Where a tentative plan of subdivision is approved pursuant to the subdivision by-law, a lot or lots shown on the approved tentative plan shall 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. 1998, c. 18, s. 283; 2001, c. 35, s. 17.

Appeals to the Board

284 The refusal to approve a concept plan or tentative or final plan of subdivision may be appealed to the Board by the applicant in accordance with the procedure for an appeal to the Board set out in Part VIII. 1998, c. 18, s. 284.

Filing of approved final plan of subdivision

285 (1) No final plan of subdivision shall 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 shall be registered in the registry.

(4) A notice of the approved final plan of subdivision shall 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 shall be indexed as a conveyance from the person whose land is divided and from the person whose land is enlarged as a result of the addition or consolidation. 1998, c. 18, s. 285; 2006, c. 40, s. 13.

Lot crossing municipal boundary

286 Where a lot to be created by a plan of subdivision crosses a municipal boundary, an approval is required from each municipality in which the proposed lot is located. 1998, c. 18, s. 286.

When subdivision takes effect

287 (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 which 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, which purports to subdivide land and is executed before the approval and the filing of a plan of subdivision in the registry in accordance with this Part, is deemed

(a) to have been executed immediately after the filing of the plan of subdivision; and

(b) where the deed, mortgage, lease or other instrument has been registered in the registry, to have been duly registered at the time of the actual registration.

(4) Where two or more deeds, mortgages, leases or other instruments are deemed to have been executed at the same time, they are deemed to have been executed in the same order as they were actually executed.

(5) Where a deed, mortgage, lease or other instrument is made which results in the subdivision of land in accordance with a plan or instrument of subdivision duly approved and filed in the registry, the amendment of the plan or instrument does not restrict the right of the owner, mortgagee, lessee or other holder to execute other deeds, mortgages, leases or instruments in which the property is described as it is described in the original deed, mortgage, lease or other instrument. 1998, c. 18, s. 287.

Amendment of approved final plan of subdivision

288 (1) An approved final plan of subdivision may be amended, provided the amendment does not materially alter the boundaries of a lot created by the approved plan.

(2) The provisions of this Act that apply to an approved final plan of subdivision apply to an amended plan of subdivision, except the effective date of the approval of the amended plan is the same as that of the approved final plan of subdivision. 1998, c. 18, s. 288; 2003, c. 9, s. 76.

Amendment or repeal of instrument of subdivision

289 An instrument of subdivision approved pursuant to this Act or the former *Planning Act* may be amended or repealed in the same manner, and with the same effect, as an approved final plan of subdivision. 1998, c. 18, s. 289.

Subdivision for which no approval required

290 Nothing in this Act prevents an application for approval of or the approval of, a subdivision for which no approval is required. 1998, c. 18, s. 290.

Title or interest not affected

291 (1) A failure to comply with

(a) this Act; or

(b) 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. 1998, c. 18, s. 291.

Former Planning Act

292 A subdivision by-law adopted pursuant to 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. 1998, c. 18, s. 292.

PART X

FIRE AND EMERGENCY SERVICES

Municipal role

293 A municipality may maintain and provide fire and emergency services by providing the service, assisting others to provide the service, working with others to provide the service or a combination of means. 1998, c. 18, s. 293.

Registration as fire department

294 (1) A body corporate may apply to a municipality for registration as a fire department.

(2) A municipality shall not refuse to register a body corporate that complies with this Act if the

(a) municipality is satisfied that the body corporate is capable of providing the services it offers to provide;

(b) body corporate carries liability insurance, as required by the municipality;

(c) body corporate does not provide the fire services for profit; and

(d) municipality does not provide the same services for the same area.

(3) A fire department, including a fire department of a municipality, village or fire protection district, shall register in each municipality in which it provides emergency services.

(4) A registered fire department shall provide the municipality with a list of specific emergency services it will endeavour to provide and the area in which the services will be provided.

(5) Registration continues in force until withdrawn by the municipality for cause or the fire department requests that the registration be revoked.

(6) A municipality may grant or lend money to, or guarantee a loan for, a registered fire department for operating or capital purposes.

(7) A municipality may grant or lend assets, without charge, to a registered fire department.

(8) Registration does not make a fire department an agent of a municipality.

(9) A registered fire department is not a municipal enterprise pursuant to the *Municipal Finance Corporation Act*. 1998, c. 18, s. 294.

Registration as emergency services provider

295 (1) A body corporate may apply to a municipality for registration as an emergency services provider to provide emergency services other than fire services.

(2) A municipality shall not refuse to register a body corporate that complies with this Act if the

(a) municipality is satisfied that the body corporate is capable of providing the services it has undertaken to provide;

(b) body corporate carries liability insurance, as required by the municipality;

(c) body corporate does not provide the emergency services for profit; and

(d) municipality does not provide the same services for the same area.

(3) A body corporate that applies pursuant to subsection (1) shall register in each municipality in which it provides emergency services.

(4) A registered emergency services provider shall provide the municipality with a list of the specific emergency services it will endeavour to provide and the area in which the services will be provided.

(5) Registration continues in force until withdrawn by the municipality for cause or the emergency services provider requests that the registration be revoked.

(6) A municipality may grant or lend money to, or guarantee a loan for, a registered emergency services provider for operating or capital purposes.

(7) A municipality may grant or lend assets, without charge, to a registered emergency services provider.

(8) Registration does not make an emergency services provider an agent of a municipality.

(9) A registered emergency services provider is not a municipal enterprise pursuant to the *Municipal Finance Corporation Act*. 1998, c. 18, s. 295.

Policies

296 (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. 1998, c. 18, s. 296.

Powers where fire

297 (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) A municipality, a village, a fire protection district, a fire department, an emergency services provider and an officer in charge, and a person

acting under the direction or authority of that officer, are not liable for an act done in the exercise of any of the powers conferred by this Section. 1998, c. 18, s. 297.

298 *repealed 2002, c. 6, s. 56.*

Offence

299 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. 1998, c. 18, s. 299.

No liability

300 A municipality, a village, a fire protection district, an employee of a municipality, village or fire protection district, a member of the fire department of a municipality, village or fire protection district, a registered fire department, a member of a registered fire department, a registered emergency services provider and a member of a registered emergency services provider are not liable for an act or omission in providing, or failing to provide, an emergency service, unless they are grossly negligent. 1998, c. 18, s. 300.

When action lies

301 (1) No action lies with respect to an act or omission in providing, or failing to provide, an emergency service against an employee of a municipality, village or fire protection district, a member of the fire department of a municipality, village, fire protection district, registered fire department or registered emergency services provider.

(2) Notwithstanding subsection (1) and subject to Section 300, an action may lie against a municipality, village, fire protection district, registered fire department or registered emergency services provider with respect to its employee, member of its fire department or member. 1998, c. 18, s. 301.

Mutual aid

302 (1) A municipality may assist at fires, rescues or other emergencies occurring outside its boundaries.

(2) A municipality may agree with municipalities, villages, fire protection districts, federal and provincial departments and agencies or others to provide assistance at fires, rescues and other emergencies and to receive assistance at fires, rescues and other emergencies.

(3) A fire department that assists a registered fire department pursuant to a mutual aid agreement is not required to register and is entitled to all of the protections provided by this Act for the assisted fire department.

(4) An emergency services provider that assists a registered fire department or registered emergency services provider pursuant to a mutual aid agreement is not required to register and is entitled to all of the protections provided in this Act for the assisted fire department or emergency services provider. 1998, c. 18, s. 302.

PART XI

ELECTRICAL SERVICES

Contract with N.S. Power or municipality

303 (1) Subject to the *Public Utilities Act*, a council may contract with Nova Scotia Power Incorporated or another municipality for transmission and supply of electric power.

(2) A municipality that has entered into a contract for electric power or that generates electric power may

(a) use the electric power for the purpose of lighting streets, highways and property of the municipality or for any other purpose of the municipality;

(b) distribute the electric power throughout the municipality;

(c) establish and maintain an electrical distribution system in the municipality;

(d) sell or dispose of the electric power, or any part thereof, to a person or body;

(e) dispose of the whole of the electric power or any portion that it does not require, or otherwise dispose of, to any person, firm or corporation having authority within the municipality to supply electric power or to operate an electric tramway;

(f) employ required employees;

(g) contract for the supply and distribution of electric power in another municipality, if the council of the other municipality agrees;

(h) acquire real and personal property and construct and operate facilities for the generation, transmission and distribution of electric power;

(i) include in its yearly estimates all amounts that are necessary or proper for the due carrying out of the purposes referred to in this subsection.

(3) Any agreement, contract, change in the cost of electric power, payment extension, connection between systems or diversion of power from one system to another is subject to the approval of the Board. 1998, c. 18, s. 303.

Lien and power cut-off

304 **(1)** The amount due to a municipality for the provision of electrical power is, subject only to municipal taxes, a first lien on the property of the person to whom the electrical power was provided, in priority to all prior liens or encumbrances on the property.

(2) The lien applies only to the amount due to the municipality for a period not exceeding ninety days.

(3) Where a person fails to pay a municipality the amount due for electric power within one month after the account is due, the municipality may cut off the supply of electricity to that person and may recover the amount due up to that time, despite a contract with the person to furnish electric power for a longer period.

(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. 1998, c. 18, s. 304; 2001, c. 6, s. 119.

N.S. Power Inc. powers

305 **(1)** Nova Scotia Power Incorporated may extend the time for payment of any sum due it by a municipality, provided 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 shall be determined by Nova Scotia Power Incorporated. 1998, c. 18, s. 305.

Power to sell system

306 A municipality may sell its system for developing or distributing electric power, including property used in connection with it. 1998, c. 18, s. 306.

PART XII

STREETS AND HIGHWAYS

Interpretation

307 In this Part, "street" means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, but does not include streets vested in Her Majesty in right of the Province. 1998, c. 18, s. 307; 2000, c. 9, s. 49; 2008, c. 39, s. 388.

Streets vested in municipality

308 (1) All streets in a municipality are vested absolutely in the municipality.

(2) In so far as is consistent with their use by the public, a council has full control over the streets in the municipality.

(3) No road, or allowance for a road, becomes a street until the council formally accepts the road or allowance, or the road or allowance is vested in the municipality according to law.

(4) Possession, occupation, use or obstruction of a street, or a part of a street, does not give and never has given any estate, right or title to the street. 1998, c. 18, s. 308.

By-laws for protection of streets

309 (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 may

(a) construct or use a road or gate connected with, or opening upon, the controlled access street; or

(b) offer for sale goods within the limit of the controlled access street. 1998, c. 18, s. 309; 2006, c. 40, s. 14.

Power to make by-laws

310 (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. 1998, c. 18, s. 310.

Traffic authority

311 (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 a council, the Minister of Transportation and Public Works may appoint a traffic authority to hold office until the council appoints a traffic authority.

(6) Where it appears to the Minister of Transportation and Public Works that a traffic authority appointed by the council is not performing the duties and functions of a traffic authority, the Minister of Transportation and Public Works 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 a municipality for which there is no traffic authority; and

(c) highways in a municipality that have been designated by the Minister of Transportation and Public Works as main travelled or through highways,

the powers conferred upon a traffic authority by or pursuant to the *Motor Vehicle Act*.

(8) The traffic authority for a municipality has, with respect to highways in the municipality, excluding those for which the Provincial Traffic Authority has authority, the powers conferred upon a traffic authority by or pursuant to the *Motor Vehicle Act*. 1998, c. 18, s. 311.

Street related powers

312 (1) A council may design, lay out, open, expand, construct, maintain, improve, alter, repair, light, water, clean, and clear streets in the municipality.

(2) When a street is laid out, opened or expanded, a survey plan 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. 1998, c. 18, s. 312.

Civic addresses

313 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, where permission is obtained to erect the sign or signpost in accordance with subclause (i). 1998, c. 18, s. 313; 2007, c. 47, s. 1.

Street encroachment

314 (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) A 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. 1998, c. 18, s. 314.

Street closure

315 (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.

(1A) 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.

(2) The council shall give notice of its intent to close the street by advertisement in a newspaper circulating in the municipality.

(3) The notice shall 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.

(4) A copy of the notice shall be mailed to the Minister of Transportation and Public Works before the public hearing.

(5) 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, shall be filed in the registry and with the Minister of Transportation and Public Works.

(6) Upon filing the policy in the registry, all rights of public user in the land described in the policy are forever extinguished and the municipality may sell and convey the land or may subsequently reopen the land as a street in the manner required by this Act. 1998, c. 18, s. 315; 2004, c. 44, s. 4.

Contribution to cost of underground wiring

316 Where a council determines that wires and other parts of an electrical distribution or telecommunications system be placed underground, the council may contribute to the cost. 1998, c. 18, s. 316.

Work on a street

317 (1) No person shall break the surface of a street without the permission of the engineer.

(2) A council may, by policy, prescribe the terms upon which a permit to break the surface of a street may be granted, including setting a fee for the permit and requiring security to be posted to ensure that the street is restored.

(3) No person shall construct or widen a driveway, or other access to a street, without the permission of the engineer. 1998, c. 18, s. 317.

Obstruction of street

318 (1) Except as otherwise provided in this Act, no person shall

(a) obstruct a street in a municipality;

(b) erect, construct or place a building or structure, fence, railing, wall, tree or hedge or part of them upon a street;

(c) deposit any snow or ice on the travelled way of a street;

(d) deposit any snow or ice near a portion of the travelled way of a street so as to hinder clearing of the travelled pathway;

(e) prevent water flowing from a street on to the adjoining land;

(f) cause or permit water to flow over a street, except as directed by the engineer or council;

(g) deposit, or permit to accumulate, sewage, refuse, garbage, rubbish or other matter on a street or in a drain, gutter, sluice or watercourse on a street; or

(h) cause or permit sewage, refuse, garbage, rubbish or any other matter to discharge or flow upon a street or into a drain, gutter, sluice or watercourse on a street.

(2) An owner or occupant of land who collects water upon the land and turns or allows the water to flow upon a street is liable for all damage to the street, gutters or drains occasioned thereby.

(3) Where, as a result of the collection of the water, the flow requires, in the opinion of the engineer, the construction of a larger drain, sluice or culvert on the street, or makes necessary any alteration in the street or the building of new drains, sluices or culverts, the person is liable to pay the cost of the alteration or construction.

(4) Where a person is in apparent contravention of this Section, the engineer may serve notice on the person to remedy the contravention and, where the condition is not remedied within the time specified in the notice, the engineer may cause the condition to be remedied.

(5) Where an obstruction is a structure of any kind, the engineer may require the owner of the structure to remove the structure from the street within such time as the engineer specifies.

(6) Where the structure is not removed within the time specified, the engineer may remove, demolish or destroy the structure in such manner as is deemed expedient. 1998, c. 18, s. 318; 2000, c. 9, s. 50.

Public Utilities Act applies

319 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. 1998, c. 18, s. 319.

Removal of sign or billboard

320 (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. 1998, c. 18, s. 320.

Dangerous vegetation

321 (1) The engineer may require an owner or occupant of land adjoining a street to remove or trim a tree, bush, shrub, hedge or other vegetation that, in the opinion of the engineer, is a source of danger to traffic on the street.

(2) Where the owner of the land fails to remove or trim the vegetation within fourteen days after receipt of notice from the engineer, the engineer may cause the vegetation to be removed or trimmed. 1998, c. 18, s. 321.

Temporary purposes

322 The engineer may

(a) permit a person to use a portion of a street for construction or other temporary purpose;

(b) temporarily close a street, or part thereof, for the protection of the public, to allow work to be done on the street or on lands and buildings adjacent to the street or for any other purpose beneficial to the public interest. 1998, c. 18, s. 322.

Power to enter land

323 (1) The engineer may

(a) enter upon land adjoining a street and erect and maintain snow fences on it or take down, alter or remove a fence or obstruction of any kind that causes drifts or an accumulation of snow so as to impede or obstruct traffic;

(b) at any time and from time to time, construct, open, maintain or repair a drain, gutter, sluice or watercourse upon land adjoining a street and for such purpose may, at any time and from time to time, enter into and upon such land.

(2) A person who hinders or obstructs the engineer in the exercise of a power or authority conferred by this Section is guilty of an offence. 1998, c. 18, s. 323.

Motor Vehicle Act does not apply

324 A by-law passed pursuant to this Part is not subject to the *Motor Vehicle Act*. 1998, c. 18, s. 324.

PART XIII

SOLID-WASTE RESOURCE MANAGEMENT

By-law regarding solid waste

325 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. 1998, c. 18, s. 325.

Solid-waste management

326 (1) A municipality may provide compensation to an area, to the property owners in an area or to the residents of an area in which a solid-waste management facility is located in amounts, and under the conditions, determined by the council.

(2) A municipality may contract with other municipalities or persons for the use of any component of its solid-waste management program. 1998, c. 18, s. 326.

PART XIV

SEWERS

Prohibition

327 No person shall injure or remove any portion of wastewater facilities or a stormwater system, except as directed by the engineer. 1998, c. 18, s. 327.

Policy for standards and specifications

328 (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. 1998, c. 18, s. 328.

Building service connection

329 (1) An owner is responsible for the design, construction and maintenance of that part of a building service connection determined by the council or village commission by 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 shall 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 shall be covered in until it is inspected and approved by the engineer.

(5) Where the owner, or an agent of the owner, covers in a building service connection before it is inspected and a certificate of approval issued, the engineer may open it for the purpose of inspection.

(6) The engineer may repair or replace a building service connection with the consent of the owner and at the expense of the owner. 1998, c. 18, s. 329; 2001, c. 35, s. 18.

Sewer connection abandoned

330 (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. 1998, c. 18, s. 330.

Repairs required

331 (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 which requires repairs is located to complete the repairs within a reasonable time specified by the engineer.

(2) Where the repairs required are not completed by the owner within the time specified, the engineer may cause the repairs to be completed. 1998, c. 18, s. 331.

Connection required to municipal sewer

332 (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) If 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 if the owner fails to perform the work to the satisfaction of the engineer within seven days from the receipt of the notice, the engineer may perform the necessary work. 1998, c. 18, s. 332.

Prohibition and power to make by-laws

333 (1) No person shall permit the discharge into wastewater facilities or a stormwater system of a municipality or a village or into wastewater facilities or a stormwater system or building service connection connecting with the wastewater facilities or stormwater system of a municipality or a village of

(a) a liquid or vapour having a temperature higher than that specified by the council or village commission, by 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 or village commission, 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 or village commission by by-law;

(k) sewage that exerts or causes biological oxygen demand and chemical oxygen demand greater than amounts specified by the council or village commission, 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 or village commission, by by-law;

(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 or village commission 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 shall be maintained by the owner of the property on which it is installed at the expense of the owner. 1998, c. 18, s. 333; 2001, c. 35, s. 19.

Requirement for interceptors

334 (1) The engineer may require an owner of land that is connected to wastewater facilities or a stormwater system of the municipality or the village to provide grease, oil and sand interceptors.

(2) All interceptors shall be of a type and capacity approved by the engineer and shall be located so as to be readily and easily accessible for cleaning and inspection.

(3) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and shall be of substantial construction, watertight and equipped with easily removable covers which when bolted in place are gastight and watertight.

(4) Where the interceptors required are not provided by the owner within the time referred to in the notice, the engineer may cause the interceptors to be provided. 1998, c. 18, s. 334; 2001, c. 35, s. 20.

Control service access

335 (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 shall be located and constructed in accordance with plans approved by the engineer.

(3) The control service access shall be installed by the owner at the owner's expense and shall be maintained by the owner so as to be safe and accessible at all times.

(4) Where the control service access required is not provided by the owner within the time required by the engineer, the engineer may cause the control service access to be installed. 1998, c. 18, s. 335.

By-law regarding private systems

336 A 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. 1998, c. 18, s. 336.

Requirement to connect to municipal sewer

337 (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) If 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 the village or an official 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. 1998, c. 18, s. 337; 2001, c. 35, s. 21.

Prohibition

338 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;

(d) permit any contents of a septic tank or cesspit to be discharged into a municipal sewer or watercourse. 1998, c. 18, s. 338.

Private wastewater facilities requirements

339 (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. 1998, c. 18, s. 339.

Requirement to connect to municipal sewer

340 (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. 1998, c. 18, s. 340.

Abandonment of private wastewater facilities

341 (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. 1998, c. 18, s. 341.

By-law for wastewater management districts

342 (1) A council may, by by-law, establish wastewater management districts.

(2) A by-law establishing a wastewater management district shall 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. 1998, c. 18, s. 342.

By-law regarding stormwater

343 (1) A 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 shall be met, and exempting those classes of lots described in the by-law;

(l) prohibiting the issuance of any municipal permits or approvals where 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 which the stormwater system benefits and is a first lien on that land. 1998, c. 18, s. 343.

PART XV

DANGEROUS OR UNSIGHTLY PREMISES

Requirement to maintain property

344 Every property in a municipality shall be maintained so as not to be dangerous or unsightly. 1998, c. 18, s. 344.

Authority to delegate and requirement to report

345 (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. 1998, c. 18, s. 345; 2011, c. 4, s. 7.

Order to remedy condition

346 (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 shall 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. 1998, c. 18, s. 346; 2000, c. 9, s. 51; 2011, c. 4, s. 8.

Order to remedy condition

347 (1) A municipality may apply to a court of competent jurisdiction for a declaration that a property is dangerous or unsightly and an order specifying the work required to be done to remedy the condition by removal, demolition or repair.

(2) The court may order any property found to be dangerous or unsightly to be vacated until the condition is remedied.

(3) The court may, where any property is found to be dangerous or unsightly, order that no rent becomes due, or is payable by, any occupants until the condition is remedied. 1998, c. 18, s. 347.

Effect of order

348 **(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.

(3A) *repealed 2003, c. 9, s. 77.*

(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 the 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. 1998, c. 18, s. 348; 2001, c. 35, s. 22; 2003, c. 9, s. 77; 2006, c. 40, s. 15; 2011, c. 4, s. 9.

