

Consultation Draft Prince Edward Island Municipal Government Act

September 13, 2016

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Additional Notes:

- Part 3 – Please note that review and consultations with Elections PEI regarding Part 3 are on-going and this Part remains subject to change.
- Part 7 – Please note that consultations with the Department of Transportation regarding highways and streets are on-going and those sections remain subject to change.
- The final Municipal Government Act will also contain a Part 10, which will include any transitions and regulations not specifically mentioned in previous parts of the Act, as well as Schedules for Victoria Park and the Summerside Electrical Utility.
- Many aspects of the MGA will be supplemented through the regulations.
- The MGA will replace the *Municipalities Act*, the *Charlottetown Area Municipalities Act*, and the *City of Summerside Act*. The Province also anticipates that the *Municipal Boundaries Act*, the *Municipal Debentures Act*, and the *Store Hours Act* would be repealed upon the coming into force of the MGA.
- The Province anticipates that consequential amendments may be required for several other pieces of existing legislation.

September 13, 2016

CONSULTATION DRAFT**Municipal Government Act**

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

PART 1

Definitions, Purposes and Powers

Definitions	1. In this Act,
absent	(a) “absent” means not present or in attendance at a meeting held either in person or by electronic means;
closely connected	(b) “closely connected”, in relation to a person, means the person’s relationship with an agent, a business partner, a family member or an employer of the person;
Commission	(c) “Commission” means the Island Regulatory and Appeals Commission established under the <i>Island Regulatory and Appeals Commission Act</i> R.S.P.E.I. 1988, cap. I-11;
controlled corporation	(d) “controlled corporation” means a corporation (i) in which a municipality holds securities, other than by way of security only, to which are attached more than 50 per cent of the votes that may be cast to elect the directors of the corporation and, if exercised, are sufficient to elect a majority of the directors, or (ii) of which all or a majority of its members or directors are appointed by a municipality or by a group consisting of a municipality and one or more other municipalities;
council	(e) “council” means the mayor and other members of the council of a municipality;
dissolution	(f) “dissolution” means the process by which a municipality ceases to be incorporated as a municipality;
election official	(g) “election official” means a person appointed by the municipal electoral officer to conduct and oversee municipal elections and includes but is not limited to returning officers, deputy returning officers, election clerks, poll clerks, enumerators, scrutineers and confirmation officers;

- (h) “electoral district” means either a municipality or a ward within a municipality; electoral district
- (i) “emergency” means an emergency as defined in the *Emergency Measures Act* R.S.P.E.I. 1988, Cap. E-6.1; emergency
- (j) “employee” means, except as provided elsewhere in this Act, a person who performs work for a municipality for pay, and includes employee
- (i) a person on leave from employment with a municipality,
 - (ii) a person being trained by a municipality to perform work for the municipality,
 - (iii) a person retained under an employment contract to perform work for the municipality, and
 - (iv) any other person or class of person designated as an employee by the Minister,
- but does not include an independent officer appointed under a procedural bylaw;
- (k) “enforcement officer” means an enforcement officer appointed under subsection 223(4); enforcement officer
- (l) “family member” means, in relation to a person, a spouse, parent, child, brother, sister, aunt, uncle, grandchild, grandparent, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law of the person; family member
- (m) “frontage charge” means a charge or fee levied by a municipality based on the length of a property that faces a highway, road or street; frontage charge
- (n) “highway” means a highway as defined in the *Roads Act* R.S.P.E.I. 1988, Cap. R-5; highway
- (o) “improved property” means a property on which a structure or facility has been built, constructed, manufactured or placed; improved property
- (p) “independent officer” means an officer engaged at pleasure by a council under a procedural bylaw; independent officer
- (q) “list of electors” means the preliminary list of electors, supplementary list of electors or the official list of electors, as the context requires; list of electors
- (r) “Minister” means the member of the Executive Council charged by order of the Lieutenant Governor in Council with the administration of this Act; Minister
- (s) “municipal electoral officer” means the person charged with the administration of a municipal election by a municipal council; municipal electoral officer
- municipal utility

	(t) “municipal utility” means a system or facility in a municipality that is operated to provide public transportation, heat, waste heat and other services or products for public consumption, benefit, convenience or use;
municipality	(u) “municipality” means a city or town established under this Act, and includes a municipality continued under section 29 or 30 of this Act and a rural municipality restructured pursuant to subsection 15(2);
planning bylaw	(v) “planning bylaw” means a bylaw that regulates or prohibits development, subdivision, zoning, signage or other land use;
police department	(w) “police department” means a police department or police service as defined in the <i>Police Act</i> R.S.P.E.I. 1988, Cap. P-11.1;
poll	(x) “poll” means the election compartment or booth where ballots are cast;
polling division	(y) “polling division” means a geographical area in an electoral district;
polling station	(z) “polling station” means the place within a polling division where an elector goes to vote;
restructure	(aa) “public utility” means a public utility as defined in the <i>Water and Sewerage Act</i> R.S.P.E.I. 1988, Cap. W-2;
restructure	(bb) “restructure” means to change a boundary or boundaries of a municipality and includes an amalgamation or annexation;
sidewalk	(cc) “sidewalk” means that portion of a street between the curb line or the lateral line of the roadway and the adjacent property line that is set apart for the use of pedestrians, and includes any part of a street set apart or marked as being for the exclusive use of pedestrians;
street	(dd) “street” means the entire width between the boundary lines of every road, street, lane, alley, highway or right-of-way designed or intended for or used by the general public for the passage of persons or vehicles, and includes bridges, sidewalks and drainage works and any private place or passageway to which the public, for the purpose of parking or servicing of vehicles, has access or is invited, but does not include a highway designated under section 27 or 29 of the <i>Roads Act</i> ;
Supreme Court	(ee) “Supreme Court” means the Supreme Court of Prince Edward Island;
unincorporated area	(ff) “unincorporated area” means an area of the province not incorporated as a municipality.

- 2.** (1) The purposes of this Act are
- (a) to provide a legal framework and foundation for the continuation, establishment, restructuring and dissolution of municipalities;
 - (b) to provide councils with the authority and powers to fulfil their purposes in accordance with this Act;
 - (c) to provide councils with the flexibility to respond to the different needs and changing circumstances in their municipalities in the performance of their duties under this Act; and
 - (d) to ensure that councils are accountable to the people they serve and to the Government of Prince Edward Island.
- (2) This Act applies to all councils and municipalities.
- 3.** The purposes of a council include
- (a) providing good government;
 - (b) providing services, facilities or other things that the council considers necessary or desirable for all or part of its municipality;
 - (c) providing for stewardship of the municipality's public assets; and
 - (d) developing and maintaining its municipality as a safe and viable community.
- 4.** (1) A municipality is a corporation and has, for the exercise of its powers under this Act, all the rights and liabilities of a corporation as set out in the *Interpretation Act* R.S.P.E.I. 1988, Cap. I-8.
- (2) In addition to the rights and liabilities referred to in subsection (1), a municipality has, for the exercise of its powers under this Act, the capacity and, subject to this Act, the rights, powers and privileges of a natural person.
- (3) Despite subsections (1) and (2), a municipality shall not establish another corporation to do anything that the municipality does not itself have the legal power, right or duty to do.
- (4) A municipality shall not be a shareholder or member of another corporation for the sole purpose of doing anything that the municipality does not itself have the legal power, right or duty to do.
- 5.** Where there is an inconsistency between a bylaw of a municipality and this Act or another enactment, the bylaw of the municipality is of no force or effect to the extent of the inconsistency.
- 6.** A reference in this Act to the population of a municipality or other area means the population of the municipality or area as shown by the most recent census acceptable to the Minister.
- 7.** Except in relation to things done or required to be done under Part 3, where the time for any proceeding or for doing anything in the offices of

Purposes of this Act

Application of Act

Purposes of municipal council

Powers

Natural person powers

Prohibition

Idem

Effect of inconsistency

References to population

Expiry of time when municipal offices are closed

a municipality falls or expires on a day when the offices of the municipality are not open to the public, the time is extended to the next day that the offices are open to the public.

Extension of time	8. (1) A council may, in writing, apply to the Minister for an extension of time for the doing of anything required under this Act and the Minister may, in writing, extend the time subject to any conditions the Minister considers necessary or advisable.
Minister's order	(2) The Minister may, on the Minister's own initiative, make an order extending the time required to do something under this Act.
Consultation	9. The Minister shall consult with the Federation of Prince Edward Island Municipalities respecting any substantive amendment that the Minister proposes to this Act or the regulations under this Act.
Broad interpretation	10. The powers conferred on municipalities and their councils under this Act shall be interpreted broadly in accordance with the purposes of the Act as set out in section 2 and in accordance with the purposes of councils as set out in section 3.

PART 2

Division 1 - Establishment and Restructuring of Municipalities

Classes of municipalities	11. The following classes of municipalities may be established under this Act: (a) city; (b) town; (c) subject to subsection 15(3), rural municipality.
Naming of municipalities	12. (1) Every municipality established under this Act shall be named (a) where the requirements set out in clause 13(1)(a) are met, the "City of ..."; or (b) where the requirements set out in clause 13(1)(b) are met, the "Town of ...".
<i>Idem</i>	(2) A community continued or, subject to subsection 15(3), restructured under this Act as a rural municipality shall be named the "Rural Municipality of ...".
Population and other criteria	13. (1) The criteria for the establishment of a municipality under this Act are as follows: (a) for a city, an estimated population of 15,000 or greater and a total property assessment value of \$750,000,000 or greater; or (b) for a town, an estimated population of more than 4,000 persons but not more than 14,999 persons, and a total property assessment value of more than \$200,000,000 but not more than \$749,999,999.

(2) Where a proposal under subsection 15(1) to establish a municipality will not result in a municipality that meets the criteria specified in subsection (1), but in the opinion of the Minister it may be in the public interest to establish that municipality, the Minister may refer the proposal to the Commission under subsection 15(1) as if the proposed municipality met the applicable criteria under subsection (1).

Exception

(3) The Lieutenant Governor in Council may, by regulation, establish principles, standards or additional criteria to be taken into account in considering the establishment, restructuring or dissolution of municipalities under this Part.

Principles, etc.

14. Every municipality continued, restructured or established under this Act shall provide, in all areas of the municipality,

Municipal services, general

- (a) fire protection;
- (b) within five years after the coming into force of this Act, municipal planning services, including an official plan and bylaws; and
- (c) subject to subsection 145(4), emergency measures planning.

15. (1) A proposal to establish a municipality may be initiated by

- (a) the Minister; or
- (b) a group of at least 30 per cent of the persons who meet the requirements of subsection (7) and whose names appear on an accompanying petition.

Proposal to establish municipality

(2) A proposal to dissolve a municipality or, subject to subsection (3), to restructure the boundaries of a municipality may be initiated by

Proposal to dissolve municipality or restructure municipal boundaries

- (a) the Minister; or
- (b) the council of the municipality.

(3) If a proposal under subsection (2) to restructure the boundaries of a rural municipality will not result in a municipality that meets the criteria specified in subsection 13(1) for a city or town, the proposal

Minister's approval

- (a) shall be submitted to the Minister for approval; and
- (b) shall not be accepted by the Commission under subsection (4) unless it has been approved by the Minister.

(4) A proposal under subsection (1) or (2) shall be in writing in the form approved by the Minister and filed with the Commission.

Proposal to be filed

- (5) A proposal shall include, at a minimum,
 - (a) a statement that the proposal is
 - (i) to establish a municipality,
 - (ii) to restructure the boundaries of a municipality, or
 - (iii) to dissolve a specified municipality;
 - (b) the reason for the proposal;

Contents of proposal

- (c) the name of each adjoining municipality, unincorporated area and nearby First Nation Band, and any other municipality or unincorporated area that, in the opinion of the proponent, may be affected by the establishment, dissolution or restructuring of the boundaries of the municipality;
- (d) where the proposal is to establish a municipality or restructure the boundaries of a municipality,
 - (i) the estimated population of the proposed municipality,
 - (ii) the estimated total property assessment value of the proposed municipality,
 - (iii) a map depicting, in detail, the new boundaries being proposed,
 - (iv) the class of the proposed municipality in accordance with section 11,
 - (v) the name of the proposed municipality,
 - (vi) the services to be provided by the proposed municipality, and
 - (vii) a list of all the existing or proposed capital assets of the proposed municipality, including infrastructure;
- (e) where the proposal is to dissolve a specified municipality, a plan for the winding up of the municipality, including the sale or transfer of the assets and payment of the debts and obligations of the municipality; and
- (f) the name of the representative of the petitioning electors if the proposal is initiated by persons under clause (1)(c).

Form and contents
of petition

(6) A petition accompanying a proposal under clause (1)(c) shall be signed by not less than 30 per cent of the persons who are or would be electors of the municipality or the area proposed to be established, based upon the latest census acceptable to the Minister, and shall include the following:

- (a) in printed form, the surname and at least one given name or initial of each petitioner;
- (b) each petitioner's signature and the date he or she signed;
- (c) the address of each petitioner's residence;
- (d) in the case of a petition to establish a municipality, a statement that each petitioner is eligible to be an elector of the proposed municipality.

Requirement for
signatures

(7) The signature of each petitioner required pursuant to clause (6)(b) shall be provided not more than 180 calendar days before the date on which the proposal is filed with the Commission.

Notice of proposal

16. (1) Within 45 days from the date of receiving a proposal to establish or dissolve a municipality or to restructure the boundaries of a municipality, the Commission

(a) shall notify and give a copy of the proposal to the Minister, if the Minister is not the proponent, each adjoining municipality, any other municipality that in the opinion of the Commission may be affected, each nearby First Nation Band, and the Federation of Prince Edward Island Municipalities;

(b) shall publish a notice that the proposal has been filed with the Commission in a newspaper having general circulation in the area at least once;

(c) shall post the notice referred to in clause (b), including the date on which it was posted, in three conspicuous places in the area to be affected by the proposed establishment, dissolution or restructuring; and

(d) may publish the notice referred to in clause (b) by any other method deemed appropriate by the Commission in the area referred to in clause (c).

(2) The costs of publication of the notice referred to in clause (1)(b) are the responsibility of the person or persons who initiated the proposal under subsection 15(1) or (2), as the case may be. Costs of publication

(3) The notice posted pursuant to clause (1)(c) shall prominently display the date on which it was posted. Date of notice

(4) For the purposes of clause (1)(d) the Commission may publish the notice by electronic means that are likely to bring the notice to the attention of those persons in the area referred to in clause (1)(c). Other method of publication

(5) The notice referred to in subsection (1) shall include Contents of notice

(a) the information that a proposal has been filed with the Commission;

(b) a brief summary of the contents of the proposal;

(c) the estimated population of the area involved;

(d) the time limit for objecting and the procedure to be followed in objecting to the proposal; and

(e) in the case of

(i) an establishment, a map showing the area proposed to be included in the municipality,

(ii) a restructuring of boundaries, a map showing the area where the boundaries are proposed to be altered, and

(iii) a dissolution, the name of the municipality to be dissolved.

17. (1) Any person may object to a proposal to establish, restructure or dissolve a municipality by filing a written objection with the Commission within 21 days after Objection to proposal

(a) the date on which the person receives a copy of the proposal provided under clause 16(1)(a);

- (b) the date of publication of the notice in a newspaper under clause 16(1)(b); or
- (c) the date of posting of the notice in the affected area under clause 16(1)(c),
whichever is latest..

Public hearing	(2) The Commission, in respect of a proposal, <ul style="list-style-type: none"> (a) may hold a public hearing, where an objection is filed pursuant to subsection (1); and (b) shall hold a public hearing, in accordance with an order of the Minister, where the Minister has determined there is significant public interest in the matter.
Costs of hearing	(3) The costs associated with a public hearing are the responsibility of the person or persons who initiated the proposal under subsection 15(1) or (2), as the case may be.
Mediator	(4) Despite clause (2)(a), where an objection to a proposal initiated by a municipality is filed by another municipality, the Commission shall appoint a mediator within 30 days of receipt of the objection to assist the municipalities in resolving the subject matter of the objection.
Mediation, process	(5) The mediator appointed under subsection (4) shall commence the mediation within 30 days of the date of the appointment.
Costs of mediation	(6) The municipality that initiated the proposal and the municipality that filed the objection shall share the costs of the mediation process equally.
Report	(7) The mediator shall, not later than 60 days after the commencement of mediation, file a report with the Commission stating that <ul style="list-style-type: none"> (a) the subject matter of the objection has been resolved, including the terms of the resolution; or (b) the parties are unable to resolve the subject matter of the objection.
Hearing	(8) If, despite mediation, the subject matter of the objection remains unresolved and the objection is not withdrawn by the municipality that filed it, the Commission shall hold a public hearing in respect of the proposal.
Time and place of hearing	(9) Where a hearing is required under subsection (2) or (8), as the case may be, the Commission <ul style="list-style-type: none"> (a) shall hold the public hearing within 30 days from the time the Commission <ul style="list-style-type: none"> (i) decides to hold a public hearing under clause (2)(a), (ii) receives an order from the Minister under clause (2)(b), or

- (iii) receives the report of the mediator under subsection (7); and
- (b) shall notify
 - (i) the person or persons who filed the proposal,
 - (ii) all persons to whom the Commission is required to give a copy of the proposal to under clause 16(1)(a),
 - (iii) any person who has filed an objection, and
 - (iv) anyone else the Commission considers should be notified.

(10) Any person who is, in the opinion of the Commission, an affected person may appear and be heard at the hearing. Right to be heard

18. (1) At any time where, pursuant to a proposal to establish a municipality under subsection 15(1) or restructure the boundaries of a municipality under subsection 15(2), it appears to the Commission that a particular boundary or portion of it is uncertain, the Commission shall direct the person or persons who submitted the proposal that a survey be prepared by a person who holds a valid certificate of qualification as a Prince Edward Island land surveyor issued under the *Land Surveyors Act* R.S.P.E.I. 1988, Cap. L-3.1, to determine the correct boundary. Boundary not capable of definition

(2) At any time where, pursuant to a proposal to establish a municipality under subsection 15(1) or restructure the boundaries of a municipality under subsection 15(2), it appears to the Commission that a particular boundary or portion of it is incapable of precise definition, the Commission may request that the Minister enter a notation on the plan of the new boundary or portion of it filed under subsection 21(3). Uncertain boundary

19. (1) The Commission shall prepare and provide to the Minister a written report containing its findings, its recommendations and the reasons for the recommendations, Report of Commission

- (a) within 45 days after the date of any public hearing; or
- (b) where no public hearing is held within 45 days from the last date on which an objection may be filed under subsection 17(1), or the date on which the mediator's report is filed under subsection 17(7), whichever is later.

(2) In deciding what recommendations to make to the Minister respecting a proposal, the Commission Factors to be considered

- (a) shall consider the proposal in relation to
 - (i) this Act and any other applicable enactment,
 - (ii) the criteria established in subsection 13(1) and prescribed pursuant to subsection 13(3), and
 - (iii) the report of the mediator filed under subsection 17(7);
- (b) shall consider the evidence and submissions made at any public hearing held by the Commission or at any time during the 21-day objection period;

- (c) may investigate and analyse the potential effect of the proposal on each adjoining municipality or nearby First Nation Band; and
- (d) may do any other thing that the Commission considers advisable.

Copy of report

(3) The Commission shall send a copy of the report prepared under subsection (1) to the person or persons who made the proposal, each adjoining municipality, each nearby First Nation Band, the Federation of Prince Edward Island Municipalities, and any other persons that in the opinion of the Commission should receive it.

Recommendation of the Minister

20. The Minister, after reviewing the report of the Commission, shall recommend to the Lieutenant Governor in Council that the Lieutenant Governor in Council

- (a) accept the recommendations of the Commission;
- (b) accept the recommendations of the Commission with modifications; or
- (c) reject the recommendations of the Commission.

Order of the Lieutenant Governor in Council

21. (1) The Lieutenant Governor in Council may, by order,

- (a) establish the boundaries of a new municipality, as the proposal was originally proposed or with modifications;
- (b) restructure the boundaries of any municipality or area affected by the order, as the proposal was originally proposed or with modifications;
- (c) deny the establishment of the boundaries of any municipality or area affected by the order, as the proposal was originally proposed;
- (d) deny the restructuring of the boundaries of any municipality or area affected by the order, as the proposal was originally proposed;
- (e) dissolve the municipality and specify the process for dissolution;
- or
- (f) deny the dissolution.

Contents of order

(2) An order of the Lieutenant Governor in Council for the purposes of clause(1)(a) or (b)

- (a) may appoint an interim mayor and interim councillors to serve as the council of the municipality until their successors are sworn into office;
- (b) shall, if necessary, specify the date, time and manner of electing the first council for the municipality; and
- (c) may, in relation to any municipality affected by the order, contain provisions dealing with any matter necessary for the establishment or restructuring of boundaries, whether transitional or otherwise, including, but not limited to, matters relating to assessment and taxation, property, and employees.

Effect of order

(3) The order of the Lieutenant Governor in Council shall be filed with the Registrar of Deeds for every county in which the municipality is located and, when filed, the boundaries of the municipality specified in the order become the boundaries of the municipality for all purposes and supersede any existing boundary description.

(4) All municipal taxes, business license fees, utility charges, or other debts due from residents of the affected area or former municipality shall be considered to be debts due to the municipality identified in the order of the Lieutenant Governor in Council.

Debts due to
municipality

(5) A municipality shall not be dissolved until the Lieutenant Governor in Council is satisfied that proper provision has been made for the winding up of the municipality, including the sale or transfer of assets and payment of its debts and obligations.

Prohibition

(6) On the dissolution of a municipality, all remaining property and assets of the municipality shall be transferred to the Government of Prince Edward Island under any terms and conditions the Lieutenant Governor in Council may order, and all taxes levied under the *Real Property Tax Act* on behalf of the municipality remaining unpaid shall be deemed to be taxes owed to the Government of Prince Edward Island as of the date of dissolution.

Transfer on
dissolution

(7) The Lieutenant Governor in Council shall make an order under subsection (1) within six months after receiving the recommendation from the Minister unless the Lieutenant Governor in Council orders, in writing, an extension of time and provides the reasons for it.

Deadline for order

22. (1) Unless the Lieutenant Governor in Council by order provides otherwise, when a municipality is restructured,

Transitional
provisions for
restructured
municipality

(a) the mayor and members of council, if they continue to reside in the restructured municipality, shall continue in their positions on the council of the restructured municipality until their successors are sworn into office;

(b) each employee of the former municipality continues as an employee of the restructured municipality with the same rights and duties until the council of the restructured municipality directs otherwise;

(c) all bylaws and resolutions of the former municipality continue as bylaws and resolutions governing the area included in the boundaries of the restructured municipality unless they are inconsistent with this Act until they are repealed or others are made by the council of the restructured municipality.

(2) Despite subsection 39(4), if the boundaries of a municipality are restructured so as to include a new area in the municipality more than one

Interim ward

year before the next regular municipal election under this Act, the Lieutenant Governor in Council may order that the new area shall constitute one or more interim wards and that a by-election be held to elect a member of council from each interim ward.

Duration of interim ward

(3) An interim ward created under subsection (2) and the term of office of any member of council elected for that ward shall continue only until the next regular municipal election under this Act.

No further proposals

23. Where a proposal for the establishment or restructuring of the boundaries of a municipality is rejected, another proposal shall not be made with respect to substantially the same proposal until at least one year after the date the proposal was rejected.

Division 2 - Change of Name or Class

Procedure for change of name or class

24. A council of a municipality may, by application in writing to the Minister, request to change

- (a) the name of the municipality as shown on the order that formed the municipality; or
- (b) the class of the municipality from a city, town or rural municipality to another class specified in section 11, on meeting the required criteria in subsection 13(1) and the regulations for that class.

Consideration of request

25. (1) The Minister may, upon receipt of an application pursuant to section 24,

- (a) invite, by public notice, written submissions on the proposed change of name or class from residents of the municipality making the application;
- (b) conduct one or more public meetings in the municipality making the application to discuss the effects of the proposed change of name or class; or
- (c) do any other thing the Minister considers necessary to consider the request.

Minister's recommendation

(2) The Minister shall, after taking into consideration any written submissions made under clause (1)(a) and, where a public meeting was held, any comments made at the public meeting under clause (1)(b), recommend to the Lieutenant Governor in Council that the Lieutenant Governor in Council

- (a) approve the proposed change to the name or class of the municipality; or
- (b) deny the proposed change to the name or class of the municipality.

