

The Municipal Government Act Fact Sheet

Renewing the Municipal Framework

Updated May 20, 2016

Municipal powers are transferred from the provincial government through legislation, specifically the *Municipalities Act*, the *Charlottetown Area Municipalities Act*, and the *City of Summerside Act*. Municipalities may only provide the services which they are specifically granted under legislation. The legislation has not been updated in many years, although the process of review has been underway for 15 years. All municipalities will be subject to the new *Municipal Government Act* (MGA), replacing the 3 current acts.

This summary outlines the principles currently under consideration in the development of the new MGA to provide municipal leaders with an understanding of the scale and scope of the anticipated changes.

The new *Municipal Government Act* (MGA) is designed for municipal governments striving to achieve modern and national standards for good governance, accountability, and transparency.

Foundational Principles

Based on the consultations, discussions and policy reviews undertaken with the *Municipalities Act* Review (2005) and the work of the Commission on Land and Governance (2009), several key principles have guided the development of new legislation:

- Municipal authority and discretion within jurisdiction
- Viability and capacity
- Accessibility, accountability and transparency

Desired Outcomes

The MGA is being designed to offer municipalities the modern tools they need to provide services to their residents and to govern effectively, while integrating governance models and best practices from across Canada:

- Wider scope of authority, more flexibility
- Ability to meet increased expectations
- Accessibility for residents and other stakeholders
- Governance and financial accountability
- Professional administration
- Effective service delivery

Is there a chance for input?

The Province is currently finalizing some concepts and the legislation is being developed.

Advice and input on key concepts are welcome. A consultation schedule will be available soon.

Note: This document has been prepared by the Municipal Affairs Section of the Department of Communities, Land and Environment for general information purposes. This document should not be relied upon as a substitute for specialized legal or professional advice. Please note the *Municipal Government Act* currently remains in draft form and is subject to change.

The new legislation represents a changing municipal framework – the implementation of many aspects of the new model will need to be phased in. The MGA will include transition provisions for some elements of the new Act, and the Province will be seeking municipal advice and input.

How will municipalities be impacted by the new *Municipal Government Act*?

Municipal councils are granted taxation powers, bylaw making and enforcement powers. In return, they have legal obligations for good management, public disclosure and financial accountability. For smaller municipalities, partnerships with neighbouring municipalities may be the key to meeting the new expectations.

The requirements that will have the greatest impact, in the short term, will be:

- Full election process
- Clearer guidelines on how council can govern
- More action by bylaw, including mandatory bylaws
- Minimum services by all municipalities, including more accessibility for residents
- Financial accountability.

Types of Changes under Consideration:

Municipal Authority:

The current draft proposes that all municipalities operate under the same set of rules, with broader areas of jurisdiction. With broader language in areas such as permitted services, the proposed framework provides for a broader and expanded scope of service delivery and action at the municipal level.

The framework will confirm that municipal councils have the rights, powers and privileges of a natural person, and the legislation includes a broad interpretation clause.

Municipal Structure and Services:

The *Municipal Government Act* proposes new processes for the formation of new municipalities and for the restructuring of existing municipalities, including the enablement of provincially-initiated restructuring processes and minimum thresholds for new municipalities.

Under the MGA, communities will be styled as rural municipalities, reducing existing confusion around the ‘community’ term and reinforcing that even the smallest municipalities are local governments.

Elections:

For good democratic engagement, people need more time and more information for elections. All municipal councils will be elected through a full election process, with advance nominations, advance polls, and all day polls. There will also be more options such as electronic voting and mail-in ballots. Electoral wards, where they exist, should be based on the principle of equal representation between wards.

Council Governance:

Current legislation is almost silent on expectations for transparency and accountability for elected mayors and councillors. In future, Council governance will be guided by:

- Codes of conduct and procedural bylaws
- Stronger and clearer conflict of interest guidelines
- Clearer provisions regarding meetings behind closed doors
- Requirements for confidentiality and accountability

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- More consequences for contravening legislation, including criteria for becoming disqualified to hold office.

The MGA will provide more clarity on: when closed meetings are appropriate; how council committees may be structured; and how new procedures such as electronic meetings could be introduced.

There will be more clarity on how the calling, rescheduling, running, and cancelling of meetings would take place, with more flexibility for councils, within a framework of minimum procedures and policies.

Bylaws:

To confirm the transparency and consistent good management of municipal government, Councils typically spell out their practices in bylaws and policies:

- Procedural bylaw
- Tax rate by bylaw
- Grants by bylaw
- Election bylaw
- Access to Information
- Protection of Privacy

Other existing bylaw requirements continue:

- Honorarium / stipends for council
- Utilities

Basic Services:

All municipalities would provide basic services (either by professional staff or by contract):

- Fire Protection
- Municipal Land Use Planning
- Emergency Preparedness and Management

It would not necessarily be expected that all municipalities would provide those services in house; in many cases, these services would likely be delivered through shared programs or by contracting to other municipalities to provide some of the services. Responsibility ultimately rests with each council.

In addition to these specific services, municipalities would have other responsibilities associated with being a local government, such as:

- Access to public services
- Regular Council meetings,
- Municipal office, wheelchair accessible, that is regularly open to the public
- Greater responsibility for record keeping.
- Restrictions on council members as employees or undertaking the duties of an employee (does not include firefighters).
- Conflict of interest and code of conduct standards for employees.

Many of these provisions will be phased in.

Financial Transparency:

Today, many municipalities do not have sophisticated budgeting systems, but financial checks and balances are important. Under the new MGA, all municipalities will:

- Adopt operating budgets, capital budgets, capital plans, and asset management plans.

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Water and sewer utilities, where they exist, would be consistently included in budgeting procedures and in the calculation of municipal debt limits.

The MGA would include expanded options for reserve funds, as well as the extension of financial audits to all municipalities with review engagements by auditors during the transition period.

Under the MGA, the municipal fiscal year would run from April to March instead of the current calendar year. While the Province is committed to moving to a tax credit system for most municipal funding, a change of fiscal year would allow municipal and provincial budgets to align, particularly as they pertain to grants, funding, and any other components that are timed around the provincial year.

Transition – will municipalities have to meet all of these new standards immediately?

Some of the new standards for basic accountability will come into effect immediately, such as the minimum number of meetings and conflict of interest standards.

Others, such as providing minimum services and an office, would include a transition period of 2-5 years or would come into effect after the first elections after the adoption of the new Act. The Province welcomes advice from municipalities on the appropriate form and timeframe for the transitions.

The Province will be developing resources, templates, and models to assist in the introduction and implementation of these measures.

Next Steps

The presentation at the annual meeting of the Federation of Prince Edward Island Municipalities (April 25, 2016) launched the next phase of conversations. It is anticipated that information sessions will be held in different parts of the province, open to local councils in those areas, as well as online consultations, which would be open to the general public as well as the municipal sector.

Both plain language resources and the legislative draft will be made available, as well as resource materials in the form of fact sheets and summaries by subject.

Completion by the fall 2016 session of the Legislature will require significant focus on engagement and final drafting.

Note: Further guides and fact sheets will be developed to assist in the transition to the new *Municipal Government Act* (MGA), with more information on specific aspects of the proposed legislation. Be sure to regularly check the website for updates: www.gov.pe.ca/mapp