Order to vacate unsafe property

349 **(1)** A property within a municipality that is unsafe shall 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 shall remain posted until the unsafe condition is remedied. 1998, c. 18, s. 349.

Immediate action

350 Where public safety requires immediate action, the administrator may immediately take the necessary action to prevent danger or may remove the dangerous structure or condition. 1998, c. 18, s. 350.

Notice

351 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 shall 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 shall be given to both the person entitled to receive it immediately before the day on which the land was sold and the purchaser at the tax sale. 1998, c. 18, s. 351.

Power to enter land

352 (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) If a person refuses to allow the administrator to exercise, or attempts to interfere or interferes with the administrator in the exercise of a power pursuant to this Act, the administrator may apply to a judge of the Supreme Court of Nova Scotia for an order to allow the administrator entry to the building and an order restraining a person from further interference. 1998, c. 18, s. 352.

No action

353 No action shall be maintained against a municipality or against the administrator or any other employee of a municipality for anything done pursuant to this Part. 1998, c. 18, s. 353.

PART XVI

BOUNDARIES

Boundaries remain unless altered by Board

354 (1) The boundaries of the Cape Breton Regional Municipality are the boundaries of the County of Cape Breton, unless altered by the Board pursuant to this Act.

(2) *repealed 2008, c. 39, s. 389.*

(3) The boundaries of the Region of Queens Municipality are the boundaries of the County of Queens, unless altered by the Board pursuant to this Act.

(4) The boundaries of a regional municipality incorporated pursuant to this Act are the boundaries set out in the order establishing the regional municipality, unless altered by the Board pursuant to this Act.

(5) The boundaries of a county or district municipality continue to be as they were on July 1, 1996, unless altered by the Board pursuant to this Act or a regional municipality is incorporated that includes the county or district municipality.

(6) The boundaries of a town continue as they were on July 1, 1996, or in a subsequent order incorporating the town, unless altered by the Board pursuant to this Act or a regional municipality is incorporated that includes the town.

(7) The boundaries, names and numbers of the polling districts in a municipality continue to be as they were on July 1, 1996, unless altered by the Board pursuant to this Act. 1998, c. 18, s. 354; 2008, c. 39, s. 389.

Structures within municipal boundaries

355 All docks, quays, wharves, slips, breakwaters and other structures connected with the shore of any part of a municipality are within the boundaries of the municipality. 1998, c. 18, s. 355.

Determination of uncertain boundary line

356 (1) Upon application by a municipality, a village or the Minister, the Board may determine an uncertain boundary line, including a county boundary.

(2) An application shall

(a) set out the nature and cause of the uncertainty;

(b) include the proposed determination;

(c) list the steps taken to obtain agreement from adjacent municipalities, and whether all affected municipalities have agreed to the proposed determination;

(d) include the particulars of the evidence known respecting the existence and location of the boundary.

(3) The Board shall ensure that a copy of the application is provided to the Minister and to any municipality adjacent to the uncertain boundary line.

(4) An order of the Board determining an uncertain boundary line

(a) may establish the boundary line by metes and bounds description, by map, or both;

(b) is a regulation pursuant to the *Regulations Act*; and

(c) is binding on all municipalities notified of the application. 1998, c. 18, s. 356.

Change in or settlement of mutual boundary

357 Where two or more municipalities or a municipality and a village agree to a change in, or settlement of, a mutual boundary, the Board may confirm the change or settlement without a hearing if

(a) the agreed change or settlement is advertised in a newspaper circulating in the affected municipalities, as directed by the Board;

(b) the advertisement invites objectors to advise the Board of their objections;

(c) proof of the advertising has been provided to the Board; and

(d) no objections are received by the Board within thirty days after the first advertisement. 1998, c. 18, s. 357.

Amalgamation or annexation

358 Municipalities may be amalgamated or the whole or part of a municipality may be annexed to another upon application to the Board by

(a) the Minister;

(b) a municipality; or

(c) the greater of ten percent or one hundred of the electors in the area proposed to be amalgamated or annexed. 1998, c. 18, s. 358.

Application for preliminary order

359 (1) An applicant for amalgamation or annexation shall apply for a preliminary order.

(2) The application for a preliminary order shall include

(a) the boundaries of the area proposed to be amalgamated or annexed sufficient to identify the area;

(b) an estimate of the population of the area proposed to be amalgamated or annexed;

(c) the total assessed value of taxable property and occupancy assessments in the area proposed to be amalgamated or annexed;

(d) where the area is or contains a village, the audited financial statements of the village for the fiscal year immediately preceding the year in which the application is made;

(e) a brief statement of the reasons for the application; and

(f) such other matters as the applicant considers relevant to the application.

(3) The applicant shall serve a copy of the application for a preliminary order on the clerk of any municipality that would be affected by the annexation or amalgamation if granted, on the Minister, and on such others as the Board directs. 1998, c. 18, s. 359.

Hearing notifications

360 (1) Upon the Board setting the date for a hearing of the application for a preliminary order, the Board shall, at the expense of the applicant, advertise the hearing in a newspaper circulating in the area to be amalgamated or annexed, including the date by which any person wishing to be heard must notify the Board.

(2) Any interested person may appear and be heard at the hearing for a preliminary order by notifying the Board at least one week before the date fixed for the hearing. 1998, c. 18, s. 360.

Persons heard

361 At the hearing of the application for a preliminary order the Board shall hear

(a) the applicant;

(b) a representative of any municipality that would be affected by the amalgamation or annexation if granted;

(c) the Minister; and

(d) any person who has previously notified the Board. 1998, c. 18, s. 361.

Preliminary order

362 (1) After the application is heard, the Board may make a preliminary order, indicating

(a) suggested boundaries of the area proposed to be amalgamated or annexed;

(b) studies to be undertaken into the financial implications of amalgamation or annexation for the area, for the Province and for any municipality that would be affected;

(c) such other studies as may appear to the Board to be relevant to a decision on the necessity or expediency of the amalgamation or annexation; and

(d) any other evidence that the Board may direct be provided during the hearing of the application.

(2) Where the Board determines that there are no reasonable grounds for the application or there is no reasonable possibility that the application would be granted, the Board may dismiss the application.

(3) The cost of any studies required by the Board shall be borne by the parties as directed by the Board.

(4) Where any required studies are not completed within the time provided in the preliminary order, the Board may

(a) extend the time for completing the studies;

(b) proceed with the application without the studies;

(c) have the studies carried out or completed at the expense of the party responsible for them; or

(d) dismiss the application.

(5) *repealed 2001, c. 35, s. 23.*

1998, c. 18, s. 362; 2001, c. 35, s. 23.

Order for amalgamation or annexation

363 (1) After the application has been heard, the Board may, if satisfied that the order is in the best interests of the inhabitants of the area, taking into account the financial and social implications of the order applied for, order an amalgamation or annexation upon such terms as it considers advisable.

(2) The order of the Board for an amalgamation or an annexation shall

(a) fix the effective date of the amalgamation or annexation;

(b) make provision for any necessary revision of polling districts;

(c) make provision for any election that the Board considers necessary including setting the dates for nomination day and ordinary polling day for the election and providing for returning officers and the conduct of the election;

(d) direct the Director of Assessment to make any necessary adjustment in the assessment roll applicable to the area;

(e) provide for any other matter that is necessary or desirable to effect the amalgamation or annexation; and

(f) from time to time make such determinations, issue such orders and directions and do, or cause to be done, all such other matters and things as, in the opinion of the Board, are necessary or incidental to the annexation or amalgamation.

(3) An order of the Board may

(a) adjust assets and liabilities among those affected by the order as the Board considers fair;

(b) annex, amalgamate, continue or dissolve boards, commissions, villages and service commissions and allocate their assets as the Board considers fair; and

(c) require compensating grants for a period of not more than five years from a benefiting municipality to a municipality that loses assessment as a result of an order.

(4) The Board may make an interim order and reserve further directions.

(5) The Board may make an order granting the whole or part of an application, and may grant such further or other relief as the Board considers proper.

(6) Where the Board considers that, as a result of an annexation it is desirable to annex the whole or part of the municipality remaining after the order to some other municipality, the Board after such notice and hearing as it considers desirable may order the annexation.

(7) A copy of an order for an amalgamation or an annexation shall be published in the Royal Gazette as a regulation, and shall be filed and advertised as directed by the Board. 1998, c. 18, s. 363.

Councillor continues to hold office

364 Unless the Board otherwise orders, where an area is annexed to another municipality, any councillor holding office at the time of the annexation continues to hold office until the next regular municipal election, notwithstanding that the councillor's polling district has ceased to be part of the municipality. 1998, c. 18, s. 364.

Village or service commission dissolved

365 Unless the Board otherwise orders, when an area is annexed to a town, any village or service commission having authority in the area annexed to the town is dissolved and its assets and liabilities are vested in the town. 1998, c. 18, s. 365.

Policies and by-laws continue in force

366 (1) When municipalities are amalgamated, the policies and by-laws in effect in each continue in force in the area of each former municipality until repealed by the council.

(2) When an area is annexed to another municipality, the policies and by-laws in the annexing municipality apply to the area except for the municipal planning strategy and land-use and subdivision by-laws, which remain in force in

the annexed area until repealed by the council of the annexing municipality. 1998, c. 18, s. 366.

Effect of annexation or amalgamation

367 **(1)** Unless the Board otherwise orders

(a) the real property of a municipality situate in an area annexed to another municipality is vested in the annexing municipality;

(b) taxes imposed with respect to the ownership or occupation of property in an area annexed to another municipality and unpaid at the date of an annexation belong to the annexing municipality and may be collected as if they had been imposed by the annexing municipality;

(c) where the whole of a municipality is annexed to a municipality or municipalities are amalgamated, all of the assets and liabilities of the annexed or former municipalities are vested in the annexing or amalgamated municipality, and the annexing or amalgamated municipality stands in the place and stead of the annexed or former municipalities.

(2) The annexing or amalgamated municipality has the same rights with respect to the collection of taxes imposed by the annexed or former municipalities as if the taxes had been imposed by the annexing or amalgamated municipality. 1998, c. 18, s. 367.

Powers of Board

368 **(1)** Upon application, the Board may, by order

(a) divide or redivide a municipality into polling districts;

(b) amend the boundaries of any polling district;

(c) dissolve polling districts;

(d) determine that a town be divided into polling districts or cease to be divided into polling districts;

(e) determine the number of councillors for a municipality; and

(f) determine the date upon which the order takes effect.

(2) An application may be made by

(a) the Minister;

(b) a municipality; or

(c) at least fifty electors of a municipality.

(3) The Board may make an order granting the whole or part of an application, and may grant such further or other relief as the Board considers proper.

(4) In determining the number and boundaries of polling districts the Board shall consider number of electors, relative parity of voting power, population density, community of interest and geographic size.

(5) In determining the number of councillors for a town, the Board shall consider the population and geographic size of the town. 1998, c. 18, s. 368.

Study of polling districts required

369 (1) In the year 1999, and in the years 2006 and every eighth year thereafter the council shall conduct a study of the number and boundaries of polling districts in the municipality, their fairness and reasonableness and the number of councillors.

(2) After the study is completed, and before the end of the year in which the study was conducted, the council shall apply to the Board to confirm or to alter the number and boundaries of polling districts and the number of councillors. 1998, c. 18, s. 369.

Councillor continues to hold office

370 Unless the Board otherwise orders, where boundaries of polling districts are revised, any councillor holding office at the time of the revision continues to hold office until the next regular municipal election. 1998, c. 18, s. 370.

PART XVII

MUNICIPAL INCORPORATION

Interpretation

371 In this Part,

(a) "plebiscite" means a vote of the electors of the municipalities that are affected;

(b) "study" means a review conducted by or under the control of the Board, with input from the residents of the municipalities that are affected. 1998, c. 18, s. 371; 2000, c. 9, s. 52.

Establishment of regional municipality

372 (1) The Board may, if requested by all of the councils of the municipalities in a county, undertake a study of the form of municipal government in the county to determine whether a regional municipality would be in the interests of the people of the county.

(2) Where

(a) a study of the form of municipal government in a county to determine whether a regional municipality would be in the interests of the people of the county has been undertaken, whether the study was undertaken by the Minister or otherwise prepared; and

(b) a plebiscite has taken place and its results show that a majority of the electors who voted in the plebiscite are in favour of the establishment of a regional municipality for the county,

the Governor in Council may, on the recommendation of the Minister, order that a regional municipality be established for the county.

(3) Sections 373 to 382 of this Part apply to a county for which a regional municipality is established from and after the date of the order establishing the regional municipality.

(4) An order establishing a regional municipality shall set out

(a) the name of the regional municipality;

(b) the county for which the regional municipality is established;

(c) the incorporation date, which shall be April 1 in the year determined by the Governor in Council;

(d) the dates for nomination day and ordinary polling day for the first election of the mayor and councillors of the regional municipality;

(e) the date the council takes office, which shall be at least twenty weeks before the incorporation date;

(f) the term of office of the members of the council elected at the first election;

(g) any matter unique to the regional municipality that must be provided for to ensure the effective implementation of the regional municipality and to protect the interests of the public; and

(h) any other matter that is necessary or desirable to effect the incorporation of the regional municipality.

(5) Where a regular municipal election would take place after the date of an order establishing a regional municipality, that election shall not be held and the term of office of the members of the councils of the municipalities is extended to the incorporation date of the regional municipality.

(6) The exercise by the Governor in Council of the authority contained in this Section is regulations within the meaning of the *Regulations Act*. 1998, c. 18, s. 372; 2000, c. 9, s. 53.

Coordinator of regional municipality

373 **(1)** Subject to subsection (2), the Governor in Council shall appoint a person to be the coordinator of the regional municipality.

(2) The Governor in Council shall appoint as the coordinator a person approved by a majority of the councils of the municipalities in the county.

(3) Between the date the new council takes office and the incorporation date, the council shall exercise the powers of the coordinator and the coordinator has no further authority. 1998, c. 18, s. 373.

Duties and powers of coordinator

374 **(1)** The coordinator is responsible for designing and implementing the administrative structure of the regional municipality.

(2) The coordinator shall appoint the chief administrative officer and, on the recommendation of the chief administrative officer, the heads of departments.

(3) The new council shall ratify the appointment of the chief administrative officer as soon as practicable after the incorporation.

(4) The chief administrative officer, in consultation with the coordinator, shall employ all other employees of the regional municipality, effective on the incorporation date or such earlier date as the chief administrative officer deems expedient.

(5) Preference in employment shall be given to an employee of municipal government where that employee meets the basic requirements for a position and is the most qualified candidate from within municipal government.

(6) Subsection (5) does not apply to the appointment of the chief administrative officer.

(7) On or before the incorporation date, the coordinator shall establish a pension plan in accordance with the *Pension Benefits Act* to replace any pension plan established by a municipal government.

(8) The coordinator has all of the powers of the council and of the board of police commissioners.

(9) The coordinator may contract and be contracted with, sue and be sued, acquire real and personal property, engage officers and employees, prescribe a seal and do such things and make such expenditures as are required for the orderly establishment of the regional municipality.

(10) The coordinator may, with the approval of the Minister, borrow such sums as may be required for the purposes of this Part, and the sums bor-

rowed shall be repaid by the regional municipality in not more than ten annual installments, as determined by the council.

(11) All acts of the coordinator have, upon the incorporation of the regional municipality, full force and effect, and shall be and be deemed to have been exercised by the regional municipality.

(12) The officers and employees of the municipal governments shall render assistance to the coordinator upon request, and furnish all information and perform all acts requested by the coordinator.

(13) The coordinator has all of the powers of a commissioner appointed pursuant to the *Public Inquiries Act*. 1998, c. 18, s. 374.

First election

375 (1) The coordinator shall apply to the Board for a determination, and the Board shall determine, the number of councillors and the boundaries of the polling districts in the regional municipality.

(2) Proceedings for the first election of the mayor and councillors of the regional municipality shall be as nearly as may be as specified in the *Municipal Elections Act*, but the coordinator may abridge any time period contained therein.

(3) The coordinator shall, with the assistance of employees of the municipal governments, provide for the first election of the mayor and councillors of the regional municipality.

(4) Notwithstanding the *Municipal Elections Act*, a member of the council of a municipality is eligible to be elected to the council.

(5) Qualifications for nomination as a council member shall be determined as if the municipal governments had been merged in the regional municipality six months prior to nomination day.

(6) Each council member is entitled to remuneration from the regional municipality from the date that member takes office, except that no member of the council of a municipality who is elected to the council may receive remuneration from the municipality from that date.

(7) Notwithstanding any other enactment, there shall not be an election for school board members concurrently with the first election of the council members, unless otherwise prescribed by the Governor in Council.

(8) A member of a school board is not eligible to be nominated or to serve as a council member, if that member would be a member of the school board and a council member at the same time. 1998, c. 18, s. 375.

Transitional provisions

376 (1) Between the date of the order providing for the incorporation of a regional municipality and the incorporation date, a municipal government shall not

(a) replace an employee who retires, resigns, is laid off or is dismissed, convert an employee from part-time to full-time status or promote an employee or hire a new employee, except in the case of term appointments that will expire before the incorporation date;

(b) enter into any lease, contract or other commitment that has effect after, or a term extending beyond, the incorporation date; or

(c) dispose of a capital asset,

unless the coordinator has so approved.

(2) Between the date of the order providing for the incorporation of a regional municipality and the incorporation date, a municipal government shall not expend any funds from an operating or capital reserve fund, and after the incorporation date the council shall apply any reserve funds of a municipal government for the benefit of the residents of the area of the former municipal government.

(3) Between the date of the order providing for the incorporation of a regional municipality and the incorporation date, a municipal government shall not provide early retirement, pre-retirement, termination or severance benefits for any employee. 1998, c. 18, s. 376.

Programs and benefits for employees

377 (1) The regional municipality may provide early retirement, pre-retirement, termination or severance benefits for any employee of a municipal government who is not employed by the regional municipality.

(2) An early retirement program may be limited to the incumbents of positions that the chief administrative officer considers to be unnecessary for the regional municipality.

(3) The cost of severance benefits provided by the regional municipality shall be borne by the regional municipality and not be charged to the area of the municipal government that formerly employed the employee, and the sums required may be borrowed by the regional municipality and shall be repaid by the regional municipality in not more than ten annual installments, as determined by the council. 1998, c. 18, s. 377.

Ministerial order

378 The Minister may, by order, provide for anything necessary or incidental to the incorporation and effective government of a regional municipality, and may include any orders, directions and conditions that are necessary, or desirable, in connection therewith. 1998, c. 18, s. 378.

Effect of incorporation of regional municipality

379 (1) Upon the incorporation of a regional municipality, the municipal governments in the area to be incorporated as a regional municipality are dissolved, and the assets and liabilities of them are vested in the regional municipality including, with the exception of benefits and entitlements created by Section 71 of the *Labour Standards Code*, all employee benefits and entitlements.

(2) Upon the incorporation of a regional municipality, every authority, board, commission, corporation or other entity of a municipal government in the area to be incorporated as a regional municipality and every joint authority, board, commission, committee or other joint entity involving a municipal government in the area to be incorporated as a regional municipality is dissolved and their assets and liabilities are vested in the regional municipality including, with the exception of benefits and entitlements created by Section 71 of the *Labour Standards Code*, all employee benefits and entitlements.

(3) The vesting of an asset of a municipal government in the regional municipality does not void any policy of insurance with respect to the asset, including public liability policies, and the regional municipality is deemed to be the insured party for purposes of any such policy.

(4) Nothing in this Act dissolves any authority, board, commission, committee or other entity that includes representatives of municipalities situate outside the regional municipality.

(5) The regional municipality shall continue to pay any pension or annuity being paid by a municipal government on the day preceding the incorporation date according to its terms.

(6) The regional municipality is a successor employer for purposes of the *Pension Benefits Act*.

(7) The regional municipality may transfer, free of cost, property of a village that is dissolved pursuant to subsection (1) to a body incorporated to provide community services in the area served by the dissolved village. 1998, c. 18, s. 379.

Application of Trade Union Act

380 (1) In this Section, "employee" means an employee as defined in Section 2 of the *Trade Union Act*, excluding those described in subsection 2(2) of that Act.

(2) The regional municipality is a transferee for the purpose of Section 31 of the *Trade Union Act* and, for greater certainty

(a) the regional municipality is bound by successor rights as determined pursuant to the *Trade Union Act*; and

(b) subject to the *Trade Union Act*, the regional municipality and the employees, who are covered by collective agreements, of a municipal government are bound by the collective agreements as if the regional municipality were a party to them.

(3) Where the Labour Relations Board, in applying subsections (1) and (2), determines that those employees who are employed by the regional municipality and who were not previously included in a bargaining unit of a municipal government be included in a bargaining unit of the regional municipality, those employees shall be deemed to have seniority credits with the regional municipality equal to the employment service they had with that municipal government.

(4) Where an employee of a municipal government is employed by the regional municipality, the period of employment and seniority of that employee with the municipal government at the time of the incorporation of the regional municipality is deemed to have been employment and seniority with the regional municipality and the continuity of employment and seniority is not broken.

(5) Where an employee of a municipal government is employed by the regional municipality in a position which becomes a bargaining unit position, the employee's right to employment in the position is not affected by whether that employee was previously employed pursuant to a collective agreement and the employee is deemed to have seniority credits with the regional municipality equal to the employee's service with that municipal government.

(6) No provision of a collective agreement with a municipal government that purports to favour the employees of one municipal government in obtaining employment with the regional municipality over those of another municipal government has any force or effect. 1998, c. 18, s. 380.

Labour Relations Board

381 (1) Where, in the opinion of the Minister of Labour, the workload of the Labour Relations Board requires additional members, the Governor in Council may, in addition to the Vice-chair appointed pursuant to subsection 16(4) of the *Trade Union Act*, appoint additional members and Vice-chairs to the Labour Relations Board for such period of time as is set out in the appointment.