Order

26. (1) The Lieutenant Governor in Council may, on the recommendation of the Minister under section 25, change the name or class of the municipality by amending the order forming the municipality, or deny the proposed change to the name or class of the municipality.

(2) An order of the Lieutenant Governor in Council that changes the name or class of a municipality shall specify the date on which it takes effect. Effective date

27. (1) Where the Minister is satisfied that a municipality no longer meets the criteria for its class as specified in subsection 13(1), the Minister may recommend to the Lieutenant Governor in Council that the class of the municipality be changed to a class that is appropriate. Minister's initiative

(2) The Lieutenant Governor in Council, on the recommendation of the Minister, may by order change the class of a municipality or deny the recommended change to the class of the municipality. Order

28. (1) A change of name or class of a municipality does not affect any obligation, right, action, or property of the municipality except as provided for in this Act. Effect of change

(2) A municipality shall not use the former name of the municipality after the name is changed under this Act. Prohibition

(3) Despite subsection (2), the use of the former name of the municipality in any continuing proceedings, agreements, notices, or documents does not affect their validity after the name is changed. Use of former name

Division 3 – Municipalities Continued

29. (1) On the coming into force of this Act, a city or town established or continued under the *Municipalities Act*, the *Charlottetown Area Municipalities Act* or the *City of Summerside Act* is continued under this Act as a municipality of the same name and class with the boundaries as they existed immediately prior to the coming into force of this section. Continuation of existing city or town

(2) On the coming into force of this Act, a community established under the *Municipalities Act* other than a town or city is continued under this Act as a rural municipality under the name by which it was known immediately prior to the coming into force of the is Act with the boundaries as they existed immediately prior to the coming into force of this section. Status of existing communities

Division 4 – Resort Municipality

Continuation

30. (1) On the coming into force of this Act, the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico, incorporated by Order in Council EC594/90, effective September 9, 1990, is continued under this Act as the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico, in accordance with the terms of the Order in Council of that date and this Division.

No establishment

(2) For greater certainty, a resort municipality is not a class of municipality for the purposes of this Act, and a resort municipality shall not be established under this Act.

Maximum
population

(3) The Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico shall not have more than 2,000 individuals who are qualified electors and, if this maximum is exceeded, the Minister shall recommend to the Lieutenant Governor in Council that the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico be established as a municipality in accordance with this Act.

Qualified elector

(4) For the purposes of subsection (3) and the regulations, a person in the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico is a qualified elector if the person meets the criteria and other qualifications specified in Part 3 of this Act or established in the regulations.

Part 3 – Please note that review and consultations with Elections PEI regarding Part 3 are on-going and this Part remains subject to change.

PART 3 - Elections

Division 1 – Qualifications of Electors

Qualifications of
electors

31. (1) Unless otherwise disqualified, a person is entitled to vote at an election in a municipality if the person

- (a) is a Canadian citizen;
- (b) is at least 18 years of age, or will attain that age on or before election day;
- (c) has resided in the province for at least the six-month period immediately preceding election day; and
- (d) is ordinarily resident in the municipality on election day.

Definitions
election day

(2) In this Part and the regulations,

- (a) “election day” means the day fixed pursuant to section 37 for holding the poll at an election;

(b) “ordinarily resident” has the same meaning as it does in the *Election Act* R.S.P.E.I. 1988, Cap. E-1.1.

ordinarily resident

Division 2 – Electors in Resort Municipality

32. (1) A person is a non-resident property elector of and entitled to vote in an election in the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico if the person is not ordinarily resident in the Resort Municipality but is the registered owner of real property in the Resort Municipality on or before election day.

Non-resident
property electors

(2) The provisions of this Part that apply to elections in a municipality apply to elections in the Resort Municipality with the necessary modifications and, in particular

Application of Part

(a) any reference to “resident” includes a non-resident property elector, but the qualifying period in clause 33(1)(b) and the residency requirement in subsection 33(2) do not apply to a non-resident property elector who is nominated as a candidate in the Resort Municipality;

(b) the reference in subsection 79(2) to December shall be deemed to be a reference to September;

(c) the reference in section 37 to the first Monday in November shall be deemed to be a reference to the second Monday in August;

(d) the reference in subsection 40(1) to the second Monday in May shall be deemed to be a reference to the first Monday in November in the preceding year;

(e) the reference in sections 42 and 43 to

(i) September 16 shall be deemed to be a reference to June 21, and

(ii) October shall be deemed to be a reference to July.

(3) A person is entitled to vote in the resort municipality if the person

Qualified elector

(a) meets the criteria set out in subsection 31(1);

(b) is a non-resident property elector who meets the criteria set out in clauses 31(1)(a) and (b); or

(c) is a person entitled to vote under subsection (5).

(4) A non-resident property elector shall provide to the returning officer a statutory declaration in the form approved by the Minister that confirms the person’s qualifications as an elector.

Statutory
declaration

(5) Where a corporation or an incorporated co-operative association is a non-resident property elector, one voting shareholder or member of the corporation or co-operative association is entitled to vote on behalf of the corporation or co-operative association in accordance with the direction of the majority of the shareholders or members, and the shareholder or

Vote of shareholder
or member

member voting shall include proof of the person's entitlement to vote on behalf of the corporation or co-operative association in the person's statutory declaration required under subsection (4).

Election of non-resident property elector

(6) A non-resident property elector who is elected to office in the resort municipality shall be a resident of Prince Edward Island and is disqualified from holding office in any other municipality.

Division 3 - Qualifications of candidates

Qualifications of candidates

33. (1) A person may be nominated as a candidate and elected to a council of a municipality only if

- (a) the person is qualified in accordance with clauses 31(1)(a) and (b) to vote in the municipal election;
- (b) the person has been ordinarily resident in the municipality for a period of at least six months before election day; and
- (c) the person is not disqualified by reason of
 - (i) being a judge of the Provincial Court, the Supreme Court or the Court of Appeal,
 - (ii) being a Member of Parliament or a member of the Legislative Assembly, or
 - (iii) another provision of this Act.

Idem

(2) A person who meets the requirements of subsection (1) shall be nominated only in the municipality in which the person resides or, if the municipality is divided into wards, in the ward of the municipality in which the person resides.

Candidates in resort municipality

(3) Subject to subsection (5), and with the exception of the position of mayor, 50 per cent of the seats on the council of the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico shall be held by non-resident property electors of the resort municipality.

Qualification of candidates in resort municipality

(4) A person may be nominated as a candidate and elected to the council of the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico only if

- (a) the person meets the criteria set out in
 - (i) clauses 31(1)(a), (b) and (c), and
 - (ii) clause 32(3)(a) or (b); and
- (b) the person is not disqualified by reason of
 - (i) being a judge of the Provincial Court, the Supreme Court or the Court of Appeal,
 - (ii) being a Member of Parliament or a member of the Legislative Assembly, or
 - (iii) another provision of this Act.

Appointment by Minister

(5) Where the number of non-resident property electors nominated as candidates is not sufficient to fill the available seats, the Minister may appoint any qualified elector in the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico to fill the vacancy.

(6) Subject to section 34, an employee of a municipality is eligible to be a candidate and to be elected as a member of the council of the municipality. Status of employees

34. (1) In this Part, “employee” includes, in addition to those persons referred to in clause 1(j), any employee of a controlled corporation, but does not include a volunteer firefighter who is not otherwise employed by the municipality. Employee

(2) Before seeking nomination or declaring as a candidate in a municipal election, Application for leave of absence

(a) an employee of a municipality shall apply to the chief administrative officer; and

(b) an employee who is the chief administrative officer shall apply to the council,

for a leave of absence without pay.

(3) A leave of absence shall be granted within three days of the receipt of the application under subsection (2) Granting of leave

(a) by the chief administrative officer of the municipality, in the case of an application under clause (2)(a); and

(b) by the council, in the case of an application under clause (2)(b).

(4) An employee shall not seek nomination, declare himself or herself as a candidate or begin campaigning in a municipal election unless the employee has been granted a leave of absence under subsection (3). Prohibition

(5) An employee who has been granted a leave of absence under subsection (3) may speak, write, or campaign on his or her own behalf, but the employee shall not reveal any information that the employee obtained or that came to the employee’s knowledge solely because of the employee’s employment. Conditions

(6) The leave of absence referred to in subsection (3) shall terminate 48 hours after the proclamation of the official election results under subsection 54(1). Termination of leave

(7) An employee who has been granted a leave of absence under subsection (3) and who has been elected as a mayor or other member of the council of the municipality shall resign from his or her employment, effective immediately, on the termination of the leave of absence. Resignation required

Offence and penalty

- (8) Every person who contravenes subsection (4) or (5) is guilty of an offence and on summary conviction
- (a) is disqualified from holding office, if the person is a successful candidate in that election; and
 - (b) is disqualified from voting and from being a candidate for nomination or election as a mayor or councillor at any municipal election held in the five years immediately following the commission of the offence.

Division 4 – Employee Election Activity

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| Employee election activity | <p>35. (1) No municipal employee shall</p> <ul style="list-style-type: none"> (a) use or seek to use, directly or indirectly, the authority or official influence of his or her position to control or modify the political action of any other person; (b) during his or her hours of employment, engage in any form of municipal political activity; or (c) solicit funds for the use of a candidate. |
| Prohibition | <p>(2) No person shall</p> <ul style="list-style-type: none"> (a) threaten or intimidate any municipal employee for refusing to take part in any municipal political activity; or (b) compel any municipal employee to take part in any political undertaking or to make a contribution to a candidate. |
| Restricted employee | <p>(3) In addition to the restriction set out in clause (1)(b), a council may establish by bylaw a class of restricted municipal employees who shall not engage in any form of municipal political activity at any time.</p> |
| <i>Idem</i> | <p>(4) For the purposes of subsection (3), “restricted municipal employee” includes</p> <ul style="list-style-type: none"> (a) the chief administrative officer of the municipality; (b) any municipal employee whose work-related duties are chiefly managerial; and (c) any other class of employee designated in the bylaw who in the opinion of council should be prohibited from engaging in partisan political activities because of rank, position or type of employment. |
| Definition | <p>(5) In this section, “municipal political activity” does not include being nominated as a candidate in accordance with Division 3.</p> |

Division 5 - Campaign Contributions, Spending Limits and Disclosure

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| Requirement for bylaw | <p>36. (1) Every council shall, at least 90 days before an election, pass a bylaw that establishes</p> <ul style="list-style-type: none"> (a) who is eligible to contribute to an election campaign; (b) the limits on campaign contributions to a candidate; |
|-----------------------|--|

- (c) the disclosure requirements in respect of campaign contributions;
- (d) the election campaign spending limits for candidates for mayor and councillor; and
- (e) the disclosure requirements in respect of campaign spending by each candidate.

(2) A bylaw passed under subsection (1) shall establish procedures, time frames and forms for the reporting of campaign contributions and campaign spending by all candidates. Procedural content of bylaw

Division 6 - Election Proceedings

37. Subject to an order of the Lieutenant Governor in Council under clause 21(2)(b), each municipality shall hold a general election every four years on the first Monday in November, starting in the year 2018. General election of council

38. (1) A council may by bylaw Bylaws regulating elections
(a) divide the municipality into wards in accordance with section 39 and provide that the members of the council, except the mayor, shall be elected on a ward basis; and
(b) subject to this Act and the regulations, regulate the conduct of an election.

(2) Clause (1)(a) does not apply to the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico. Exception

(3) A council may by bylaw authorize the municipal electoral officer or a returning officer to establish *Idem*
(a) polling places in hospitals, manors, nursing homes, community care facilities or similar institutions, and set special hours when these polls shall be open; and
(b) one or more mobile polls at hospitals, extended care facilities, or other facilities where voters are confined, or at the residences of electors who are physically incapacitated from attending at a poll, and set special hours when the poll shall be in attendance at the various institutions and other places.

39. (1) For the purposes of clause 38(1)(a), a single ward may consist of one or more defined areas whether or not the areas are contiguous. Constitution of wards

(2) Where a municipality is divided into wards pursuant to clause 38(1)(a), Eligibility
(a) only an elector who is resident in the ward shall be eligible to vote for a candidate for that ward; and
(b) councillors shall be elected for each ward to the maximum number of positions established for the ward in the bylaw.

Election at large

(3) Where a council has not divided its municipality into wards, council members shall be elected at large.

Number of electors (4) In establishing wards in a municipality, the council shall ensure that the number of electors in the proposed wards shall be comparable, and in no case shall the council permit the number of electors in a proposed ward to be more than ten per cent above or below the average number of electors in all of the proposed wards.

Polling division required (5) Where a council has established wards in a municipality, each ward shall have at least one polling division.

Electoral Boundaries Commission (6) Where a council has established wards in a municipality, within ninety days following ordinary polling day of each third regular municipal election after the coming into force of this Act, council shall establish and appoint an Electoral Boundaries Commission to review the wards and make a report to council setting out its recommendations, subject to subsection (4), as to the area, boundaries, and names of the wards.

Discretion of council (7) Subject to subsection (4), a council may, with respect to the report prepared by the Electoral Boundaries Commission pursuant to subsection (5),

- (a) accept the recommendations;
- (b) accept the recommendations in part;
- (c) accept the recommendations with modifications; or
- (d) reject the recommendations.

Appointment of municipal electoral officer **40.** (1) A council shall by resolution, on or before the second Monday in May in each election year, and at other times as required, appoint a municipal electoral officer and a deputy municipal electoral officer to be responsible for the administration of the election.

Function of deputy (2) The deputy municipal electoral officer shall act in the place of the municipal electoral officer where the municipal electoral officer is unable, for any reason, to carry out his or her duties under this Act or the regulations.

Division 7 - List of Electors

Establishment of list **41.** (1) For the purpose of establishing a list of electors, a council shall, by bylaw,

- (a) provide for a system of enumeration of persons entitled to vote at an election;
- (b) provide for a system of registration of persons entitled to vote at an election; or
- (c) enter into an agreement under subsection (2).

(2) A council may enter into an agreement with the Chief Electoral Officer of Prince Edward Island or Canada to obtain data to be used in the preparation of a list of electors. Agreement

Division 8 - Nomination

42. On or before September 15 in an election year, the municipal electoral officer shall publish a notice, in the form approved by the Minister and in accordance with the regulations, of Notice respecting nomination proceedings

- (a) the date of the election;
- (b) the date and time on which the nomination period commences and closes; and
- (c) the place or places at which nominations shall be received.

43. Nominations for the offices of mayor and councillor shall be received between September 16 in an election year and 2:00 p.m. on nomination day, which is the first Friday in October. Nomination day

44. (1) Subject to subsection (3), at the conclusion of nomination proceedings, Election or acclamation

(a) where the number of candidates for the vacant offices exceeds the number of vacancies, the municipal electoral officer shall proceed to hold an election in accordance with the provisions of this Act and the regulations and any bylaws and resolutions of the municipality relating to municipal elections; or

(b) where,

- (i) in an election at large, the number of candidates for the vacant offices equals the number of vacancies, the municipal electoral officer shall declare each candidate elected by acclamation, and
- (ii) in an election by wards, the number of candidates for the vacant offices in a ward equals the number of vacancies, the municipal electoral officer shall declare each candidate in that ward elected by acclamation.

(2) A declaration of election by acclamation under subsection (1) is subject to a challenge under subsection 55(2). Subject to challenge

(3) Where, on nomination day, fewer persons are nominated as candidates for office than there are members to be elected, an additional seven days will be allowed for nominating additional candidates to fill the vacancies. Filling of vacancies

(4) Where, after the end of the additional seven days referred to in subsection (3), not enough persons have been nominated to fill the remaining vacancies or to require an election, the Minister may Minister's discretion

- (a) appoint the remaining required number of councillors from among the residents of the municipality eligible to hold municipal office; or
- (b) recommend to the Lieutenant Governor in Council that the municipality be restructured in accordance with Part 2.

Duty of appointee	(5) A person appointed under clause (4)(a) shall, if the person accepts the appointment to office, <ul style="list-style-type: none"> (a) complete the nomination form and make every disclosure required of a person nominated for election; (b) sign the approved nomination form; and (c) take the oath of office as if the person had been elected.
Term	(6) A person appointed by the Minister under clause (4)(a) as a member of a council of a municipality is appointed for the same term as that of a member elected to the council.
Election day	(7) Where it is necessary to hold an election, election day shall be the first Monday of November.
Polls open	(8) The hours during which polls shall be open for voting at an election are those prescribed in the regulations.

Division 9 - Voting at Polls

Counting of the ballots for advance poll	45. The municipal electoral officer shall ensure that an advance poll is held in accordance with the regulations for every election for which a poll is required.
Secret ballot	46. (1) The voting at every election shall be by secret ballot.
Right of elector	(2) An elector has the right to vote in secret and to keep secret the name of any candidate for whom the elector has voted.
One vote	47. Where councillors are elected at large, or if there is more than one vacant council position in a ward, an elector is entitled to vote for as many candidates for an office as there are members to be elected to that office, but only once for each candidate.
Alternative voting	48. A council may, by bylaw, enable electors to vote by mail-in ballot or other means in accordance with the regulations.
Automated voting systems	49. A council may, by bylaw, enable electors to vote by means of voting machines, vote recorders or automated voting systems, or other devices, in accordance with the regulations.
Disruption of elections	

50. Where a poll is significantly interrupted or obstructed for any reason, the municipal electoral officer may move the polling to another place and shall take reasonable steps to give notice of the move.

51. Each election official is responsible for maintaining good order wherever election proceedings take place. Maintenance of order at elections

Division 10 - Election Results

52. (1) After the examination of the ballot accounts in any poll on the initial count in accordance with the regulations, the municipal electoral officer may publish unofficial results as they are received from the polling place. Preliminary election results

(2) Subject to section 53, the candidate or candidates receiving the highest number of votes at an election shall be considered elected. Highest number of votes

53. (1) A candidate and the candidate's agent are entitled to be present at any time when ballots are being counted, recounted or judicially reviewed. Entitlement to be present

(2) Ballots shall be counted by the deputy returning officer and the poll clerk in the presence of at least two witnesses and the candidates or the candidates' agents. Counting of ballots

(3) Where an advance poll is held, all ballots for the advance poll shall be counted when all polls are closed on election day in accordance with the regulations. *Idem*

(4) The witnesses, the candidates and the candidates' agents are entitled to view but not to touch the ballots. Entitlement to view

(5) The municipal electoral officer shall recount the ballots at 10:00 a.m. on the second day following election day and before announcing the official results. Recount by municipal electoral officer

(a) in any case where the votes counted for two or more candidates are within 10 votes of each other; and

(b) on the request of a candidate to the municipal electoral officer, where the votes counted for that candidate are within 15 votes of the votes counted for another candidate.

(6) After ballots have been counted under subsection (2) or recounted under subsection (5), no person shall recount the ballots except pursuant to an order of the court. Prohibition

54. (1) On the fourth day following election day, the municipal electoral officer shall proclaim elected the candidate or candidates having the Official election results

highest number of votes for the office for which the candidate or candidates have been nominated, subject to a judicial review, if any.

Judicial review	(2) If a recount by the municipal electoral officer under subsection 57 (5) fails to establish which candidate has received the highest number of votes, or if a candidate continues to dispute the results, the rejected ballots shall be reviewed not later than the third business day after the day specified in subsection (1) by a judge of the Provincial Court to determine whether the ballots should be counted or rejected.
Revision of official count	(3) Subject to subsection (4), following the judicial review pursuant to subsection (2), the municipal electoral officer shall revise the official count to reflect the results of the review and proclaim the results and the candidate elected.
Tie vote	(4) If, following the judicial review pursuant to subsection (2), the votes cast in respect of two or more candidates are still equal in number, the municipal electoral officer shall declare the position vacant.
Application of section	(5) Section 60 applies in the case of a position declared vacant pursuant to subsection (4).
Retention of ballots	(6) All ballots shall be retained for at least 120 days following an election.

Division 11 - Controverted Elections

Challenge to result or validity	55. (1) The right of an elected candidate to take office or the validity of an election shall not be challenged except by means of an application under this section.
Application to court	(2) An application may be made in accordance with this section to the Supreme Court for a declaration regarding the right of an elected person to take office or the validity of an election.
Time limit	(3) The time limit for making an application is 30 days after the declaration of official election results under section 54.
Who may apply	(4) An application may be made only by <ul style="list-style-type: none"> (a) a candidate in the election; or (b) at least 4 electors of the municipality.
Grounds	(5) An application may be made only on one or more of the following grounds: <ul style="list-style-type: none"> (a) that a candidate declared elected was not qualified to hold office at the time he or she was elected or, between the time of the election and the time for taking office, the candidate has ceased to be qualified to hold office;

(b) that an election should be declared invalid because it was not conducted in accordance with this Act or a regulation or bylaw under this Act;

(c) that an election or the election of a candidate should be declared invalid because the candidate or the candidate's agent has contravened a provision of this Part.

(6) Despite clause (5)(b), an application shall not be made on any ground for which an application for judicial review may be or may have been made. Limitation

(7) At the time the notice of application is filed, the court shall set a date for the hearing of the application, which shall be at least 10 days but no later than 21 days after the date the petition is filed. Application

(8) As soon as practicable, but no later than 2 days after an application is filed, the person making the application shall serve the notice of application and the notice of hearing on the chief administrative officer of the municipality for which the election was held. Service

(9) Where a candidate affected by an application files a written statement renouncing all claim to the office to which the candidate was elected, the court may permit the petition for the application to be withdrawn unless it is based on an allegation that the candidate who has renounced the office contravened section 68. Written statement

56. (1) The court shall hear and determine an application under section 55 as soon as practicable and, for these purposes, shall ensure that the proceedings are conducted as expeditiously as possible. Hearing of application

(2) If the application is based on a claim that section 68 was contravened, the evidence regarding that claim shall be given orally by witnesses rather than by affidavit. Oral evidence

57. (1) On the hearing of an application under section 55 regarding the qualification of an elected candidate to take office, the court may Power of court on application

(a) declare that the candidate is confirmed as qualified to take and hold office;

(b) declare that the candidate is not qualified to hold office and that the office is vacant; or

(c) declare that the candidate is not qualified to hold office and that the candidate who received the next highest number of valid votes is elected in place of the disqualified candidate.

(2) On the hearing of an application under section 55 regarding the validity of an election, the court may Idem

(a) declare that the election is confirmed as valid;

(b) declare that the election is invalid and that another election must be held to fill all positions for that office that were to be filled in the election that was declared invalid;

(c) declare that the election of a candidate is invalid and that the office is vacant; or

(d) declare that the election of a candidate is invalid and that another candidate is elected in place of that candidate.

Effect of
irregularity

(3) The court shall not declare an election invalid by reason only of an irregularity or failure to comply with this Act or a regulation or bylaw under this Act if the court is satisfied that

(a) the election was conducted in good faith and in accordance with the principles of this Act; and

(b) the irregularity or failure did not materially affect the result of the election.

Confirmation by
court

(4) The court may confirm the election of a candidate in relation to which the court finds there was a contravention of this Part if the court is satisfied that

(a) the candidate did not contravene the applicable section; and

(b) the contravention did not materially affect the result of the election.

Declaration of lack
of qualification

(5) If the court declares that a candidate is not qualified to hold office or that the election of a candidate is invalid, the court may order the candidate to pay to the municipality for which the election was held an amount of money not greater than \$20,000 towards the expenses for the election required to fill the vacancy.

Declaration of
election of other
candidate

(6) If the court makes a declaration under clause (1)(c) or (2)(d) that another candidate is elected, the candidate who is replaced ceases to be entitled to take or hold the office and the other candidate declared elected is entitled to take the office.

Legal Costs of
Application

58. (1) Where the court declares that a candidate is not qualified to hold office or that an election is invalid, the costs, within the meaning of the Rules of Civil Procedure, of the persons who made the application under section 55 shall be paid promptly by the municipality for which the election was held.

Recovery of costs

(2) The court may order that costs to be paid under subsection (1) may be recovered by the municipality from any other person as directed by the court in the same manner as a judgment of the Supreme Court.

Other costs

(3) Except as provided in subsection (1), the costs of an application are in the discretion of the court.

Status of elected
candidate

59. (1) A person affected by an application under section 55 who has been declared elected is entitled to take office and to vote and otherwise act in the office unless the court declares the candidate disqualified and the office vacant.