(2) An appointment pursuant to subsection (1) does not increase the quorum of the Labour Relations Board. 1998, c. 18, s. 381.

Deemed references and continuations

382 (1) A reference in an enactment, deed, will or other document to a municipal government is and is deemed to be a reference to the regional municipality.

(2) A reference in an enactment, deed, will or other document to the mayor, warden or chairman of a municipal government is and is deemed to be a reference to the mayor of the regional municipality.

(3) The by-laws, orders, policies and resolutions in force in a municipal government immediately prior to the incorporation of a regional municipality continue in force in the area over which that municipal government had jurisdiction to the extent that they are authorized by this or another Act, until amended or repealed by the council of the regional municipality. 1998, c. 18, s. 382.

Application for incorporation as town

383 (1) A town may be incorporated upon application to the Board.

(2) An application for incorporation may be made by one third of the electors of the area proposed to be incorporated as a town. 1998, c. 18, s. 383; 2002, c. 36, s. 1.

Application for preliminary order

384 (1) An applicant for incorporation shall apply for a preliminary order.

(2) The application for a preliminary order shall include

(a) the boundaries of the town proposed to be incorporated sufficient to identify the area;

(b) an estimate of the population of the town proposed to be incorporated;

(c) the total assessed value of taxable property and occupancy assessments in the town proposed to be incorporated;

(d) where the area is or contains a village, the audited financial statements of the village for the fiscal year immediately preceding the year in which the application is made;

(e) a brief statement of the reasons for the application; and

(f) such other matters as the applicant considers relevant to the application.

(3) The applicant shall serve a copy of the application for a preliminary order on the clerk of the county or district municipality from which the town would be incorporated, on the Minister, and on such others as the Board directs. 1998, c. 18, s. 384.

Hearing notifications

385 (1) Upon the Board setting the date for a hearing of the application for a preliminary order, the Board shall, at the expense of the applicant, advertise the hearing in a newspaper circulating in the area in which the town would be incorporated, including the date by which any person wishing to be heard must notify the Board.

(2) Any interested person may appear and be heard at the hearing for a preliminary order by notifying the Board at least one week before the date fixed for the hearing. 1998, c. 18, s. 385.

Persons heard

386 At the hearing of the application for a preliminary order the Board shall hear

(a) the applicant;

(b) a representative of the county or district municipality from which the town would be incorporated;

(c) the Minister; and

(d) any person who has previously notified the Board. 1998, c. 18, s. 386.

Preliminary order

387 (1) After the application has been heard, the Board may make a preliminary order, indicating

(a) suggested boundaries of the area proposed to be incorporated;

(b) studies to be undertaken into the financial implications of incorporation for the area proposed to be incorporated, the Province and the municipality from which the town would be incorporated;

(c) such other studies as may appear to the Board to be relevant to a decision on the necessity or expediency of the incorporation; and

(d) any other evidence that the Board may direct be provided during the hearing of the application.

(2) Where the Board determines that there are no reasonable grounds for the application or there is no reasonable possibility that the application would be granted, the Board may dismiss the application.

(3) The cost of any studies required by the Board shall be borne by the parties as directed by the Board.

(4) Where any required studies are not completed within the time provided in the preliminary order, the Board may

(a) extend the time for completing the studies;

(b) proceed with the application without the studies;

(c) have the studies carried out or completed at the expense of the party responsible for them; or

(d) dismiss the application.

(5) *repealed 2003, c. 9, s. 78.*

1998, c. 18, s. 387; 2003, c. 9, s. 78.

Order for incorporation as a town

388 (1) After the application has been heard, the Board shall, if satisfied that an order incorporating the area as a town is in the best interests of the inhabitants of the area taking into account the financial and social implications of the order applied for, make an interim order defining the boundaries of the area and for the taking of a vote pursuant to Section 388A to determine whether the inhabitants of the area are in favour of the incorporation.

(1A) Where the result of the vote taken pursuant to Section 388A is that a majority of the electors who voted were in favour of the proposed incorporation, the Board shall issue an order incorporating the area as a town upon such terms as it considers advisable.

(1B) Where the result of the vote taken pursuant to Section 388A is that a majority of the electors who voted did not vote in favour of the proposed incorporation, the Board shall dismiss the application to incorporate the area as a town.

(2) The order of the Board incorporating a town shall

(a) name the town;

(b) define the boundaries of the town;

(c) fix the effective date of the incorporation;

(d) determine the number of councillors;

(e) determine whether the town will be divided into wards and, if so, establish ward boundaries;

(f) set the dates for nomination day and ordinary polling day for the first election of the mayor and councillors;

(g) provide for returning officers and the conduct of the first election;

(h) set the date the council takes office;

(i) direct the Director of Assessment to make any necessary adjustment in the assessment roll applicable to the area;

(j) provide for any other matter that is necessary or desirable to effect the incorporation of the town; and

(k) from time to time make such determinations, issue such orders and directions, and do or cause to be done all such other

matters and things as, in the opinion of the Board, are necessary or incidental to incorporation of the town.

(3) An order of the Board may

(a) adjust assets and liabilities among those affected by the order as the Board considers fair;

(b) annex, amalgamate, continue or dissolve boards, commissions, villages and service commissions and allocate their assets as the Board considers fair.

(4) The Board may make an interim order and reserve further directions. 1998, c. 18, s. 388; 2002, c. 36, s. 2.

Vote of electors

388A (1) Where the Board orders the taking of a vote pursuant to Section 388, the Chief Electoral Officer shall take a vote of the electors in the area defined by the Board in the manner prescribed in this Act and the regulations at which the question is

> Do you favour the incorporation of [define area]
> in the Municipality of [name] as a town?

and the choices are yes or no, only.

(2) Where a vote of the electors is to be taken pursuant to this Section, the following provisions apply:

(a) the voting upon the question shall be by ballot on a day fixed by the Chief Electoral Officer;

(b) the dates for revision of the preliminary list of electors, ordinary polling day and advance polling days shall be set by the Chief Electoral Officer in accordance with the requirements of the *Municipal Elections Act* for special elections;

(c) public notification of the time and place of the revision and voting shall be given by advertisement in a newspaper circulating in the plebiscite area, and by such other means as the Chief Electoral Officer deems advisable;

(d) the Chief Electoral Officer shall appoint a returning officer to administer the plebiscite in the plebiscite area, and the returning officer shall arrange for a suitable place or places in the area for the vote to be taken and shall appoint deputy returning officers, poll clerks, revising officers, enumerators and other election officers required to conduct the vote, and any officer so appointed has the same powers and privileges as the corresponding officers in the case of an election pursuant to the *Municipal Elections Act*;

(e) the list of electors to be used at the vote shall be determined by the Chief Electoral Officer and the use or distribution of the

list as directed by the Chief Electoral Officer is an election purpose pursuant to the *Municipal Elections Act*;

(f) the list of electors referred to in clause (e) shall form the preliminary list of electors, which shall be revised in accordance with the *Municipal Elections Act*, except that in lieu of posting the list, the Chief Electoral Officer shall cause a notification to be sent to each elector whose name and address is on the preliminary list of electors indicating when and where applications will be received for amendment to the preliminary list of electors and containing such other information as the Chief Electoral Officer decides;

(g) the Chief Electoral Officer shall advertise in a newspaper circulating in the plebiscite area that notifications have been sent and provide information about how, when and where the preliminary list of electors will be revised;

(h) notwithstanding clause (f), the Chief Electoral Officer may require that persons applying to be added to the list of electors provide satisfactory evidence of identity and residence before being added to the list of electors by the revising officer;

(i) a group of electors in favour of and a group of electors opposed to the question may register with the returning officer;

(j) the registration of a group of electors by the returning officer shall be in the prescribed form and shall identify a name for the group and the name, address and telephone number of a designated representative of the group;

(k) the designated representative of a registered group of electors is authorized to nominate one or more agents to represent the group at a polling station and to receive the list of electors on behalf of the group;

(l) the returning officer shall appoint each agent of a registered group of electors and the appointment shall specify at which polling station the agent may act;

(m) an agent of a registered group of electors may be appointed to more than one polling station, but only one agent representing each registered group may be present in the polling station at a time; and

(n) upon appointment, an agent representing a registered group is in the same position as an agent representing a candidate pursuant to the *Municipal Elections Act*.

(3) Following the counting of the votes, the returning officer shall make a return to the Chief Electoral Officer in the prescribed form.

(4) The Chief Electoral Officer may make a tariff of fees, costs, allowances and expenses to be paid and allowed to persons appointed to conduct

and receive the vote, of other persons employed at or with respect to the taking of the vote and may from time to time revise and amend the tariff.

(5) The fees, costs, allowances and expenses referred to in subsection (4) shall be paid by Her Majesty in right of the Province.

(6) The Minister shall give such directions and make such regulations and prepare such forms as may appear to be necessary for the purpose of this Section and for the guidance of the Chief Electoral Officer and other officers or persons employed in the taking of the vote and may apply, modify or alter any of the provisions of the *Municipal Elections Act* and may make due provision for circumstances that may arise and that are not otherwise provided for.

(7) The forms to be used at the taking of the vote and the procedure with respect to voting and other matters shall be the same as nearly as may be as in the case of an election pursuant to the *Municipal Elections Act* but such forms and procedure may be modified and altered to such extent as is deemed necessary by the Chief Electoral Officer.

(8) A person whose name is not on the final list of electors is permitted to vote following the procedure in the *Municipal Elections Act* as modified or altered by the Chief Electoral Officer in the circumstances.

(9) Except as otherwise provided by this Act or the regulations, the *Municipal Elections Act* applies *mutatis mutandis* to the taking of the vote as if it were a special election pursuant to that Act. 2002, c. 36, s. 3.

Effect of order and publication

389 (1) An order of the Board incorporating a town is conclusive evidence that the town has been duly incorporated.

(2) A copy of an order incorporating a town shall be published in the Royal Gazette as a regulation, and shall be filed and advertised as directed by the Board. 1998, c. 18, s. 389.

Limitations on town incorporation

390 A town may not be incorporated in a regional municipality or in a town. 1998, c. 18, s. 390.

Effects upon incorporation

391 (1) When a town is incorporated, the area within its boundaries ceases to be part of the county or district municipality from which it was incorporated.

(2) Unless the Board otherwise orders, when a town is incorporated, a village or service commission having authority in the area incorporated as a

town is dissolved and its assets and liabilities are vested in the town. 1998, c. 18, s. 391.

By-laws continue

392 The by-laws of the county or district municipality from which a town is incorporated continue in force in the town for two years after the date of incorporation unless earlier repealed by the council of the town or extended by order of the Minister on request by the town council for a further period of two years. 1998, c. 18, s. 392.

Property and taxation

393 (1) Unless the Board otherwise orders, the real property of the county or district municipality situate in an area incorporated as a town is vested in the town.

(2) Unless the Board otherwise orders, taxes imposed with respect to the ownership or occupation of property in the area incorporated as a town and unpaid at the date of incorporation belong to the town and may be collected as if they had been imposed by the town. 1998, c. 18, s. 393.

Application to dissolve town

394 A town may be dissolved upon application to the Board by

(a) the Minister;

(b) the council of the town; or

(c) ten per cent of the electors of the town. 1998, c. 18, s. 394.

Application for preliminary order

395 (1) An applicant for dissolution shall apply for a preliminary order.

(2) The application for a preliminary order shall include

(a) the boundaries of the town proposed to be dissolved;

(b) an estimate of the population of the town;

(c) the total assessed value of taxable property and occupancy assessments in the town;

(d) the audited financial statements of the town for the fiscal year immediately preceding the year in which the application is made;

(e) a brief statement of the reasons for the application; and

(f) such other matters as the applicant considers relevant to the application.

(3) The applicant shall serve a copy of the application for a preliminary order on the clerk of the town, the clerk of the district municipality to which the town would revert if dissolved and on such others as the Board directs. 1998, c. 18, s. 395.

Hearing notifications

396 (1) Upon the Board setting the date for a hearing of the application for a preliminary order, the Board shall, at the expense of the applicant, advertise the hearing in a newspaper circulating in the town proposed to be dissolved, including the date by which any person wishing to be heard must notify the Board.

(2) Any interested person may appear and be heard at the hearing for a preliminary order by notifying the Board at least one week before the date fixed for the hearing. 1998, c. 18, s. 396.

Persons heard

397 At the hearing of the application for a preliminary order, the Board shall hear

(a) the applicant;

(b) a representative of the council of the town proposed to be dissolved;

(ba) a representative of any municipality to which the area of the town, if dissolved, might be annexed or form part of;

(c) the Minister; and

(d) any person who has previously notified the Board. 1998, c. 18, s. 397; 2003; c. 9, s. 79.

Preliminary order

398 (1) After the application has been heard, the Board may make a preliminary order, indicating

(a) studies to be undertaken into the financial implications of dissolution for the town, the Province and the municipality to which the town would revert if dissolved;

(b) such other studies as may appear to the Board to be relevant to a decision on the necessity or expediency of the dissolution; and

(c) any other evidence that the Board may direct be provided during the hearing of the application.

(2) Where the Board determines that there are no reasonable grounds for the application for dissolution or there is no reasonable possibility that the application would be granted, the Board may dismiss the application.

(3) The cost of any studies required by the Board shall be borne by the parties as directed by the Board.

(4) Where any required studies are not completed within the time provided in the preliminary order, the Board may

(a) extend the time for completing the studies;

(b) proceed with the application without the studies;

(c) have the studies carried out or completed at the expense of the party responsible for them; or

(d) dismiss the application.

(5) *repealed 2003, c. 9, s. 80.*

1998, c. 18, s. 398; 2003, c. 9, s. 80.

Order for dissolution of town

399 (1) After the application for dissolution is heard, the Board may dissolve the town upon such terms as it considers advisable.

(2) The order of the Board dissolving a town shall

(a) declare that the area comprising the town be dissolved and be annexed to, and form part of, another municipality or municipalities;

(b) set out the effective date of the dissolution;

(c) determine that the area be an additional polling district or shall form part of another polling district of the municipality to which it is annexed;

(d) determine whether the area should continue as a village and, if so, provide for all things necessary to convert the former town to a village;

(e) direct the Director of Assessment to make any necessary adjustment in the assessment roll applicable to the area;

(f) make such determinations, issue such orders and directions and do or cause to be done all such other matters and things as, in the opinion of the Board, are necessary or incidental to the carrying out of the dissolution of the town.

(3) An order of the Board may annex, amalgamate, continue or dissolve boards and commissions and allocate their assets as the Board considers fair.

(4) The Board may make an interim order and reserve further directions.

(5) *repealed 2003, c. 9, s. 80.*

1998, c. 18, s. 399; 2003, c. 9, s. 80.

Electors and polling districts

400 (1) Where an order of the Board results in the dissolved town being one additional polling district, until the next regular election of councillors, the mayor of the town dissolved is the councillor for the district.

(2) Where an order of the Board results in the dissolved town being more than one additional ward or polling district, a special election shall be conducted by the returning officer of the municipality to which the dissolved town has been annexed in accordance with the *Municipal Elections Act.*

(3) Where a town is dissolved, the list of electors for the town continues to be the list of electors for the polling district until a new list of electors is prepared pursuant to the *Municipal Elections Act*.

(4) When a town is dissolved, the policies and by-laws in effect continue in force in the area of the former town until repealed by the council or, to the extent it has jurisdiction, any village commission that may replace the former town council. 1998, c. 18, s. 400.

Streets of dissolved town

401 Where a town is dissolved

(a) the Governor in Council may assume liability for the payment of all or any part of any debt incurred by the town for streets in the town; and

(b) the Minister of Transportation and Public Works shall determine which of the streets in the town are municipal highways and shall advise the municipality to which the town has been annexed. 1998, c. 18, s. 401.

Assets and liabilities of dissolved town

402 (1) Where a town is dissolved, the assets and liabilities of the town become assets and liabilities of the county or district municipality to which it reverts.

(2) The county or district municipality to which a dissolved town reverts stands in the place and stead of the town for all purposes and has the same powers to collect taxes due to the town as if the taxes had been imposed by it. 1998, c. 18, s. 402.

PART XVIII

VILLAGES

Interpretation

403 In this Part, "elector" means a person resident within the village entitled to vote at a municipal election, and who will have resided in the village for at least six months immediately prior to the village election. 1998, c. 18, s. 403.

Villages continue

404 The inhabitants of every village for which village commissioners were incorporated pursuant to the *Village Services Act* or to which that Act was declared to apply continue to be a body corporate under the name "Village of ....." with the same boundaries, until altered by the Board pursuant to this Act. 1998, c. 18, s. 404.

Commission governs

405 A village is governed by a commission consisting of at least three commissioners and the number of commissioners, not exceeding five, shall be determined by the village by by-law. 1998, c. 18, s. 405.

Perpetual succession and common seal

406 (1) A village has perpetual succession and shall have a common seal.

(2) The seal shall be kept by the clerk of the village.

(3) A deed or document to which a village is a party shall be authenticated by the seal of the village and the chair and the clerk shall, when duly authorized, sign the deed or document and affix the seal. 1998, c. 18, s. 406.

Requirements for village commissioner

407 (1) No person is qualified to serve as a village commissioner unless the person is an elector.

(1A) An elector who is a council member is not qualified to serve as a village commissioner.

(2) Every village commissioner shall take and subscribe the oath of office prescribed by the *Municipal Elections Act* in the manner prescribed by that Act before entering upon the duties of village commissioner.

(3) A village commissioner whose term of office has expired is eligible for reelection. 1998, c. 18, s. 407; 2011, c. 68, s. 29.

Meetings of village commission

408 (1) The village commissioners shall, at their first meeting after an election, elect a chair and a vice-chair.

(2) The chair shall preside at all meetings of the village commission.

(3) The vice-chair shall act in the absence or inability of the chair or in the event of the office of chair being vacant.

(4) All meetings of the village commission are open to the public.

(5) Meetings of the village commission shall be held at the times and places specified in the by-laws.

(6) The vice-chair, when notified that the chair is absent or unable to fulfil the duties of chair, or that the office of chair is vacant, has all the power and authority, and shall perform all the duties, of the chair. 1998, c. 18, s. 408.

Term

409 A village commissioner holds office for a term of three years. 1998, c. 18, s. 409.

By-law for nominations

410 (1) The village commission may, by by-law, provide for the nomination of candidates for election on a day preceding the day on which the election is to be held.

(2) Where a nomination day by-law is passed, nominations may only be made on the day provided for by the by-law. 1998, c. 18, s. 410.

Village commissioner vacancy

411 (1) Where a vacancy occurs in the office of a village commissioner, within thirty days

(a) the remaining village commissioners shall call a special meeting of the electors of the village for the purpose of filling the vacancy, which shall be held in the same manner as elections held at an annual meeting; or

(b) an election shall be held in accordance with the nomination and election by-laws of the village.

(1A) Notwithstanding subsection (1), a vacancy need not be filled until the next annual meeting or the election held in accordance with the nomination and election by-laws of the village immediately following the next annual meeting if it occurs within six months of the next annual meeting unless the Minister or the village commission determines otherwise.

(2) The person elected to fill a vacancy shall serve in office for the remainder of the term of the village commissioner whose office the person was elected to fill. 1998, c. 18, s. 411; 2001, c. 35, s. 24.

Village commissioner resignation

412 A village commissioner

(a) may resign from office at any time by delivering to the village clerk a signed declaration to that effect;

(b) who ceases to be ordinarily resident in the village, ceases to be qualified to serve as a village commissioner;

(c) who, without leave of the village commission, is absent from three consecutive regular meetings of the village commission, ceases to be qualified to serve as a village commissioner. 1998, c. 18, s. 412.

Annual public meeting

413 An annual public meeting of the electors of the village shall be held on or before the first day of July in each fiscal year. 1998, c. 18, s. 413.

Notice of meeting

414 (1) The chair of the village commission shall give notice of the time and place of the annual meeting of the electors by causing notices to be posted, in not less than five conspicuous places in the village, at least fourteen days before the date of the meeting.

(2) The village commission may advertise the annual meeting in a newspaper circulating in the village at least fourteen days before the meeting, in lieu of, or in addition to, posting notices. 1998, c. 18, s. 414.

Annual meeting

415 (1) The chair of the village commission shall preside at the annual meeting.

(2) The village commission shall present a report of the proceedings of the preceding fiscal year and the audited financial statement at the annual meeting.

(3) The electors present at an annual meeting shall, after the presentation and disposal of the report of the village commission and of the financial statement, proceed to elect village commissioners.

(4) The chair shall appoint two electors to act as scrutineers.

(5) Where more than one village commissioner is to be elected at the same meeting, a separate ballot shall be taken for each commissioner.

(6) Where the village commission so provides by by-law, a single ballot may be taken for the election of more than one village commissioner. 1998, c. 18, s. 415.

By-law for election of village commissioners

416 (1) The village commission may provide by by-law for the village commissioners to be elected on a day within one week following the annual meeting.

(2) The by-law shall

(a) specify the day that the election is to be held;

(b) specify the hours that polling is to occur;

(c) provide for the appointment of two scrutineers; and

(d) provide for any matter or thing necessary to effectively conduct the election. 1998, c. 18, s. 416.

Voting procedures

417 (1) Upon the completion of the voting, the clerk in the presence of each of the two scrutineers shall open the ballot box and examine the ballot papers and proceed to count the votes and shall declare the person or persons having the greatest number of votes elected.

(2) When there is a tie at an election of a village commissioner, the clerk shall determine the successful candidate by lot as prescribed by the *Municipal Elections Act*.

(3) After the votes are counted the village clerk shall make up a written statement containing the following particulars

(a) the number of votes polled;

(b) the names of the persons receiving votes and the number of votes received by each person.

(4) The statement shall be signed by the village clerk and filed with the minutes of the meeting. 1998, c. 18, s. 417.

Vote recount

418 (1) If, within three days after the election, any elector requests a recount of the votes cast at the election, the village clerk shall appoint a time within three days to recount the votes at the village office and shall, at the time and place appointed, in the presence of the chair of the village and the elector, proceed to recount the votes.

(2) The village clerk, as soon as the result of the poll is ascertained, shall declare to be elected the candidate or candidates having the highest

number of votes, and in the event of a tie determine the successful candidate by lot as prescribed by the *Municipal Elections Act*. 1998, c. 18, s. 418.

Special meeting of electors

419 (1) The village commission may convene a special meeting of the electors and shall give fourteen days notice of it by posting notices in conspicuous places in the village stating the time, place and purpose for which the meeting is convened.

(2) The village commission may advertise the meeting in a newspaper circulating in the village at least fourteen days before the meeting in lieu of, or in addition to, posting notices. 1998, c. 18, s. 419.

Village clerk and treasurer

420 (1) The village commission shall appoint a village clerk and treasurer who shall be paid the salary granted by the village commission.

(2) The village clerk shall

(a) record all by-laws, resolutions, decisions and other proceedings of the village commission;

(b) if requested by any village commissioner, record the vote of every village commissioner voting on any matter;

(c) keep the books, records and accounts of the village;

(d) preserve and file all accounts, original and certified copies of the by-laws and of all minutes of proceedings of the village commission; and

(e) act as clerk at, and keep records of, all meetings of electors. 1998, c. 18, s. 420.

Policy for records management and destruction

421 (1) The village commission may adopt a policy for the management and destruction of records.

(2) Records required to be kept by any enactment and minutes, by-laws, policies or resolutions of the village commission may not be destroyed.

(3) The village commission may, by policy, specify further classes of records that are not to be destroyed or that are to be kept for set periods.

(4) When a village record has been destroyed or when the original village record is not produced in court, any photographic, photostatic or electronic reproduction of the record is admissible in evidence to the same extent as the original could have been produced and is, in the absence of proof to the contrary, proof of the record, if the clerk certifies that the reproduction is part of the records of the village and that it is a true reproduction of the original. 1998, c. 18, s. 421.

Power to employ persons

422 The village commission may employ the persons necessary for the purposes of the village. 1998, c. 18, s. 422.

Power to expend money

423 (1) The village commission may expend money required by the village for

(a) expenses of elections and plebiscites;

(b) premiums on any insurance policy for damage to property, personal injury or liability, including liability of members of the village commission or employees of the village and volunteer members of the fire departments and emergency services providers and volunteers in village programs;

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

(d) providing an emergency response system;

(e) snow and ice removal;

(f) procuring and providing for the village, or any part of it, a suitable system of fire protection or emergency services and may, for the purpose, purchase or otherwise acquire and equip maintain and repair apparatus, machinery, implements and plan for use in extinguishing fires or providing emergency services;

(g) equipping and maintaining fire departments or emergency services providers;

(h) honoraria and training expenses for volunteer firefighters and emergency services volunteers;

(i) providing school crossing guards;

(j) recreational programs;

(k) advertising the opportunities of the village for business, industrial and tourism purposes and encouraging tourist traffic, with power to make a grant to a nonprofit society for this purpose;

(l) lighting any part of the village;

(m) preventing or decreasing flooding;

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

(o) salaries, remuneration and expenses of the village commissioners, officers and employees of the village;

(p) the reasonable expenses incurred by the village commissioners for attendance at meetings and conferences, if the permission of the village commission is obtained prior to the meeting or

conference or if the attendance is in accordance with a resolution of the village commission;

(q) the contribution of the village to a pension or superannuation fund;

(r) payment to the Board of an assessment on a public utility owned or operated by the village, as determined by the Board;

(s) annual fees of municipal, village or professional associations;

(t) public libraries;

(u) lands and buildings required for any purpose of the village,

(v) furnishing and equipping any village facility;

(w) acquisition of equipment, materials, vehicles, machinery, apparatus, implements and plant for any village purpose;

(x) placing the wiring and other parts of a system for the supply or distribution of electricity, gas, steam or other source of energy, or a telecommunications system, underground;

(y) buildings for a medical centre to encourage medical doctors, dentists and other health professionals to locate in the village;

(z) a fire alarm system;

(aa) ponds, reservoirs, brooks, canals and other means of accumulating or directing the flow of water to be used in extinguishing fires;

(ab) playgrounds, trails, bicycle paths, swimming pools, ice arenas and other recreational facilities;

(ac) public grounds, squares, halls, museums, parks, tourist information centres and community centres;

(ad) wastewater facilities and stormwater systems;

(ae) water systems;

(af) solid-waste management facilities;

(ag) a system for providing electric light and power;

(ah) parking lots and parking structures;

(ai) wharves and public landings;

(aj) constructing, maintaining and repairing streets, sidewalks, curbs, gutters and other improvements to streets and highways, provided that no improvement shall be constructed without the permission of the owner of the street or highway;

(ak) doing all things necessary or incidental to the exercise of any of the powers and duties of the village.

(2) The village may extend, construct, alter, improve, maintain and operate the wastewater facilities, stormwater system, water system or electric light system of the village outside the limits of the village and may enter into contracts to supply the services outside the village.

(2A) Village property used for any of the purposes referred to in subsection (2) is deemed, for purposes of clause 5(1)(u) of the *Assessment Act*, to be used exclusively for the purpose of village commissioners.

(3) The village may charge for any service provided outside the village in the same manner in which the service is charged for in the village provided that any rates subject to the approval of the Board are approved by the Board. 1998, c. 18, s. 423; 2004, c. 7, s. 20.

Village expropriation powers

424 A village has the same powers of expropriation as a municipality, and shall follow the same procedure. 1998, c. 18, s. 424.

Mutual aid

425 (1) A village may assist at fires, rescues or other emergencies occurring outside its boundaries.

(2) A village may agree with municipalities, villages, federal and provincial departments and agencies or others to provide assistance at fires, rescues and other emergencies and to receive assistance at fires, rescues and other emergencies. 1998, c. 18, s. 425.

By-law powers

426 A village commission may make by-laws for

(a) regulating proceedings and preserving order at meetings of the village commission;

(b) the government and procedure of meetings of the electors of the village;

(c) regulating the management, and providing for the security of, public property of any kind belonging to the village, and providing for the permanent improvement of the village in all matters ornamental as well as useful;

(d) protecting and preventing injury to streets, squares, sidewalks and pavements and to the posts, railings, trees and ornaments of the village;

(e) regulating or protecting drains, sewers or watercourses in the village;

(f) providing for any other purpose, matter or thing within the powers, duties or control of the commissioners. 1998, c. 18, s. 426.

Power to make by-laws

427 (1) The commission 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 village clerk may have the snow and ice cleared and any necessary measures to abate dangerous conditions taken and the cost of the work, with interest at the rate determined by the village commission, from the date of the completion of the work until the date of payment, is a first lien on the property.

(3) The commission 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. 1998, c. 18, s. 427.

By-laws for enforcement of payment of charges

428 (1) The village commission may make by-laws imposing, fixing and providing methods of enforcing payment of charges for

(a) wastewater facilities or stormwater systems, for the use of wastewater facilities or stormwater systems, and for connecting to wastewater facilities or stormwater systems;

(b) *repealed 2003, c. 9, s. 81.*

(c) the village portion of the capital cost of installing a water system;

(d) laying out, opening, constructing, repairing, improving and maintaining streets, curbs, sidewalks, gutters, bridges, culverts and retaining walls whether the cost is incurred by the village directly or by, or pursuant to, an agreement with Her Majesty in right of the Province, the Minister of Transportation and Public Works or any person;

(e) the village portion of the capital cost of placing the wiring and other parts of an electrical distribution system underground;

(f) a special purpose tax account to provide for future expenditures for wastewater facilities, stormwater systems, water systems, transportation facilities or other anticipated capital requirements.

(2) The village commission 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 village commission, the buildings impose or may impose on the sewer system and levy a one-time redevelopment charge to pay for additional or trunk sanitary or storm sewer capacity required to accommodate the effluent from the buildings;

(b) impose a one-time oversized sewer charge on each property determined by the village commission to benefit from a sewer in the future to recover the cost of making the sewer an oversized sewer, and provide that the oversized sewer charge is not payable until the property is serviced by a sanitary sewer or a storm sewer;

(c) levy a one-time storm drainage charge on the owner of each lot of land in a drainage management area for which an application is made for a development permit to allow, on the lot, a development of a class designated by the village commission in the by-law.

(3) A by-law made 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 or in proportion to the assessment of the respective properties fronting on the street or according to another plan or method set out in the by-law;

(b) that the charges may be made and collected only where 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 has been performed, 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 village;

(d) when the charges are payable;

(e) for total or partial exemption of persons and land from the charge and for adjustments to be made with respect to lots of land or developments where the proposals or applications change in order to reflect the changing nature of lots or developments;

(f) that the charges are first liens on the real property and may be collected in the same manner as other taxes;

(g) that the charges be collectable in the same manner as taxes, and at the option of the treasurer be collectable at the same time and by the same proceedings as taxes;

(h) a manner for determining when the lien becomes effective or when the charges become due and payable;

(i) that the amount payable may, at the option of the owner of the property, be paid in the number of annual installments set out in the by-law, and on default of payment of any installment the balance becomes due and payable;

(j) that interest is payable annually on the entire amount outstanding and unpaid, whether or not the owner has elected to pay by installments, 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. 1998, c. 18, s. 428; 2003, c. 9, s. 81.

By-law regarding taxation

429 (1) A village commission has the powers of a municipality to make by-laws pursuant to this Act for tax reductions, exemptions and deferrals.

(2) A by-law passed pursuant to subsection (1) does not require the approval of the Minister. 1998, c. 18, s. 429.

By-law requiring connection with sewer

430 (1) Where a village is operating a sewer or drainage system, the village commission may, by by-law, require the owner of every building to connect to the sewer line in the manner prescribed in the by-law, and may exempt from the requirement buildings that

(a) are adequately served with sewer and drainage;

(b) do not require sewer service; or

(c) would not be adequately or practically served by connection with the sewer line.

(2) The by-law may require the owner of a septic tank or outhouse to remove and destroy the septic tank or outhouse and to fill any resulting cavity when the building served by the septic tank or outhouse is connected or required to be connected with the sewer.

(3) The village commission may serve notice on an owner requiring the owner to comply with the by-law, and any person who does not comply with the notice within thirty days is guilty of an offence. 1998, c. 18, s. 430.

By-law prescribing penalties

431 (1) Except as otherwise provided, the village commission may, by by-law, prescribe a maximum penalty, not exceeding five thousand dollars, for the violation of a by-law of the village and may, in the by-law, provide that in default of payment of the penalty the offender may be imprisoned for not more than ninety days.

(2) The village commission may, by by-law, prescribe a minimum penalty not exceeding one hundred dollars for the violation of a by-law of the village.

(3) Where no penalty for violation of a by-law of a village is prescribed, every person who violates a by-law is liable upon summary conviction, to a penalty of not more than five thousand dollars and in default of payment, to imprisonment for a period of not more than ninety days.

(4) Every day during which a contravention of or failure to comply with a by-law of a village continues is a separate offence. 1998, c. 18, s. 431.

Collection of penalties

432 (1) All penalties for violations of a by-law of a village shall, when collected, be paid to the village.

(2) A penalty pursuant to a by-law of the village, if no other provision is made respecting it, belongs to and forms part of the general revenue of the village. 1998, c. 18, s. 432.

Ministerial approval and revocation

433 (1) Except as otherwise specified in the enactment authorizing the by-law, every by-law made by a village commission pursuant to the authority of this Act or another Act of the Legislature is subject to the approval of the Minister and, when so approved, has the force of law.

(2) The Minister may subsequently revoke approval of a by-law, or part of the by-law and, after such revocation, the by-law or the part in respect of which approval is revoked is repealed.

(3) Two copies of every by-law enacted by a village commission shall be certified by the clerk to be true copies and shall be provided to the Minister. 1998, c. 18, s. 433.

By-law records

434 (1) The village commission shall keep one copy of every by-law, certified by the village clerk under the seal of the village that it was passed or made and, in the case of a by-law requiring the approval of the Minister, bearing the approval of the Minister.

(2) The by-law records shall be maintained by the village clerk.

(3) The original by-laws shall be open to inspection by any person at any reasonable time, but shall not be removed from the office of the village and the production of the original by-law in a court may not be required on subpoena but only upon order of the court or a judge after satisfactory cause is shown.

(4) The village clerk shall print all of the by-laws of the village from time to time in force and shall keep printed copies of the by-laws, amended to date, for sale.

(5) The village clerk shall provide a copy of any by-law amended to date to any person requesting one, at a reasonable price, having regard to the cost of printing. 1998, c. 18, s. 434.

Prima facie proof of by-law

435 (1) A copy of any by-law made pursuant to this Act or another Act of the Legislature purporting to be certified by the village clerk under the seal of the village to be a true copy of a by-law passed by the village commission and having received all necessary approvals shall be received in evidence as *prima facie* proof of its passing, its having received all necessary approvals, its being in force and the contents of it without any further proof in any court, unless it is specially pleaded or alleged that the seal or the signature of the village clerk is forged.

(2) Printed documents certified by the village clerk purporting to be printed copies of any or all by-laws passed by the village commission shall 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. 1998, c. 18, s. 435.

Application for Supreme Court order

436 A village may apply to a judge of the Supreme Court of Nova Scotia for an injunction or other order, and the judge may make any order that the justice of the case requires, if

(a) a building is erected, is being erected or is being used in contravention of a by-law of the village;

(b) land is being used in contravention of a by-law of the village;

(c) a breach of a by-law is anticipated or is of a continuing nature; or

(d) a person is carrying on business or is doing any thing without paying the licence or permit fee required. 1998, c. 18, s. 436.

Application to quash

437 (1) A person may, by notice of motion, apply to a judge of the Supreme Court of Nova Scotia to quash a by-law, order, policy or resolution of the village commission, 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 village and may determine the scale of the costs.

(4) The notice of motion shall be served at least seven days before the day on which the motion is to be made.

(5) No application pursuant to this Section to quash a by-law, order, policy or resolution, in whole or in part, shall be entertained unless the application is made within three months after the publication of the by-law or the making of the order, policy or resolution. 1998, c. 18, s. 437.

Power to borrow

438 (1) A village may borrow the sums necessary to carry out any village service.

(2) No money shall be borrowed by a village until the proposed borrowing is approved by a meeting of the electors of the village and by the Minister.

(3) Subject to subsection (2), the procedures for borrowing by a village are the same as for a municipality. 1998, c. 18, s. 438; 2003, c. 9, s. 82.

Village commission estimates and rates

439 (1) The village commission, before the annual meeting in each fiscal year, shall make estimates of all sums required for the lawful purposes of the village for the then current fiscal year after crediting the probable revenue from all sources other than rates, including any subsidy allowed by the council of the municipality within which the village is situate, and making due allowance for the abatement and losses which may occur in the collection of the taxes and for taxes for the current fiscal year which may not be collected or collectable.

(2) In preparing the estimates, the village commission shall include all sums which are required for the retirement of debenture debt, or debenture interest, or sinking fund deposits, if any, in respect of all debentures issued by the municipality for or on behalf of the village.

(3) Subject to subsection (3A), the village commission shall authorize the levying and collecting of

(a) a commercial tax rate of so much on the dollar of the assessed value of taxable commercial property and business occupancy assessments; and

(b) a residential tax rate of so much on the dollar of the assessed value of taxable residential property and resource property.

(3A) The commercial tax rate shall not exceed one and a half times the residential tax rate.

(3B) The tax rates referred to in subsection (3) shall be those that the village commission deems sufficient to raise the amount of money required to defray the estimated requirements of the village.

(4) The amount rated upon each ratepayer shall be collected in the same manner as municipal rates and taxes with the same rights and remedies in the event of default of payment.

(5) Where the assessment for municipal purposes covers property in part outside the limits of the village, the village commission may allow such abatement of rates as the commission deems just.

(6) Where any expenditure is incurred for defraying the expenses of providing and operating a waterworks system, the amount of the expenditure shall be paid out of the revenue received from the operation of the system pursuant to the *Public Utilities Act* so far as that revenue extends, and any deficit thereafter may be rated and collected. 1998, c. 18, s. 439; 2005, c. 9, s. 14.

Tax collection

440 (1) A village has the same power to prescribe due dates, installment billing, interest, penalties and discounts as a municipality.

(2) A village has the same powers as a municipality to collect taxes.

(3) Village taxes are a first lien on the property with respect to which they are levied. 1998, c. 18, s. 440.

Delegation of tax collection to municipality

441 (1) A village may, with the consent of the municipal council, delegate its powers of tax collection to the municipality within which it is situate.

(2) Where a village delegates its powers of tax collection to a municipality, the village clerk shall provide the municipal treasurer with a requisition for the amount required for the current fiscal year and a list of the taxpayers of the village.

(3) Where any part of the amount required is an area charge, the requisition shall state the amount to be raised as an area charge and the taxpayers liable for the charge.

(4) Where a property is partly within the village and partly outside, the list shall show what proportion has been allowed as an abatement.

(5) Where a requisition and list are furnished to the municipal clerk pursuant to a delegation of tax collection powers agreed to by the municipal council, the sums required by the village, for the purposes of the village, shall be levied and collected by the municipality in the same manner as if the amounts were area rates.

(6) After making an allowance for the abatement, losses, expenses, discounts and commissions which may occur in the collection of the taxes and for taxes for the current fiscal year which may not be collected or collectable, the amount set out in the requisition shall be paid over by the treasurer of the municipality to the village in installments from time to time as requested by the chairman.

(7) In determining the rate of taxation required to levy and collect the amount of the requisition, the municipality shall not be bound by the list of ratepayers provided by the village, but may use such other information as is available to it. 1998, c. 18, s. 441.

Village commission area rates

442 Where the village incurs an expenditure in an area of the village, the village commission may direct that the amount of the expenditure, together with an allowance for the abatement, losses and expenses which may occur in the collection and for amounts which may not be collected or collectable, be rated and collected by a rate of so much on the dollar on the assessed value of the property in the area as shown on the then current assessment roll of the municipality, and the amount so rated shall be collected in the same manner as other rates of the village. 1998, c. 18, s. 442.

Power to borrow

443 The village commission may, from time to time, borrow for the purpose of defraying the annual current expenditure of the village and the interest on the loans shall be added to the current expenses for the fiscal year, provided that the loans shall not in the aggregate at any time exceed fifty per cent of the total amount of taxes levied for the current fiscal year. 1998, c. 18, s. 443.

Capital reserve fund

444 (1) A village shall maintain a capital reserve fund.

(2) The capital reserve fund of a village is subject to the same requirements and limitations as the capital reserve fund of a municipality.

(3) The village shall pay into a capital reserve fund the proceeds from the sale of any property of the village and the proceeds of any fire or other insurance. 1998, c. 18, s. 444.

Village auditor

445 (1) A village shall appoint an auditor who shall be a person registered as a municipal auditor.

(2) A village auditor has the powers and duties of the auditor of a municipality. 1998, c. 18, s. 445.

Power to sell or lease property

446 With the consent of the Minister a village commission may sell any real or personal property at market value when the property is no longer required for the use of the village, or may lease any real or personal property for market value, but the consent is not required if the property so leased or sold does not exceed twenty-five thousand dollars in value. 1998, c. 18, s. 446.

Application to change village boundaries

447 (1) An application to change the boundaries of a village may be made to the Board by

(a) the village commission; or

(b) an owner of real property in the area proposed by the owner to be added to, or taken from, the village.

(2) An application to the Board by the village commission to change the boundaries shall be accompanied by

(a) a description of the boundary change; and

(b) a petition of two thirds of the owners of real property in the area proposed to be added to, or taken from, the village, approving of the change.

(3) An application to the Board by an owner of real property in the area proposed to be added to or taken from the village shall be accompanied by a petition of two thirds of the owners of real property in the area proposed to be added to or taken from the village, approving of the change, and the application shall contain the name and mailing address of the person to whom notices and communication may be given with respect to the application.

(4) Upon receipt of an application to change the boundaries of a village, the Board shall give such public notice of the application as the Board considers appropriate and shall hold a hearing with respect to the application.

(5) Notice of the date, time and location of the hearing shall be served upon the village clerk, the clerk of the municipality of which the village forms a part, an application, if any, and the Minister.

(6) At the hearing the Board shall hear any interested person or municipality.

(7) The Board may, after inquiring into and taking into account

(a) the necessity or expediency of the order applied for;

(b) the financial position and obligations of the village and municipalities affected;

(c) the burden of taxation upon the ratepayers of the village and the area proposed to be added to, or taken from, the village; and

(d) all other matters that in the opinion of the Board are relevant,

order that the boundaries of the village be changed.

(8) An order made pursuant to subsection (7) shall

(a) define the boundaries of the village, with any alterations made as a result of the hearing;

(b) state when the new boundaries are to be effective; and

(c) contain such directions respecting the implementation of the new boundaries as the Board sees fit. 1998, c. 18, s. 447.

Dissolution of village

448 (1) The Minister may, by order, dissolve any village upon the request of the village commission authorized by a meeting of the electors of the village.

(2) The Minister may, by order, dissolve a village upon the request of a municipality if

(a) there has been, to the knowledge of the Minister and the clerk of the municipality, no meeting of the electors of the village for at least two years; and

(b) ninety days notice of the proposed dissolution has been served on the latest village commissioners and village clerk known to the Minister, and no objection to the proposed dissolution has been filed with the Minister.

(3) The Board may, by order, dissolve a village on the request of not fewer than ten per cent of the electors of the village.

(4) The Board shall serve notice of the proposed dissolution at least sixty days before the dissolution on

(a) the village clerk and any village commissioner;

(b) the clerk of the municipality in which the village is located; and

(c) the Minister.

(5) The notice shall provide that any objection to the proposal shall be filed with the Board within forty-five days of the service of the notice.