(2) Where a person who is declared disqualified to hold office by the Supreme Court appeals the decision, the appeal does not operate as a stay of the declaration and the person is disqualified pending the final determination of the appeal. Appeal is not a stay

(3) Where the person is declared qualified to hold office on the final determination of the appeal, the court may order that any money paid under subsection 57(5) be repaid with interest as directed by the court. Court may order repayment

(4) A person who is declared qualified to hold office on the final determination of an appeal is entitled, Effect of declaration

- (a) if the term of office for which the person was elected has not ended, to take office for any unexpired part of the term and, for this purpose, any person elected or appointed to the office since the declaration of disqualification ceases to hold office at the time the person declared qualified takes office; and
- (b) if the term of office for which the person was elected is expired, to be nominated for and to be elected to office at any following election if otherwise qualified.

Division 12 - By-Elections

60. (1) Where a vacancy occurs on a council, council shall, subject to subsection (3), By-election to fill vacancy

- (a) declare a by-election to fill the vacancy; and
- (b) set a date for election day that is not later than six months after the vacancy occurred.

(2) The by-election shall be held under this Part and in accordance with the regulations and any bylaws of the municipality relating to municipal elections. Conduct of by-election

(3) A council may hold a vacancy open until the next general election only if Exception

- (a) the vacancy occurs in the last twelve months of the council's term; and
- (b) despite the vacancy, council is able to maintain a quorum in accordance with section 113.

(4) Where the office of mayor is vacant, a member of council may be nominated for the office if the member resigns from council within 24 hours after accepting the nomination. Resignation to accept nomination

By-election	(5) A vacancy on a council that occurs pursuant to subsection (4) may be filled by a by-election held at the same time as the by-election for the position of mayor, in accordance with the provisions of this Act and the bylaws of the municipality.
Failure to fill vacancy	61. (1) Where a by-election is not held within the time required under section 60 to fill a vacancy, the Minister may issue an order to the chief administrative officer, requiring the chief administrative officer within 10 days from the date of the order to set the date for a by-election to fill the vacancy.
Date of by-election	(2) The date set for the by-election shall be within 60 days of the date of the Minister's order referred to in subsection (1).
Appointment by Minister	62. (1) Subject to subsection (3), at the conclusion of nomination proceedings, <ul style="list-style-type: none"> (a) if the number of candidates for the vacant office exceeds the number of vacancies, the municipal electoral officer shall proceed to hold a by-election in accordance with the provisions of this Act and the regulations and any bylaws and resolutions of the municipality relating to by-elections; or (b) where, <ul style="list-style-type: none"> (i) in an election at large, the number of candidates for the vacant offices equals the number of vacancies, the municipal electoral officer shall declare each candidate elected by acclamation, and (ii) in an election by wards, the number of candidates for the vacant offices in a ward equals the number of vacancies, the municipal electoral officer shall declare each candidate in that ward elected by acclamation.
Subject to challenge	(2) A declaration of election by acclamation under subsection (1) is subject to a challenge under subsection 55(2).
Filling of vacancies	(3) Where, on nomination day, fewer persons are nominated as candidates for office than there are members to be elected, an additional seven days will be allowed for nominating additional candidates to fill the vacancies.
Ministerial appointment	(4) Where, after the end of the additional seven days referred to in subsection (3), not enough persons have been nominated to fill the remaining vacancies or to require an election, the Minister may appoint the required number of councillors from among the residents of the municipality eligible to hold municipal office.
Duty of appointee	(5) A person appointed under subsection (4) shall, if the person accepts the appointment to office,

- (a) complete the nomination form and make every disclosure required of a person nominated for election;
- (b) sign the approved nomination form; and
- (c) take the oath of office as if the person had been elected.

(6) Except as otherwise provided by this Act, a person elected or appointed under this Part to fill a vacancy holds the office only for the unexpired term of the member in whose place the person has been elected or appointed. Term

Division 13 - Plebiscites

63. (1) A council may conduct a plebiscite to obtain the public's opinion on any matter over which the municipality has jurisdiction. Plebiscite

(2) A plebiscite shall be conducted in accordance with this Part and the regulations and by-laws of the municipality. Conduct of plebiscite

(3) A council shall by resolution establish the question to be considered in a plebiscite conducted by the council pursuant to subsection (1). Question

(4) The result of a plebiscite conducted pursuant to subsection (1) does not bind the council. Non-binding

64. (1) A plebiscite conducted under this Part shall be for a distinct purpose and shall only be valid to the extent that it falls entirely within the jurisdiction of the municipality. Content of plebiscite bylaws

(2) A plebiscite ballot shall not group together two or more different questions, but may include questions incidental to the main question. Prohibition

(3) Where two or more different questions are to be voted on in the same plebiscite, each question shall be voted on separately. Separate votes

65. At least 21 days before the first day for voting in the plebiscite, the council shall post the proposed question in accordance with the notice requirements for elections. Notice of question

66. The municipal electoral officer shall Plebiscite results
(a) proclaim the unofficial results of a plebiscite to the voters immediately after examining the ballot accounts; and
(b) within 24 hours of the close of polls on polling day, prepare a statement in the form approved by the Minister showing the number of votes cast for and against each plebiscite question, and post a copy of the statement in the municipal office.

Division 14 - Election Offences

- Voting offences **67.** It is an offence for a person
- (a) who has already cast a vote at a municipal election to attempt to cast another vote at the same election;
 - (b) to vote at an election when not entitled to do so;
 - (c) to make a false statement of identification or a false declaration in the presence of an election officer for the purpose of being permitted to vote;
 - (d) to impersonate a voter;
 - (e) to interfere or attempt to interfere with a voter marking a ballot; or
 - (f) without due authority, to disclose the identity of the candidate for whom another person has voted.
- Intimidation and bribery **68.** It is an offence for a person, directly or indirectly,
- (a) to use, or threaten to use, force or intimidation against a person in order to influence that person's or any other person's vote under this Part; or
 - (b) to grant or promise to any individual person a reward, office, employment, money, or property to any person in order to influence that person's or any other person's vote under this Part.
- False nomination paper **69.** It is an offence for a person to file a false or fraudulent nomination paper knowing that the person nominated does not qualify for nomination under section 33.
- Ballot and ballot box offences **70.** It is an offence for a person
- (a) to forge, counterfeit, fraudulently alter, deface, or destroy a ballot paper;
 - (b) without authority, to possess a ballot paper or supply a ballot paper to another person;
 - (c) to fraudulently put into the ballot box any item other than a ballot paper that the person is authorized to put in the box;
 - (d) to fraudulently remove a ballot paper from a ballot box or polling place;
 - (e) without authority, to destroy, take, open, or otherwise interfere with a ballot box or packet of ballots; or
 - (f) without authority, to print a ballot paper or to print more ballot papers than the person has been authorized to print.
- Offences by election official **71.** It is an offence for an election official to
- (a) fraudulently put his or her initials, other than as authorized by this Act, on the back of any paper purporting to be a ballot paper;
 - (b) place on any ballot paper, except as authorized by this Act, any writing, number, or mark; or
 - (c) neglect or refuse to discharge any duty under this Part.

Division 15 - Penalties

72. (1) Every person who commits an offence under this Part is liable on summary conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding two years, or to both a fine and imprisonment. Fine, imprisonment

(2) A member of council who is convicted of an offence under sections 67 to 70 forfeits the member's seat on the council and is disqualified from being a candidate or elector at any municipal election held in the five years after the commission of the offence. Forfeit, disqualification

(3) Every person who is convicted of an offence under sections 67 to 71 is disqualified from voting and from being a candidate for nomination or election as a mayor or councillor at any municipal election held in the five years after the commission of the offence. Disqualification

73. All proceedings under this Part, other than an application to the Supreme Court to contest a municipal election, against any person for the commission of an offence shall be commenced within two months after election day in the municipal election in which the offence is alleged to have been committed. Limitation period

PART 4

Municipal Organization

Division 1 - Municipal Councils

74. (1) Every municipality shall have a council composed of members who have been elected or appointed in accordance with this Act. Requirement to have council

(2) Despite a change in its members, the council of a municipality is a continuing body and may complete any transaction started but not completed by it before the change. Continuing body

75. No person shall hold office as a member of more than one municipal council at the same time. Prohibition

76. Except as otherwise provided in this or another Act, the powers of a municipality shall be exercised by the council of the municipality. Council as governing body

77. The jurisdiction of a council is confined to the area within the boundaries of the municipality the council represents, except where authority to act beyond the municipal boundaries is expressly conferred by this or another Act. Jurisdiction of council

Size of council

78. (1) Commencing with the municipal election in 2018, and subject to section 21 or 22, as the case may be, the council of a municipality that is a town or rural municipality shall consist of either

- (a) a mayor and six councillors; or
- (b) where council has passed a bylaw pursuant to subsection (4) that authorizes eight councillors, a mayor and eight councillors.

Resort Municipality (2) Subsection (1) applies to the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico as if it were a rural municipality.

City (3) Commencing with the municipal election in 2018, and subject to subsection 21 or 22, as the case may be, the council of a municipality that is a city shall consist of either

- (a) a mayor and eight councillors; or
- (b) where council has passed a bylaw pursuant to subsection (4) that authorizes ten councillors, a mayor and ten councillors.

Bylaw (4) A council of a municipality shall by bylaw specify the number of councillors who may serve on the council in accordance with clause (1)(b) or (3)(b).

Timing and publication of bylaw (5) A bylaw made by a council pursuant to subsection (4) shall be passed at least 180 days before the election at which it is to take effect, and the public shall be notified by a method considered appropriate by the council.

Swearing in **79.** (1) Subject to subsection 81(1) or (2), as the case may be, a member of council shall swear or affirm the oath of office during the period from December 1 to December 7 immediately following the election.

Term of office (2) A member of council holds office for a term of four years

- (a) commencing on the 7th day of December immediately following the election; and
- (b) expiring the 6th day of December following the next election.

Oath of office **80.** (1) A person who is elected or appointed to a council shall swear or affirm the oath of office before

- (a) a judge of the Supreme Court;
- (b) a judge of the Provincial Court;
- (c) a justice of the peace;
- (d) a notary public; or
- (e) the chief administrative officer of the municipality,

and shall file it with the chief administrative officer within 15 days of being sworn in to office.

Form (2) The oath of office shall be in the form approved by the Minister.

(3) A member of council shall not exercise any power conferred, or carry out any duty or function required, by this Act until the member has sworn or affirmed the oath of office in accordance with this section. Prohibition

81. (1) Where a person elected or appointed to a council fails to swear or affirm the oath of office within 20 days after the 7th day of December immediately following the election, the person's election or appointment shall be considered null and void and the person's office vacant. Failure to take oath or affirmation of office

(2) Despite subsection (1), a council may, by resolution, extend the time limit specified in subsection (1) by no more than 40 additional days where council is satisfied that the person's failure to swear or affirm the oath of office is due to an illness, incapacity, or other unavoidable absence that is temporary in nature. Extension of time

(3) Notwithstanding subsection 79(2), the term of a member of council who swears or affirms the oath of office during the period specified in subsection (1) or (2) Term

(a) commences on the day the person swears or affirms the oath of office; and

(b) expires in accordance with clause 79(2)(b).

82. (1) A council shall establish the types, rates and conditions of payments to be made to or on behalf of a member of the council or a member of a council committee only by means of a bylaw passed pursuant to this section. Bylaw required

(2) Subject to subsection (3), a bylaw under this section, in respect of a person referred to in subsection (1), Contents of bylaw

(a) shall establish

(i) compensation for attending meetings and carrying out other municipal duties,

(ii) reimbursement of expenses incurred while attending meetings and carrying out other municipal duties, and

(iii) payment for any other purpose relating to the person's municipal duties that the council considers appropriate; and

(b) may establish or provide for

(i) pensions, and

(ii) severance payments.

(3) Prior to making a bylaw that alters existing types, rates and conditions of compensation, allowances or benefits to be paid to members of council, a council shall appoint an independent Remuneration and Allowances Commission to review and to make recommendations to council respecting the matters referred to in subsection (2). Recommendations by Commission

Remuneration from other sources	(4) If a council provides that any monetary remuneration, excluding reimbursement for expenses, that is due to a council member who is nominated or appointed by council to a board, commission or other position or is otherwise appointed as a representative of the municipality shall be paid to the municipality, the council shall do so only by means of a bylaw to that effect.
Resignation from office	83. (1) A member of council may resign from office by filing a written resignation, signed by the member, with the chief administrative officer.
<i>Idem</i>	(2) The resignation of a member of council is irrevocable on being filed with the chief administrative officer and is effective <ul style="list-style-type: none"> (a) from the date the member's successor is sworn in; or (b) at a date stated in the member's resignation that is earlier than the date referred to in clause (a) but not earlier than the date on which the resignation was filed.
Leave for federal or provincial election	84. A member of council shall be granted, for the purpose of running in a federal or provincial election, a leave of absence without compensation, beginning when the person has filed nomination papers with the appropriate election official, and continuing until the end of the election.
Municipal office	85. (1) A council shall, <ul style="list-style-type: none"> (a) by resolution, designate a place in the municipality as its municipal office; (b) provide public notice of the location of the municipal office; and (c) notify the Minister, in writing, of the civic address of the municipal office.
<i>Idem</i>	(2) Within five years after the coming into force of this Act, a council shall <ul style="list-style-type: none"> (a) ensure that its municipal office is wheelchair accessible; and (b) establish, publish and maintain a schedule of not less than twenty hours in each week during which the municipal office shall be open to serve the public.
<i>Division 2 - Powers and Duties of Council Members</i>	
Council's role	86. (1) In this Division and Division 3, "employee" includes, in addition to those persons referred to in clause 1(j), any employee of a controlled corporation, but does not include a volunteer firefighter who is not otherwise employed by the municipality.
Duties of council	(2) A council shall <ul style="list-style-type: none"> (a) exercise the powers and carry out the duties and functions expressly given to the council under this or another Act;

- (b) develop policies respecting services and programs, and evaluate, on a regular basis, the services and programs for relevancy, effectiveness and efficiency;
- (c) appoint by resolution a person to the position of chief administrative officer and direct, manage and supervise the person appointed;
- (d) revoke or suspend by resolution the appointment of a person as chief administrative officer;
- (e) establish rules by procedural bylaw in accordance with the provisions of this Act and the regulations for
 - (i) the calling, cancelling and rescheduling of meetings and the method of giving notice for meetings,
 - (ii) the governing of its proceedings,
 - (iii) the establishment of committees of council, their terms of reference and the appointment of persons to those committees,
 - (iv) where council considers it appropriate, the appointment of a person as an independent officer, including the person's remuneration and the terms of reference for that appointment,
 - (v) the procedure for dealing with an appeal pursuant to section 112, and
 - (vi) generally for the transaction of its business;
- (f) establish a code of conduct for employees of the municipality that includes conflict of interest rules which, at a minimum, prohibit an employee from
 - (i) using information that is obtained as a result of the employee's employment and that is not available to the public to further, or seek to further, the private interests of the employee or a person closely connected to the employee, and
 - (ii) using the employee's position to seek to influence the decision of another person so as to further or seek to further the private interests of the employee or a person closely connected to the employee;
- (g) ensure that the powers of the municipality are appropriately exercised and its duties and functions are appropriately carried out.

(3) A council shall not amend the procedural bylaw referred to in clause (2)(e) except under notice given in writing to the members of the council and openly announced at a regular meeting of council preceding the meeting at which the first reading of the amendment takes place.

Restriction on amendment of procedural bylaw

(4) A council shall specify in its code of conduct established under clause (2)(f) the procedure to be followed where an employee knows or suspects the employee may have a conflict of interest, and the procedure for resolving the conflict.

Requirements for code of conduct

Majority vote

(5) The appointment of a chief administrative officer under clause (2)(c), or the suspension or revocation of that appointment under clause (2)(d), shall be by a vote of at least two-thirds of the members of council present and voting at the meeting.

Notification to
Minister

(6) The council shall notify the Minister of the name and business address of the chief administrative officer.

Appointment by
Minister

(7) If a council fails or refuses to appoint a person as chief administrative officer, the Minister may

- (a) appoint a person as the chief administrative officer for the municipality;
- (b) establish the remuneration to be paid to the person appointed under clause (a); and
- (c) direct that the remuneration established under clause (b) be paid by the municipality.

Engaging services

87. A council may engage the services of persons as it considers necessary or expedient for carrying on the government of the municipality and carrying out the provisions of this Act.

Delegation by
council

88. (1) Subject to subsection (3), a council may by bylaw delegate specified powers, duties, or functions under this or another Act or a bylaw to a council committee or the chief administrative officer, unless this Act, the other Act or the bylaw provides otherwise.

Sub-delegation

(2) The council, when delegating a power, duty or function to a council committee or the chief administrative officer, may by resolution authorize the council committee or chief administrative officer to further delegate the power, duty or function.

Prohibition

(3) A council shall not delegate any of the following powers or duties:

- (a) its power or duty to pass a resolution or bylaw;
- (b) its power to appoint, suspend or revoke the appointment of a person to the position of chief administrative officer;
- (c) its duty to hold a public hearing under this Act;
- (d) its duty to hear and decide appeals imposed on it by a bylaw or this Act, whether generally or on a case-by-case basis.

Role and duties of
mayor

89. The mayor of a municipality, in addition to performing the duties of a member of council, has a duty to

- (a) preside, when in attendance, at all council meetings, except where this Act provides otherwise;
- (b) provide leadership to the council and the chief administrative officer;
- (c) cast a deciding vote in instances where there is an equal number of votes for and against a bylaw or resolution; and

(d) perform any other duty or function imposed on the mayor by a bylaw or this Act.

90. By virtue of the mayor's office, the mayor is a member of every committee or other organization which the council or mayor establishes under this or another Act, and when in attendance the mayor, subject to section 115, possesses all the rights, privileges, powers and duties of the other members of the committee or organization. Membership on committees and organizations

91. (1) The mayor shall appoint from among the members of council a deputy mayor who shall, in the absence or incapacity of the mayor, exercise all the powers and carry out the duties of the mayor. Deputy mayor

(2) A member of council who is appointed as deputy mayor pursuant to subsection (1) shall hold office until Term

- (a) the person's appointment as deputy mayor is revoked and a successor is appointed; or
- (b) the person ceases to be a member of council.

(3) The members of council may appoint, from among their number, an acting mayor where Acting mayor

- (a) the mayor and deputy mayor are absent, incapacitated or otherwise unavailable and neither of them has appointed another member of council to act in his or her stead; or
- (b) the offices of mayor and deputy mayor are vacant.

(4) Unless the appointment is revoked earlier by the council, the term of an acting mayor appointed under Term

- (a) clause (3)(a) continues only until the mayor or deputy mayor is no longer absent, incapacitated or otherwise unavailable; and
- (b) clause (3)(b) continues only until a new mayor is declared elected.

Division 3 - Officers and Employees

92. (1) A council shall not appoint a member to serve, and no member shall serve, as an employee of the municipality or a controlled corporation in any capacity, including but not limited to the positions of Prohibition – employment of member

- (a) chief administrative officer;
- (b) financial officer;
- (c) development officer;
- (d) planner;
- (e) enforcement officer; or
- (f) public works personnel.

(2) Council shall not request a member to undertake, and a member shall not undertake, any of the duties normally undertaken, or duties Idem – undertaking duties

normally associated with those duties, by an employee of the municipality, either for remuneration or on a volunteer basis.

Duties of chief
administrative
officer

- 93.** (1) The chief administrative officer
- (a) is the administrative head of the municipality and reports directly to council;
 - (b) shall ensure that the resolutions and policies of the municipality are complied with and that its programs are implemented;
 - (c) shall advise and inform the council on the operation and affairs of the municipality;
 - (d) is responsible for hiring, directing, managing and supervising the employees of the municipality;
 - (e) shall exercise the powers and carry out the duties and functions assigned to the chief administrative officer by the council and by this or another Act; and
 - (f) shall notify council if any action or inaction by council or the municipality is contrary to a bylaw or resolution of council or a provision of this or another Act.

Authority of chief
administrative
officer

- (2) Subject to a bylaw, contract of employment, collective agreement or a provision of another Act, the chief administrative officer has authority to employ, suspend, discipline or dismiss any employee.

Responsibilities of
chief administrative
officer

- (3) The chief administrative officer shall ensure that
 - (a) all minutes of council meetings are recorded;
 - (b) the names of council members present at council meetings are recorded;
 - (c) the minutes of each council meeting are given to council for approval at the next regular council meeting;
 - (d) the corporate seal of the municipality, bylaws and minutes of council meetings and all other records and documents, funds and securities of the municipality are kept safe;
 - (e) the council is advised of its responsibilities pursuant to this or another Act or a bylaw;
 - (f) the Minister is provided with statements, reports or other information regarding the municipality that the Minister requires or is entitled to under this or another Act;
 - (g) the official correspondence of the council is carried out according to the council's directions;
 - (h) an indexed register containing certified copies of the bylaws is maintained;
 - (i) an indexed register containing certified copies of the resolutions is maintained;
 - (j) one or more accounts in the name of the municipality are opened in a chartered bank or other financial institution approved by the

council and that money of the municipality is collected, received and deposited in the accounts;

(k) the funds of the municipality are disbursed only in the manner and to the persons as directed by law or by the bylaws or resolutions of council;

(l) a complete and accurate account of assets and liabilities and all transactions affecting the financial position of the municipality is maintained in accordance with the Canadian accounting standards for the public sector, as recommended by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada;

(m) the financial statements and information that the council may request are provided to the council;

(n) on or before June 30 in each year, an audited financial statement is completed as required under Part 6; and

(o) other duties assigned by council are carried out.

(4) The chief administrative officer shall take charge of and safely *Idem* keep all books, documents and records of the municipality that are committed to his or her charge and shall

(a) produce, when called for by the council, auditor, Minister or other competent authority, all books, vouchers, papers and money belonging to the municipality; and

(b) on ceasing to hold office, deliver all books, vouchers, papers and moneys belonging to the municipality to his or her successor in office or to any other person the council may designate.

(5) The chief administrative officer shall ensure that

Prohibition –
directing employee

(a) all the assets and records of the municipality are maintained safely;

(b) oaths are administered and affidavits, declarations and affirmations are taken and received in matters relating to the municipality in accordance with this or any other Act; and

(c) accurate accounts are kept of

(i) all money received or disbursed on behalf of the municipality,

(ii) all assets and liabilities of the municipality, and

(iii) all transactions affecting the financial position of the municipality.

(6) No council member or member of a committee established by a council shall publicly or privately instruct or direct an employee of the municipality except through the chief administrative officer. *Idem*

Exception

(7) Despite subsection (6), a council member or member of a committee established by a council may communicate directly with an employee of the municipality to obtain or provide information.

Delegation by chief
administrative
officer

94. (1) Unless prohibited by bylaw, a chief administrative officer may delegate to an employee of the municipality any duty, power or function conferred on the chief administrative officer by this Act, except the power to dismiss an employee.

Idem

(2) If authorized to do by a resolution of the council under subsection 88(2), the chief administrative officer may further delegate a power, duty or function delegated to the chief administrative officer by the council to the extent specified in the resolution.

Terms and
conditions of
employment

95. Subject to any other bylaw respecting employment policies, a contract of employment, a collective agreement or another Act, a council shall, by bylaw, establish policies for its employees respecting the terms and conditions of their employment.

Division 4 - Conflict of Interest

Conflict of interest

96. (1) A council member is in a conflict of interest if, in relation to a matter under consideration by the council, the member or a person closely connected to the member

- (a) has any pecuniary interest;
- (b) is a shareholder, officer, agent or director of a corporation or any other organization that has dealings or contracts with the municipality; or
- (c) is a party to dealings or a contract with the municipality, or is a member of a partnership that has dealings or a contract with the municipality.

Idem

(2) A council member is in a conflict of interest if the member makes a decision or participates in making a decision in the execution of his or her office while at the same time the member knows or ought reasonably to know that the member's private interests or the private interests of a person closely connected to the member affected the member's impartiality in the making of the decision.

Disqualification

(3) A council member who is in a conflict of interest as described in subsection (1) or (2) is disqualified from serving on council if the member

- (a) fails to declare the member's interest in the matter before the council;
- (b) fails to remove himself or herself from the council meeting and any other meeting when the matter is discussed;
- (c) fails to abstain from the discussion and voting on the matter; or
- (d) attempts in any way, before, during or after a meeting, to influence the discussion or voting on any question, decision, recommendation or other action to be taken involving a matter in which the member has a conflict of interest.