(6) Where any objections are received to the proposal, the Board shall hold a hearing with respect to the proposed dissolution, and the clerk of the Board shall notify the village clerk, the municipal clerk, any person who filed an objection and the Minister of the date and location of hearing.

(7) Upon the making of an order dissolving the village, the village ceases to be a body corporate and this Act no longer applies to it.

(8) All assets and liabilities, including outstanding debentures, of the former village are vested in the municipality in which the former village is located and the municipality may transfer, free of cost, property of a village that is dissolved to a body incorporated to provide community services in the area served by the dissolved village.

(9) Any net liability shall be funded by an area rate levied on the area of the former village.

(10) An order dissolving a village is regulations within the meaning of the *Regulations Act*. 1998, c. 18, s. 448.

PART XIX

MUNICIPAL AFFAIRS

Interpretation

449 In this Part, "municipality" means a regional municipality, town or county or district municipality, except where the context otherwise requires or as otherwise defined in this Act, and includes a village, a committee created by an intermunicipal services agreement and a service commission. 1998, c. 18, s. 449; 2000, c. 9, s. 54.

Requirements for Ministerial approval

450 (1) Where, by any Act of the Legislature, an approval or a consent of a minister of the Crown of or to any resolution, regulation, by-law, plan, borrowing or other act or matter of a municipality is required, the approval of the Minister is also required and whenever the approval of the Minister is required, the Minister may, in the Minister's discretion

(a) approve or consent to all or part and from time to time approve or consent to other parts or to the remainder;

(b) attach any condition, subject to which approval or consent becomes effective;

(c) approve or consent with amendments and the subject matter of the approval or consent is effective as amended until subsequently amended or repealed, with the approval of the Minister, by the council that adopted it;

(d) rescind, vary or revoke the approval or consent, or any condition subject to which the approval or consent was effective, either in whole or in part, whereupon the matter approved or consented to or the condition, or part thereof, shall cease to have force and effect.

(2) Where, by any Act of the Legislature, a resolution, regulation, by-law or other act or matter of a municipality or of any board, committee or other body to which a municipality appoints members is subject to the approval of the Governor in Council or may be disallowed by the Governor in Council, the resolution, regulation, by-law or other act or matter is subject to the approval of the Minister and does not have effect until it receives the approval of the Minister, but is not subject to the approval of, or disallowance by, the Governor in Council. 1998, c. 18, s. 450; 2000, c. 9, s. 55.

Prescription of accounting methods

451 (1) The Minister may prescribe the

(a) system of accounting to be used by municipalities and the form in which records shall be kept and funds accounted for;

(b) information to be provided by municipalities to the Minister and when it shall be provided;

(c) manner in which municipal accounts are to be audited and the reports to be provided by municipal auditors.

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

(3) The Minister may prescribe different systems for different classes of municipality. 1998, c. 18, s. 451.

Ministerial powers

452 (1) The Minister may

(a) collect and analyze information relating to municipalities;

(b) prepare and publish information and advice relating to municipal affairs;

(c) study and advise upon the system of municipal institutions and the administration of municipal affairs;

(d) effect improvement in the conduct and administration of municipal affairs;

(e) consult with, assist and advise municipalities in the conduct and administration of municipal affairs;

(f) do anything necessary or incidental to the foregoing or directed to the improvement of municipal government in the Province.

(2) The Minister may enter into agreements with a municipality or a board, agency or commission of a municipality to assist in the achievement of any objects that are within the powers of the municipality or board, agency or commission and to effect improvement generally in the conduct and administration of municipal affairs.

(3) The Minister, with the approval of the Governor in Council, may enter into agreements with the Government of Canada or another province or any department or agency of either of them to assist in the achievement of any objects that are within the powers of a municipality or board, agency or commission of a municipality, and to effect improvement generally in the conduct and administration of municipal affairs. 1998, c. 18, s. 452.

Collection of debts by Province for municipality

452A (1) In this Section, "debts" means any amounts owing to a municipality or to a public utility owned by one or more municipalities.

(2) At the request of a municipality, the Minister may, by order, designate certain debts, or classes or categories of debts, and upon designation such debts are debts due to Her Majesty in right of the Province and the Minister, or the Minister's designate, may collect such debts.

(3) Money collected in respect of the designated debts must be transferred to the municipality or the public utility from which the debt originated, less any fees or other amounts prescribed by the Minister or prescribed by the regulations or as determined in any arrangement or agreement with the Minister.

(4) The Minister may, by order, transfer designated debts, or classes or categories of designated debts, or any part thereof, back to the municipality or public utility from which they originated and such debts, classes or categories of debts, or any part thereof, are the debt of the municipality or public utility from which the debt originated.

(5) A municipality, public utility or the Minister, or the Minister's designate, may collect, use and disclose personal information for any purpose under this Section, and such collection, use or disclosure constitutes authorized collection, use or disclosure of personal information for the purpose of the *Freedom of Information and Protection of Privacy Act* or Part XX.

(6) The Minister may, by order or by regulation, prescribe

(a) the terms and conditions of a designation of any debt, or class or category of debt, or the transfer of any such debt back to a municipality or public utility;

(b) the manner and timing of the transfer of money collected in respect of any debt to a municipality or a public utility owned by one or more municipalities;

(c) which debts qualify and which debts do not qualify for designation;

(d) fees or other amounts to be charged against money collected in respect of any debts;

(e) the manner and timing of requests from a municipality or a public utility owned by one or more municipalities respecting debts for designation;

(f) the manner and timing of a designated debt, or class or category of designated debt, to cease being a debt due to Her Majesty in right of the Province and revert to being the debt of the municipality or public utility from which it originated;

(g) such other matters and things the Minister considers necessary or advisable to effectively carry out the intent and purpose of this Section.

(7) Orders, regulations and other actions taken or made by the Minister for the purpose of this Section are not subject to Section 23 of the *Provincial Finance Act* or any equivalent provision in any successor legislation. 2010, c. 22, s. 1.

Date or time restrictions or limitations

453 (1) Where an enactment fixes a date for, or imposes a time restriction or limitation in respect of

(a) the determination or finalization of a budget of a municipality or a village of its estimates of revenues and expenditures;

(b) setting a tax rate by a municipality;

(c) the transmission of tax bills, statements or notices by a municipality;

(d) payment of taxes to a municipality, including imposition of penalties; or

(e) any other act relating to taxation by a municipality,

the Minister may, by order, upon the request of the council, extend the date or time restriction or limitation.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act.* 1998, c. 18, s. 453.

Ministerial power to direct audit or review

454 (1) The Minister may, at any time, direct an audit or review of a municipality by a person appointed by the Minister.

(2) The person appointed by the Minister to make an audit or review shall, for that purpose, have free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the municipality.

(3) A person who fails to give any information or thing reasonably required by the person appointed to make an audit or review for the purpose of the audit or review, or who destroys, mutilates or defaces any such thing, is guilty of an offence and is liable, upon summary conviction, to a penalty of not more than fifty thousand dollars and, in default of payment, to imprisonment for a term of not more than twelve months. 1998, c. 18, s. 454.

Public Inquiries Act

455 The Minister, or any person to whom the Minister may, in writing, delegate the authority may, for any of the purposes of this Act, examine any municipality, person, company, property or thing whatsoever, at any time, and for the purpose has the same power, privileges and immunities as a commissioner appointed under the *Public Inquiries Act.* 1998, c. 18, s. 455.

Order by Minister

456 (1) The Minister may order a municipality to do anything required by law or by agreement with the Minister or Her Majesty in right of the Province, or necessary or desirable in the interests of the municipality, or necessary or desirable for the due accounting for, collection or payment of any of a municipality's assets, liabilities, revenues, funds or money.

(2) Every person who fails to comply with an order of the Minister, votes in favour of any motion that would result in a failure to obey the order or votes against a motion to comply with the order is guilty of an offence and is liable, on summary conviction, to a penalty of not less than one thousand dollars and not more than ten thousand dollars and, in default of payment, to imprisonment for a term of not less than three months and not more than twelve months. 1998, c. 18, s. 456.

Registration as municipal auditor

457 (1) A person licensed as a public accountant pursuant to the *Public Accountants Act* may be registered as a municipal auditor.

(2) A firm or partnership may be registered as a municipal auditor if a majority of the members of the firm or partnership are licensed as public accountants pursuant to the *Public Accountants Act*.

(3) A person, firm or partnership shall not act as, or exercise or perform any of the duties of, a municipal auditor unless registered as a municipal auditor pursuant to this Section.

(4) An application for registration as a municipal auditor shall be filed with the Minister on or before June 30 in each year.

(5) An application for registration as a municipal auditor shall be accompanied by an application fee in the amount determined by the Minister.

(6) The Minister may accept an application filed after June 30 but on or before December 31 in any year, upon payment of the additional fee determined by the Minister.

(7) The Minister may publish in the Royal Gazette the names of those persons, firms and partnerships whose applications for registration have been accepted and when so published the persons firms and partnerships are registered as municipal auditors.

(8) Registration as a municipal auditor expires on July 31 in each year.

(9) The Minister may, at any time, cancel or suspend the registration of a municipal auditor for any reason that the Minister may deem sufficient and may reinstate or restore any cancelled or suspended registration.

(10) A person, firm or partnership shall not, while registration is cancelled or suspended, exercise or perform the duties of a municipal auditor.

(11) An unabridged copy of every statement or report, of whatsoever nature or whether interim or final, made by a municipal auditor shall forthwith be forwarded by the auditor to the Minister.

(12) A person who violates this Section is liable, on conviction, to a penalty of not more than ten thousand dollars and, in default of payment, to imprisonment for a period of not more than six months.

(13) A reference in any Act of the Legislature to a registered municipal auditor, an auditor registered pursuant to the *Municipal Act* or like term is and is deemed to be a reference to a person, firm or partnership registered as a municipal auditor pursuant to this Section. 1998, c. 18, s. 457; 2011, c. 17, s. 3.

Declaration of council vacancy

458 **(1)** Where a municipality

(a) fails, or in the opinion of the Governor in Council, is about to or may fail, to pay the amount due for principal and interest on any debenture;

(b) fails to pay into a sinking fund any amount it is required to pay;

(c) fails to pay any of its other debts or liabilities whatsoever when due;

(d) fails, in the opinion of the Governor in Council, to levy the amount required to meet the expenditures required for any fiscal year;

(e) fails, in the opinion of the Governor in Council, to comply with any order of the Minister; or

(f) has passed a resolution requesting the Governor in Council to do so,

the Governor in Council may, on the recommendation of the Minister, if deemed expedient to do so, declare vacant the offices of mayor or warden and councillors of the municipality.

(2) Where the Governor in Council has declared vacant the office of mayor or warden and councillors, the Governor in Council shall appoint a mayor or warden and councillors to hold office during pleasure, to be the council of the municipality until the first meeting of a new council elected pursuant to an order of the Governor in Council.

(3) Any vacancy occurring in a council appointed by the Governor in Council shall be filled by the Governor in Council.

(4) A member of a council appointed by the Governor in Council is not required to have the qualifications of a councillor prescribed by the *Municipal Elections Act*.

(5) Where the Governor in Council appoints a council, the tenure of every municipal employee is during the pleasure of the appointed council. 1998, c. 18, s. 458.

Election of new council

459 (1) After the Governor in Council appoints a council, no election shall be held pursuant to the *Municipal Elections Act* until ordered by the Governor in Council.

(2) An order of the Governor in Council for the election of a new council shall set out

(a) the dates for nomination day, advance polls and ordinary polling day for the election; and

(b) the date the new council takes office.

(3) When the Governor in Council orders the election of a new council, the tenure of every municipal employee ceases to be during the pleasure of the council. 1998, c. 18, s. 459.

Powers of council appointed by Governor in Council

460 (1) The council appointed by the Governor in Council has all of the powers of a council.

(2) The council appointed by the Governor in Council may, with the approval of creditors representing at least half of the aggregate indebtedness of the municipality,

(a) consolidate some or all of its debts and issue new debentures to effect the consolidation;

(b) issue debentures to pay any debt and compel acceptance of the debentures in payment of the debt;

(c) issue new debentures in exchange for any outstanding debentures and compel their acceptance;

(d) fix the terms, conditions, places and times for exchanges of debentures;

(e) postpone or vary the terms, times and places for payment of any outstanding debentures and other indebtedness and the interest;

(f) vary the rate of interest on any outstanding debentures and other indebtedness;

(g) sell any municipal assets.

(3) The council appointed by the Governor in Council may

(a) vary any tax rate or other charge imposed to pay any indebtedness;

(b) vary the basis, terms and times of payment of any tax rate or other charge imposed to pay any indebtedness;

(c) create sinking funds and reserves to pay debentures and other indebtedness;

(d) manage, invest and apply sinking funds, reserves and surpluses;

(e) ratify any agreement, arrangement or compromise entered into with creditors respecting debentures and other indebtedness;

(f) borrow any amount required to meet the current expenditures of the municipality until the taxes are collected.

(4) In the case of a village or service commission, the council appointed by the Governor in Council may require the county or district municipality in which the village or service commission is situate to pay an amount sufficient to provide for the orderly payment of the debts and liabilities of the village or service commission, and the amount so provided, with an allowance for collection costs and losses, shall be recovered by the county or district municipality as an area rate on the area of the village or service commission.

(5) In the case of a village or service commission, the council appointed by the Governor in Council may recommend the dissolution of the village or service commission and the Governor in Council may, by proclamation, dissolve the village or service commission, effective the date set out in the proclamation. 1998, c. 18, s. 460.

PART XX

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

Note - *See Section 502 and following note.*

Interpretation

461 In this Part,

(a) "background information" means

(i) any factual material,

(ii) a public opinion poll,

(iii) a statistical survey,

(iv) an appraisal,

(v) an economic forecast,

(vi) an environmental-impact statement or similar information,

(vii) a final report or final audit on the performance or efficiency of a municipality or on any of its programs or policies,

(viii) a consumer test report or a report of a test carried out on a product to test equipment of a municipality,

(ix) a feasibility or technical study, including a cost estimate, relating to a policy or project of a municipality,

(x) a report on the results of field research undertaken before a policy proposal is formulated,

(xi) a report of an external task force, advisory board or similar body that has been established to consider any matter and make reports or recommendations to a municipality, or

(xii) a plan or proposal to establish a new program or to change a program, if the plan or proposal has been approved or rejected by the council;

(b) "employee" in relation to a municipality, includes a person retained under an employment contract to perform services for the municipality;

(c) "law enforcement" means

(i) policing, including criminal-intelligence operations,

(ii) investigations that lead, or could lead, to a penalty or sanction being imposed, and

(iii) proceedings that lead, or could lead, to a penalty or sanction being imposed;

(d) "municipal body" means a committee, community council, agency, authority, board or commission, whether incorporated or not

(i) a majority of the members of which are appointed by, or

(ii) which is under the authority of,

one or more municipalities;

(e) "municipality" means a regional municipality, town, county or district municipality, village, service commission or municipal body;

(f) "personal information" means recorded information about an identifiable individual, including

(i) the individual's name, address or telephone number,

(ii) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,

(iii) the individual's age, sex, sexual orientation, marital status or family status,

(iv) an identifying number, symbol or other particular assigned to the individual,

(v) the individual's fingerprints, blood type or inheritable characteristics,

(vi) information about the individual's health-care history, including a physical or mental disability,

(vii) information about the individual's educational, financial, criminal or employment history,

(viii) anyone else's opinions about the individual, and

(ix) the individual's personal views or opinions, except if they are about someone else;

(g) "prescribed" means prescribed by the regulations made pursuant to the *Freedom of Information and Protection of Privacy Act* or this Part;

(h) "record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;

(i) "responsible officer" means, in the case of a

(i) regional municipality, town or county or district municipality, the chief administrative officer, if one has been appointed or, if one has not been appointed, the clerk,

(ii) village or service commission, the clerk,

(iii) municipal body

(A) a majority of the members of which are appointed by one municipality, the responsible officer for the appointing municipality,

(B) which is under the authority of one municipality, the responsible officer for that municipality, or

(C) which is not described in paragraph (A) or (B), the chair or presiding officer;

(j) "review officer" means the review officer appointed by the Governor in Council pursuant to the *Freedom of Information and Protection of Privacy Act*;

(k) "third party", in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organization other than

(i) the person who made the request,

(ii) the municipality to which the request is made, or

(iii) a municipal body, a majority of the members of which are appointed by, or which is under the authority of, the municipality to which the request is made;

(l) "trade secret" means information, including a formula, pattern, compilation, program, device, product, method, technique or process, that

(i) is used, or may be used, in business or for any commercial advantage,

(ii) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use,

(iii) is the subject of reasonable efforts to prevent it from becoming generally known, and

(iv) the disclosure of which would result in harm or improper benefit. 1998, c. 18, s. 461.

Purpose of Part

462 The purpose of this Part is to

(a) ensure that municipalities are fully accountable to the public by

(i) giving the public a right of access to records,

(ii) giving individuals a right of access to, and a right to correction of, personal information about themselves,

(iii) specifying limited exceptions to the rights of access,

(iv) preventing the unauthorized collection, use or disclosure of personal information by municipalities, and

(v) providing for an independent review of decisions made pursuant to this Part;

(b) provide for the disclosure of all municipal information with necessary exemptions, that are limited and specific, in order to

(i) facilitate informed public participation in policy formulation,

(ii) ensure fairness in government decision-making, and

(iii) permit the airing and reconciliation of divergent views; and

(c) protect the privacy of individuals with respect to personal information about themselves held by municipalities and to provide individuals with a right of access to that information. 1998, c. 18, s. 462.

Application of Part

463 (1) This Part applies to all records in the custody or under the control of a municipality.

(2) Notwithstanding subsection (1), this Part does not apply to

(a) published material or material that is available for purchase by the public;

(b) material that is a matter of public record;

(c) a note, communication or draft decision of a person acting in a judicial or quasi-judicial capacity;

(d) a record of a question that is to be used on an examination or test;

(e) material placed in the archives of a municipality by or for a person, agency or other organization other than the municipality;

(ea) a record of each representation made on behalf of a municipality to the review officer in the course of a review pursuant to Section 487 and all material prepared for the purpose of making the representation; or

(f) a record relating to a prosecution, if all proceedings in respect of the prosecution have not been completed. 1998, c. 18, s. 463; 2003, c. 9, s. 83.

Limitations on effect of Part

464 This Part does not

(a) limit the information otherwise available by law to a party to litigation, including a civil, criminal or administrative proceeding;

(b) affect the power of any court or tribunal to compel a witness to testify or to compel the production of documents;

(c) prohibit the transfer, storage or destruction of any record in accordance with any other Act of the Legislature or any regulation;

(d) prevent access to records maintained in a public office for the purpose of providing public access to information; or

(e) restrict disclosure of information for the purpose of a prosecution. 1998, c. 18, s. 464.

Conflict

464A (1) Where there is a conflict between this Part and any other enactment and the other enactment restricts or prohibits access by any person to a record, this Part prevails over the other enactment unless subsection (2) or the other enactment states that the other enactment prevails over this Part.

(2) The following enactments that restrict or prohibit access by any person to a record prevail over this Part:

(a) Section 19 of the *Consumer Reporting Act*;

(b) Section 51 of the *Corporation Capital Tax Act*;

(c) Section 7 of the *Emergency "911" Act*;

(d) Section 19 of the *Forests Act*;

(e) Section 17 and subsection 104(2) of the *Health Protection Act*;

(f) Section 71 of the *Hospitals Act*;

(g) subsection 9(7) of the *Juries Act*;

(h) Section 28 of the *Labour Standards Code*;

(i) Section 32 of the *Maintenance Enforcement Act*;

(j) subsection 87(2) and Sections 150 and 175 of the *Mineral Resources Act*;

(k) subsection 98(6) of the *Motor Vehicle Act*;

(l) Sections 53, 61 and 62 of the *Occupational Health and Safety Act*;

(m) subsection 11(3) of the *Pension Benefits Act*;

(n) Sections 72 and 100 of the *Petroleum Resources Regulations* made pursuant to the *Petroleum Resources Act*;

(o) subsection 21(4) of the *Primary Forest Products Marketing Act*;

(p) Section 48 of the *Public Trustee Act*;

(q) Section 9 of the *Statistics Act*;

(r) subsection 9(3) of the *Procedure Regulations* made pursuant to the *Trade Union Act*;

(s) subsection 37(8) and Section 45 of the *Vital Statistics Act*;

(t) Sections 23 and 24 of the *Young Persons' Summary Proceedings Act*.

(3) The Governor in Council may, by regulation, amend subsection (2) by

(a) adding to that subsection a reference to an enactment;

(b) deleting a reference to an enactment from that subsection.

(4) Notwithstanding anything contained in this Act, the provisions in the *Vital Statistics Act* relating to

(a) rights of access to personal information, including the right to request a search of personal information;

(b) remedial rights relating to the rights described in clause (a);

(c) correction of personal information; and

(d) procedures relating to the matters referred to in clauses (a) to (c), including the payment of fees and the searching of and obtaining access to personal information,

apply in place of the provisions in this Act respecting the matters in clauses (a) to (d).

(5) Notwithstanding anything contained in this Act, Section 71 of the *Hospitals Act*, and any regulations made in respect of Section 71, relating to

(a) rights of access to personal information;

(b) remedial rights relating to the rights described in clause (a); and

(c) procedures relating to the matters referred to in clauses (a) and (b), including the payment of fees and the searching of and obtaining access to personal information,

apply in place of the provisions in this Part respecting the matters in clauses (a) to (c). 2003, c. 9, s. 84; 2004, c. 4, s. 116.

Right of access and restriction

465 (1) A person has a right of access to any record in the custody, or under the control, of a municipality upon making a request as provided in this Part.

(2) The right of access to a record does not extend to information exempted from disclosure pursuant to this Part but, if that information can reasonably be severed from the record, an applicant has the right of access to the remainder of the record.

(2A) Subject to subsection (2B), notwithstanding anything contained in this Part, where the record is an executed contract

(a) in which provision is made for the municipality to make a substantial transfer of risk to a person, including risk related to the operation or financing, or both, of government activities; and

(b) that is, or is in a class of contracts that is designated, before or within ninety days of the execution of the contract by the legal decision-making authority by which the municipality acts,

the right of access extends to any information in the contract that, but for this subsection, would be exempted from disclosure pursuant to this Part.

(2B) Subsection (2A) does not apply in respect of any information in the contract, to which that subsection refers,

(a) respecting trade secrets;

(b) respecting the financial and business information of the persons to whom that subsection refers; and

(c) the disclosure of which may reasonably be expected to endanger the safety or health of the public, a person or a group of persons.

(3) Nothing in this Part restricts access to information provided by custom or practice prior to the effective date of this Part. 1998, c. 18, s. 465; 2003, c. 9, s. 85.

Procedure for obtaining access

466 (1) A person may obtain access to a record by

(a) making a request in writing to the municipality that has the custody or control of the record;

(b) specifying the subject matter of the record requested with sufficient particulars to enable an individual familiar with the subject matter to identify the record; and

(c) paying any fees required pursuant to this Part.

(2) The applicant may ask to examine the record or ask for a copy of the record. 1998, c. 18, s. 466.

Duty of responsible officer

467 (1) Where a request is made pursuant to this Part for access to a record, the responsible officer shall

(a) make every reasonable effort to assist the applicant and to respond without delay to the applicant openly, accurately and completely; and

(b) consider the request and give written notice to the applicant of the decision with respect to the request.

(2) The responsible officer shall respond in writing to the applicant within thirty days after the application is received and the applicant has met the requirements of clauses 466(1)(b) and (c), stating

(a) whether the applicant is entitled to the record or part of the record and

(i) where the applicant is entitled to access, stating that access will be given on payment of the prescribed fee and setting out where, when and how, or the manner in which, access will be given, or

(ii) where access to the record or to part of the record is refused, the reasons for the refusal and the provision of this Part on which the refusal is based;

(b) that the record is not in the custody or control of the municipality; or

(c) where the record would contain information exempted pursuant to Section 475 if the record were in the custody or control of the municipality, that confirmation or denial of the existence of the record is refused,

and stating

(d) the name, title, business address and business telephone number of an officer or employee of the municipality who can answer the applicant's questions about the decision; and

(e) that the applicant may ask for review by a review officer within sixty days after the applicant is notified of the decision.

(3) A responsible officer who fails to give a written response is deemed to have given notice of a decision to refuse to give access to the record thirty days after the application was received.

(4) A responsible officer may refuse to disclose to an applicant information

(a) that is published and available for purchase by the public; or

(b) that is to be published or released to the public within thirty days after the applicant's request is received.

(5) A responsible officer shall notify an applicant of the publication or release of information that the officer has refused to disclose.

(6) Where the information is not published or released within thirty days after the applicant's request is received, the responsible officer shall reconsider the request as if it were a new request received on the last day of that period, but the information shall not be refused solely because it is due to be published or released to the public. 1998, c. 18, s. 467; 2003, c. 9, s. 86.

Duties of responsible officer where access given

468 (1) Where an applicant is informed that access will be given, the responsible officer shall

(a) where the applicant has asked for a copy and the record can reasonably be reproduced,

(i) provide a copy of the record, or part of the record, with the response, or

(ii) give the applicant reasons for delay in providing the record; or

(b) where the applicant has asked to examine the record or where the record cannot reasonably be reproduced, permit the applicant to examine the record or part of the record.

(2) A responsible officer may give access to a record that is a microfilm, film, sound recording, or information stored by electronic or other technological means by

(a) permitting the applicant to examine a transcript of the record;

(b) providing the applicant with a copy of the transcript of the record;

(c) permitting, in the case of a record produced for visual or aural reception, the applicant to view or hear the record or providing the applicant with a copy of it; or

(d) permitting, in the case of a record stored by electronic or other technological means, the applicant to access the record or providing the applicant a copy of it.

(3) A responsible officer shall create a record for an applicant if

(a) the record can be created from a machine-readable record in the custody or under the control of the municipality using its normal computer hardware and software and technical expertise; and

(b) creating the record would not unreasonably interfere with the operations of the municipality. 1998, c. 18, s. 468.

Extension of time for response

469 (1) The responsible officer may extend the time provided for responding to a request for up to thirty days or, with a review officer's permission, for a longer period if

(a) the applicant does not give enough detail to enable the municipality to identify a requested record;

(b) a large number of records is requested or must be searched and meeting the time limit would unreasonably interfere with the operations of the municipality; or

(c) more time is needed to consult with a ~~thirty~~ [third] party ~~of~~ [or] other municipality before the responsible officer can decide whether or not to give the applicant access to a requested record.

(2) Where the time is extended, the responsible officer shall tell the applicant

(a) the reason;

(b) when a response can be expected; and

(c) that the applicant may complain about the extension to a review officer. 1998, c. 18, s. 469.

Transfer of request

470 (1) Within ten days after a request for access to a record is received, or such longer period as the review officer may determine, the responsible office of a municipality may transfer the request and, if necessary, the record to a

municipal body to which the municipality appoints one or more members and which is not under the authority of the municipality, if

(a) the record was produced by or for the municipal body;

(b) the municipal body was the first to obtain the record; or

(c) the record is in the custody, or under the control of, the municipal body.

(2) Where a request is transferred pursuant to subsection (1)

(a) the responsible officer who transferred the request shall notify the applicant of the transfer; and

(b) the responsible officer to which the request is transferred shall respond to the applicant in accordance with this Part not later than thirty days after the request is received. 1998, c. 18, s. 470; 2003, c. 9, s. 87.

Fees

471 **(1)** An applicant who makes a request pursuant to this Part shall pay to the municipality the prescribed application fee.

(2) A responsible officer may require an applicant who makes a request to pay fees for the following services:

(a) locating, retrieving and producing the record;

(b) preparing the record for disclosure;

(c) shipping and handling the record;

(d) providing a copy of the record.

(3) An applicant is not required pursuant to subsection (2) to pay a fee for the first two hours spent locating and retrieving a record.

(4) No fee shall be charged for a request for the applicant's own personal information.

(5) Where an applicant is required to pay fees for services, the responsible officer shall give the applicant an estimate of the total fee before providing the services.

(6) The responsible officer may require the applicant to pay the estimated fee prior to providing the services.

(7) On request of the applicant, the responsible officer may excuse an applicant from paying all or part of a fee referred to in subsection (2) if, in the opinion of the responsible officer, the applicant cannot afford the payment or for any other reason it is fair to excuse payment.

(8) The fees that applicants are required to pay for services shall not exceed the actual costs of the services. 1998, c. 18, s. 471; 2003, c. 9, s. 88; 2007, c. 9, s. 31.

Intergovernmental affairs

472 (1) A responsible officer may refuse to disclose information to an applicant, if the disclosure could reasonably be expected to

(a) harm the conduct by the municipality of relations between the municipality and any of the following or their agencies:

(i) the Government of Canada or a province of Canada,

(ii) the Government of Nova Scotia,

(iii) another municipality,

(iv) a school board,

(v) an aboriginal government; or

(b) reveal information received in confidence from a government, body or organization listed in clause (a), or their agencies, unless the government, body, organization or its agency consents to the disclosure or makes the information public.

(2) The responsible officer shall not disclose information referred to in subsection (1) without the consent of the council.

(3) This Section does not apply to information in a record that has been in existence for fifteen or more years. 1998, c. 18, s. 472.

Refusal to disclose information

473 (1) The responsible officer may refuse to disclose to an applicant information that would disclose the minutes or substance of the deliberations of a meeting of the council, village commission or service commissioners or of the members of the municipal body held in private, as authorized by law.

(2) Subsection (1) does not apply to

(a) information in a record that has been in existence for ten or more years; or

(b) background information in a record, the purpose of which is to present explanations or analysis to the council, committee, agency, authority, board or commission for its consideration in making a decision, if

(i) the decision has been made public,

(ii) the decision has been implemented, or

(iii) five or more years have passed since the decision was made or considered. 1998, c. 18, s. 473.

Refusal to disclose information

474 (1) The responsible officer may refuse to disclose information that would reveal advice, recommendations or draft resolutions, policies, by-laws or special legislation developed by or for the

(a) council, village commission or service commissioners; or

(b) members of the municipal body.

(2) The responsible officer shall not refuse to disclose background information used by the municipality.

(3) This Section does not apply to information in a record that has been in existence for five or more years.

(4) Nothing in this Section requires the disclosure of information that the responsible officer may refuse to disclose under Section 473. 1998, c. 18, s. 474; 2005, c. 55, s. 7.

Refusal to disclose information

475 (1) The responsible officer may refuse to disclose information to an applicant if the disclosure could reasonably be expected to

(a) harm law enforcement;

(b) prejudice the defence of Canada or of any foreign state allied to, or associated with, Canada or harm the detection, prevention or suppression of espionage, sabotage or terrorism;

(c) harm the effectiveness of investigative techniques or procedures currently used, or likely to be used, in law enforcement;

(d) reveal the identity of a confidential source of law-enforcement information;

(e) endanger the life or physical safety of a law-enforcement officer or any other person;

(f) reveal any information relating to, or used in, the exercise of prosecutorial discretion;

(g) deprive a person of a right to a fair trial or impartial adjudication;

(h) reveal a record that has been confiscated from a person by a peace officer in accordance with an enactment;

(i) be detrimental to the proper custody, control or supervision of a person under lawful detention;

(j) facilitate the commission of an offence contrary to an enactment; or

(k) harm the security of any property or system, including a building, a vehicle, a computer system or a communications system.

(2) The responsible officer may refuse to disclose information to an applicant if the information is

(a) in a law-enforcement record and the disclosure would be an offence pursuant to an enactment;

(b) in a law-enforcement record and the disclosure could reasonably be expected to expose, to civil liability, the author of the record or a person who has been quoted or paraphrased in the record; or

(c) about the history, supervision or release of a person who is in custody, or under supervision, and the disclosure could reasonably be expected to harm the proper custody or supervision of that person.

(3) After a police investigation is completed, the responsible officer shall not refuse to disclose to an applicant the reasons for a decision not to prosecute if the applicant is aware of the police investigation, but nothing in this subsection requires disclosure of information mentioned in subsections (1) or (2). 1998, c. 18, s. 475.

Solicitor-client privilege

476 The responsible officer may refuse to disclose to an applicant information that is subject to solicitor-client privilege. 1998, c. 18, s. 476.

Financial or economic interests

477 (1) The responsible officer may refuse to disclose to an applicant information, the disclosure of which, could reasonably be expected to harm the financial or economic interests of the municipality, another municipality or the Government of the Province or the ability of the Government of the Province to manage the economy and, without restricting the generality of the foregoing, may refuse to disclose the following information:

(a) trade secrets of the municipality, another municipality or the Government of the Province;

(b) financial, commercial, scientific or technical information that belongs to the municipality, another municipality or the Government of the Province and that has, or is reasonably likely to have, monetary value;

(c) plans that relate to the management or personnel of or the administration of the municipality or another municipality and that have not yet been implemented or made public;

(d) information the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in undue financial loss or gain to a third party;

(e) information about negotiations carried on by or for the municipality or another municipality or the Government of the Province.

(2) The responsible officer shall not refuse to disclose, pursuant to subsection (1) the results of product or environmental testing carried out by or for the municipality, unless the testing was done

(a) for a fee as a service to a person, a group of persons or an organization other than the municipality; or

(b) for the purpose of developing methods of testing. 1998, c. 18, s. 477.

Health and safety

478 (1) The responsible officer may refuse to disclose to an applicant information, including personal information about the applicant, if the disclosure could reasonably be expected to

(a) threaten anyone else's safety or mental or physical health; or

(b) interfere with public safety.

(2) The responsible officer may refuse to disclose to an applicant personal information about the applicant, if the disclosure could reasonably be expected to result in immediate and grave harm to the applicant's safety or mental or physical health. 1998, c. 18, s. 478.

Conservation

479 The responsible officer may refuse to disclose information to an applicant, if the disclosure could reasonably be expected to result in damage to, or interfere with the conservation of

(a) fossil sites, natural sites or sites that have an anthropological or heritage value;

(b) an endangered, threatened or vulnerable species, subspecies or race of plants, vertebrates or invertebrates; or

(c) any other rare or endangered living resources. 1998, c. 18, s. 479.

Refusal to disclose information

479A The responsible officer may refuse to disclose

(a) any information of any kind obtained by a conciliation board, conciliation officer or mediator appointed pursuant to the municipality's collective agreement or appointed pursuant to the *Civil Service Collective Bargaining Act*, the *Corrections Act*, the *Highway Workers Collective Bargaining Act*, the *Teachers' Collective Bargaining Act* or the *Trade Union Act* or by an employee of the Department of Environment and Labour or an employee, appointee or member of the Civil Service Employee Relations Board, the Correctional Facilities Employee Relations Board, the Highway Workers Employee Relations Board or the Labour Relations Board for the purpose of any of those Acts or ~~or~~ the municipality's collective agreement [or] in the course of carrying out duties under any of those Acts or the municipality's collective agreement;

(b) any report of a conciliation board or conciliation officer appointed pursuant to any of those Acts or the municipality's collective agreement;

(c) any testimony or proceedings before a conciliation board appointed pursuant to any of those Acts or the municipality's collective agreement. 2003, c. 9, s. 89; 2006, c. 40, s. 16.

Personal information

480 (1) The responsible officer shall refuse to disclose personal information to an applicant, if the disclosure would be an unreasonable invasion of a third party's personal privacy.

(2) In determining whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the responsible officer shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the municipality to public scrutiny;

(b) the disclosure is likely to promote public health and safety or to promote the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable; and

(h) the disclosure may unfairly damage the reputation of any person referred to in the record requested by the applicant.

(3) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy if the personal information

(a) relates to a medical, dental, psychiatric, psychological or other health-care history, diagnosis, condition, treatment or evaluation;

(b) was compiled, and is identifiable as, part of an investigation into a possible violation of law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

(c) relates to eligibility for income assistance or social service benefits or to the determination of benefit levels;

(d) relates to employment or educational history;

(e) was obtained on a tax return or gathered for the purpose of collecting a tax;

(f) describes the third party's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;

(g) consists of personal recommendations or evaluations, character references or personnel evaluations;

(h) indicates the third party's racial or ethnic origin, sexual orientation or religious or political beliefs or associations; or

(i) consists of the third party's name together with the third party's address or telephone number and is to be used for mailing lists or solicitations by telephone or other means.

(4) A disclosure of personal information is not an unreasonable invasion of a third party's personal privacy if

(a) the third party has, in writing, consented to or requested the disclosure;

(b) there are compelling circumstances affecting anyone's health or safety;

(c) an enactment authorizes the disclosure;

(d) the disclosure is for a research or statistical purpose and is in accordance with this Part;

(e) the information is about the third party's position, functions or remuneration as an officer, employee or member of a municipality;

(f) the disclosure reveals the amount of taxes or other debts due by the third party to the municipality;

(g) the disclosure reveals financial and other similar details of a contract to supply goods or services to a municipality;

(h) the information is about expenses incurred by the third party while travelling at the expense of a municipality;

(i) the disclosure reveals details of a licence, permit or other similar discretionary benefit granted to the third party by a municipality, not including personal information supplied in support of the request for the benefit; or

(j) the disclosure reveals details of a discretionary benefit of a financial nature granted to the third party by a municipality, not including personal information that is supplied in support of the request for the benefit or that relates to eligibility for or the level of income assistance or social service benefits.

(5) On refusing to disclose personal information supplied in confidence about an applicant, the responsible officer shall give the applicant a summary of the information unless the summary cannot be prepared without disclosing the identity of a third party who supplied the personal information, and may allow the third party to prepare the summary of personal information. 1998, c. 18, s. 480.

Confidential information

481 (1) The responsible officer shall, unless the third party consents, refuse to disclose to an applicant information

(a) that would reveal

(i) trade secrets of a third party, or

(ii) commercial, financial, labour relations, scientific or technical information of a third party;

(b) that is supplied, implicitly or explicitly, in confidence; and

(c) the disclosure of which could reasonably be expected to

(i) harm significantly the competitive position, or interfere significantly with the negotiating position, of the third party,

(ii) result in similar information no longer being supplied to the municipality when it is in the public interest that similar information continue to be supplied,

(iii) result in undue financial loss or gain to any person or organization, or

(iv) reveal information supplied to, or the report of, an arbitrator, mediator, labour relations officer or other person or body appointed to resolve or inquire into a labour-relations dispute.

(2) The responsible officer shall refuse to disclose to an applicant information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax, unless the third party consents.

(3) The responsible officer shall disclose to an applicant a report prepared in the course of inspections by an agency that is authorized to enforce compliance with an enactment. 1998, c. 18, s. 481.

Notice to third party

482 (1) When a responsible officer receives a request for access to a record that contains or may contain information of or about a third party that cannot be disclosed, the responsible officer shall, where practicable, promptly give the third party a notice

(a) stating that a request has been made by an applicant for access to a record containing information that disclosure of which may affect the interests, or invade the personal privacy, of the third party;

(b) describing the contents of the record; and

(c) stating that, within fourteen days after the notice is given, the third party may, in writing, consent to the disclosure or may make written representations to the responsible officer explaining why the information should not be disclosed.

(1A) Notwithstanding subsection (1), that subsection does not apply if

(a) the responsible officer decides, after examining the request, any relevant records and the views or interests of the third party respecting the disclosure requested, to refuse to disclose the record; or

(b) where the regulations so provide, it is not practical to give notice pursuant to that subsection.

(2) When notice is given pursuant to subsection (1), the responsible officer shall also give the applicant a notice stating that

(a) the record requested by the applicant contains information the disclosure of which may affect the interests or invade the personal privacy of a third party; and

(b) the third party is being given an opportunity to make representations concerning disclosure.

(c) *repealed 2003, c. 9, s. 90.*

(3) Within thirty days after notice is given to an applicant, the responsible officer shall decide whether to give access to the record or to part of the record, but no decision may be made before the earlier of

(a) fifteen days after the day notice is given; or

(b) the day a response is received from the third party.

(3A) For greater certainty, the time limited by subsection 467(2) for responding to a request for access to a record is not extended by reason only that a notice is given to an applicant pursuant to subsection (2), but that time may be extended pursuant to Section 469.

(3B) In complying with subsections (1) and (2), the municipality shall not

(a) disclose the name of the applicant to the third party without the consent of the applicant; or

(b) disclose the name of the third party to the applicant without the consent of the third party.

(4) On reaching a decision, the responsible officer shall give written notice of the decision to the applicant and the third party.

(5) Where the responsible officer decides to give access to the record or part of the record,

(a) the notice shall state that the applicant will be given access after twenty days, unless, in that time, the third party asks for a review pursuant to this Part;

(b) the notice shall state that the third party may ask for a review pursuant to this Part within twenty days of the notice; and

(c) access shall not be provided until the expiry of the twenty day period.

(6) Notwithstanding anything contained in this Section, the responsible officer who has, pursuant to this Section, given notice to a third party of a request for access to a record may, with the consent of the third party, give access to the record to the person who has made the request before the expiration of the time limited by subsection (3) for the third party to ask for a review. 1998, c. 18, s. 482; 2003, c. 9, s. 90.

Collection of personal information

483 (1) Personal information shall not be collected by, or for, a municipality unless

(a) the collection of that information is expressly authorized by, or pursuant to, an enactment;

(b) that information is collected for the purpose of law enforcement; or

(c) that information relates directly to, and is necessary for, an operating program or activity of the municipality.

(2) Where an individual's personal information will be used by a municipality to make a decision that directly affects the individual, the municipality shall make every reasonable effort to ensure that the information is accurate and complete.

(3) The responsible officer shall protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

(4) Where a municipality uses an individual's personal information to make a decision that directly affects the individual, the municipality shall retain that information for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it. 1998, c. 18, s. 483; 2000, c. 9, s. 56.

Request to correct error or omission

484 (1) An applicant who believes there is an error or omission in the applicant's personal information may request the responsible officer to correct the information.

(2) Where no correction is made in response to a request, the responsible officer shall annotate the information with the correction that was requested but not made.

(3) On correcting or annotating personal information pursuant to this Section, the responsible officer shall notify any other municipality or any third party to whom that information has been disclosed during the one-year period before the correction was requested.

(4) On being notified of a correction or annotation of personal information, a municipality shall make the correction or annotation on any record of that information in its custody or under its control. 1998, c. 18, s. 484.

Use and disclosure of personal information

485 (1) A municipality may use personal information only

(a) for the purpose for which that information was obtained or compiled, or for a use compatible with that purpose;

(b) if the individual the information is about has identified the information and has consented to the use; or

(c) for a purpose for which that information may be disclosed to the municipality pursuant to this Section.

(2) A municipality may disclose personal information only

(a) in accordance with this Part or as provided pursuant to another enactment;

(b) if the individual the information is about has identified the information and consented in writing to its disclosure;

(c) for the purpose for which it was obtained or compiled, or a use compatible with that purpose;

(d) for the purpose of complying with an enactment or with a treaty, arrangement or agreement made pursuant to an enactment;

(e) for the purpose of complying with a subpoena, warrant, summons or order issued or made by a court, person or body with jurisdiction to compel the production of information;

(f) to an officer or employee of a municipality if the information is necessary for the performance of the duties of, or for the protection of the health or safety of, the officer or employee;

(g) to a municipality to meet the necessary requirements of municipal operation;

(h) for the purpose of

(i) collecting a debt or fine owing by an individual to the municipality, or

(ii) making a payment owing by the municipality to an individual;

(i) to the auditor for audit purposes;

(j) to a representative of the bargaining agent who has been authorized in writing by the employee, whom the information is about, to make an inquiry;

(k) to the Public Archives of Nova Scotia, or the archives of a municipality, for archival purposes;

(l) to a municipality or a law-enforcement agency in Canada to assist in an investigation

(i) undertaken with a view to a law-enforcement proceeding, or

(ii) from which a law-enforcement proceeding is likely to result;

(m) if the information is disclosed by a law-enforcement agency to

(i) another law-enforcement agency in Canada, or

(ii) a law-enforcement agency in a foreign country under an arrangement, written agreement, treaty or legislative authority;

(n) if the responsible officer determines that compelling circumstances exist that affect anyone's health or safety;

(na) in accordance with subsections (4) or (5);

(o) so that the next of kin or a friend of an injured, ill or deceased individual may be contacted; or

(p) for research, archival and historical purposes as provided in this Section.