(4) For greater certainty, a council member does not have a pecuniary interest by reason only of any interest

Limitation on
pecuniary interest

(a) that the member or a person closely connected to the member may have as a voter, a taxpayer, or utility customer of the municipality;

(b) that the member or a person closely connected to the member may have as a result of being appointed

(i) by the council as a director of a company incorporated for the purpose of carrying on business for and on behalf of the municipality, or

(ii) as the representative of the council on another body;

(c) that the member or a person closely connected to the member may have with respect to any allowance, honorarium, remuneration or benefit to which the member or the person closely connected to the member may be entitled by being appointed by the council to a position described in clause (b);

(d) that the member may have with respect to any remuneration or allowances the member may be entitled to in accordance with section 82;

(e) that the member or a person closely connected to the member may have by being employed by the Government of Canada, the Government of Prince Edward Island or a federal or provincial Crown corporation or agency, except with respect to a matter directly affecting the department, corporation or agency of which the member or the person closely connected to the member is an employee;

(f) that a person closely connected to the member may have by being employed by a municipal department, except with respect to a matter that directly affects the municipal department of which the person closely connected to the member is an employee;

(g) that a person closely connected to the member may have by having an employer, other than the municipality, that is monetarily affected by a decision of the municipality;

(h) that the member or a person closely connected to the member may hold in common with the majority of voters of the municipality;

(i) that in the opinion of the council is so remote or insignificant that it cannot reasonably be regarded as likely to influence the member; or

(j) that the member may have by discussing or voting on a bylaw that applies to businesses or business activities in which the member or a person closely connected to the member has an interest, unless the only business affected by the bylaw is the business of the member or the person closely connected to the member.

(5) Despite subsection (1) or (2), a council member who fails to comply with clause (3)(a), (b), (c) or (d) may be pardoned by a resolution

Pardon by council

of council, if council is satisfied that the member's failure to comply was inadvertent or due to a genuine error in judgment.

Exception

(6) Despite subsection (1) or (2), a council member who provides goods or services to the municipality is not in a conflict of interest if

- (a) the sale of the goods or services to the municipality or to persons contracting with the municipality is
 - (i) at competitive prices,
 - (ii) in the ordinary course of the council member's business on terms that are also generally available to the public, and
 - (iii) in accordance with the normal purchasing or procurement procedures set out in the municipality's procurement bylaw made pursuant to section 169;
- (b) the council member, in the event of any discussion or vote concerning the provision of goods or services to the municipality by the member,
 - (i) declares his or her interest in the matter,
 - (ii) removes himself or herself from the council meeting and any other meeting where the matter has arisen, and
 - (iii) abstains from the discussion and voting on the matter;
- (c) the council member exerts no influence over employees of the municipality or any other person involved in the procurement process; and
- (d) the municipality is purchasing or acquiring the goods or services in accordance with the normal procurement procedures of the municipality.

Right to be heard

(7) If the matter in respect of which a council member has a conflict of interest is a question on which, pursuant to this Act or another enactment, the member, as a taxpayer, voter or owner, has a right to be heard at a meeting of council,

- (a) the member shall leave his or her place at the council table, but is not required to leave the room; and
- (b) the member may exercise the right to be heard at the meeting in the same manner as a person who is not a member of council.

Complaint

97. (1) A complaint that a member of council is in a conflict of interest may be made to council

- (a) by a member of council; or
- (b) in writing, by an elector.

Procedural bylaw

(2) A council shall by bylaw establish

- (a) the procedure to be followed by a member of council if the member believes or suspects that he or she may have a conflict of interest; and

(b) the procedure to be followed by council if a complaint that a member has a conflict of interest is received by council under subsection (1).

- (3) After following the procedure provided for in the bylaw made pursuant to clause (2)(b), council shall declare that
- (a) the member is in a conflict of interest; or
 - (b) the member is not in a conflict of interest.
- Declaration by council

Division 5 - Disqualification

- 98.** (1) A council member is disqualified from serving on council if the member is appointed or elected as
- (a) a judge of the Provincial Court, the Supreme Court or the Court of Appeal;
 - (b) a member of Parliament;
 - (c) a member of the Legislative Assembly; or
 - (d) a chief or councillor of a First Nation Band in the province.
- Disqualification of council member

(2) A council member who ceases to be eligible as an elector in the municipality is disqualified from serving on council.

Idem

(3) Subject to subsection 119(7), a council member who is guilty of a contravention of subsection 119(5) or section 170 is disqualified from serving on council.

Disqualification for contravention

(4) Where a council member is absent from three consecutive regularly scheduled meetings of the council, the member shall be disqualified from holding office for the remainder of the member's term of office unless

- (a) the member's absences were due to illness; or
- (b) the member received a leave of absence from council.

Disqualification for absenteeism

(5) A council member is disqualified from serving on council if the member is convicted of an indictable offence.

Disqualification for conviction

- 99.** (1) A council member who is disqualified shall resign immediately.
- Resignation required
- (2) Where a disqualified council member does not resign immediately,
- (a) the council may by resolution declare the member's office vacant because the member has become disqualified under this Act from holding office as a member of council; or
 - (b) the council may apply to the Supreme Court for an order that the member of council is disqualified from being a member and the member's office is vacant.
- Declaration or court order

Appeal of declaration of disqualification

	100. (1) A council member who has been declared disqualified under clause 99(2)(a) may within five days after the passing of the resolution by council file an appeal of the resolution with the Supreme Court.
Powers of judge	(2) A judge of the Supreme Court, after hearing the matter, may confirm the disqualification or set it aside.
Rules applicable	(3) The rules governing an appeal under this section shall, so far as practicable, be those applicable to a disqualification petition under subsections 101(2), (4) and (5) and sections 102 to 106.
Procedure on petition for disqualification	101. (1) Any ten or more electors in the municipality may petition the Supreme Court for a declaration that a council member is disqualified from holding office, and the member's office is vacant, as a result of <ul style="list-style-type: none"> (a) a contravention of subsection 96(3); (b) the appointment or election of the member to an office listed in subsection 98(1); or (c) the member's ceasing to be eligible as an elector in the municipality as set out in subsection 98(2).
Filing of petition	(2) A petition under subsection (1) to have a council member declared disqualified to hold office shall be filed with the Supreme Court within 30 days after the alleged grounds of disqualification came to the attention of the petitioners.
Deposit as security	(3) Where a judge of the Supreme Court is satisfied on the facts alleged in the petition that there are reasonable grounds for believing that the declaration should be made, the judge may require the petitioners to deposit \$500 with the Court as security for the costs of the council member petitioned against.
Summary process	(4) A judge of the Supreme Court may hear and determine the matters raised in the petition in a summary manner without formal pleadings.
Authority of judge	(5) A judge of the Supreme Court may <ul style="list-style-type: none"> (a) designate the time and place for hearing the petition; (b) designate the method of taking evidence, either by affidavit or oral testimony, or both; (c) designate the persons who are to be notified of the hearing and how they may be notified; and (d) give directions for dealing with any matter not otherwise provided for.
Decision of the court	102. At the conclusion of the hearing of a petition under section 101, the judge may make a declaration <ul style="list-style-type: none"> (a) confirming the council member in his or her office; or (b) that the council member is disqualified from continuing in office, and the office is vacant.

103. (1) The costs of and incidental to a petition for disqualification are in the discretion of the judge of the Supreme Court who heard the matter. *Costs*

(2) Costs are recoverable in the same manner as a judgment of the Court. *Idem*

104. Where a judge of the Supreme Court declares that a council member has become disqualified from holding office, the judge may order the person to pay to the municipality a monetary penalty, not exceeding \$1,000. *Penalty*

105. A petition filed with the Supreme Court is deemed to be withdrawn and all claims to office abandoned when the member who is the subject of the petition files his or her resignation under section 83. *Withdrawal of petition*

106. Subsection (2) applies in the following circumstances: *Council member's status until court decision*

- (a) a council member has appealed under section 100 a resolution passed under clause 99(2)(a) that declares the member's office vacant;
- (b) council has applied to the Supreme Court under clause 99(2)(b) for an order that a member of council is disqualified from being a member and the member's office is vacant;
- (c) a petition has been filed against the member under subsection 101(1).

(2) In any of the circumstances set out in subsection (1), a member's office shall not be vacated and the member shall not be prevented from voting or acting as a council member unless *Idem*

- (a) a judge of the Supreme Court, or a higher court on appeal to it, has declared that the member is disqualified from continuing in office as a member of council and the member has not appealed that declaration within the time limit for the appeal;
- (b) the member has appealed and the appeal has been dismissed;
- (c) the member has abandoned the appeal; or
- (d) the member files his or her resignation with the chief administrative officer, renouncing all claim to the office.

Division 6 – Code of Conduct

107. (1) The council of a municipality shall by bylaw establish a code of conduct to govern the conduct of the members of council. *Code of conduct*

(2) The code of conduct referred to in subsection (1) shall include, at a minimum, *Idem, contents*

- (a) rules respecting confidentiality and disclosure of and access to personal information in the control of the municipality;

- (b) rules respecting the acceptance of gifts or other personal benefits by a member;
- (c) rules respecting the process for determining whether a member has contravened the code of conduct; and
- (d) the requirement for each council member, within 30 days of being elected, to file a disclosure statement in the form approved by the Minister with the chief administrative officer.

Procedural
requirements

(3) The code of conduct referred to in subsection (1) shall provide procedures for dealing with breaches of its provisions, including the sanctions that may be imposed for a breach of the code of conduct.

Penalties

(4) A sanction referred to in subsection (3) may include a fine of not more than \$500.

Regulations

(5) The Lieutenant Governor in Council may make regulations respecting

- (a) additional matters that a code of conduct established pursuant to subsection (1) is required to address; and
- (b) the date by which a council shall establish a code of conduct pursuant to subsection (1).

Division 7 - Vacancy

Vacancies

108. (1) The office of a council member shall be considered vacant where

- (a) the council member has resigned or died;
- (b) the council member's office has been declared vacant by resolution of the council and
 - (i) the member has not appealed under section 100 within the time limit for the appeal,
 - (ii) the member has appealed and the appeal has been dismissed, or
 - (iii) the member has abandoned the appeal;
- (c) a judge of the Supreme Court, or a higher court on appeal to it, declares that since the council member's election the member has become disqualified from continuing in office as a council member and
 - (i) the member has not appealed that declaration within the time limit for the appeal,
 - (ii) the member has appealed and the appeal has been dismissed, or
 - (iii) the member has abandoned the appeal; or
- (d) the council member's office has been declared vacant under this Act.

Office deemed
vacant

(2) Where a member's resignation is to take effect on the swearing in of the member's successor, the member's office shall be considered vacant for the purpose of holding a by-election to elect the member's successor.

PART 5

Municipal Administration

Division 1 - Meetings of Municipal Council

109. (1) All acts authorized or required to be done by a council shall, except as otherwise provided in this Act, be done or decided by a majority of the council members present at a meeting and entitled to vote.

Acts of Council

(2) Except as otherwise provided in this Act, an action or proceeding of a council is not valid unless it is authorized or adopted by a bylaw or a resolution at a duly constituted public meeting of the council.

Validity, conditions

110. (1) The first meeting of a newly elected council following a general municipal election shall be held no later than the first regularly scheduled council meeting in December after the council members have been sworn in pursuant to section 79.

First council meeting

(2) When there is no regularly scheduled council meeting in the month of December following a general municipal election, the first meeting of a newly elected council shall be in the month of December after the council members have been sworn in pursuant to section 79, at a time and place designated by the chief administrative officer.

Where no meeting scheduled

(3) A council shall establish and publish, by electronic means and one other means of public notification, an annual schedule of meetings for the conduct of its business, of which at least six meetings each year shall be open to the public.

Schedule of meetings

(4) Other means of public notification for the purposes of subsection (3) include signs or posters, newsletters, and newspaper advertisements.

Public notification

(5) The procedural bylaw passed pursuant to clause 86(2)(e) shall establish rules and a process for changing the date, time or place of all meetings, including regularly scheduled meetings.

Rescheduling of meeting

111. The mayor, in presiding at meetings of council as required by section 89, shall maintain order and decorum and decide all questions of order, subject to appeal to the council as a whole.

Mayor to preside at meetings

Appeal of mayor's decision

	112. (1) An appeal may be made, in accordance with the procedural bylaw of council, by a council member from a decision of the mayor made during that meeting of council.
Vote on appeal	(2) The procedural bylaw shall provide for an immediate vote on the appeal and shall specify the majority required.
Quorum	113. (1) A quorum is required at all times for council meetings and council committee meetings.
Nature of quorum	(2) A quorum is a majority of all the members of council or a council committee.
Variation in quorum	(3) Despite subsection (2), where there is a vacancy on council <ul style="list-style-type: none"> (a) during the period of time before a by-election is held to fill the vacancy; or (b) at a time when a by-election is not required to be held, and there are at least four council members remaining on council, a quorum is a majority of the remaining members of council.
Less than three members	(4) Where the number of council members is reduced to less than four, the Minister may order that the remaining council member or members shall be considered to be a quorum until elections are held to fill the vacancies.
Effect of quorum	(5) As long as a quorum remains in office, anything done at a meeting of council or a council committee is not invalidated by <ul style="list-style-type: none"> (a) any vacancy among its members; (b) any defect in the appointment of any member; or (c) the disqualification of any member.
Effect of conflict of interest on quorum	114. (1) For the purposes of this section and section 115, a council member has a conflict of interest if he or she has declared that he or she has a conflict of interest or has been found to have a conflict of interest under Division 4 of Part 4 in relation to a matter before council.
<i>Idem</i>	(2) Any council member who has a conflict of interest shall not be counted for the purpose of determining whether a quorum of council is present for discussion and voting on a matter.
Loss of quorum	(3) Subject to subsection (4), where the number of council members who have a conflict of interest results in a loss of quorum with respect to discussion and voting on a matter, the remaining members are deemed to be a quorum for that discussion or voting.
Application to court	(4) Where all, or all but one, of the council members have a conflict of interest in a matter, the council shall, by resolution, apply ex parte to a judge of the Supreme Court for an order authorizing the council to

proceed with discussion and voting on that question or matter despite the conflict.

(5) Where an application is brought pursuant to subsection (4), the judge may issue an order

- (a) declaring that Division 4 of Part 4 does not apply to all or any of the council members with respect to the matter in relation to which the application is brought; and
- (b) specifying any directions or conditions for the council to observe in its discussion and vote on the matter that the judge considers appropriate.

(6) Where a judge issues an order pursuant to subsection (5), the council may discuss and vote on the matter as if the members had no conflict of interest in the matter, subject to any conditions and directions that the judge may state in the order.

115. (1) Each council member present, except the mayor, shall vote on every matter unless

- (a) in a specific case, a member is excused by resolution of the council from voting; or
- (b) a member is prohibited from voting because the member has a conflict of interest.

(2) No vote of council shall be taken by ballot or by any other method of secret voting, and any vote taken by means of a secret vote is of no effect.

(3) For all votes of council, the number of votes for and against shall be recorded.

(4) Where there is an equal number of votes for and against a bylaw or resolution, the mayor shall vote for the purpose of breaking the tie.

(5) The failure or refusal of a member of council to vote on a matter that is properly before the council shall be considered a vote in favour except when the person is excused by resolution of the council or is prohibited from voting because the member has a conflict of interest.

116. (1) The chief administrative officer shall ensure that minutes are kept of all council meetings and committee meetings, both open and closed to the public, and that the minutes include at least the following information:

- (a) the date of the meeting;
- (b) the names of those present at the meeting;
- (c) the subject matter of the issues discussed;
- (d) a record of any decisions made.

Minutes of closed meeting	<p>(2) Where a meeting is closed to the public pursuant to subsection 119(1), the contents of the minutes of the meeting that may be disclosed to the public under clause 147(1)(e) shall be restricted to the following:</p> <ul style="list-style-type: none"> (a) the date of the meeting; (b) the names of those present at the meeting; (c) the type of matter under subsection 119(1) that was discussed during the meeting.
Inspection of minutes	<p>(3) Copies of the minutes shall be open for inspection by any person during regular office hours and copies of them shall be provided to any person on the payment of a reasonable fee established by the council.</p>
Signing of minutes	<p>(4) Minutes of council meetings, when approved, shall be signed by the mayor and chief administrative officer, and minutes of committee meetings, when approved, shall be signed by the chairperson of the committee.</p>
Management and disposal of records	<p>117. (1) Subject to this section, a council shall by bylaw establish a records retention and disposal schedule that provides for the management and disposal of all records and other documents in the municipality.</p>
Retention	<p>(2) Minutes, bylaws, policies and resolutions of the council and records that are required by this or another enactment to be retained shall be retained in accordance with the regulations.</p>
<i>Idem</i>	<p>(3) The council may, by bylaw, specify further classes of records that shall not be destroyed or that shall be retained for specified time periods.</p>
Certifying copies	<p>(4) The chief administrative officer may, where</p> <ul style="list-style-type: none"> (a) a municipal record referred to in subsection (2) or specified by a council pursuant to subsection (3) is inadvertently destroyed, certify a copy that has been made by photographic, photostatic or electronic means of a reproduction of the original document that is part of the records of the municipality; and (b) an original municipal record is not available to be produced in court, certify a copy of the original municipal record that has been made by photographic, photostatic or electronic means, <p>and the certified copy is admissible in evidence to the same extent as the reproduction or original municipal record and is, in the absence of proof to the contrary, proof of the record.</p>
Public meetings	<p>118. (1) Subject to subsection (2) and section 119, all council meetings and council committee meetings shall be conducted in public and members of the public are entitled to attend.</p>
Improper conduct	<p>(2) Despite subsection (1), the mayor or other person presiding at a meeting may expel a member of the public for improper conduct.</p>
Closed meetings	

119. (1) Despite subsection 118(1), a council or council committee may, by resolution, close all or part of a meeting to the public, either in advance or at the meeting, where the matter to be discussed in relation to any of the following is confidential:

- (a) commercial information which, if disclosed, would likely be prejudicial to the municipality or parties involved;
- (b) information received in confidence which, if disclosed, would likely be prejudicial to the municipality or parties involved;
- (c) personal information, other than a person's address, that is protected under this Act;
- (d) human resource matters;
- (e) a matter still under consideration, on which the council has not yet publicly announced a decision, and about which discussion in public would likely prejudice a municipality's ability to carry out its activities or negotiations;
- (f) the conduct of existing or anticipated legal proceedings;
- (g) the conduct of an investigation under, or enforcement of, an Act or bylaw;
- (h) information which, if disclosed, could prejudice security and the maintenance of the law.

(2) When a council or committee meeting is closed to the public, no resolution or bylaw shall be passed during that meeting other than a resolution

Resolution at closed meeting

- (a) giving instructions to the lawyer for the municipality;
- (b) giving instructions to any person negotiating a contract on behalf of the municipality;
- (c) giving directions to employees on matters enumerated in subsection (1);
- (d) adjourning the closed meeting; or
- (e) opening the meeting to the public.

(3) A resolution to close a meeting to the public shall state which clause or clauses of subsection (1) are to be considered at the closed meeting.

Required content of resolution

(4) A council shall make public any matter which has been considered at a meeting closed to the public pursuant to subsection (1), when confidentiality is no longer required.

Disclosure

(5) No council member, committee member or employee of a municipality shall, subject to clause (2)(c), disclose or act on any information acquired at a closed meeting of council or a committee respecting a matter or report disclosed or discussed at the meeting, prior to the matter or report being dealt with at an open meeting of council or the committee.

Prohibition

Penalties	<p>(6) Where a council member, committee member or employee contravenes subsection (5), and the municipality suffers a financial loss or the member or employee gains financially as a result of the disclosure or action, the member or employee is guilty of an offence and on summary conviction</p> <ul style="list-style-type: none"> (a) is liable in damages to the municipality for the amount of the financial loss, if any, suffered by the municipality as a result of the disclosure or action; (b) is liable in damages to the municipality for the amount of the financial gain to the member or employee, if any, as a result of the disclosure or action; and (c) if the person is a council member or committee member, is disqualified <ul style="list-style-type: none"> (i) from continuing to serve on council or the committee, or both, as the case may be, and (ii) from being a candidate at any municipal election held in the five years after the commission of the offence.
Inquiry	<p>(7) Where a council member or committee member contravenes subsection (5), but there is no financial loss to the municipality or gain to the member as a result of the disclosure or action, the council may, by a vote of two-thirds of its members, request under clause 216(1)(b) that the Minister conduct an inquiry into the conduct of the member to determine whether the member should be disqualified from continuing to serve on council or the committee, or both, as the case may be.</p>
Requirement to attend	<p>120. (1) The chief administrative officer shall attend all council meetings, including meetings that are closed to the public, unless a matter in relation to the chief administrative officer is the subject of the closed meeting.</p>
Recording of minutes	<p>(2) Where, pursuant to subsection (1), the chief administrative officer is excluded from a closed meeting, the mayor shall designate a person to record the minutes of the meeting as required by section 116 and that person shall sign the minutes in the place of the chief administrative officer.</p>
Special meetings	<p>121. (1) A special meeting of the council shall be called by the chief administrative officer when requested in writing to do so by</p> <ul style="list-style-type: none"> (a) the mayor; or (b) a majority of council members.
Notice	<p>(2) Notice of the date, time and place of the special meeting and the nature of the business to be transacted at the special meeting shall be given at least 24 hours before the time of the meeting</p> <ul style="list-style-type: none"> (a) to the public through local media or other means as prescribed by procedural bylaw; and

(b) to the council members by providing a copy of the notice to each council member at the place to which the member has directed such notices be sent.

(3) If a council changes the date, time or place of a special meeting, the chief administrative officer shall give at least 24 hours' notice of the change, in accordance with subsection (2),

Notice of change

- (a) to all council members; and
- (b) to the public.

(4) No business other than that stated in the notice shall be transacted at a special meeting.

Limitation

122. (1) Subject to subsection (2), a council or council committee meeting may be conducted by electronic means

Electronic meeting

- (a) where authorized by a procedural bylaw of council; and
- (b) the council members, or council committee members, are unable to meet in person.

(2) A meeting shall only be conducted by electronic means if

Public meeting by electronic means

- (a) the electronic means by which the meeting is conducted enable, at a minimum, the council and committee members participating in the meeting to hear and speak to each other;
- (b) notice is given to the public of the meeting, including that it will be conducted by electronic means;
- (c) where the meeting is a public meeting,
 - (i) facilities are provided to enable the public to see and hear the meeting's participants at a place specified in the notice, and
 - (ii) a municipal employee is in attendance at the place specified in the notice.

(3) Where authorized to do so by a procedural bylaw of council, a council or council committee member who is unable to attend a meeting of council or the council committee in person may participate in the meeting by telephone or by electronic means that meet the requirements of clause (2)(a).

Participation by telephone, etc.

(4) Council and committee members participating by telephone or electronic means in a meeting conducted by electronic means are considered to be present at the meeting.

Members deemed present

(5) Where

Required information

- (a) a council or committee member is participating in a meeting conducted by electronic means; and
- (b) there is a report or recommendations to be considered in respect of a matter before the council or committee,

the council or committee member shall take part in the debate and voting on that matter only if the member has before him or her a copy of the report or recommendations to be considered.

Division 2 - Bylaws and Resolutions

Mode of exercise of powers of council	123. (1) The powers of a council shall only be exercised by either bylaw or resolution.
Council's discretion	(2) Unless expressly required to be exercised by bylaw, the powers of a council may be exercised by bylaw or resolution.
Bylaw procedure	124. A bylaw is validly made if <ul style="list-style-type: none"> (a) it is read and formally approved by a majority of the council members present and voting on two occasions at meetings of the council held on different days; (b) after being read a second time it is formally adopted by resolution of the council; and (c) it is <ul style="list-style-type: none"> (i) signed by the mayor and the chief administrative officer, and (ii) sealed with the corporate seal of the municipality.
Exception	125. (1) Despite section 124, where copies of a proposed bylaw have been made available to the public at or prior to the meeting in which the proposed bylaw is to be read, the reading may consist of the recitation of the bylaw name and number and a brief description of its effect.
Reading required	(2) Where copies of the proposed bylaw have not been made available to the public at or prior to the meeting, the entire proposed bylaw shall be read word by word.
Amendment	(3) A proposed bylaw may be amended after its first reading and, if it is amended, the amendment shall be read word by word at the meeting even if copies of the bylaw with the proposed amendment are made available to the public.
Power to amend and repeal bylaw or resolution	126. The power to make a bylaw or a resolution includes the power to amend or repeal the bylaw or amend or rescind the resolution.
Rescission of previous bylaw readings	127. The first and second readings of a proposed bylaw are rendered null if the proposed bylaw is not passed within two years from the date of first reading.
Bylaws to be written and signed	128. (1) Every bylaw shall be in writing and a copy of the bylaw bearing the authorized signatures and sealed with the corporate seal of the municipality shall be kept in the register of bylaws for the municipality.