(3) A use of personal information is a use compatible with the purpose for which the information was obtained, if the use

(a) has a reasonable and direct connection to that purpose; and

(b) is necessary for performing the statutory duties of, or for operating a legally authorized program of, the municipality that uses the information or to which the information is disclosed.

(4) A municipality may disclose personal information for a research purpose, including statistical research, if

(a) the research purpose cannot reasonably be accomplished unless that information is provided in individually identifiable form;

(b) any record linkage is not harmful to the individuals that information is about and the benefits to be derived from the record linkage are clearly in the public interest;

(c) the responsible officer has approved conditions relating to

(i) security and confidentiality,

(ii) the removal or destruction of individual identifiers at the earliest reasonable time, and

(iii) the prohibition of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of the municipality; and

(d) the person to whom that information is disclosed has signed an agreement to comply with the approved conditions, this Part and any of the municipality's policies and procedures relating to the confidentiality of personal information.

(5) The Public Archives of Nova Scotia, or the archives of a municipality, may disclose personal information for archival or historical purposes where

(a) the disclosure would not be an unreasonable invasion of personal privacy;

(b) the disclosure is for historical research;

(c) the information is about someone who has been dead for twenty or more years; or

(d) the information is in a record that is in the custody or control of the archives and open for historical research on the coming into force of this Part. 1998, c. 18, s. 485; 2008, c. 25, s. 10.

Disclosure in public interest

486 (1) Whether or not a request for access is made, the responsible officer may disclose to the public, to an affected group of people or to an applicant information

(a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people; or

(b) the disclosure of which is, for any other reason, clearly in the public interest.

(2) Before disclosing information pursuant to subsection (1), the responsible officer shall, if practicable, notify any third party to whom the information relates.

(3) Where it is not practicable to comply with subsection (2), the responsible officer shall mail a notice of disclosure to the last known address of the third party. 1998, c. 18, s. 486.

Request by applicant for review

487 (1) A person who makes any request for access or for correction of personal information may ask for a review of any decision, act or failure to act of the responsible officer that relates to the request.

(2) A third party notified of a request for access may ask for a review of any decision made about the request by the responsible officer.

(3) A person who makes a request pursuant to this Part for access to a record or for correction of personal information may, within thirty days after the person is notified of the decision or within thirty days after the date of the act or failure to act, appeal directly to the Supreme Court of Nova Scotia as provided in this Part, if no third party has been notified or if a third party who has been notified consents to that appeal.

(4) to **(6)** *repealed 2007, c. 9, s. 32.*

1998, c. 18, s. 487; 2003, c. 9, s. 91; 2007, c. 9, s. 32.

Procedure for request for review

488 (1) A written request for a review shall be filed with a review officer

(a) within sixty days after the person asking for the review is notified of the decision;

(b) within sixty days after the date of the act or failure to act;

(c) by a third party, within twenty days after notice is given; or

(d) within a longer period allowed by the review officer.

(2) The failure of the responsible officer to respond in time to a request for access to a record is to be treated as a decision to refuse access to the record, but the time limit for filing a request for review does not apply. 1998, c. 18, s. 488.

Copies of request and settlement of matter

489 (1) On receiving a request for a review, a review officer shall forthwith give a copy to

(a) the responsible officer concerned;

(b) an applicant, if the review was requested by a third party; and

(c) any other person that the review officer considers appropriate.

(2) A review officer may try to settle a matter under review through mediation.

(3) Where a review officer is unable to settle a matter within thirty days through mediation, the review officer shall conduct a review. 1998, c. 18, s. 489.

Review in private and nature of review

490 (1) A review officer may conduct a review in private.

(2) The following persons are entitled to make representations to a review officer in the course of a review:

(a) the person who applies for the review;

(b) a third party or applicant who is entitled to notice pursuant to this Part;

(c) the responsible officer whose decision is the subject of the review; and

(d) any other person the review officer considers appropriate.

(2A) Where, pursuant to clause (2)(d), the review officer considers that a person is an appropriate person to make representations in the course of a review of a decision of the responsible officer of a municipality, then, notwithstanding anything contained in this Act, that person

(a) is entitled to

(i) a copy of the report of the review officer pursuant to Section 492,

(ii) appeal the decision of the responsible officer pursuant to Section 494, and

(iii) written notice of an appeal under subsection 494(2); and

(b) is party to the appeal to which the notice of appeal referred to in subclause (a)(iii) relates.

(3) A review officer may decide

(a) whether the representations are to be made orally or in writing;

(b) whether a person is entitled to be present during a review or to have access to, or comment on, representations made to the review officer by any other person. 1998, c. 18, s. 490; 2003, c. 9, s. 92.

Powers of review officer

491 (1) Notwithstanding another Act of the Legislature, or any privilege that is available at law, a review officer may, in a review,

(a) require to be produced and examine any record that is in the custody, or under the control, of the municipality named in the request made pursuant to this Part; and

(b) enter and inspect any premises occupied by the municipality.

(2) A municipality shall comply with a requirement imposed by the review officer pursuant to clause (1)(a) within such time as is prescribed by the regulations.

(3) Where a municipality does not comply with a requirement imposed by the review officer pursuant to clause (1)(a) within the time limited for so doing by subsection (2), a judge of the Supreme Court of Nova Scotia may, on the application of the review officer, order the municipality to do so.

(4) In an application made pursuant to subsection (3), a judge may give such directions as the judge thinks fit, including ordering which persons

shall be parties to the application, which persons shall be given notice of the application and the manner in which such notice shall be given.

(5) An order made pursuant to subsection (3) may contain such provisions and such terms and conditions as the judge thinks fit. 1998, c. 18, s. 491; 2000, c. 9, s. 57; 2003, c. 9, s. 93.

Duties of review officer on completing review

492 (1) On completing a review, a review officer shall

(a) prepare a written report setting out the review officer's recommendations with respect to the matter and the reasons for those recommendations; and

(b) send a copy of the report to the responsible officer, and where the matter was referred to the review officer by

(i) an applicant, to the applicant and to any third party notified pursuant to this Part, or

(ii) a third party, to the third party and to the applicant.

(2) In the report, the review officer may make any recommendations with respect to the matter under review that the review officer considers appropriate. 1998, c. 18, s. 492.

Duties of responsible officer on receipt of report

493 (1) Within thirty days after receiving a report of a review officer, the responsible officer shall

(a) make a decision to follow the recommendation of the review officer or any other decision that the responsible officer considers appropriate; and

(b) give written notice of the decision to the review officer and the persons who were sent a copy of the report.

(2) The responsible officer shall give notice, in writing, to the persons who were sent a copy of the report and the decision of the responsible officer, of their right to appeal the decision of the responsible officer to the Supreme Court of Nova Scotia within thirty days of the date of making the decision.

(3) Where the responsible officer does not give notice within the time required, the responsible officer is deemed to have refused to follow the recommendation of the review officer. 1998, c. 18, s. 493; 2005, c. 55, s. 8.

Appeal to Supreme Court

494 **(1)** Within thirty days after receiving a decision of the responsible officer, an applicant or a third party may appeal that decision to the Supreme Court of Nova Scotia.

(1A) An appeal is deemed not to have been taken pursuant to this Section unless a notice of appeal is given to the Minister of Justice by the person taking the appeal.

(1B) Where a notice of appeal is given pursuant to subsection (1A), the Minister of Justice may become a party to the appeal by filing with the prothonotary of the Supreme Court of Nova Scotia a notice stating that the Minister of Justice is a party to the appeal.

(2) The responsible officer who has refused a request for access to a record, or part of a record, shall, immediately on receipt of a notice of appeal by an applicant, give written notice of the appeal to any third party that the responsible officer

(a) has notified pursuant to this Part; or

(b) would have notified pursuant to this Part if the responsible officer had intended to give access to the record, or part of the record.

(3) The responsible officer who has granted a request for access to a record or part of a record shall, immediately on receipt of a notice of appeal by a third party, give written notice of the appeal to the applicant.

(4) An applicant or a third party who has been given notice of an appeal may appear as a party to the appeal.

(5) The review officer is not a party to an appeal.

(6) Where the responsible officer decides to give access to a record or a part of a record after the review officer files a report setting out the review officer's recommendations respecting the matter, the responsible officer shall not give access until the time limited for a third party taking an appeal from the decision to the Supreme Court of Nova Scotia expires and

(a) no appeal has been taken by a third party from the decision within the time limited for so doing; or

(b) where an appeal has been taken within that time by a third party, it has subsequently been abandoned or withdrawn,

but, where an appeal is taken by a third party, the responsible officer shall not give access until either the decision of the responsible officer is upheld by an order of the Supreme Court and the order becomes final by lapse of time or the decision of the responsible officer is upheld by the highest authority to which any further appeal or appeals are taken. 1998, c. 18, s. 494; 2003, c. 9, s. 94; 2005, c. 55, s. 9.

Powers of Supreme Court

495 **(1)** On an appeal, the Supreme Court of Nova Scotia may

(a) determine the matter *de novo*; and

(b) examine any record *in camera* in order to determine on the merits whether the information in the record may be withheld pursuant to this Part.

(2) Notwithstanding any other Part or any privilege that is available at law, the Supreme Court of Nova Scotia may, on an appeal, examine any record in the custody or under the control of a municipality, and no information shall be withheld from the Court on any grounds.

(3) The Supreme Court of Nova Scotia shall take every reasonable precaution, including, where appropriate, receiving representations *ex parte* and conducting hearings *in camera*, to avoid disclosure by the Court or any person of any information

(a) or other material, if the nature of the information or material could justify a refusal by a responsible officer to give access to a record or part of a record; or

(b) as to whether a record exists, if the responsible officer, in refusing to give access, does not indicate whether the record exists.

(4) The Supreme Court of Nova Scotia may disclose to the Minister of Justice or the Attorney General of Canada information that may relate to the commission of an offence pursuant to another enactment by an officer or employee of a municipality.

(5) Where the responsible officer has refused to give access to a record or part of it, the Supreme Court of Nova Scotia, if it determines that the responsible officer is not authorized to refuse to give access to the record, or part of it, shall

(a) order the responsible officer to give the applicant access to the record, or part of it, subject to any conditions that the Court considers appropriate; or

(b) make any other order that the Court considers appropriate.

(6) Where the Supreme Court of Nova Scotia finds that a record falls within an exemption, the Court shall not order the responsible officer to give the applicant access to the record, regardless of whether the exemption requires, or merely authorizes, the responsible officer to refuse to give access to the record. 1998, c. 18, s. 495.

Exercise of right or power

496 Any right or power conferred on an individual by this Part may be exercised

(a) where the individual is deceased, by the individual's representative, if the exercise of the right or power relates to the administration of the individual's estate;

(b) where a personal guardian or property guardian has been appointed for the individual, by the guardian, if the exercise of the right or power relates to the powers and duties of the guardian;

(c) where a power of attorney has been granted, by the attorney if the exercise of the right or power relates to the powers and duties of the attorney conferred by the power of attorney;

(d) where the individual is less than the age of majority, by the individual's legal custodian in situations where, in the opinion of the responsible officer, the exercise of the right or power would not constitute an unreasonable invasion of the privacy of the individual; or

(e) by a person with written authorization from the individual to act on the individual's behalf. 1998, c. 18, s. 496.

Delegation of powers by responsible officer

497 (1) The responsible officer may delegate to one or more officers of the municipality a power granted to, or a duty vested in, the responsible officer.

(2) A delegation

(a) shall be in writing; and

(b) may contain any limitations, restrictions, conditions or requirements that the responsible officer considers necessary or advisable. 1998, c. 18, s. 497.

Burden of proof

498 (1) At a review or appeal into a decision to refuse an applicant access to all or part of a record, the burden is on the responsible officer to prove that the applicant has no right of access to the record or part.

(2) Where the record or part that the applicant is refused access to contains personal information about a third party, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy.

(3) At a review or appeal into a decision to give an applicant access to all or part of a record containing information that relates to a third party

(a) in the case of personal information, the burden is on the applicant to prove that disclosure of the information would not be an unreasonable invasion of the third party's personal privacy; and

(b) in any other case, the burden is on the third party to prove that the applicant has no right of access to the record or part. 1998, c. 18, s. 498.

Limitation of liability

499 No action or other proceeding lies against the responsible officer or any person acting on behalf of, or under the direction of, the responsible officer for damages resulting from the

(a) disclosure in good faith of all, or part of, a record pursuant to this Part or any consequences of that disclosure; or

(b) failure to give any notice required pursuant to this Part, if reasonable care is taken to give the required notice. 1998, c. 18, s. 499.

Offence and penalty

500 (1) Every person who maliciously collects or discloses personal information in contravention of this Part or the regulations is guilty of an offence and liable, on summary conviction, to a penalty of not more than five thousand dollars or to imprisonment for six months, or both.

(1A) Every person who knowingly alters a record that is subject to a request in order to mislead the person who made the request is guilty of an offence and liable on summary conviction to a fine of not more than two thousand dollars or to imprisonment for six months, or both.

(2) Section 4 of the *Summary Proceedings Act* does not apply to this Part. 1998, c. 18, s. 500; 2003, c. 9, s. 95.

Regulations

501 (1) The Governor in Council may make regulations

(a) prescribing procedures to be followed in taking, transferring and processing requests for access;

(b) prescribing or limiting fees to be paid pursuant to this Part;

(c) prescribing additional circumstances in which a responsible officer may waive the payment of all, or any part, of a prescribed fee;

(d) prescribing the categories of sites that are considered to have heritage or anthropological value;

(e) prescribing requirements to be met with respect to disclosures of information to law enforcement agencies or investigative bodies;

(f) prescribing the form and manner of a review pursuant to this Part;

(g) prescribing the form and manner of an appeal pursuant to this Part;

(h) prescribing any matter that is to be included in a notice that is required pursuant to this Part;

(i) prescribing forms for the purpose of this Part;

(j) prescribing any other matter or thing required or authorized by this Part or the *Freedom of Information and Protection of Privacy Act* to be prescribed in regulations;

(k) respecting the application, with respect to this Part, of regulations made pursuant to the *Freedom of Information and Protection of Privacy Act*;

(l) defining any word or expression used, but not defined, in this Part;

(m) enlarging or restricting the meaning of any word or expression defined in this Part;

(n) for any purpose contemplated by this Part;

(o) to carry out effectively the intent and purpose of this Part.

(2) The regulations made pursuant to the *Freedom of Information and Protection of Privacy Act* apply with respect to this Part with all necessary changes, unless the Governor in Council determines otherwise, by regulations made pursuant to subsection (1).

(3) A regulation may apply to all persons or bodies, or to a class of persons or bodies, to whom this Part applies and there may be different regulations for different classes of persons.

(4) The exercise by the Governor in Council of the authority contained in this Section is regulations within the meaning of the *Regulations Act*. 1998, c. 18, s. 501.

Amendments apply

502 Any amendments to the *Freedom of Information and Protection of Privacy Act* apply *mutatis mutandis* to this Part to the extent that they may be made to apply to this Part. 1998, c. 18, s. 502.

Note - *The* Freedom of Information and Protection of Privacy Act *was amended by Chapter 11 of the Acts of 1999 (2nd Session)*.

PART XXI

GENERAL

Lawful direction to act and inspections

503 (1) Where a council, village commission, committee or community council or the engineer, the administrator or another employee of a municipality lawfully directs that anything be done and it is not done, the council, village commission, engineer, administrator or employee may cause it to be done at the expense of the person in default.

(2) No action shall be maintained against a municipality, a village or any agent, servant or employee of the municipality or the village for anything done pursuant to this Section.

(3) Where an inspection is required or conducted pursuant to a by-law or an enactment

(a) the inspector may enter in or upon land or premises at a reasonable time without a warrant;

(b) except in an emergency, the 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) and where a person refuses to allow the inspector to exercise, or attempts to interfere or interferes with the inspector in the exercise of, a power granted pursuant to this Act, the inspector may apply to a judge of the Supreme Court of Nova Scotia for an order

(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. 1998, c. 18, s. 503; 2001, c. 35, s. 25.

No liability

504 (1) Where a municipality or a village inspects buildings or other property pursuant to this Act or another enactment, the municipality or the village and its officers and employees are not liable for a loss as a result of the manner or extent of an inspection or the frequency, infrequency or absence of an inspection, unless the municipality or the village was requested to inspect at appropriate stages, and within a reasonable time, before the inspection was required, and either the municipality or the village failed to inspect or the inspection was performed negligently.

(2) An inspection is not performed negligently unless it fails to disclose a deficiency or a defect that

(a) could reasonably be expected to be detected; and

(b) the municipality or the village could have ordered corrected.

(3) Notwithstanding the *Limitation of Actions Act* or another statute, a municipality or a village and its officers and employees are not liable for a loss as a result of an inspection or failure to inspect, if the claim is made more than six years after the date of the application for the permit in relation to which the inspection was required.

(4) If a municipality or a village receives a certification or representation by an engineer, architect, surveyor or other person held out to have expertise respecting the thing being certified or represented, the municipality or the village and its officers and employees are not liable for any loss or damage caused by the negligence of the person so certifying or representing. 1998, c. 18, s. 504; 2001, c. 35, s. 26.

Offence and penalty

505 **(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 a 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.

(5) Any person who fails to comply with an order under subsection (4) is guilty of an offence. 1998, c. 18, s. 505; 2005, c. 55, s. 10.

Offence and penalty

506 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. 1998, c. 18, s. 506; 2000, c. 9, s. 58.

Cost of work is first lien

507 Where a council, village commission, committee or community council or the engineer, the administrator or another employee of a municipality lawfully causes work to be done pursuant to this Act, the cost of the work, with interest at the rate determined by the council, by policy, or by the village commission, by by-law, from the date of the completion of the work until the date of payment, is a first lien on the property upon which, or for the benefit of which, the work was done. 1998, c. 18, s. 507; 2001, c. 35, s. 27.

Offence and penalty

508 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. 1998, c. 18, s. 508.

Service of notice

509 (1) Any notice, decision or other document required to be served pursuant to this Act may be served personally, by mailing it to the person at the latest address shown on the assessment roll, by electronic mail or by facsimile.

(2) A notice, decision or other document is deemed to have been served on the third day after it was sent. 2000, c. 9, s. 59.

Service on clerk sufficient

510 Where notice is authorized or required to be served on a municipality or village, service on the clerk is sufficient service. 1998, c. 18, s. 510.

Action brought in corporate name

511 An action brought by or against a municipality or village shall be brought by or against it in its corporate name. 1998, c. 18, s. 511.

Limitation of Actions Act

512 (1) For the purpose of the *Limitation of Actions Act*, the limitation period for an action or proceeding against a municipality or village, the council, a

council member, a village commissioner, an officer or employee of a municipality or village or against any person acting under the authority of any of them, is twelve months.

(2) Subsection (1) applies, with all necessary changes, to a service commission and a board, commission, authority, agency or corporation of a municipality or a board, commission, authority, agency or corporation jointly owned or established by municipalities or villages.

(3) No action shall be brought against any parties listed in subsection (1) or (2) unless notice is served on the intended defendant at least one month prior to the commencement of the action stating the cause of action, the name and address of the person intending to sue and the name and address of that person's solicitor or agent, if any. 1998, c. 18, s. 512.

No liability

513 **(1)** A municipality, village or inter-municipal corporation created pursuant to Section 60, and its officers and employees, are not liable for

(a) failure to provide a service or the manner in which a service is provided, unless the municipality, village or inter-municipal corporation created pursuant to Section 60 fails to meet a standard of care to be determined having regard to financial, economic, personnel, social, political and other factors or constraints in the circumstances, including whether the service is a volunteer or partly volunteer service;

(b) failure to maintain a public place, that is subject to the direction, control and management of the municipality, village or inter-municipal corporation created pursuant to Section 60, in a reasonable state of repair, unless the municipality, village or inter-municipal corporation created pursuant to Section 60 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, a municipality, village or inter-municipal corporation created pursuant to Section 60 is not liable for a loss as a result of the overflow. 1998, c. 18, s. 513; 2008, c. 25, s. 11.

No liability

514 A municipality, village or inter-municipal corporation created pursuant to Section 60, 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, village or inter-municipal corporation created pursuant to Section 60 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, village or inter-municipal corporation created pursuant to Section 60 and should reasonably have been repaired; or

(c) in any case, where this Act or the by-laws of the municipality, village or inter-municipal corporation created pursuant to Section 60 have not been complied with by an owner or previous owner of the property. 1998, c. 18, s. 514; 2005, c. 25, s. 12.

No liability

515 (1) Where a municipality, village or inter-municipal corporation created pursuant to Section 60 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) A municipality, village or inter-municipal corporation created pursuant to Section 60 is not liable for nuisance as a result of the construction or operation of a work, if the nuisance could not be avoided by any other practically feasible method of carrying out the work. 1998, c. 18, s. 515; 2005, c. 25, s. 13.

Right of indemnity

516 Where a municipality or village is found liable for damages as a result of the unsafe condition of a street or sidewalk, or of a nuisance or encumbrance on it, the municipality or village has a right of indemnity for all such damages, and for costs and expenses incurred in connection therewith, against any person whose act or omission caused the street or sidewalk to be unsafe or caused the nuisance or encumbrance. 1998, c. 18, s. 516.