- (2) Copies of the bylaws shall be open for inspection by any person and copies of them shall be provided to any person on payment of a reasonable fee established by the council. Inspection of bylaws
- 129.** A copy certified by the chief administrative officer of every bylaw passed by a council shall be filed with the Minister. Filing of certified copy
- 130.** (1) Subject to subsection (2), a bylaw comes into force at the time it is passed, pursuant to section 124, unless otherwise provided for in this Act or in the bylaw. Effective date of bylaws
- (2) Where this or another Act requires a bylaw to be approved by the Minister, the bylaw shall not come into force until the approval is given. Where approval required
- 131.** (1) Subject to this section, a person may make an application to the Supreme Court to quash a bylaw or resolution in whole or in part on the grounds that Quashing bylaws or resolutions
- (a) the bylaw or resolution is contrary to law;
- (b) the bylaw or resolution is beyond the power of the municipality;
- or
- (c) the procedure followed in making the bylaw or resolution did not comply with the requirements of this or another Act under which the bylaw was made.
- (2) Despite subsection (1), no bylaw or resolution shall be quashed solely on the grounds of a defect in form if Exception
- (a) it can be shown that the council made reasonable efforts to comply with the requirements of this Act or the Act under which it was made; and
- (b) it is unlikely that the defect in form altered the result of the vote in passing the bylaw or resolution.
- (3) No application shall be made pursuant to this section to quash a bylaw or resolution described in Part 6, division 3 of this Act. Exception
- (4) No bylaw or resolution passed in good faith may be challenged on the grounds that it is or may be unreasonable. *Idem*
- 132.** (1) A bylaw or resolution of a council or resolution or proceeding of a council committee may not be challenged solely on the grounds that Challenge to bylaw or resolution
- (a) a person sitting or voting as a council member
- (i) is not qualified to sit on council,
- (ii) was not qualified when the person was elected, or
- (iii) after the election, ceased to be qualified or became disqualified;
- (b) the election of one or more council members is invalid;
- (c) a council member has resigned because of disqualification;

- (d) a person has been declared disqualified from being a council member;
- (e) a council member did not take the oath of office;
- (f) a person sitting or voting as a member of a council committee
 - (i) is not qualified to sit on the committee,
 - (ii) was not qualified when the person was appointed, or
 - (iii) after being appointed, ceased to be qualified or became disqualified; or
- (g) there was a defect in the appointment of a council member or other person to a council committee.

Limit on action

(2) Every action under this section and section 131 shall be brought against the municipality alone.

Consolidation of bylaws

133. (1) A council may, by bylaw, authorize the chief administrative officer to consolidate one or more of the bylaws of the municipality by

- (a) incorporating all amendments into the bylaw; and
- (b) omitting any provision of the bylaw that has been repealed, has expired or is otherwise spent.

Consolidation admissible

(2) A copy of a bylaw consolidated pursuant to this section and printed under the authority of the chief administrative officer is admissible as evidence in any proceeding, as proof, in the absence of evidence to the contrary, of

- (a) the original bylaw and all bylaws amending it; and
- (b) the fact of the passage of the original bylaw and all amending bylaws.

Revision of bylaws

134. (1) A council may, by bylaw, authorize a person to conduct a revision of all or any of the bylaws of the municipality and may authorize the person to do all or any of the following:

- (a) consolidate a bylaw by incorporating all amendments to it into one bylaw;
- (b) omit and provide for the repeal of a bylaw or a provision of a bylaw that is inoperative, obsolete, expired, spent or otherwise ineffective;
- (c) omit, without providing for its repeal, a bylaw or a provision of a bylaw that is of a transitional nature;
- (d) combine two or more bylaws into one bylaw, divide a bylaw into two or more bylaws, move provisions from one bylaw to another and create a bylaw from provisions of another or two or more others;
- (e) alter the citation and title of a bylaw and the numbering and arrangement of its provisions, and add, change or omit a note, heading, title, marginal note, diagram or example to a bylaw;
- (f) omit the preamble and long title to a bylaw;

- (g) omit forms or other material contained in a bylaw that can more conveniently be contained in a resolution, and add authority for the forms or other material to be contained in a resolution;
- (h) correct clerical, grammatical and typographical errors; and
- (i) make changes, without changing the substance of a bylaw, to bring out more clearly what is considered to be the meaning of the bylaw or to improve the expression of the law.

(2) Bylaws revised pursuant to a revision bylaw shall have no effect until a bylaw confirming them is passed by council. Confirmation required

(3) A bylaw confirming the revised bylaws shall specify the date or dates on which the revised bylaws shall come into force and the date or dates on which the bylaws being repealed are repealed. Dates to be specified

135. (1) A council may within a bylaw authorized or required under this or another Act authorize certain matters in the bylaw that the council may establish or alter by resolution. Resolutions under bylaws

- (2) The matters referred to in subsection (1) shall be limited to Authorized matters
 - (a) schedules of fees and charges for activities authorized by the bylaw;
 - (b) forms required for the purposes of the bylaw; and
 - (c) other matters that are related to the administration of the bylaw.

(3) Any resolution on a matter passed by council pursuant to clause (2)(a) shall form an appendix, schedule or attachment to the main body of the bylaw. Effect of resolution

Division 3 - Additional Duties and Powers of a Municipality

136. Every council shall have and maintain a corporate seal for the municipality. Corporate seal

137. A council may by bylaw adopt flags, crests, emblems, logos, trademarks or coats of arms for the municipality and may impose restrictions on their use. Municipal flags, etc.

138. (1) A council may enter into an agreement, if authorized by bylaw, with another council for the provision of any service which each has the power to provide within its own boundaries. Agreements with other municipalities

(2) An agreement referred to in subsection (1) shall be in writing and shall set out the terms and conditions that apply to the agreement. *Idem*

139. (1) A council may enter into an agreement with a First Nations Band for the provision of a service by either party to the other which that party has the power to provide within its own boundaries within the Agreements with First Nations

boundaries of the municipality or lands in the reserve of the First Nations Band.

Idem (2) An agreement referred to in subsection (1) shall be in writing and shall set out the terms and conditions that apply to the agreement.

Agreements with governments **140.** (1) A council may enter into an agreement with the Government of Prince Edward Island or, if approved by the Minister, the Government of Canada, for the provision of a service on behalf of either Government within the boundaries of the municipality.

Provision of other service (2) Pursuant to an agreement referred to in subsection (1), with the Government of Prince Edward Island, a council may provide a service that it would otherwise not have authority to provide in the municipality.

Idem (3) An agreement referred to in subsection (1) shall be in writing and shall set out the terms and conditions that apply to the agreement.

Service outside boundaries **141.** Where authorized by, and in accordance with, a written agreement under section 138, 139 or 140, a council may provide, outside the boundaries of its municipality, a service that it has authority to provide within its boundaries.

Privileges and exemptions **142.** (1) Subject to subsection (2) and sections 143 and 158, a council shall not, in respect of any person, institution, association, group or body,

- (a) grant any privilege or exemption from the ordinary jurisdiction of the municipality and its bylaws; or
- (b) provide a right or privilege to receive
 - (i) a bonus, or
 - (ii) an exemption from any tax, rate or rent or from the requirement to remit any tax or rate levied or any rent.

Write-off of debts (2) Despite subsection (1), a council of a municipality may by resolution cancel any arrears of municipal fees, penalties or interest charges that are prescribed by bylaw or specified in a resolution that, in the opinion of council, are no longer collectable from the person, institution, association, group or body that is liable to pay them.

Transfer of land below market value **143.** (1) Where a council proposes to sell, grant, transfer or otherwise dispose of municipal land, or any interest in municipal land, for less than fair market value, the council shall prepare a written proposal that includes the information specified in subsection (2) and shall give notice to the public of its proposed action in the manner prescribed in the regulations.

Contents of proposal (2) The proposal referred to in subsection (1) shall include the following information in respect of the proposed disposition:

- (a) a description of the municipal land or interest in it;

- (b) the person or entity who is to acquire the land or interest;
- (c) the nature and, if applicable, the term of the proposed disposition;
- (d) the consideration to be received by the municipality.

Division 4 – Municipal Emergency Management Program

144. Despite any other section in this Act, a council may take any temporary measures necessary in the municipality to respond to and deal with an emergency as defined in the *Emergency Measures Act*. Actions by council in emergencies

145. (1) Notwithstanding that section 8 of the *Emergency Measures Act* does not require it, a council shall, by bylaw, establish a municipal emergency management program for the municipality that, in the opinion of the provincial Emergency Measures Organization, is adequate and properly integrated with the provincial emergency measures plan. Emergency measures plan and program

(2) The municipal emergency management program shall contain, at a minimum, a copy of the bylaw referred to in subsection (1), the municipal emergency measures plan, any required delegation of authority, plans for training and exercises, and any other component required by the provincial Emergency Measures Organization. Required contents

(3) The municipal emergency management program shall include an exercise work plan that, at a minimum, provides for Exercises to be conducted

- (a) an annual discussion-based exercise to be commenced by the municipality not later than one year after approval of the program by the provincial Emergency Measures Organization; and
- (b) an operational-based exercise, which includes participation by the appropriate response agencies referred to in the emergency management program, to be undertaken by the municipality once every three years, commencing not later than three years after the approval of the emergency management program by the provincial Emergency Measures Organization.

(4) A council shall appoint an emergency co-ordinator and a deputy emergency co-ordinator, who shall be responsible for the implementation, maintenance and execution of the municipal emergency management program established pursuant to subsection (1). Appointment

(5) A council shall submit its municipal emergency management program to the provincial Emergency Measures Organization for review and approval within three years after the coming into force of this Act. Submission

(6) After the approval of its municipal emergency management program by the provincial Emergency Measures Organization, a council shall Review and revision

- (a) annually review the program and, where necessary, make revisions; and
- (b) within 60 days of making the revisions, provide the revised program to the provincial Emergency Measures Organization for review.

Required revision (7) The provincial Emergency Measures Organization may at any time require that a municipal emergency management program submitted to it pursuant to subsections (5) and (6) be revised, and the required revisions shall be carried out by the council to the satisfaction of the provincial Emergency Measures Organization.

Authorization (8) In response to a state of local emergency declared under subsection 146(1), or in order to implement its municipal emergency management program in whole or in part, council may authorize the chief administrative officer to incur any liabilities that the chief administrative officer considers necessary.

Accounting (9) The chief administrative officer is responsible for keeping records of the expenditures made and the equipment used in implementing the municipal emergency management program or responding to a declared emergency.

Declaration of a state of local emergency **146.** (1) The council of a municipality shall, when satisfied that an emergency exists or may exist in the municipality, declare a state of local emergency.

Idem (2) Where a council is unable to act promptly in declaring a state of local emergency in a municipality pursuant to subsection (1), the mayor may, after consulting a majority of the members of the council where practicable, declare a state of local emergency in the municipality.

Division 5 - Access to Information and Protection of Privacy

Access to information **147.** (1) Every council shall comply with the requirements of the regulations respecting access to, disclosure of and protection of personal information and shall make a bylaw that provides for access to information created or collected by or otherwise under the control of the municipality, including but not limited to information in relation to the following matters:

- (a) assessment information;
- (b) approved financial plans;
- (c) approved annual financial statements;
- (d) auditor reports;
- (e) minutes of all meetings of the council and council committees;
- (f) bylaws or proposed bylaws which have received first reading;

- (g) resolutions of the council and council committees passed at open meetings of the council or council committee together with any relevant information that was taken into consideration in the decision to pass the resolution;
- (h) permits which have been issued;
- (i) approvals which have been granted;
- (j) all grants, contributions and donations, with the name of each recipient;
- (k) all contracts;
- (l) all compensation, expenses, and other payments made annually to each council member pursuant to section 82;
- (m) strategic plans;
- (n) all policies; and
- (o) all documents that have been tabled or adopted at open meetings of the council or council committees that
 - (i) are not included in clauses (a) to (n),
 - (ii) do not fall within the scope of subsection 119(1), and
 - (iii) are not subject to solicitor–client privilege.

(2) No personal information, except a person’s address, that is included in any of the types of information listed in clauses (1)(a) to (o) shall be disclosed except

Personal information

- (a) to the person whose personal information it is;
- (b) to a person authorized by that person; or
- (c) in accordance with a bylaw made under section 148.

(3) In this section and in clause 119(1)(c) and section 148, “personal information” means personal information as defined in clause 1(i) of the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01.

Personal information, defined

148. (1) Every council shall have a bylaw that protects the personal information collected by the municipality and provides rules respecting

Protection of privacy

- (a) what personal information may be collected by the municipality;
- (b) the purposes for which the personal information may be collected;
- (c) how the personal information may be used; and
- (d) who may have access to the personal information.

(2) A bylaw made under subsection (1) shall provide for access by an individual to the individual’s personal information for the purpose of verifying and, if necessary, correcting the personal information.

Correction of personal information

PART 6

FINANCIAL MATTERS

Division 1 - Financial Operations

Fiscal year	149. (1) Commencing April 1, 2017, the fiscal year of a municipality is from April 1 to March 31.
<i>Idem</i>	(2) The period from January 1, 2016, to March 31, 2017, comprises two fiscal years for each municipality, as follows: (a) January 1, 2016, to December 31, 2016; and (b) January 1, 2017, to March 31, 2017.
Transitional budgets	(3) A council shall (a) on or before March 31, 2017, adopt by resolution an operating budget and a capital budget for the fiscal year referred to in clause (2)(b); and (b) submit the operating budget and capital budget to the Minister no later than April 15, 2017.
Financial plan	150. (1) On or before March 31 in each year, a council shall by resolution adopt a financial plan for the upcoming fiscal year that (a) is in the form approved by the Minister; and (b) meets the requirements of this Division and the regulations.
Required contents of financial plan	(2) The financial plan shall contain (a) an operating budget that includes estimates of the amount of money required for expenditures and to be received as revenue; (b) a capital budget; and (c) a five-year capital expenditure program that includes an asset management program.
Public notice	(3) Before adopting a financial plan, the council shall give public notice and hold a public meeting, for information purposes, in respect of the financial plan.
Filing requirement	(4) A copy of the financial plan shall be filed with the Minister by April 15 of the fiscal year for which it was adopted.
Extension of time	(5) A council that for any reason is unable to adopt its financial plan on or before March 31 shall, in writing, request an extension of the time in which to comply with subsection (1), and the Minister may extend the time subject to any conditions the Minister considers necessary or advisable.
Prohibition	

(6) During the period from the end of a fiscal year until approval of the financial plan for the next fiscal year, a council shall not incur expenditures except those necessary for the day-to-day administration of the municipality.

(7) A council shall cause any projected operating surplus at the end of a fiscal year to be transferred to the operating fund for the next fiscal year or to a reserve fund. Transfer of surplus

151. The Lieutenant Governor in Council may make regulations respecting the information that shall be included in a financial plan with respect to Regulations

- (a) operating budgets, including information relating to revenues, expenditures and transfers;
- (b) capital budgets, including costs of capital projects and sources to fund capital projects for the upcoming fiscal year and for each of the four fiscal years following; and
- (c) the content of the five-year capital expenditure program and asset management program.

152. (1) A municipality shall only make an expenditure that is Expenditures
(a) included in its financial plan or, subject to subsection 153(3), otherwise authorized by the council in accordance with this Part;
(b) in respect of an emergency under the *Emergency Measures Act*; or
(c) ordered to be paid by a court or by the Minister.

(2) A council may authorize the expenditure of an amount of money provided for in an operating budget or capital budget, other than an expenditure referred to in subsection 153(2), for a purpose other than that set out in the operating budget or capital budget for that fiscal year if the expenditure does not affect the total of the amounts estimated for the operating budget and the capital budget. Purpose not set out in budget

(3) A council may authorize expenditures from its operating budget, or transfer amounts of money from its operating budget to the capital budget, that are not provided for in the operating budget if the total of the expenditures and transfers does not exceed the total amount of revenue from all sources in excess of the amount estimated for those sources in the operating budget. Expenditure or transfer within total of revenues

(4) A council may authorize capital expenditures that are not provided for in its capital budget if the total of the expenditures does not exceed the amount Capital expenditure not included in capital budget
(a) authorized to be transferred from the operating budget to the capital budget under subsection (3);
(b) authorized to be borrowed under subsection 164(2); or

(c) transferred from a reserve fund in accordance with subsection 155(4) or (5), as the case may be.

Deficit prohibited	153. (1) A council shall not project a deficit in its operating budget for any fiscal year in respect of expenditures other than amortization, except in accordance with this section.
Transfer of deficit	(2) A council shall cause any portion of a projected operating deficit at the end of a fiscal year that is not offset by funds from a reserve fund or other surplus funds to be debited to the operating fund for the next fiscal year, unless the Minister has approved another means of dealing with the deficit.
Approval for anticipated deficit	(3) Where a council determines during a fiscal year that operating expenditures are likely to exceed the revenue and transfers provided for in its operating budget by more than five per cent, the council shall immediately notify the Minister in writing, and may incur a deficit for that fiscal year only with the written approval of the Minister.
Conditions	(4) Where the Minister approves a deficit in a fiscal year for a municipality pursuant to subsection (3), the Minister may attach any conditions to the approval that the Minister considers necessary.
Powers of Minister	(5) Where the Minister has approved the request of a council to incur a deficit in a fiscal year under subsection (3), the Minister may, if the Minister considers it necessary, establish the council's financial plan for the following fiscal year, and the financial plan established by the Minister <ul style="list-style-type: none"> (a) is for all purposes the financial plan of the municipality for that fiscal year; and (b) shall not be substituted, amended or altered by council in any way unless the substitution, amendment or alteration has been approved by the Minister.
	(6) A council shall establish procedures to authorize <small>Authorizing</small> and verify expenditures that are not included in its <small>expenditures</small> financial plan.
Amendment to financial plan	154. Where a council authorizes an expenditure pursuant to subsections 152(2) to (4) or receives approval from the Minister to incur a deficit pursuant to subsection 153(3), the council shall by resolution amend its operating or capital budget for that fiscal year to reflect the changes resulting from council's authorization or the Minister's approval, as the case may be.
Reserve funds	155. (1) A council may by bylaw establish one or more reserve funds in the name of the municipality for any municipal purpose and may make

contributions to the reserve funds pursuant to the bylaw or in accordance with the financial plan for the municipality.

- (2) A council shall specify in its bylaw establishing a reserve fund
- (a) the purpose for which the reserve fund is established; and
 - (b) the criteria and conditions governing contributions to and withdrawals from the reserve fund.
- Specified information

(3) A council of a municipality that is formed as a result of the amalgamation of two or more municipalities may, by bylaw, require that a reserve fund established by one of the amalgamating municipalities shall be used only in relation to expenditures that primarily benefit the area within the boundaries of that amalgamating municipality as they existed immediately prior to the amalgamation.

Use of reserves after amalgamation

(4) An operating budget or capital budget may provide for the transfer of money from a reserve fund for the purpose for which it was established.

Transfer from reserve fund

(5) A council of a municipality may by bylaw provide for the transfer of money from a reserve fund for a purpose other than that for which it was established.

Transfer by bylaw

156. (1) Cheques, electronic transfers, agreements, contracts, deeds and other legal or financial instruments shall be signed or authorized by both the mayor and the chief administrative officer of a municipality.

Signing authority

(2) Subject to subsection (3), the mayor and the chief administrative officer may each, in writing, designate another person to carry out his or her duties under subsection (1).

Designate

- (3) For greater certainty,
- (a) the mayor shall only delegate the mayor's authority under subsection (1) to another elected member of council; and
 - (b) the chief administrative officer shall only delegate the chief administrative officer's authority under subsection (1) to another employee of the municipality.
- Delegation of authority

(4) A signature required for the purposes of subsection (1) may be printed, lithographed, electronically added, or otherwise reproduced if authorized by council.

Form of signature

(5) Despite subsection (1), a council may by resolution authorize the chief administrative officer alone to sign contracts and agreements if

- (a) the value of the contract or agreement does not exceed \$25,000; and

Authority to chief administrative officer

(b) the chief administrative officer tables a written summary of the nature and value of the contract or agreement at the next meeting of council.

Investments

157. (1) A council may direct that the money of the municipality, other than money the municipality holds in trust or money required for payments, be invested in any of the following:

- (a) securities issued or guaranteed by
 - (i) the Government of Canada or an agency of it, or
 - (ii) the government of a province of Canada or an agency of it;
- (b) securities of a municipality in Canada;
- (c) securities issued or guaranteed by a bank, credit union or trust corporation;
- (d) units in pooled funds of any or all of the investments listed in clauses (a) to (c);
- (e) investments prescribed in the regulations.

Definition,
securities

(2) In this section, “securities” includes bonds, debentures, treasury bills, trust certificates, guaranteed investment certificates or receipts, certificates of deposit, deposit receipts, bills, notes and mortgages of real property or leaseholds and rights or interests in respect of a security.

Grants and other
assistance

158. (1) Subject to subsection (3), a council may by bylaw provide for

- (a) the issuing of grants, including grants for service charges and fees;
- (b) the lending of money or guaranteeing the repayment of a loan;
- (c) the selling or leasing of land for nominal consideration or making a grant of land in accordance with section 143;
- (d) the use by any person of land owned or occupied by the municipality on the terms determined by council;
- (e) the use by any person of the services of officers, employees or agents of the municipality on the terms determined by council;
- (f) the selling, leasing or otherwise disposing of at a nominal price, or making a grant of, any personal property of the municipality, or providing for the use of the personal property on the terms determined by council; and
- (g) the making of donations of foodstuffs and merchandise purchased by the municipality for that purpose.

Security for grants

(2) Subject to subsection (3), grants or other assistance provided under a bylaw passed pursuant to subsection (1) may be issued

- (a) on any terms and conditions respecting security and other matters that the council considers appropriate;
- (b) to any person, group or body, including a fund, within or outside the boundaries of the municipality; and

(c) for any purpose that the council considers to be in the interests of the municipality.

(3) A council may lend money or guarantee the repayment of a loan only if Conditions on loans

- (a) council determines that the loan or guarantee will be used for a purpose that will benefit the municipality;
- (b) the loan or guarantee is made to a non-profit organization or controlled corporation;
- (c) the loan or guarantee is specifically authorized by bylaw; and
- (d) the amount of the loan or guarantee, together with the unpaid principal of any other loan or guarantee, is within the borrowing limits set out in Division 3 of this Part.

(4) A bylaw passed pursuant to subsection (1) shall state Qualifying criteria

- (a) the criteria to be met in order for any person, institution, association, group, government or other body to apply for and receive a grant, gift, loan of money or municipal property or a guarantee of the repayment of a loan pursuant to subsection (3); and
- (b) in the case of a loan or a guarantee of the repayment of a loan referred to in subsection (3),
 - (i) the amount of money to be loaned or guaranteed and, in general terms, the purpose for which it is to be used,
 - (ii) the name of the non-profit organization or controlled corporation to which the loan or guarantee is to be made,
 - (iii) where the municipality
 - (A) is lending money, the minimum rate of interest, the term of the loan and the terms of repayment of the loan and the source of the money to be lent, and
 - (B) is guaranteeing repayment of a loan, the rate of interest of the loan, the terms and conditions of the loan and the terms and conditions of the guarantee.

(5) The amount of a loan or a guarantee made by a council pursuant to clause (1)(b) shall be included in the total capital debt of the municipality for the purpose of calculating the borrowing limit for capital expenditures under subsection 164(2). Inclusion in capital debt

Division 2 - Raising of Revenue

159. In this Division, “tax rate group” means commercial or non-commercial real property in a municipality that has similar specified attributes, including but not limited to Definition

- (a) access to municipal services not available in other areas of the municipality;

- (b) access to a higher level of municipal services than that available in other areas of the municipality;
- (c) geographic location in the municipality;
- (d) property use; or
- (e) property ownership.

Property subject to taxation

160. (1) Subject to this Act, the *Real Property Assessment Act*, and the *Real Property Tax Act*, a council shall by bylaw, after estimating the probable revenue from all sources other than taxes, approve a tax rate or rates applicable to all real property within the jurisdiction and boundaries of the municipality for the purpose of raising revenue sufficient to defray projected municipal expenditures for that year including any deficit carried forward from the previous year, and shall notify the Provincial Tax Commissioner in accordance with the *Real Property Tax Act* respecting the approved tax rate or rates.

Establishment of tax rate groups

(2) A council of a municipality may by bylaw establish tax rate groups in the municipality for the purposes of subsection (1).

Restructured municipality

(3) If, at the time the boundaries of a municipality are restructured pursuant to clause 21(1)(b), a municipality included in the restructuring has an outstanding capital debt obligation, the council of the restructured municipality may fix a different rate or rates of tax in respect of the land which comprised that former municipality that reflects the cost of servicing the outstanding capital debt.

Exception

(4) Subsection (3) does not apply in respect of the capital debt of a utility of the former municipality referred to in subsection (3).

Prohibition

- (5) A council shall not approve a change to a tax rate
- (a) to take effect at any time except on January 1 of the year in which the new tax rate applies; or
 - (b) to apply for a period of time less than a full calendar year.

Notice to Provincial Tax Commissioner

(6) Where a municipal boundary has been changed or a tax rate group has been established or changed, the council shall notify the Provincial Tax Commissioner and send to the Provincial Tax Commissioner any information required by the Provincial Tax Commissioner respecting the change, on or before

- (a) September 30 of the preceding year, if the municipal boundary has changed; and
- (b) December 31 of the preceding year, if the council has established or changed a tax rate group.

New municipality

(7) Where a new municipality is created pursuant to clause section 21(1)(a), the Minister shall notify the Provincial Tax Commissioner and send to the Provincial Tax Commissioner any information required by

the Provincial Tax Commissioner in respect of the new municipality on or before the date that is six months prior to its date of incorporation.

161. (1) In this section,

(a) “accommodation” means the provision of lodging in a tourism establishment; Definitions
accommodation

(b) “operator” means the operator of a tourism establishment; operator

(c) “purchase price” means the price for which accommodation is purchased, including the price in money, the value of services rendered and other consideration accepted by the operator in return for the accommodation provided, but does not include any sales or other taxes; purchase price

(d) “tourism accommodation levy” means the tourism accommodation levy imposed pursuant to this section; tourism
accommodation
levy

(e) “tourism establishment” means a tourism establishment as defined in the *Tourism Industry Act* R.S.P.E.I. 1988, Cap. T-3.3. tourism
establishment

(2) A council may, by bylaw, impose a tourism accommodation levy on any person who for a daily charge, fee or remuneration purchases accommodation at a tourism establishment in the municipality. Tourism
accommodation
levy

(3) The tourism accommodation levy shall be at the rate set by the council. Rate

(4) The tourism accommodation levy may be imposed, as the council may determine, on the purchase of accommodation Imposition of levy

(a) at every tourism establishment in the municipality; or

(b) at only those classes or types of tourism establishments in the municipality that are specified in the bylaw.

(5) The council shall use the tourism accommodation levy imposed and collected pursuant to this section to promote the municipality as a tourist destination. Purpose of levy

(6) Without restricting the generality of subsection (5) and despite any other provision of this Act, the council may pay a portion of the tourism accommodation levy by way of a grant, as the council considers appropriate, to any organization formed to promote the municipality as a tourist destination. Grant

(7) Where a tourism accommodation levy is imposed, pursuant to this section, on the purchase of accommodation at a tourism establishment in the municipality, the operator of the tourism establishment Duties of operator

(a) is deemed to be an agent of the municipality for the purpose of collecting the tourism accommodation levy and remitting it to the municipality; and

(b) shall, in accordance with subsection (8), collect the tourism accommodation levy from the purchaser and remit it to the municipality.

Levy payable at
time of purchase

(8) The tourism accommodation levy, whether the accommodation price is stipulated to be payable in cash, on terms, by instalments or otherwise, shall be collected at the time of the purchase on the total amount of the purchase price and shall be remitted to the municipality at the times and in the manner specified in the bylaw.

Unremitted levy

(9) Subject to subsection (10), where an operator collects or should have collected a tourism accommodation levy pursuant to this section but has failed to remit the tourism accommodation levy to the municipality to which it is owed at the times and in the manner established by bylaw, the amount of the unremitted tourism accommodation levy owed by the operator to the municipality shall constitute a lien on the real property that comprises the tourism establishment that has priority over every claim, privilege or encumbrance of every person, except the Crown, against that property until the amount is remitted to the municipality.

Notification

(10) A lien pursuant to subsection (9) is not effective until the council has notified, by registered mail, the operator of the tourism establishment, and the owner of the property that comprises the tourism establishment, if different, as listed on the municipal assessment roll, respecting

- (a) the amount of the unremitted tourism accommodation levy; and
- (b) the time period within which it is required to be remitted to the municipality.

Other revenues

162. (1) In accordance with the provisions of this Act, a council may

- (a) by bylaw
 - (i) impose requirements for, establish fees for and establish a process for the collection of fees for business licenses, inspections, parking, recreation and other matters,
 - (ii) impose municipal utility charges under the control of council, and fines and penalties as considered necessary by council; and
- (b) take into revenue deposits and investments, any charges for the operation of a service or municipal utility under the control of council, and any other funds the municipality may acquire.

Fines owed to
municipality

(2) Except as otherwise provided in an agreement entered into by a council with the Government concerning the collection of fines, every fine imposed for a contravention of a provision of this Act or a bylaw is

an amount owing to the municipality in which the contravention occurred.

(3) A municipality may refuse to issue or renew any license or authorization that the municipality is authorized under this or another Act to issue or renew to a person who has failed to pay municipal utility charges, fees, fines or penalties referred to in clause (1)(a), including any interest accruing to any of them. Refusal to issue license

(4) All unpaid municipal utility charges and accrued interest, or other expenses or costs incurred by a municipality in relation to a property or levied on a property, constitute a lien on the real property in respect of which the service was provided, the expenditure was made or the charge was levied, that has priority over every claim, privilege or encumbrance of every person, except the Crown, against that property until payment in full is made. Unpaid charges, etc.

163. (1) A municipality may levy a differential fee on any real property Differential fee
(a) that has been assessed as commercial property pursuant to the *Real Property Assessment Act*;
(b) that has not been used or occupied as commercial property for a period of at least six months; and
(c) that is currently assessed as a non-commercial property.

(2) A differential fee levied by a municipality pursuant to subsection (1) shall Idem
(a) not be greater than the difference between the commercial and non-commercial rates of taxation applicable to the property on which the fee is levied;
(b) be charged and collected by the municipality that levies the fee; and
(c) be in effect only during the period when the property is not used or occupied as commercial property.

(3) A differential fee levied on real property that is overdue and unpaid and any interest added to it constitute a lien on the real property on which it is levied until payment in full is made. Unpaid fee is a lien

(4) A lien on real property in respect of an overdue and unpaid differential fee and interest on it referred to in subsection (3) have priority over every claim, privilege or encumbrance of every other person except for the Crown. Priority of lien

Division 3 - Debt Restrictions

164. (1) Subject to the provisions of this Division, a council may by Borrowing
bylaw borrow money for capital expenditures.

Restriction	(2) Except as authorized by the Lieutenant Governor in Council, and subject to subsections (3) and (4), a council shall not borrow money for capital expenditures where the amount borrowed increases the total capital debt of the municipality, including the capital debt of a controlled corporation, to an amount in excess of ten per cent of the current assessed value of real property in the municipality.
Reduction in assessed value	(3) Where money is borrowed for a capital expenditure by a municipality pursuant to this Act, the bylaw that authorizes the borrowing is not rendered invalid by a subsequent reduction in the current assessed value of all real property in the municipality.
Exception	(4) Where a contribution agreement has been signed between a municipality and the Government of Prince Edward Island or the Government of Canada, any monies borrowed by a municipality for capital expenditures made pursuant to the agreement shall not be included in calculations to determine the debt limit imposed pursuant to subsection (2) to the extent of the contribution of monies coming from the Government of Prince Edward Island or the Government of Canada, as the case may be, to the municipality.
Prohibition	165. (1) Money borrowed by a council for a capital expenditure shall not be used for any purpose other than that stated in the resolution authorizing the capital project and the borrowing of the money for that capital project.
Unexpended balance	(2) Despite subsection (1), if, on completion of the capital project for which the money was borrowed, there remains an unexpended balance of money, the council may by resolution authorize the balance to be used for another municipal purpose.
Short term borrowing	166. (1) A council may by bylaw authorize the borrowing of money on a short-term basis for the purpose of financing operating expenditures.
Maximum amount	(2) Except as authorized by the Lieutenant Governor in Council, the amount borrowed for the purpose of financing operating expenditures shall not exceed 50 per cent of the total estimated revenues of the municipality as set out in the adopted operating budget contained in the financial plan for that fiscal year.
Regulations	167. (1) The Lieutenant Governor in Council may make regulations respecting the determination of what constitutes capital debt for the purpose of the calculation of the borrowing limit for a municipality under subsection 164(2).

Idem

(2) A regulation made under subsection (1) may deal with anything related to the finances of a municipality, including things related to the finances of a controlled corporation.

168. A bylaw to borrow money under subsection 164(1), or a resolution to borrow money passed pursuant to a borrowing bylaw under subsection 166(1), shall include, but is not limited to, Borrowing requirements

- (a) the amount proposed to be borrowed;
- (b) a statement that the amount borrowed will not cause the municipality to exceed its debt limit;
- (c) the purpose for which the expenditure is to be made;
- (d) the proposed term or terms and amortization of the loan;
- (e) the estimated rate of interest and commissions or other costs payable on the loan;
- (f) the method of repayment; and
- (g) the security, if any, to be given by the municipality for the repayment of the loan.

169. (1) A council shall by bylaw, in accordance with the regulations and any applicable agreements respecting trade or procurement, establish rules and procedures for the purchasing or procurement of goods and services and contracts of construction by the municipality. Procurement bylaw

(2) The Lieutenant Governor in Council may make regulations respecting the purchasing or procurement of goods and services by councils and contracts for construction awarded by councils, including minimum requirements for bidding processes. Regulations

170. (1) Subject to subsection (2), a member of council commits an offence under this Act if the member Consequences of illegal expenditure

- (a) spends, invests or votes to authorize the expenditure or investment of money, the borrowing of money or the guarantee of a loan of money that is contrary to the provisions of this Act;
- (b) votes in favour of paying to a person, including a member of council, an amount not authorized by a bylaw or resolution or by this or another Act, or an amount greater than is authorized;
- (c) accepts an amount of money not authorized by a bylaw or resolution or by this or another Act, or an amount greater than is authorized;
- (d) votes to spend money that has been obtained under a borrowing bylaw on something that is not within the purpose for which the money was borrowed, unless the expenditure is authorized under subsection 165(2); or
- (e) votes to spend money that has been obtained under a grant on something that is not within the purpose for which the grant was given.

- Exception (2) A member of council does not commit an offence under subsection (1) if
- (a) before acting as specified in subsection (1), the member received an opinion in writing from the chief administrative officer of the municipality, or a lawyer retained by the municipality, that the member's proposed action was not contrary to this Act; or
 - (b) the member establishes to the satisfaction of council that the member was acting in good faith.
- Liability (3) In addition to any other penalty to which a council member may be liable for an offence committed under subsection (1), that council member is liable to the municipality for the amount spent, invested, borrowed, guaranteed or paid.
- Joint and several liability (4) If more than one member of council commits an offence under subsection (1), those members are jointly and severally liable to the municipality for the amount spent, invested, borrowed, guaranteed or paid.
- Enforcement (5) The liability specified in subsections (3) and (4) may be enforced by an action by
- (a) the municipality;
 - (b) a voter or taxpayer of the municipality; or
 - (c) a creditor in respect of a borrowing made by the municipality.

Division 4 - Financial Statements and Auditor

- Financial statements **171.** (1) A council shall in each year prepare, in accordance with the Canadian accounting standards for the public sector recommended from time to time by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada, annual financial statements of the municipality for the immediately preceding fiscal year ending March 31.
- Exception (2) For the period from January 1, 2016, to March 31, 2017, a council shall prepare
- (a) an annual financial statement covering the fiscal year from January 1, 2016, to December 31, 2016; and
 - (b) an annual financial statement covering the fiscal year from January 1, 2017, to March 31, 2017.
- Regulations (3) The Lieutenant Governor in Council may make regulations respecting the financial statements required to be prepared pursuant to this section, including
- (a) the required content of financial statements; and
 - (b) the scope of an audit.
- Auditor

172. (1) Council shall appoint as auditor one or more persons, or an accounting firm or professional accounting corporation that is licensed to practise public accounting or provide the services of a public accountant, to conduct an annual audit of the finances of the municipality.

(2) A council shall not appoint as auditor a person who

- (a) is currently or has been a member of council within the immediately previous 10 years;
- (b) is currently or, within the preceding fiscal year, was an employee of the municipality or a controlled corporation; or
- (c) currently has or, within the preceding fiscal year, had, directly or indirectly, any share or interest in any contract with or on behalf of the municipality or a controlled corporation, other than for services in the person's professional capacity.

Restrictions on appointment

(3) Despite subsection (1), the council of a municipality continued under this Act that has projected annual budgeted expenditures of less than \$50,000 may, by resolution, dispense with the requirement for an annual audit of the finances of the municipality and instead appoint an auditor to undertake a review engagement of the financial statements prepared under subsection 171(1).

Exception

(4) Subsection (3) expires on March 31, 2019.

Limitation

173. (1) Where a council fails or refuses to appoint an auditor, the Minister may, subject to subsection 172(2), appoint an auditor for the purpose of this Division.

Failure of municipality to appoint auditor

(2) The Minister may set the remuneration to be paid by the municipality to an auditor appointed under this section.

Remuneration

174. (1) The auditor shall submit a report to the chief administrative officer on or before June 15 immediately following the fiscal year for which the audit is prepared

- (a) identifying the financial statements audited;
- (b) outlining the scope of the audit and stating whether the audit was conducted in accordance with generally accepted accounting principles for the public sector recommended from time to time by the Chartered Professional Accountants of Canada;
- (c) expressing the auditor's professional opinion as to whether
 - (i) the municipality's financial statements fairly represent the financial position of the municipality as at the end of the financial year and the results of its operations for the financial year, and
 - (ii) the financial statements were prepared in accordance with the generally accepted accounting principles for the public sector recommended from time to time by the Chartered Professional Accountants of Canada.

Duties of auditor

- Review engagement (2) Where an auditor undertakes a review engagement for a council of a municipality pursuant to subsection 172(3), the auditor shall submit a report to the chief administrative officer on or before June 15 immediately following the fiscal year for which the review engagement is prepared
- (a) identifying the financial statements reviewed;
 - (b) outlining the scope of the review engagement and stating whether the review engagement was conducted in accordance with generally accepted accounting principles for the public sector recommended from time to time by the Chartered Professional Accountants of Canada;
 - (c) expressing the auditor's professional opinion as to whether
 - (i) the municipality's financial statements fairly represent the financial position of the municipality as at the end of the fiscal year and the results of its operations for the fiscal year, and
 - (ii) the financial statements were prepared in accordance with the generally accepted accounting principles for the public sector recommended from time to time by the Chartered Professional Accountants of Canada.
- Report (3) Where, during any audit or review engagement conducted under this Division, the auditor finds that any disbursement, expenditure, liability, irregularity, or other transaction or dealing with the assets, liabilities, accounts, funds, and financial obligations of the municipality or other administrative body of the municipality occurred without proper authority under this Act, or under any bylaw or resolution of the municipality, the auditor shall report that finding separately to the council and the Minister.
- Further reports (4) In addition to the auditor's report prepared in accordance with subsection (1), (2) or (3), the Minister or the council may, at any time, require any further examinations and reports from the auditor that the Minister or the council consider necessary or advisable.
- Application (5) This section applies with any necessary changes to further examinations and reports referred to in subsection (4).
- Action on report (6) If, after a review of the auditor's report, council concludes that immediate action is required in respect of a matter, the council shall
 - (a) take any action it considers necessary or advisable to address the matter; and
 - (b) advise the Minister of the matter and the action it has taken or proposes to take.
- Minister's authority (7) If the council takes no action or the action that is taken or proposed under subsection (6) is not satisfactory to the Minister, the Minister may

take the action that, in the Minister's opinion, best protects the interests of the municipality, and the municipality shall pay any cost incurred in taking the action.

175. (1) The chief administrative officer shall, not later than June 30 in each year, Copies to council and Minister

- (a) forward to council, in respect of the preceding fiscal year,
 - (i) a copy of the audited financial statements, and
 - (ii) the auditor's report; and
- (b) forward to the Minister
 - (i) a copy of the audited financial statements in respect of the preceding fiscal year together with the auditor's report,
 - (ii) any other information provided with the auditor's report,
 - (iii) a financial information return, in the form approved by the Minister, respecting the financial affairs of the municipality for the preceding year, and
 - (iv) any other information in respect of the municipality's financial situation the Minister may require.

(2) Where an auditor has undertaken a review engagement for a council of a municipality pursuant to subsection 172(3), the chief administrative officer shall, not later than June 30 in each year, *Idem*

- (a) forward to council, in respect of the preceding fiscal year,
 - (i) a copy of the financial statements reviewed, and
 - (ii) the auditor's report; and
- (b) forward to the Minister
 - (i) a copy of the financial statements reviewed in respect of the preceding fiscal year together with the auditor's report,
 - (ii) any other information provided with the auditor's report,
 - (iii) a financial information return, in the form approved by the Minister, respecting the financial affairs of the municipality for the preceding fiscal year, and
 - (iv) any other information in respect of the municipality's financial situation the Minister may require.

176. (1) The auditor is entitled, at all reasonable times and for any purpose related to an audit or review engagement, access to all records, documents, instruments, accounts, vouchers, and other components of the financial reporting system of the municipality or of any other body handling matters for the municipality or funds of the municipality. Auditor's access to information

(2) The following persons shall provide to the auditor any information, reports or explanations the auditor considers necessary: Provision of information, etc.

- (a) members of council;
- (b) the chief administrative officer;
- (c) an employee or agent of or a consultant to the municipality;

- (d) a member of the board of a controlled corporation;
- (e) an employee or agent of or a consultant to the controlled corporation.

Restrictions on disclosure

(3) An auditor who receives information, reports or explanations from a person whose right to disclose the information, reports or explanations is restricted by law holds the information, reports or explanations under the same restrictions respecting disclosure that govern the person from whom the information, reports or explanations were received.

Privilege unaffected

(4) The provision of information, reports or explanations to an auditor by a person referred to in subsection (2) in accordance with this section is not and shall not be construed to be a waiver of any solicitor-client privilege that attaches to the information, reports or explanations.

Notice of financial statements and auditor's report

177. (1) A council shall, within 7 days of receiving the auditor's report and the financial statements, give public notice that the auditor's report and the financial statements are available for inspection by any person at the municipal office during regular business hours.

Copies

(2) Copies of the auditor's report and the financial statements shall be provided to any person on payment to the municipality of a reasonable fee specified by bylaw.

Part 7 – Please note that consultations with the Department of Transportation regarding highways and streets are on-going and those sections remain subject to change.

PART 7

MUNICIPAL JURISDICTION

Division 1 - Application

Geographic application of bylaw

178. A bylaw made by a council of a municipality applies only inside the boundaries of the municipality unless a provision of this Act, the *Water and Sewerage Act* or the *Planning Act* provides otherwise.

Interpretation

179. The power given to a council under this Act to pass bylaws and provide services is intended to

- (a) give broad authority to the council and to respect its right to govern the municipality as it considers appropriate, within the jurisdiction given to it under this Act; and
- (b) enable the council to respond to present and future issues in the municipality.

180. Where there is an inconsistency between a bylaw made by a council and a provision of an enactment, the bylaw is of no effect only to the extent of the inconsistency.

Bylaw inconsistent with other legislation

Division 2 - Areas of General Jurisdiction

181. (1) A council may pass bylaws and provide services for municipal purposes respecting

General jurisdiction to pass bylaws and provide services

- (a) the safety, health and welfare of people and the protection of persons and property;
- (b) municipal utilities, public utilities, facilities, works and improvements on private and public land;
- (c) businesses, business activities, and persons engaged in business, including but not limited to the regulation and prohibition of business and business activities;
- (d) with the exception of land owned by the Government of Prince Edward Island, the Government of Canada or a Prince Edward Island First Nation Band, the acquisition of land and improvements by expropriation for municipal purposes, subject to Division 4 of this Part;
- (e) the municipality's acquisition, sale, management, mortgaging, construction, leasing, renting or any other dealings with real property, or any interest in real property including land, buildings, easements or other interests;
- (f) people, activities and things in, on or near a public place or place that is open to the public;
- (g) the construction, demolition, removal or alteration of any building or other structure, including signage, subject to the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, the *Provincial Building Code Act* R.S.P.E.I. 1988, Cap. P-24, the *Highway Signage Act* R.S.P.E.I. 1988, Cap. H-4.1, and any other building standards, codes and regulations adopted or established by the Government;
- (h) subject to the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, transport and transportation systems, carriers of persons or personal property including taxi drivers, vehicles and taxi businesses, and other forms of public transport;
- (i) nuisances, loitering, dangerous or unsightly property, and noise, pollution and waste in or on public or private property;
- (j) subject to the *Cemeteries Act* R.S.P.E.I. 1988, Cap. C-2, the establishment, operation and decommissioning of cemeteries;
- (k) subject to the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9, the *Pesticides Control Act* R.S.P.E.I. 1988, Cap. P-4, or another applicable enactment, vegetation and activities in relation to it, including but not limited to tree preservation and protection and

the development and implementation of maintenance standards for trees and other vegetation;

(l) subject to the *Pesticides Control Act*, the control, health and safety of, and protection from, wild and domestic animals, including insects and birds;

(m) subject to the *Environmental Protection Act*, protection of the natural environment;

(n) the regulation of the discharge of firearms;

(o) parks and recreation;

(p) pension and benefit plans;

(q) community and, in co-operation with neighbouring municipalities or provincial organizations, regional development;

(r) libraries;

(s) the regulation of real property maintenance and the protection of heritage property;

(t) the enforcement of bylaws; and

(u) subject to the *Police Act*, and with the approval of the Attorney General, police services.

Regulating use of streets

(2) Subject to the *Highway Traffic Act* and the *Off-Highway Vehicle Act* R.S.P.E.I. 1988, Cap. O-3, the councils of the City of Charlottetown and the City of Summerside, and any municipality that has been designated under that Act as a traffic authority, may by bylaw regulate the use of motor vehicles or other vehicles, on or off streets, and traffic, parking and pedestrians.

Management and control of streets, etc.

(3) Subject to the *Roads Act*, the councils of the City of Charlottetown and the City of Summerside, and any municipality that owns a street within its municipal boundaries, may by bylaw provide for

(a) the management and control of streets owned by the municipality, including but not limited to temporary and permanent opening and closing of those streets;

(b) the management of sidewalks, boulevards and all real property adjacent to any street, whether publicly or privately owned;

(c) the naming of streets owned by the municipality; and

(d) lighting of streets.

Exercising bylaw making power

182. Subject to this Act and the *Planning Act*, and without restricting the operation of section 181, a council may, in a bylaw passed pursuant to this Act or the *Planning Act*,

(a) regulate, control or prohibit any activity over which it has jurisdiction to make a bylaw;

(b) deal with any development, activity, industry, business, or thing in different ways, divide each of them into classes, distinguish between the classes and deal with each class in different ways; and

- (c) provide for a system of licences, inspections, permits, or approvals, including any or all of the following:
- (i) establishing fees for the activity authorized or for the purpose of raising revenue,
 - (ii) establishing fees that are higher for persons or businesses who do not reside or maintain a place of business in the municipality,
 - (iii) prohibiting any development, activity, industry, business or thing until a licence, permit or approval has been granted or an inspection has been performed,
 - (iv) providing that terms and conditions may be imposed on any licence, permit or approval, the nature of the terms and conditions, and who may impose them,
 - (v) 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,
 - (vi) providing for the duration of licences, permits, and approvals and their suspension or cancellation for failure to comply with a term or condition or the bylaw or for any other reason specified in the bylaw,
 - (vii) authorizing the undertaking of remedial action, and the charging and collecting of the costs of remedial action, for failure to pay a fee or to comply with a term or condition or the bylaw or for any other reason specified in the bylaw.