Right of indemnity

517 (1) Where a municipality is found liable for damages as a result of the unsafe condition of a street, bridge or sidewalk that was transferred to it by 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. 1998, c. 18, s. 517.

Requirement to consult with Union

518 The Minister shall consult with the executive of the Union of Nova Scotia Municipalities respecting any proposed amendment to this Act. 1998, c. 18, s. 518.

Requirement to notify Union

519 (1) The Minister shall notify the Union of Nova Scotia Municipalities at least one year prior to the effective date of any legislation, regulation or administrative action undertaken by or on behalf of the Government of the Province that would have the effect of decreasing the revenue received by municipalities in Nova Scotia or increasing the required expenditures of municipalities in Nova Scotia.

(2) Subsection (1) does not apply with respect to any legislation, regulation or administrative action applying to the Province generally and not mainly to municipalities. 1998, c. 18, s. 519.

Regulations

520 (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) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 1998, c. 18, s. 520.

521 to **536C** *repealed 2008, c. 39, s. 389.*

PART XXIII

TRANSITIONAL AND REPEAL

Continuation in office

537 Town clerks, town treasurers, municipal clerks and municipal treasurers who hold office during good behaviour at the coming into force of this Act continue to hold office during good behaviour until such time as they resign or retire. 1998, c. 18, s. 537.

Continuation in force

538 The by-laws, orders, policies and resolutions in force in a municipality or village 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. 1998, c. 18, s. 538.

Dissolution of business commission

539 (1) Every business improvement district commission is dissolved and its assets and liabilities are vested in the municipality that established it.

(2) A municipality may transfer property of a business improvement district commission to a nonprofit organization incorporated for purposes similar to those of the dissolved commission. 1998, c. 18, s. 539.

Dissolution of industrial commission

540 (1) Every industrial commission established by, or pursuant to, a statute is dissolved and its assets and liabilities are vested in the municipality that established it.

(2) A municipality may transfer property of an industrial commission dissolved by this Act to a nonprofit organization incorporated for purposes related to the improvement of the economy and commerce of the municipality. 1998, c. 18, s. 540.

Dissolution of regional transit authority

541 (1) Every regional transit authority is dissolved and its assets and liabilities are vested in the municipality that established it.

(2) Municipalities that are members of a regional transit authority are deemed to have

(a) entered into an intermunicipal services agreement for the provision of public transportation services on the same terms and conditions as contained in the incorporating documents of the regional transit authority; and

(b) dedicated the property of the authority to that purpose. 1998, c. 18, s. 541.

Dissolution of corporations and commissions

542 (1) Every incorporated waterfront development corporation, parking commission, tree commission, parks commission or recreation commission established by a municipality or by statute is dissolved and its assets and liabilities are vested in the municipality that established it or in which it operated.

(2) A municipality may transfer property of a waterfront development corporation, parking commission, tree commission, parks commission or recreation commission dissolved by this Act to a nonprofit organization incorporated for purposes similar to those of the dissolved body or related to the improvement of the municipality. 1998, c. 18, s. 542.

Transitional tax rates

543 (1) Where a regional municipality is incorporated, the council may authorize, for the ten fiscal years commencing on the incorporation date,

(a) different commercial and residential tax rates in each former municipal unit by phasing down or up the rates that applied within the municipal unit immediately before the incorporation date; and

(b) the levying and collecting of a separate rate within each former municipal unit for debt charges arising from debt outstanding immediately prior to the incorporation date.

(2) A council may levy a rate on an area to recover outstanding deficits, debts, debt charges or other items of past expenditure that the council determines should be recovered from the ratepayers of the area.

(3) A rate levied pursuant to subsection (2) applies to the assessed value of all taxable property and business occupancy assessments in the area.

(4) In the first fiscal year of a regional municipality, the council may levy and collect taxes at the same rates as were levied by the municipal governments, applied to the assessed value of all taxable property and business occupancy assessments on the same basis as the rates levied by municipal governments, provided the total sum so levied will be sufficient to meet the estimated requirements of the regional municipality for that year.

(5) This Section applies to Cape Breton Regional Municipality, Halifax Regional Municipality and Region of Queens Municipality from the date of their respective incorporations. 1998, c. 18, s. 543.

Reference to municipality

544 A reference in an enactment to a municipality, as defined in the *Municipal Affairs Act*, is a reference to a municipality, village or service commission as defined in this Act. 1998, c. 18, s. 544.

Agriculture and Marketing Act amended

545 *amendment*

Angling Act amended

546 *amendment*

Assessment Act amended

547 *amendments*

Atomic Energy of Canada Tax Sharing Act repealed

548 Chapter 27 of the Revised Statutes, 1989, the *Atomic Energy of Canada Limited Tax Sharing Act*, is repealed. 1998, c. 18, s. 548.

Brucellosis Control Act repealed

549 Chapter 44 of the Revised Statutes, 1989, the *Brucellosis Control Act*, is repealed. 1998, c. 18, s. 549.

Building Code Act amended

550 *amendments*

Cape Breton Regional Municipality Act repealed

551 Chapter 3 of the Acts of 1994, the *Cape Breton Regional Municipality Act*, is repealed. 1998, c. 18, s. 551.

Cattle Pest Control Act amended

552 *amendments*

Community Act repealed

553 Chapter 80 of the Revised Statutes, 1989, the *Community Act*, is repealed. 1998, c. 18, s. 553.

Deed Transfer Tax Act repealed

554 Chapter 121 of the Revised Statutes, 1989, the *Deed Transfer Tax Act*, is repealed. 1998, c. 18, s. 554.

Education Act amended

555 *amendments*

Education of the Blind Act repealed

556 Chapter 138 of the Revised Statutes, 1989, the *Education of the Blind Act*, is repealed. 1998, c. 18, s. 556.

Environment Act amended

557 *amendment*

Fire Department Two Platoon Act repealed

558 Chapter 170 of the Revised Statutes, 1989, the *Fire Department Two Platoon Act*, is repealed. 1998, c. 18, s. 558.

Forests Act amended

559 *amendments*

Halifax Regional Municipality Act repealed

560 Chapter 3 of the Acts of 1995, the *Halifax Regional Municipality Act*, is repealed. 1998, c. 18, s. 560.

Heritage Property Act amended

561 *amendments*

Industrial Commissions Act repealed

562 Chapter 221 of the Revised Statutes, 1989, the *Industrial Commissions Act*, is repealed. 1998, c. 18, s. 562.

Industrial Estates Limited Act amended

563 *amendment*

Land Holdings Disclosure Act amended

564 *amendment*

Municipal Act repealed

565 Chapter 295 of the Revised Statutes, 1989, the *Municipal Act*, is repealed. 1998, c. 18, s. 565.

Municipal Affairs Act repealed

566 Chapter 296 of the Revised Statutes, 1989, the *Municipal Affairs Act*, is repealed. 1998, c. 18, s. 566.

Municipal Boundaries & Representation Act repealed

567 Chapter 298 of the Revised Statutes, 1989, the *Municipal Boundaries and Representation Act*, is repealed. 1998, c. 18, s. 567.

Municipal Elections Act amended
568 *amendments*

Municipal Finance Corporation Act amended
569 *amendments*

Nova Scotia Power Privatization Act amended
570 *amendments*

Planning Act repealed
571 Chapter 346 of the Revised Statutes, 1989, the *Planning Act*, is repealed. 1998, c. 18, s. 571.

Police Act amended
572 *amendment*

Public Highways Act amended
573 *amendment*

Queens Regional Municipality Act repealed
574 Chapter 9 of the Acts of 1995, the *Queens Regional Municipality Act*, is repealed. 1998, c. 18, s. 574.

Regional Municipalities Act repealed
575 Chapter 16 of the Acts of 1995-96, the *Regional Municipalities Act*, is repealed. 1998, c. 18, s. 575.

Regional Transit Authority Act repealed
576 Chapter 389 of the Revised Statutes, 1989, the *Regional Transit Authority Act*, is repealed. 1998, c. 18, s. 576.

Rio Algom Limited Municipal Taxation Act repealed
577 Chapter 9 of the Acts of 1992, the *Rio Algom Limited Municipal Taxation Act*, is repealed. 2000, c. 9, s. 60.

Rural Fire District Act amended
578 *amendments*

Shopping Centre Development Act amended
579 *amendment*

Stray Animals Act repealed

580 Chapter 448 of the Revised Statutes, 1989, the *Stray Animals Act*, is repealed. 1998, c. 18, s. 580.

Towns Act repealed

581 Chapter 472 of the Revised Statutes, 1989, the *Towns Act*, is repealed. 1998, c. 18, s. 581.

Utility and Review Board Act amended

582 *amendments*

Village Service Act repealed

583 Chapter 493 of the Revised Statutes, 1989, the *Village Service Act*, is repealed. 1998, c. 18, s. 583.

Effective dates

584 (1) This Act, except subsections 134(2) and (3) and Section 199, has effect on and after April 1, 1999.

(2) Subsections 134(2) and (3) have effect on and after April 1, 2003.

(3) Section 199 has effect on and after April 1, 2000. 1998, c. 18, s. 584.

SCHEDULE A

FORM A

WARRANT

TO: Any police officer, civil constable, by-law enforcement officer or other municipal employee

(taxpayer) is indebted to the (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 , 19 .

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 (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 ~~three~~ [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 (Municipality) this day of , 19 .

_____
Treasurer

FORM D

CERTIFICATE OF DISCHARGE

THIS IS TO CERTIFY that the (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 (Municipality) this day of , 19 .

_____
Treasurer

FORM E

TAX DEED

THIS TAX DEED is made this day of , 19

BETWEEN:

The Municipality of ,
hereinafter called the "Grantor"

OF THE ONE PART

- and -

The 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 in the presence of) MUNICIPALITY OF

per: _____
Mayor/ Warden

per: _____
Clerk

PROVINCE OF NOVA SCOTIA)
COUNTY OF)

ON THIS day of , A. D., 19 , 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/Warden and Clerk of the Grantor herein, signed, sealed and delivered the same in h presence.

A 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.

1998, c. 18, Sch. A.

SCHEDULE B

Statements of Provincial Interest

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Introduction

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Statement of Provincial Interest Regarding Drinking Water

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INTRODUCTION

Nova Scotia's land and water resources are fundamental to our physical, social and economic well-being. But they are finite resources and using them in one way can mean the exclusion of other uses forever. Therefore, it is important that decisions about Nova Scotia's land and water be made carefully. Ill-advised land use can have serious consequences for the physical, economic and social well-being of all Nova Scotians.

These statements of Provincial interest recognize the importance of our land and water resources. The statements also address issues related to the future growth of our communities. They are intended to serve as guiding principles to help Provincial Government departments, municipalities and individuals in making decisions regarding land use. They are supportive of the principles of sustainable development.

Development undertaken by the Province and municipalities should be reasonably consistent with the statements.

As the statements are general in nature, they provide guidance rather than rigid standards. They reflect the diversity found in the Province and do not take into account all local situa-

tions. They must be applied with common sense. Thoughtful, innovative and creative application is encouraged.

DEFINITIONS

These definitions apply to the Statements of Provincial Interest.

Agricultural Land means active farmland and land with agricultural potential as defined by the Canada Land Inventory as Class 2, 3 and Class 4 land in active agricultural areas, speciality crop lands and dykelands suitable for commercial agricultural operations as identified by the Department of Agriculture and Marketing.

Floodplain means the low lying area adjoining a watercourse.

Floodproofed means a measure or combination of structural and non-structural measures incorporated into the design of a structure which reduces or eliminates the risk of flood damage, usually to a defined elevation.

Floodway means the inner portion of a flood risk area where the risk of flooding is greatest, on average once in twenty years, and where flood depths and velocities are greatest.

Floodway Fringe means the outer portion of a flood risk area, between the floodway and the outer boundary of the flood risk area, where the risk of flooding is lower, on average once in one hundred years, and floodwaters are shallower and slower flowing.

Groundwater Recharge Area means the area of land from which water flows to supply a well.

Hazardous Materials means dangerous goods, waste dangerous goods and pesticides as defined in the *Environment Act* C.1, S.N.S. 1994-95.

Municipal Water Supply Watershed means an area encompassing a surface watershed or recharge area, or a portion of it, serving as a water supply area for a municipal water system.

Off-site Fill means fill that has been imported from outside the floodplain or fill which is transported from the Floodway Fringe to the Floodway.

Planning Documents means a municipal planning strategy, land-use by-law, development agreement and subdivision by-law.

STATEMENT OF PROVINCIAL INTEREST REGARDING DRINKING WATER

GOAL

To protect the quality of drinking water within municipal water supply watersheds.

BASIS

A safe supply of drinking water is a basic requirement for all Nova Scotians.

Inappropriate development in municipal water supply watersheds may threaten the quality of drinking water.

Some water supply watersheds are located outside the municipality using the water. The municipality depending on the water therefore has no direct means of protecting its supply.

APPLICATION

This statement applies to all municipal water supply watersheds in the Province including surface watersheds and groundwater recharge areas.

PROVISIONS

1. Planning documents must identify all municipal water supply watersheds within the planning area.

2. Planning documents must address the protection of drinking water in municipal water supply watersheds. Measures that should be considered include

   (a) restricting permitted uses to those that do not pose a threat to drinking water quality;

   (b) balancing the expansion of existing uses against the risks posed to drinking water quality;

   (c) limiting the number of lots. Too many lots may result in development which cumulatively affects drinking water quality. The minimum size of lots and density of development should be balanced against the risks posed to the quality of drinking water;

   (d) setting out separation distances between new development and watercourses to provide protection from run-off;

   (e) establishing measures to reduce erosion, sedimentation, run-off and vegetation removal associated with development.

3. Existing land use and the location, size and soil conditions of a municipal water supply watershed will determine the land-use controls that should be applied. Large surface watersheds, for example, may be able to sustain more development than a small groundwater recharge area.

   It is recognized that in some situations the long-term protection of the drinking water supply may be impractical. In these cases planning documents must address the reasons why the water supply cannot be protected. Municipalities in this situation should consider locating an alternate source of drinking water where long-term protective measures can be applied.

4. The Province supports the preparation of watershed management strategies for all municipal water supply watersheds. These strategies should be prepared by the concerned municipalities and the municipal water utility, in consultation with all affected parties, including landowners.

STATEMENT OF PROVINCIAL INTEREST REGARDING FLOOD RISK AREAS

GOAL

To protect public safety and property and to reduce the requirement for flood control works and flood damage restoration in floodplains.

BASIS

Floodplains are nature's storage area for flood waters [floodwaters].

New development in a floodplain can increase flood levels and flows thereby increasing the threat to existing upstream and downstream development.

Five floodplains have been identified as Flood Risk Areas under the Canada-Nova Scotia Flood Damage Reduction Program.

APPLICATION

This statement applies to all Flood Risk Areas that are designated under the Canada-Nova Scotia Flood Damage Reduction Program. These are

(1) **East River**, Pictou County,

(2) **Little Sackville River**, Halifax County,

(3) **Sackville River**, Halifax County,

(4) **Salmon and North Rivers**, Colchester County, and

(5) **West and Rights Rivers and Brierly Brook**, Antigonish County.

There are other areas in the Province that are subject to flooding which have not been mapped under the Canada-Nova Scotia Flood Damage Reduction Program. In these areas, the limits of potential flooding have not been scientifically determined. However, where local knowledge or information concerning these floodplains is available, planning documents should reflect this information and this statement.

PROVISIONS

1. Planning documents must identify *Flood Risk Areas* consistent with the Canada-Nova Scotia Flood Damage Reduction Program mapping and any locally known floodplain.

2. For *Flood Risk Areas* that have been mapped under the Canada-Nova Scotia Flood Damage Reduction Program planning documents must be reasonably consistent with the following:
   (a) within the *Floodway*,
      (i) development must be restricted to uses such as roads, open space uses, utility and service corridors, parking lots and temporary uses, and

(ii) the placement of off-site fill must be prohibited;

(b) within the *Floodway Fringe*,

(i) development, provided it is floodproofed, may be permitted, except for

(1) residential institutions such as hospitals, senior citizen homes, homes for special care and similar facilities where flooding could pose a significant threat to the safety of residents if evacuation became necessary, and

(2) any use associated with the warehousing or the production of hazardous materials,

(ii) the placement of off-site fill must be limited to that required for floodproofing or flood risk management.

3. Expansion of existing uses must be balanced against risks to human safety, property and increased upstream and downstream flooding. Any expansion in the *Floodway* must not increase the area of the structure at or below the required floodproof elevation.

4. For known floodplains that have not been mapped under the Canada-Nova Scotia Flood Damage Reduction Program, planning documents should be, at a minimum, reasonably consistent with the provisions applicable to the *Floodway Fringe*.

5. Development contrary to this statement may be permitted provided a hydrotechnical study, carried out by a qualified person, shows that the proposed development will not contribute to upstream or downstream flooding or result in a change to ~~flood water~~ [floodwater] flow patterns.

STATEMENT OF PROVINCIAL INTEREST REGARDING AGRICULTURAL LAND

GOAL

To protect agricultural land for the development of a viable and sustainable agriculture and food industry.

BASIS

The preservation of agricultural land is important to the future of Nova Scotians.

Agricultural land is being lost to non-agricultural development.

There are land-use conflicts between agricultural and non-agricultural land uses.

APPLICATION

This statement applies to all active agricultural land and land with agricultural potential in the Province.

PROVISIONS

1. Planning documents must identify agricultural lands within the planning area.

2. Planning documents must address the protection of agricultural land. Measures that should be considered include:

   (a) giving priority to uses such as agricultural, agricultural related and uses which do not eliminate the possibility of using the land for agricultural purposes in the future. Non-agricultural uses should be balanced against the need to preserve agricultural land;

   (b) limiting the number of lots. Too many lots may encourage non-agricultural development. The minimum size of lots and density of development should be balanced against the need to preserve agricultural land;

   (c) setting out separation distances between agricultural and new non-agricultural development to reduce land-use conflicts;

   (d) measures to reduce topsoil removal on lands with the highest agricultural value.

3. Existing land-use patterns, economic conditions and the location and size of agricultural holdings means not all areas can be protected for food production, e.g., when agricultural land is located within an urban area. In these cases, planning documents must address the reasons why agriculture lands cannot be protected for agricultural use. Where possible, non-agricultural development should be directed to the lands with the lowest agricultural value.

STATEMENT OF PROVINCIAL INTEREST REGARDING INFRASTRUCTURE

GOAL

To make efficient use of municipal water supply and municipal wastewater disposal systems.

BASIS

All levels of government have made significant investment in providing municipal water supply and municipal wastewater disposal infrastructure systems.

Unplanned and uncoordinated development increases the demand for costly conventional infrastructure.

APPLICATION

All communities of the Province.

PROVISIONS

1. Planning documents must promote the efficient use of existing infrastructure and reduce the need for new municipal infrastructure. Measures that should be considered include:

   (a) encouraging maximum use of existing infrastructure by enabling infill development on vacant land and higher density development;

   (b) discouraging development from leapfrogging over areas served by municipal infrastructure to unserviced areas;

   (c) directing community growth that will require the extension of infrastructure to areas where serving costs will be minimized. The use of practical alternatives to conventional wastewater disposal systems should be considered;

   (d) identifying known environmental and health problems related to inadequate infrastructure and setting out short and long-term policies to address the problems including how they will be financed.

2. Where on-site disposal systems are experiencing problems, alternatives to the provision of conventional wastewater disposal systems should be considered. These include the replacement or repair of malfunctioning on-site systems, the use of cluster systems and establishing wastewater management districts.

3. Installing municipal water systems without municipal wastewater disposal systems should be discouraged.

4. Intermunicipal solutions to address problems and provide infrastructure should be considered.

STATEMENT OF PROVINCIAL INTEREST REGARDING HOUSING

GOAL

To provide housing opportunities to meet the needs of all Nova Scotians.

BASIS

Adequate shelter is a fundamental requirement for all Nova Scotians.

A wide range of housing types is necessary to meet the needs of Nova Scotians.

APPLICATION

All communities of the Province.

PROVISIONS

1. Planning documents must include housing policies addressing affordable housing, special-needs housing and rental accommodation. This includes assessing the need and supply of these housing types and developing solutions appropriate to the planning area. The definition of the terms affordable housing, special-needs housing and rental housing is left to the individual municipality to define in the context of its individual situation.

2. Depending upon the community and the housing supply and need, the measures that should be considered in planning documents include: enabling higher densities, smaller lot sizes and reduced yard requirements that encourage a range of housing types.

3. There are different types of group homes. Some are essentially single detached homes and planning documents must treat these homes consistent with their residential nature. Other group homes providing specialized services may require more specific locational criteria.

4. Municipal planning documents must provide for manufactured housing.

IMPLEMENTATION

1. These statements of provincial interest are issued under the *Municipal Government Act*. The Minister of Housing and Municipal Affairs, in cooperation with other provincial departments, is responsible for their interpretation.

2. Provincial Government departments must carry out their activities in a way that is reasonably consistent with these statements.

3. New municipal planning documents as well as amendments made after these statements come into effect must be reasonably consistent with them.

4. Councils are encouraged to amend existing planning documents to be reasonably consistent with the statements. Where appropriate, the preparation of intermunicipal planning strategies is encouraged.

5. Reasonably consistent is defined as taking reasonable steps to apply applicable statements to a local situation. Not all statements will apply equally to all situations. In some cases, it will be impractical because of physical conditions, existing development, economic factors or other reasons to fully apply a statement. It is also recognized that complete information is not always available to decision makers. These factors mean that common sense will dictate the application of the statements. Thoughtful innovation and creativity in their application is encouraged.

6. Conflicts among the statements must be considered and resolved in the context of the planning area and the needs of its citizens.

7. The Department of Housing and Municipal Affairs, with other Provincial departments, may prepare guidelines and other information to help municipalities in implementing the statements. Provincial staff are available for consultation on the reasonable application of the statements.

1998, c. 18, Sch. B.