Division 3 - Water and Sewerage Utilities

183. (1) Where a council provides or proposes to provide a public utility pursuant to clause 181(1)(c), the council shall establish its public utility as a department of the municipality and specify the functions of the public utility. Municipal utility

(2) A council referred to in subsection (1) shall by bylaw authorize the construction, management, maintenance and operation of the public utility in accordance with the *Water and Sewerage Act* R.S.P.E.I. 1988, Cap. W-2. *Idem*

(3) A council shall levy rates or frontage charges in respect of the services of its public utility that are sufficient to cover the costs of providing the services of the public utility in accordance with the *Water and Sewerage Act*. Rates and charges

(4) A complaint in respect of the terms and standards of service, rates, charges or schedules, or any combination of them, of a public utility established under this Part, is subject to appeal to the Commission under the *Water and Sewerage Act* in accordance with that Act. Appeal to Commission

Frontage charge	184. (1) A council may, by bylaw, levy its rates for the services provided by its public utility in the form of frontage charges.
Maximum frontage charge	(2) Where rates are levied by a council for water or sewerage services by means of frontage charges, the maximum frontage of any parcel of land in respect of which rates may be levied is five hundred feet if the parcel qualifies for a farm assessment under the <i>Real Property Assessment Act</i> .
Service deemed to be received	185. For the purposes of this Act, unless a council, by bylaw, provides otherwise, where sewer or water mains run along the land of any person, that person is deemed to receive those services despite the fact that the sewer or water mains are not physically connected by lateral lines to any residence, building or other structure located on the land of that person.
Lien	186. (1) Rates or frontage charges under subsection 183(3) that are overdue and unpaid, and any interest accrued, shall constitute a lien on the real property on which they are levied until payment in full is made.
Priority	(2) The lien referred to in subsection (1) has priority over every claim, privilege or encumbrance against the property of every person, except the Crown, and may be enforced on application to the Supreme Court for an order for the sale of the property.
Interest	187. All overdue and unpaid rates and frontage charges bear interest from the due date at the rate prescribed for real property tax pursuant to the <i>Real Property Tax Act</i> R.S.P.E.I. 1988, Cap. R-5.

Division 4 - Expropriation

Expropriation	188. (1) A council may, in accordance with the provisions of this Part, expropriate any land, or any interest in land, in the municipality, except land or an interest in land that is owned by the Government of Canada, the Government of Prince Edward Island or a First Nations Band, that it considers expedient for a public work or other public purpose.
<i>Idem</i>	(2) A council may, in accordance with the provisions of this Part, expropriate any land, or any interest in land, outside the boundaries of the municipality, except land or an interest in land that is owned by the Government of Canada, the Government of Prince Edward Island, another municipality or a First Nations Band, for use by a municipal utility or public utility as defined in this Act.
Notice of intention to expropriate	189. (1) Prior to expropriating land or an interest in land, a council shall, at a regular public meeting, pass a resolution giving notice of the council's intention to expropriate the land or interest in land, that includes

- (a) a general description of the land;
- (b) the nature of the interest intended to be expropriated;
- (c) an indication of the public work, public purpose or use by a municipal utility or public utility for which the interest is required; and
- (d) a statement that the interest shall be expropriated by the municipality on the registration and filing in the appropriate office of the Registrar of Deeds of a legal description and survey plan of the lands.

- (2) A council may expropriate land or an interest in land only
- (a) pursuant to a resolution considered and voted on at a regular public meeting of council following the meeting referred to in subsection (1); and
 - (b) where at least two-thirds of the council members present vote in favour of the expropriation.
- Requirements

- (3) A council shall ensure that notice of both public meetings is provided by registered mail to the owner of the land to be expropriated.
- Notice of public meetings

- (4) Where a council passes a resolution to expropriate in accordance with subsection (2), the council shall give notice to the owner of the land, and any party known to council to have an interest in the land, by serving on him or her a certified copy of the resolution as passed.
- Copy of resolution delivered to owner

- (5) In this Division, “owner” means an owner as defined in the *Expropriation Act* R.S.P.E.I. 1988, Cap. E-13.
- “owner” defined

190. Where a council passes a resolution under subsection 189(1) giving notice of its intention to expropriate land or an interest in land, the council may authorize a land surveyor licensed under the *Land Surveyors Act* R.S.P.E.I. 1988, Cap. L-3.1, and any person working under that person’s authority, to enter on the land proposed to be expropriated in order to survey the land and prepare a plan and legal description of it.

Power of entry to survey land

191. (1) A certified copy of the resolution referred to in subsection 189(2), the survey plan and a legal description of the land, signed by a licensed land surveyor, the mayor and the chief administrative officer, sealed with the corporate seal of the municipality, shall be filed and registered in the appropriate office of the Registrar of Deeds and, on the filing and registration of the resolution, plan and description, the land or interest in land shall become vested in the municipality for the purposes set out in the resolution.

Filing in registry

- (2) Where a resolution, survey plan or legal description registered pursuant to this section contains any omission, misstatement or erroneous description, a corrected resolution, survey plan or legal description may
- Correction of document

be registered, and on registration, the corrected document shall be deemed to take effect on and from the date of registration of the original document.

Resolution not
invalid

(3) A resolution registered under this section is not invalid by reason only that it does not specify the nature of the interest intended to be expropriated.

Nature of interest

(4) Where a resolution registered under this section does not specify the nature of the interest intended to be expropriated, the interest intended to be expropriated includes all the interest in the land to which the resolution relates.

Conveyance of
expropriated
interest

192. Any land or interest in land that has been expropriated in accordance with the provisions of this Part and has become vested in a municipality pursuant to the operation of section 191, may be conveyed, leased, assigned or otherwise legally transferred by the municipality to any other person in order to better effect the intended purpose of the expropriation.

Buildings etc.

193. Where a council has expropriated land or an interest in land, the council may remove and dispose of all buildings, structures or erections of all types on the land subject to the expropriation, and the proceeds of their disposal shall belong to the municipality.

Compensation

194. (1) Where a council fails to arrive at an agreement with the owner of any expropriated land or any party known to council to have an interest in the land as to the compensation to be paid by the municipality, the council shall, by resolution, determine what amount the municipality considers it should pay for the land.

Delivery of offer

(2) Where council has passed a resolution pursuant to subsection (1), it shall ensure that the chief administrative officer sends by registered mail a certified copy of the resolution to the owner or other party interested in the land whose names and addresses are known to the chief administrative officer, offering the amount stated in the resolution as compensation for the interest expropriated.

Resolution of
disputes

195. Where

(a) the owner or any party known to council to have an interest in the land fails or refuses to accept the sum offered, in accordance with section 194, within twenty days of the receipt of the offer;

(b) the owner or any party known to have an interest in the land is for any reason incapable in law of entering into an agreement regarding compensation money or executing the proper discharge for it; or

(c) any doubt or dispute exists or arises as to the ownership of the land or as to the apportionment of the compensation money among the parties interested or having or asserting any claim or interest in it,

the Supreme Court shall determine the amount of the compensation, the parties to whom the compensation shall be payable and the allotment and disposal of the compensation among the parties found to be entitled to it, on an application by the municipality or the owner or other interested party.

196. (1) A municipality shall provide, on any application to the Supreme Court for the purposes of section 195, Application to
Supreme Court

(a) a certified copy of the resolution of the council for the expropriation of the land or interest in land and the date on which it was passed, together with the legal description of the land, the survey plan and the date on which the resolution, survey plan and legal description were filed and registered in the office of the Registrar of Deeds;

(b) the names of the persons who at either date referred to in clause (a) had any estate or interest in the land, the particulars of the estate or interest and any charge, lien or encumbrances to which it was subject, so far as is known to the council;

(c) a certified copy of the resolution indicating the amount of compensation which the municipality is offering to pay for the land and the date on which it was passed; and

(d) the affidavits of the mayor and chief administrative officer setting out any other facts material to the determination of the question involved in the proceeding known to them.

(2) The municipality or the owner or other interested party making the application referred to in subsection (1) shall give adequate notice of the application to all other interested persons, in accordance with the Rules of Civil Procedure. Notice

197. On hearing the application, the court may Powers of court

(a) make any findings and determinations it considers necessary respecting

(i) the entitlement of any person to compensation, and

(ii) the amount of proper compensation to be paid for the expropriated land or interest in the land; and

(b) allot the compensation among those persons entitled to it.

198. On final disposition of an application under section 195 by the Supreme Court, the municipality shall be free and discharged from all claims, interests, rents, charges, annuities, liens, judgments, mortgages or Municipality takes
free of claims and
interests

any other encumbrance on the land or property or other debts or claims in respect of the land or property.

Abandonment of
expropriation by
resolution

199. (1) Where, at any time before any compensation is paid in respect of expropriated land or an interest in land, a council determines that the land or interest in land is no longer required by the municipality, it may by resolution abandon the land or interest expropriated by filing a certified copy of the resolution in the appropriate office of the Registrar of Deeds and when the resolution is filed the abandoned land or interest in land shall vest in and revert to the respective owners of the land or interest in land at the time of expropriation.

Delivery to owner

(2) On passage of the resolution referred to in subsection (1), the council shall ensure that a certified copy of the resolution as passed is delivered by registered mail to the owner or any party known to council to have interest in the land.

Indemnification

(3) Where any building, structure or other erection has been removed from the land or otherwise disposed of by the municipality and the expropriation is abandoned by the council, the council shall indemnify the owner or any party known to council to have an estate or interest in the land for the removal or disposal, or both, as the case may be.

Division 5 - Local Improvements

Local
improvements

200. (1) A council may undertake any local improvement it considers necessary for the benefit of all or part of a municipality.

Works that may be
local improvements

(2) A local improvement is a work that the council considers to be of greater benefit to an area of the municipality than to the whole municipality, and may include, but is not limited to,

- (a) a local capital project undertaken by a municipality; and
- (b) connections to real property for sewer, drainage, and water mains provided by a municipality.

Proposed local
improvements

201. A council may by bylaw

- (a) authorize a local improvement;
- (b) identify which parcels of land will benefit from a local improvement;
- (c) specify how to determine
 - (i) the total cost of a local improvement, including associated operating and maintenance costs, and
 - (ii) the total cost or a proportion of that cost that is to be levied against each parcel of land that will benefit from the local improvement;

- (d) establish the local improvement charge or fee to be charged against each parcel of land that will benefit over the probable life of the local improvement;
- (e) levy the total cost or a proportion of the cost of a local improvement against the parcels of land that will benefit from the local improvement and provide the means for assessment, collection, and payment of the cost; and
- (f) authorize carrying out the local improvement.

202. (1) The chief administrative officer shall send to all the affected property owners who will be liable to pay the cost of the proposed local improvement a notice that includes

Notice of local improvement

- (a) a summary of the details of the local improvement including the costs, as specified in the bylaw under clause 201(c); and
- (b) the procedure to be followed to object to the local improvement.

(2) A notice sent for the purposes of subsection (1) is deemed to have been received ten days after the date on which it was sent.

Deemed receipt

(3) An affected property owner who wishes to object to the local improvement may file a written objection with the chief administrative officer within 30 days of deemed receipt of the notice sent under subsection (1).

Objection to local improvement

(4) At the end of the 30-day period referred to in subsection (3), the chief administrative officer shall count any objections received.

Objections counted

203. Where the municipality receives one or more objections to a proposed local improvement within the time period referred to in subsection 202(2), the council shall set a time for a public hearing regarding the proposed local improvement and provide notice to the affected property owners of the proposed local improvement in the manner decided by council.

Hearing

204. After a council completes a public hearing required under section 203, the council may

Decision of council

- (a) proceed with the local improvement as proposed or with modifications; or
- (b) rescind the bylaw made under section 201 and not proceed with the proposed local improvement.

205. (1) Local improvement charges or fees levied pursuant to a bylaw made under section 201 that are overdue and unpaid, and any interest accrued, shall constitute a lien on the real property on which they are levied until payment in full is made.

Lien

Priority

(2) The lien referred to in subsection (1) has priority over every claim, privilege or encumbrance against the property of every person, except the Crown.

Division 6 - Services

Ancillary product
may be provided

206. (1) Where a council is authorized to provide a service in the municipality, the council may, if it determines that it is in the best interests of the municipality to do so, make available to the residents of the municipality a product which is ancillary to or compatible with the service provided.

Revenue generation

(2) Council may authorize the municipality to charge a fee for a service or product that it has directed or authorized the municipality to provide under subsection (1).

Funds may be
advanced

207. A council that provides a service or a product that is ancillary to or compatible with a service provided to property owners in the municipality may by bylaw offer a program to advance funds in relation to those products or services, subject to the following criteria:

- (a) only an improved property owned by a taxpayer is eligible;
- (b) the amount borrowed by a taxpayer in respect of each property shall not exceed twenty-five per cent of the assessed value of the property as determined under the *Real Property Assessment Act*, less any local improvement charge or fee payable by the taxpayer in respect of the property; and
- (c) the taxpayer shall comply with or satisfy any other criteria specified in the bylaw, including but not limited to the payment of outstanding liens or other debts owed by the taxpayer to the municipality.

Division 7 - Streets

Title to streets in
city

208. (1) All streets located within the boundaries of the City of Charlottetown or the City of Summerside are vested in that city, as the case may be, and the council of that city has jurisdiction, management and control of them.

Management and
maintenance

(2) A municipality has responsibility for the management and maintenance of all streets owned by it within the boundaries of the municipality.

Title to streets in
towns

(3) Despite clause 1(1)(g) of the *Roads Act*, a town specified in the regulations does not own the streets within the boundaries of the town.

Supervision, control
of streets

209. (1) The council of a city referred to in subsection 208(1) has supervision and general control over the laying out, opening, altering, building, improving, maintenance and repair of all streets in the city.

(2) The council of a municipality referred to in subsection 208(2) has supervision and general control over the laying out, opening, altering, building, improving, maintenance and repair of streets owned by it in the municipality. *Idem*

(3) No person shall, without the approval of the council of a city referred to in subsection 208(1) or a municipality referred to in subsection 208(2), *Prohibition*

- (a) open or authorize the opening of any street in the city or municipality, as the case may be; or
- (b) permit the interconnection of a street or proposed street with another street or municipality, as the case may be.

(4) Prior to granting approval for the opening or interconnection of a street under subsection (3), a council referred to in that subsection shall ensure that all costs associated with the opening or interconnection have been or will be paid by the person who is requesting the opening or interconnection. *Condition*

(5) The council of a city or municipality referred to in subsection (3) may *Agreement*

- (a) enter into agreements with a person respecting the construction of streets and the payment of costs related to the construction; and
- (b) attach any conditions to its approval of construction that it considers appropriate, including a condition requiring conveyance of the street to the city.

(6) Where access to a street has been requested by a person, and the cost of the work has been determined and notice given to the person before the work is undertaken, the council of a city or municipality referred to in subsection (3) may impose the costs associated with the construction, improvement or intensification of use on and collect them from the person who has requested the access. *Access*

210. (1) No person shall cause an obstruction or make an encroachment on a street, or obstruct or encroach on a sewer, drain, ditch, watercourse or public easement on or leading to, from or across a street, in a municipality. *Obstruction and encroachment*

(2) The council of a municipality that owns a street that has been obstructed as referred to in subsection (1) may remove the obstruction at *Removal*

the expense of the person who caused or is responsible for the continuation of the obstruction.

Responsibility for works

211. (1) Subject to the *Roads Act*, where a highway subject to the jurisdiction, management and control of the Minister responsible for that Act is situated in a municipality, the municipality is responsible for maintaining and repairing sidewalks, poles, sewers, waterworks, or other similar municipal works constructed by or under the authority of the municipality on, over or under the highway.

Liability for damages

(2) Subject to this Act, a municipality is liable for any damages arising as a result of the works or structures specified in subsection (1).

Opening a street

212. The council of a municipality that owns the streets in the municipality may open land that it owns for public use as a street by registering at the appropriate office of the Registrar of Deeds a plan that designates the land as a street.

Permanent closing of street in municipality

213. (1) Subject to subsection (3), the council of the City of Charlottetown or the City of Summerside may by bylaw permanently close a street in the municipality.

Idem

(2) Subject to subsection (3), the council of a municipality that owns a street within the municipality may by bylaw permanently close the street.

Notice and hearing

(3) A council that proposes to permanently close a street in the municipality shall give public notice and hold a public hearing respecting the closure before final passage of a bylaw in respect of the proposed closure.

Closure

(4) Following the hearing referred to in subsection (3), a council may pass the bylaw to permanently close the street in the municipality and register a plan that shows the closure at the appropriate office of the Registrar of Deeds.

Part 8

Powers of the Minister

Financial audit

214. (1) The Minister may appoint a person as an auditor to audit the accounts of a municipality, a committee or other body established by a council or a controlled corporation

- (a) at any time when the Minister considers the audit to be needed;
- (b) on the request of the council; or
- (c) where the Minister receives a petition requesting an audit that is signed by at least

- (i) 2,000 electors or 30 per cent of the electors listed in the list of electors for the municipality compiled by Elections PEI. at the date of the petition, whichever is less, or
- (ii) if no list of electors for the municipality has been prepared in the last three years, 15 per cent of the total population of the municipality as shown on the most recent census acceptable to the Minister.

(2) An auditor may require the attendance of any officer of the municipality or any other person whose attendance the inspector considers necessary during the course of the inspection. Authority of auditor

(3) The auditor is entitled to access to the information specified in subsection 176(1) and subsection 176(2) applies to an audit by an auditor under this section. Access to information

(4) An auditor who receives information from a person whose right to disclose that information is restricted by law holds that information under the same restrictions respecting disclosure that govern the person from whom the information was obtained. Privilege unaffected

(5) Where an auditor has been appointed under subsection (1) for a municipality, a committee of a council or a controlled corporation, the municipality is liable to the Minister for the costs of the audit, as determined by the Minister. Municipal liability for costs

(6) An auditor appointed under subsection (1) shall prepare a report that meets the requirements of subsection 174(1) and shall deliver the report to Report of auditor

- (a) the Minister;
- (b) the council;
- (c) the committee or other body established by the council or the controlled corporation that has been audited; and
- (d) the public, in the form and manner directed by the Minister.

215. Where the auditor finds that any disbursement, expenditure, liability, irregularity or other transaction or dealing with the assets, liabilities, accounts, funds and financial obligations of the municipality or other administrative body of the municipality occurred without proper authority under this Act, or under any bylaw or resolution of the municipality, the auditor shall report that finding separately to the Minister. Report of irregularity, etc.

216. (1) The Minister may require any matter connected with the management, administration or operation of a municipality, a controlled corporation or a committee or other body established by a council or a controlled corporation to be inspected Inspection

- (a) at any time when the Minister considers the inspection to be necessary;
- (b) on the request of the council; or
- (c) where the Minister receives a petition requesting an inspection that is signed by at least
 - (i) 2,000 electors or 30 per cent of the electors listed in the list of electors for the municipality compiled by Elections PEI. as of the date of the petition, whichever is less, or
 - (ii) if no list of electors for the municipality has been prepared in the last three years, 15 per cent of the total population of the municipality as shown on the most recent census acceptable to the Minister.

Appointment

(2) The Minister may appoint a person as an inspector for the purposes of carrying out an inspection pursuant to this section.

Costs

(3) The municipality is liable to the Minister for the costs of an inspection, as determined by the Minister.

Authority of inspector

(4) An inspector may require the attendance of an officer of the municipality or of any other person whose attendance the inspector considers necessary for the purposes of the inspection.

Production of records

(5) When required to do so by an inspector, the chief administrative officer, the chairperson of a committee or other body established by a council, the administrative officer of a controlled corporation or chairperson of a committee or other body established by a controlled corporation that is being inspected shall produce for examination and inspection all records of the municipality, committee, other body or controlled corporation.

Report of inspector

(6) After the completion of an inspection, the inspector shall report the results to

- (a) the Minister;
- (b) the council;
- (c) if the inspection is with respect to a committee or other body established by the council, the committee or other body; and
- (d) if the inspection is with respect to a controlled corporation or a committee or other body established by the controlled corporation, the controlled corporation or the committee or other body, as the case may be.

Disclosure

(7) The report provided pursuant to subsection (6), and any information contained in the report, may be disclosed to the public only

- (a) by the Minister, in the form and manner the Minister considers appropriate; or
- (b) the council, with the written approval of the Minister.

217. (1) The Minister may, at any time when the Minister considers it necessary, or on the request of the council of a municipality, order an inquiry into any or all of the following matters:

Inquiry

- (a) the affairs of the municipality, a controlled corporation or a committee or other body established by the council or controlled corporation;
- (b) the conduct of
 - (i) a member of council,
 - (ii) an employee or agent of the municipality,
 - (iii) a member of a committee or other body established by the council, or
 - (iv) a member of a board or an employee of a controlled corporation.

(2) The Minister may appoint a person to conduct the inquiry, and shall determine the person's remuneration and expenses.

Appointment

(3) The municipality is liable to the Minister for the costs of an inquiry, including the remuneration and expenses of the person conducting the inquiry, as determined by the Minister.

Municipal liability for costs

(4) A person appointed to conduct an inquiry under this section has the same powers conferred on a commissioner by *Public Inquiries Act* R.S.P.E.I 1988, Cap. P-31.

Powers

(5) The person appointed to conduct an inquiry shall report the results to

Report

- (a) the Minister;
- (b) the council;
- (c) if the inquiry is with respect to a committee or other body established by the council, the committee or other body;
- (d) if the inquiry is with respect to a controlled corporation, the board of directors of the controlled corporation; and
- (e) if the inquiry is with respect to a committee or other body established by a controlled corporation, the committee or other body.

(6) The report provided pursuant to subsection (5), or any information contained in the report, may be disclosed to the public only

Disclosure

- (a) by the Minister, in the form and manner the Minister considers appropriate; or
- (b) by the council, with the written approval of the Minister.

218. On the request of the Minister, a bank, an agency of a bank or any other financial institution carrying on business in Prince Edward Island shall furnish the Minister with a statement showing

Bank accounts

- (a) the balance or condition of the accounts of a municipality, a committee or other body established by a council or a controlled

corporation that has an account with the bank, agency or institution;
and

(b) any particulars of the accounts that the Minister may set out in the request.

Official
examination

219. (1) In this section, “official examination” means

- (a) an auditor’s report pursuant to section 172;
- (b) an audit pursuant to section 214;
- (c) an inspection pursuant to section 216; or
- (d) an inquiry pursuant to section 217.

Minister’s order

(2) Where, as a result of an official examination or a contravention of a provision of this Act, the Minister determines that immediate action is necessary, the Minister may, by order,

- (a) direct the council to take any action that the Minister considers proper in the circumstances;
- (b) appoint a person to act as a supervisor to monitor the progress of the action ordered by the Minister pursuant to clause (a); and
- (c) specify the remuneration that is payable to the supervisor by the municipality.

Declaration of
disqualification

(3) In addition to the Minister’s powers under (2), where an inquiry under section 217 was requested by a council under subsection 119(5) in relation to a contravention of subsection 119(3) by a member of council or a committee, the Minister may, at the conclusion of the inquiry, declare that the member is disqualified in accordance with subsection 119(5) and dismiss the member.

Supervisor’s report

(4) A supervisor appointed under clause (2)(b) shall provide regular written reports to the Minister with respect to the progress of the action referred to in the order of the Minister pursuant to clause (2)(a).

Authority of
Minister

(5) Where an order of the Minister pursuant to clause (2)(a) is not carried out to the satisfaction of the Minister, the Minister may

- (a) dismiss any member of the council;
- (b) dismiss the council; or
- (c) recommend that the Lieutenant Governor in Council order
 - (i) that money otherwise payable by the Government to the municipality be withheld pending compliance with the Minister’s order, or
 - (ii) that the municipality be declared ineligible, for the period of time specified in the order, to apply for funding programs administered by the Government.

Effect of dismissal

(6) On the dismissal of a council under clause (5)(b) or a member of council under subsection (3) or clause (5)(a), the council or member, as the case may be, is no longer qualified to act for or on behalf of the

municipality or to exercise the powers or carry out the duties vested in the council or member by this or another Act.

(7) On the dismissal of a member of council, the Minister may appoint a person to take the place of the member who has been dismissed for the balance of that member's term of office.

Appointment by
Minister

(8) A member of council who is dismissed pursuant to subsection (5) is disqualified from being nominated as a candidate in any municipal election held in the five years immediately following the dismissal.

Idem

220. (1) On the dismissal of a council under clause 219(5)(b), the Minister shall immediately appoint a person as official trustee of the municipality.

Appointment of
official trustee

(2) Subject to subsection 221(3), an official trustee has all the powers and duties of a duly constituted council.

Powers of official
trustee

(3) Where the Minister has appointed an official trustee for a municipality, the Minister may determine the remuneration and expenses of the official trustee and direct that they be paid by the municipality.

Remuneration

(4) The Minister may require the official trustee to be bonded.

Requirement for
bond

221. (1) The official trustee shall consult with and act on the direction of the Minister concerning the affairs of the municipality.

Requirement to
consult

(2) The Minister may appoint a local committee of not more than 5 electors whom the official trustee may consult respecting the affairs of the municipality.

Local committee

(3) All bylaws passed by the official trustee shall be approved by the Minister before second and final reading.

Ministerial approval

(4) When requested by the official trustee, the employees and volunteers of the municipality and members of the former council of the municipality shall provide to the official trustee all money, securities, evidence of title, books, assessment rolls, tax rolls, bylaws, papers and documents of or relating to the affairs of the municipality in their possession or under their control.

Records, etc. to be
provided to official
trustee

(5) When requested by the official trustee, the directors and officers of any municipally controlled corporation, or other body established by a council, shall provide to the official trustee all documents and records relating to the affairs of the controlled corporation or other body in their possession or under their control.

Idem

(6) The official trustee shall ensure that all amounts realized on the disposal of any assets of the municipality are devoted to the payment of

Disposal of assets

the existing liabilities of the municipality in the manner and to the extent determined by the Minister.

Records of account (7) The official trustee shall ensure that records of account are kept relating to the affairs of the municipality and showing its financial condition, and the records shall be open at any reasonable time to the examination and inspection of the Minister, or any person designated by the Minister.

Statement of financial condition (8) Where requested by the Minister, the official trustee shall provide to the Minister a statement of the financial condition of the municipality, including a statement of its assets and liabilities, and a record of all proceedings relating to the affairs of the municipality.

Election of new council (9) Where the Minister is satisfied that it is appropriate that the affairs of the municipality again be conducted by a council,
 (a) the Minister shall direct the official trustee to commence the process for the election of a new council in accordance with this Act; and
 (b) the appointment of the official trustee shall be deemed to be revoked on the swearing in and assumption of office by a duly elected council.

Idem **222.** (1) The official trustee shall commence the election process within 14 days of receiving the direction from the Minister pursuant to clause 221(9)(a).

Election by acclamation (2) Where in an election under clause 221(9)(a) there are, on nomination day, fewer persons nominated as candidates for office than there are members to be elected, the provisions of subsections 62(3), (4) and (6) respecting election by acclamation apply.

Trustee as municipal electoral officer (3) The official trustee is deemed to be the municipal electoral officer for the purposes of the election of a new council and shall follow the provisions of Part 3 to the extent possible and with any necessary modifications, and in particular shall
 (a) appoint a returning officer and other election officials as necessary to be responsible for the administration of the election;
 (b) establish the time and place for receiving nominations; and
 (c) establish one or more places at which polls shall be held if an election is required and, subject to the regulations, set the hours during which polls shall be open.

PART 9

BYLAW ENFORCEMENT, OFFENCES AND LIABILITY

Division 1 - Bylaw Enforcement, Offences and Penalties

223. (1) A council may, by bylaw, provide for the appointment of enforcement officers for the purpose of enforcing its bylaws and the provisions of this or another Act under which the municipality is given powers of enforcement.

Appointment of officers

(2) A bylaw made by a council pursuant to subsection (1) shall contain provisions that

Required contents of bylaw

- (a) specify the education, experience and training or other qualifications required for an appointment as an enforcement officer;
- (b) specify the powers and duties of enforcement officers; and
- (c) establish a complaint and discipline process with respect to complaints or allegations of inappropriate conduct by enforcement officers, including provisions for
 - (i) an investigation,
 - (ii) a hearing,
 - (iii) disciplinary action resulting from the findings at the conclusion of the hearing, and
 - (iv) an appeal process.

(3) For greater certainty, a council shall ensure that the provisions of a bylaw referred to in clause (2)(c) that deal with an investigation, a hearing and an appeal are not administered by the same persons.

Idem

(4) The chief administrative officer shall appoint all enforcement officers for the municipality and the enforcement officers shall report to the chief administrative officer.

Appointment

(5) Subject to the bylaw, a person may be appointed as an enforcement officer for a municipality pursuant to subsection (2) despite the fact that the person is appointed as an enforcement officer by another municipality.

Idem

224. Unless this Act provides otherwise, a prosecution under this Act or a bylaw shall not be commenced later than six months after the date of the alleged contravention of this Act or the bylaw.

Limitation period for prosecutions

225. A bylaw may be enforced and a breach of the bylaw may be restrained by application by the municipality to the Supreme Court, and the court may grant any of the following remedies:

Remedies for breach of bylaw

- (a) a declaration that an act engaged in or about to be engaged in by a person is or will be a breach of a bylaw;

- (b) an injunction restraining a person from an actual, anticipated, or continuing breach of a bylaw;
- (c) an order directing a person to comply with the requirements of a bylaw and directing that compliance be carried out under the supervision of a named person;
- (d) another order the court considers appropriate.

Procedure for
enforcement

- 226.** (1) A contravention of a bylaw shall be prosecuted
- (a) in accordance with the *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9;
 - (b) in the case of a traffic offence or a ticket issued by a municipality that has established a police department, in accordance with a bylaw passed pursuant to subsection (2); or
 - (c) in the case of a contravention of a bylaw for which a municipal offence ticket may be issued, in accordance with this section and any bylaw made under subsection (3).

Traffic tickets

- (2) The council of a municipality with a police department, may make bylaws
- (a) prescribing the form of traffic ticket to be used for the purpose of laying an information and issuing a summons as provided under clause (1)(b);
 - (b) authorizing the use of any word or expression on a traffic ticket to designate an offence;
 - (c) prescribing the manner in which an information may be laid and a summons may be issued by means of a traffic ticket;
 - (d) prescribing the manner in which a summons issued by a traffic ticket shall be delivered to the person charged with an offence, and the proof of delivery that is required;
 - (e) providing
 - (i) that a summons issued by a traffic ticket may be endorsed with a notice that the person to whom the summons is directed may pay out of court a specified penalty by signing a form of guilty plea, as set out in the bylaw,
 - (ii) that on receipt of the summons with the guilty plea included, a provincial court judge or justice of the peace appointed under the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25, may convict the person to whom the summons is directed of the offence described in the summons, and
 - (iii) that a signature on the prescribed form which purports to be the signature of the person to whom the summons is directed is proof that it is the signature of that person; and
 - (f) respecting any other matter relating to the use of a traffic ticket.

Municipal offence
ticket

- (3) Subject to section 227, a council may make bylaws

- (a) authorizing the issuance of a municipal offence ticket for a contravention of a bylaw;
- (b) authorizing the use of any word or expression on a municipal offence ticket to designate a contravention of a bylaw;
- (c) authorizing and providing for the payment of a penalty out of court for a contravention of a bylaw specified in a municipal offence ticket;
- (d) respecting forms, including the form of a municipal offence ticket; and
- (e) respecting any other matter relating to the use of a municipal offence ticket.

227. A bylaw made under subsection 226(3) may authorize the issuance of a municipal ticket for a contravention of a bylaw only if the bylaw relates to

Contravention of
bylaw

- (a) animal control;
- (b) dangerous or unsightly premises;
- (c) noise or public nuisance control;
- (d) the parking of vehicles;
- (e) planning and development control under the *Planning Act*;
- (f) smoking in or on municipal property;
- (g) pesticide control; and
- (h) any other matter specified in the regulations.

228. (1) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this Part or a bylaw made under this Act.

Obstruction

(2) Every person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine in an amount not less than \$200 and not more than \$5,000.

Penalty

229 Except as otherwise provided in an agreement entered into by a municipality with the Government concerning the collection of fines, every fine imposed for a contravention of a provision of a bylaw of the municipality is an amount owing to the municipality.

Fines

230. (1) The following provisions of the *Summary Proceedings Act* apply with any necessary modifications, including the modifications specified in subsection (2), to proceedings to determine whether a person has contravened a bylaw for which a municipal ticket has been issued:

Application of
*Summary
Proceedings Act*

- (a) sections 3 to 5;
- (b) section 6.1;
- (c) section 7;
- (d) subsections 10(1), (4) to (9) and (11);
- (e) sections 11, 12 and 13.

Modifications	(2) In applying the provisions of the <i>Summary Proceedings Act</i> for the purposes of this Part, the following words and expressions have the following meanings:
enactment	(a) “enactment” means, unless the context indicates otherwise, a bylaw;
issuing officer and officer	(b) “issuing officer” and “officer” mean a person referred to in section 223 or a member of a police department;
offence under an enactment	(c) “offence under an enactment” means a contravention of a bylaw;
offence under any provision of an enactment designated by the regulations	(d) “offence under any provision of an enactment designated by the regulations” means a contravention of a provision of a bylaw designated in the bylaw;
ticket	(e) “ticket” means a municipal offence ticket;
word or expression authorized by the regulations to designate an offence	(f) “word or expression authorized by the regulations to designate an offence” means a word or expression authorized by a bylaw to designate a contravention of the bylaw.
Ticket form	231. A municipal offence ticket shall be issued in the form set out in the bylaw and shall include provision for the information and the summons in respect of the contravention and a record for the person who issues the ticket.
Issuance	232. An enforcement officer who believes on reasonable and probable grounds that a person has contravened a bylaw for which a municipal offence ticket may be issued may issue the municipal offence ticket to that person.
Swearing of information	233. Where an information in respect of a municipal offence ticket is required, it shall be signed by the enforcement officer who issued the municipal ticket and sworn to before a justice of the peace or a provincial court judge.
Penalties on conviction	234. (1) Unless a bylaw provides for a different penalty, a person who contravenes a bylaw is guilty of an offence and is liable on summary conviction to <ul style="list-style-type: none"> (a) a fine in an amount <ul style="list-style-type: none"> (i) not less than \$200 and not more than \$10,000, and (ii) an additional fine in an amount not less than \$500 and not more than \$2,500 for each day or part of a day on which the offence continues after the first day; (b) imprisonment for up to one year; or (c) both a fine in accordance with clause (a) and imprisonment in accordance with clause (b).

(2) Where a court finds a person guilty of a contravention of a bylaw, the court may, in addition to any other penalty imposed, order the person to comply with the bylaw, or a license, permit or other authorization issued under the bylaw. Compliance

(3) Where a contravention of a bylaw continues for more than one day, the person responsible for the contravention is guilty of a separate offence for each day or part of a day on which the contravention occurs. Continuing offence

235. A person is not exonerated from civil liability by reason that the person has been found guilty of an offence under a bylaw. Civil liability not affected

236. (1) Where this or another Act or a bylaw authorizes or requires an enforcement officer or an employee of a municipality to
(a) inspect anything;
(b) remedy anything;
(c) enforce anything; or
(d) do anything required to be done by the municipality,
the enforcement officer or employee of the municipality may, after giving not less than 24 hours' notice to the owner or occupier of land or a building or other structure, take an action specified in subsection (2). Notice for inspection and enforcement

(2) An enforcement officer or employee of a municipality may, on notice in accordance with subsection (1), Powers
(a) enter the land, building or structure referred to in subsection (1) at any reasonable time and carry out the inspection, enforcement or action authorized or required by this or another Act or bylaw;
(b) require that anything be produced to assist in the inspection, remedy, enforcement or action; and
(c) make copies of anything related to the inspection, remedy, enforcement or action.

(3) An enforcement officer or employee of a municipality acting under this section shall display or produce, on request, identification and documentation showing that the person is authorized to carry out the duties specified in clauses (2)(a) to (c). Identification

(4) An enforcement officer or employee of a municipality acting under this section shall not enter a dwelling without a warrant unless the occupant consents to the entry. Dwelling

(5) Despite subsection (1), where, in the opinion of an enforcement officer or employee of a municipality acting under this section, an emergency or extraordinary circumstances exist, the enforcement officer or employee is not required to give 24 hours' notice or enter at a reasonable hour to do the things referred to in subsection (2). Exception

Court authorized inspections and enforcement	<p>237. (1) A municipality may apply to a justice of the peace or a provincial court judge for an order under subsection (2) if a person</p> <ul style="list-style-type: none"> (a) refuses to allow or interferes with the entry, inspection, enforcement or action referred to in section 236; or (b) refuses to produce anything to assist in the inspection, remedy, enforcement or action referred to in section 236.
Issuing of order	<p>(2) On an application under subsection (1), the justice of the peace or provincial court judge may issue any order the justice of the peace or judge considers appropriate, including an order</p> <ul style="list-style-type: none"> (a) restraining a person from preventing or interfering with the entry, inspection, enforcement or action; or (b) requiring the production of anything to assist in the inspection, remedy, enforcement or action.
Order by municipality to remedy contravention	<p>238. (1) Where an enforcement officer or employee referred to in section 236 determines that a person is contravening a provision of a bylaw or this or another Act that the municipality is authorized to enforce, the enforcement officer or employee may, in writing,</p> <ul style="list-style-type: none"> (a) order the person to stop doing something, or to change the way in which the person is doing it; (b) order the person to take any action or measure necessary to remedy the contravention of the Act or bylaw, and, if necessary, to prevent a reoccurrence of the contravention; (c) if authorized by a resolution of council, order the removal or demolition of a structure that has been erected or placed in contravention of a bylaw; (d) state a time within which the person shall comply with the order; and (e) state that if the person does not comply with the order within a specified time, the municipality shall take the action or measure at the expense of the person.
Receipt of order	<p>(2) An order issued pursuant to this section is deemed to have been received by the person responsible for the contravention</p> <ul style="list-style-type: none"> (a) where the order is delivered to the person by personal delivery, on the date of that personal delivery; (b) where the order is delivered to the person by registered mail, on the date stated on the written acknowledgment of receipt; or (c) where a copy of the order is posted on a conspicuous place on the property, on the date the order is posted.
Review by council of officer's order	<p>239. (1) A person who receives a written order under section 238 may, within 7 days after the date the order is received or any longer period that a bylaw specifies, request, in writing, that the council review the order.</p>
Reason for review	

(2) A request for review made pursuant to subsection (1) shall include the reason for the request.

(3) After considering the request to review the order and the reason referred to in subsection (2), the council may Authority of council

- (a) confirm the order;
- (b) vary the terms of the order;
- (c) substitute its own order for the order reviewed; or
- (d) rescind the order.

240. (1) A municipality may take whatever action or measure it considers necessary to remedy a contravention of a provision of a bylaw or this or another Act that the municipality is authorized to enforce, or to prevent a re-occurrence of the contravention, if Municipality
remedying
contravention

- (a) the enforcement officer has given a written order under section 238;
- (b) the order contains the statement referred to in clause 238(1)(e);
- (c) the person to whom the order is directed has not complied with the order within the time specified in the order; and
- (d) either
 - (i) the 7-day period under section 239 respecting a request for a review of the order has elapsed and no request has been made, or
 - (ii) if a request to the council to review the order was made, the review has been done, and the council has ordered under clause (1)(a), (b) or (c) that the municipality shall take the action or measures.

(2) The costs of an action or measure taken by a municipality under this section are an amount owing to the municipality by the person who contravened the provisions of the bylaw or this or another Act and the costs, including any expenses or costs incurred by a municipality in taking the action or measure, and any accrued interest, constitute a lien on the real property that was the subject of the order under section 238. Costs

(3) The lien referred to in subsection (2) has priority over every claim, privilege or encumbrance of every person, except the Crown, against the real property that was the subject of the order under section 238 until payment in full is made. Priority

Division 2 - Liability of Municipalities

241. A municipality that has the authority or discretion to do something is not liable for, in good faith and without negligence, Exercise of
discretion

- (a) deciding to do or cease doing the thing; or
- (b) omitting to do the thing.

Non-liability if acting in accordance with statutory authority	242. Subject to this or another Act, a municipality is not liable for damage caused by anything done or not done by the municipality in accordance with the authority of this or another Act, unless the cause of action is negligence or another tort.
Failure to enforce a bylaw Exception	243. (1) A municipality is not liable for loss or injury resulting from a failure to enforce a bylaw. (2) Subsection (1) does not apply to a failure to perform a duty that is imposed by the bylaw.
System of inspection Exception	244. (1) A municipality is not liable for damage caused by a system of inspection or the frequency, infrequency or absence of inspections. (2) Subsection (1) does not apply if an enactment or bylaw imposes a duty to perform the inspection and the inspection is not performed in accordance with that duty.
Conditions	(3)Where (a) a person agrees, in writing, to conditions relating to the inspection of a thing by a municipality; and (b) the person fails or refuses to meet the conditions agreed to pursuant to clause (a), the municipality may refuse to carry out the inspection or any part of it and the municipality is not liable for any matter in relation to the inspection.
Time limit	(4) A municipality and its employees are not liable for a loss as a result of an inspection or failure to inspect, where the claim is made more than two years from the time when the loss occurred or the person who makes the claim should reasonably have known that the loss occurred.
Inspection not a guarantee	245. An inspection or a system of inspections conducted by a municipality is not a representation, guarantee, warranty, or assurance of the quality or standard of construction of the property, building, facility, structure, service or other thing inspected.
Nuisance actions	246. (1) A municipality is not liable in an action based on nuisance, or on any other tort that does not require a finding of intention or negligence, if the damage arises, directly or indirectly, from streets, sidewalks or the operation or non-operation of (a) a public service or facility; or (b) a dike, ditch or dam.
Exception	(2) Subsection (1) does not apply if the nuisance or other tort (a) unreasonably imposes on one person or some persons a burden that is significantly greater than the burden it imposes on others; and

- (b) the municipality could reasonably have chosen an alternative, having regard to
 - (i) the municipality’s duties and resources,
 - (ii) the public benefits and cost of each alternative, and
 - (iii) the burdens imposed by each alternative.

247. (1) This section does not apply to any road, sidewalk or trail owned by a private person, or any work done on a road, sidewalk or trail by a private person, until the road, sidewalk or trail is owned by or under the direction, control and management of the municipality. Exemption from liability

(2) Unless otherwise provided for in this or another Act, a municipality is not liable for loss or damage sustained in respect of a street, sidewalk or trail unless the street, sidewalk or trail is under the jurisdiction of the municipality. Liability for streets, etc.

(3) A municipality is not liable under this section in respect of acts done or omitted to be done by a person exercising powers or authorities conferred on the person by law, and over which the municipality has no control, if the municipality is not a party to the acts or omissions. Lack of municipal control

(4) A municipality is not liable for damage under this section where the municipality can demonstrate that it had in place

- (a) a reasonable system of inspection which was reasonably followed; or
- (b) a reasonable system of maintenance which was reasonably followed.

Reasonable inspection or maintenance

(5) A municipality is not liable under this section for loss or damage in respect of a street, sidewalk or trail caused by installing, failing to install, or the choice of a wall, fence, guardrail, railing, curb, pavement marking, traffic control device, illumination device or barrier adjacent to or in, along or on the street, sidewalk or trail, except where the loss is caused by the municipality’s failing to replace or repair a guardrail, railing, traffic control device, illumination device or barrier adjacent to, or in, along or on, the street, sidewalk or trail, and the municipality,

- (a) knew or should reasonably have known of the state of disrepair; and
- (b) failed to take reasonable steps to correct the state of disrepair within a reasonable period of time.

Liability for walls, etc.

(6) A municipality is only liable for an injury to a person or damage to property caused by snow, ice, slush or water of any form or kind on or adjacent to a street, sidewalk or trail, where the municipality is grossly negligent. Liability for snow, etc.

248. (1) In this section, “protective services” means Definition

- (a) a fire service, including a voluntary fire service, and the services it provides; and
- (b) police or other emergency response service and the services it provides.

Liability for provision of protective services

(2) A municipality is not liable for loss or damage to a person or property in respect of the provision of protective services unless the municipality is grossly negligent.

Liability insurance

249. A municipality shall carry liability insurance as prescribed by regulation under this Act or required under any other Act.

Protection from personal liability

250. (1) No proceedings for damages shall be commenced, and no liability be found against

- (a) a member of a council or a council committee;
- (b) a municipal employee or officer; or
- (c) a volunteer on behalf of the municipality

for any loss or damage caused by anything said or done or omitted to be done lawfully, in good faith, and without negligence in the performance or intended performance of the person's functions or duties or the exercise of the person's powers under this or any other Act.

Idem

(2) No person shall be personally liable for anything done in reliance in good faith on a bylaw or council resolution which is subsequently declared invalid.

Indemnification by municipality

251. (1) A municipality shall indemnify a current or former member of council, a municipal employee or a volunteer worker acting under the instructions of an employee of the municipality, and the person's heirs and legal representatives, for reasonable costs incurred in a civil, criminal, or administrative action or other proceeding as a result of the actions of that person done in the performance of the person's duties, if the person was substantially successful on the merits in the defence of the action.

Idem

(2) A municipality may indemnify a current or former member of council, a municipal employee or a volunteer worker acting under the instructions of an employee of the municipality, and the person's heirs and legal representatives for reasonable costs incurred in a civil, criminal, or administrative action or other proceeding, as a result of the actions of that person done in the performance of the person's duties, if the person acted in good faith and had reasonable grounds for believing the conduct in question was lawful.

Division 3 - Actions Against a Municipality

252. Except as otherwise provided in this Act and despite any other Act, all actions against a municipality, a member of a council or a council committee, a municipal employee or a volunteer on behalf of a municipality shall be commenced within 12 months after the cause of the action first arose. Limitation Periods

253. (1) In an action against a municipality for loss or damage as a result of the municipality's failure to maintain a street, sidewalk or trail or a public facility, the person bringing the action shall, in writing, notify the chief administrative officer of the municipality of the event on which the claim is based within 21 days after the event. Notice of action involving streets or public facilities

(2) Failure to notify the municipality within the time required by subsection (1) bars the action unless Effect of failure to give notice

- (a) the person making the claim
 - (i) provided notice at the first reasonable opportunity after the time required for providing notice in subsection (1) has expired,
 - (ii) has a reasonable excuse for not providing the notice as required under subsection (1), and
 - (iii) the municipality is not prejudiced by the lack of notice;
- (b) the claim relates to the death or injury of a person as the result of the event complained of; or
- (c) the municipality waives the notice requirement.

254. (1) Where under this Act or a bylaw a notice or other document is required to be served on or sent by registered mail to the municipality or the chief administrative officer, it may be served or sent by leaving it at, or sending it by registered mail to, the office of the chief administrative officer. Service of documents

(2) Where a notice or other document is left at the office of the chief administrative officer as fulfilment of the service requirement under subsection (1), the person with whom the document is left shall sign an acknowledgement of receipt of service. Receipt

255. Where the amount owing on a writ of execution against a municipality together with all costs is not paid to the court within one month after service of the writ on the chief administrative officer, the Minister may Writ of execution against municipality

- (a) withhold sufficient funds from any revenue transfers due to the municipality from the Province to cover the amount due on the writ of execution and costs, and pay the funds to the court; or

(b) take any other action under this Act the Minister considers necessary, including making an order pursuant to Part 8.

Security in court proceedings

256. Where a municipality is ordered to pay into court a sum of money as security for a proceeding, damages or costs, the council of the municipality may borrow the sum of money that is needed for that purpose.

Exemptions from execution

257. (1) Except as otherwise provided for in this Act, the personal and real property of a municipality is exempt from forced seizure or sale by any process of law.

Effect of registration

(2) The registration of any instrument against a municipality under the *Registry Act* or the *Personal Property Security Act* is void unless

- (a) the instrument is a transfer of an interest in the real or personal property of the municipality; and
- (b) the council has authorized the transfer.

Costs in court proceedings

258. In any court proceedings under this Act, costs awarded to a municipality shall not be disallowed or reduced merely because the lawyer in respect of whose service costs are claimed was a salaried employee of the municipality.

Review of Act

259. Within 10 years after this Act comes into force, the Minister shall initiate a review of this Act, and shall do so at least once in each ten-year period following.

Additional Notes:

- The final Municipal Government Act will also contain a Part 10, which will include any transitions and regulations not specifically mentioned in previous parts of the Act, as well as Schedules for Victoria Park and the Summerside Electrical Utility.
- Many aspects of the MGA will be supplemented through the regulations.
- The MGA will replace the *Municipalities Act*, the *Charlottetown Area Municipalities Act*, and the *City of Summerside Act*. The Province also anticipates that the *Municipal Boundaries Act*, the *Municipal Debentures Act*, and the *Store Hours Act* would be repealed upon the coming into force of the MGA.
- The Province anticipates that consequential amendments may be required for several other pieces of existing legislation.

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