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Ontario

The Ontario municipal councillor's guide

Use this guide during your term of office to help you meet your responsibilities to the people in your community.

This guide and is intended to give a summary of complex matters. It does not include all details and does not take into account local facts and circumstances. For example, it includes references to specific sections in legislation, but other provisions of legislation are often relevant. The guide refers to or reflects laws and practices that are subject to change. Municipalities and councillors are responsible for making local decisions that are in compliance with the law such as applicable statutes and regulations. The guide, as well as any links or information from other sources, is not a substitute for specialized legal or professional advice. The user is solely responsible for any use or application of this guide.

Introduction

Your role as a councillor is intricate and involved. You will find yourself dealing with complex and sometimes contentious issues. Even the most seasoned councillor will encounter new questions.

Knowing where to go for information on the roles, requirements and relationships of local government will help you to fulfil your role.

This guide covers topics that are important to know throughout your term of office as a municipal councillor or head of council. It covers the role of council and the councillor, accountability and transparency, governance and law-making in the municipal setting, the fiscal context, land use planning and housing. It can help you meet your responsibilities and the municipality's goals and objectives, and provide continued high-quality service to the residents of your community. The guide also outlines where you can access more information about municipal governance, and gives you tips to help you fulfil your role as a councillor. The guide includes references to specific sections in legislation that can be a helpful starting point when you are considering a particular matter. Keep in mind that other provisions of legislation are often important.

For more information about your particular municipality and your role, consult with staff in your municipality.

Note: City of Toronto councillors

The *Municipal Act, 2001* does not generally apply to the City of Toronto; the City of Toronto is subject to the *City of Toronto Act, 2006*. All references in this guide are to the *Municipal Act, 2001*; the guide does not reference the *City of Toronto Act, 2006*. As many of the issues are similar in both pieces of legislation, the guide should help provide City of Toronto councillors with an understanding of many of their duties and responsibilities. However, please be aware that the legislative sections are numbered differently and, in some cases, there are differences in legal powers or duties.

1. Role of council, councillor and staff

After a few months in office, you may feel overwhelmed by the variety of matters demanding your attention. You may be challenged by complex issues, faced with controversial policies, or receive questions from constituents. Understanding your role as a municipal councillor, as well as the role of council and staff, will help you address these situations. In general, council and staff work together towards the common goal of serving the needs of those who live in the municipality.

One of the first things you could do, if you have not already done so, is develop a general understanding of the *Municipal Act, 2001* (referred to throughout this section as the Act), which is the primary piece of legislation applicable to municipalities. The Act is a legislative framework for municipalities that recognizes municipalities as responsible local governments with a broad range of powers. The Act balances increased local autonomy and flexibility with requirements for improved accountability and transparency of municipal operations.

Councillors may also be required to complete mandatory training as set out in other provincial legislation, including the *Accessibility for Ontarians with Disabilities Act, 2005* and the *Occupational Health and Safety Act*.

Role of council

In Ontario, a council is required to have a minimum of five members, one of whom is the head of council. The role of council is outlined in section 224:

> **224**. It is the role of council,
>
> a. to represent the public and to consider the well-being and interests of the municipality;
> b. to develop and evaluate the policies and programs of the municipality;
> c. to determine which services the municipality provides;
> d. to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
> - d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
> e. to maintain the financial integrity of the municipality; and
> f. to carry out the duties of council under this or any other Act.

In other words, the key responsibilities as a councillor are to support the municipality and its operations while ensuring that the public and municipality's well-being and interests are maintained.

Municipal councils have a broad range of responsibilities and may choose to organize their work using committee structures. Some municipalities may choose to use a committee of the whole structure, while other councils will often have a number of standing committees consisting of councillors only, or advisory committees made up of a mix of councillors and members of the public. These committees carry out the work of council and then report back to council with recommendations. Examples of council committees include: planning, parks and recreation, public works, finance, administration, personnel, etc.

A committee of council is often subject to similar legislative requirements as council under the Act, such as having open meetings.

Role of head of council

Depending on your municipality, the head of council may be called a warden, chair, reeve, or mayor. Whatever title is preferred, the role of head of council as set out by the Act remains the same, as outlined in section 225:

> **225**. It is the role of the head of council,
>
> a. to act as chief executive officer of the municipality;

b. to preside over council meetings so that its business can be carried out efficiently and effectively;
c. to provide leadership to the council;
    - c.1) without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses 224 (d) and (d.1);
d. to represent the municipality at official functions; and
e. to carry out the duties of the head of council under this or any other Act.

As chief executive officer of the municipality, the head of council has special responsibilities, which are set out in section 226.1:

226.1 As chief executive officer of a municipality, the head of council shall,

a. uphold and promote the purposes of the municipality;
b. promote public involvement in the municipality's activities;
c. act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and
d. participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents.

The head of council has a prominent and very public profile. Many citizens within your municipality will have high and often varied expectations for the head of council. The head of council must find a way to balance these expectations and special responsibilities.

Municipal decisions, however, are made by council as a whole. Generally, the head of council does not have any more power than any other member of council to make decisions on behalf of the municipality. Each member of council only has one vote.

Role of the councillor

As a councillor, you have three main roles to play in your municipality: a representative, a policy-maker, and a steward. These roles may often overlap. You will be called on to consider and make decisions on issues that will sometimes be complex and controversial. Many of those decisions will have long-term consequences for your municipality that extend beyond your four-year term of office, and should be made in the context of your municipality's plans for the long-term health and welfare of your community.

Representative role

The representative role of council is clearly indicated in section 224 of the Act. At first glance, the representative role appears to be fairly simple and straightforward. But what does it involve?

On one hand, you were elected by your constituents to represent their views when dealing with issues that come before council. Your constituents have many views and opinions, and you cannot represent all of them, all of the time.

On the other hand, election to office requires you to have a broader understanding of the issues that impact the municipality as a whole. You will have to consider conflicting interests and make decisions that will not be popular with everyone. Generally, evidence-based decisions are made by taking into account all available information.

Working as a team with the rest of council and staff will contribute to making your time on council a success. Disagreements among council members are common, but it is important to remember that you are working towards a common goal.

There is no single, correct approach to the representative role. On many issues you may find that you fall somewhere between two, sometimes opposing viewpoints. You will quickly develop a caseload of citizen inquiries that will need to be further investigated and, if possible, resolved. You may get these inquiries because of your background and interests or because of the issues in your particular ward, if your municipality operates with a ward structure.

Understandably, you will want to try to help your constituents. However, be sure to familiarize yourself with any policies or protocols that your municipality may have for handling public complaints and inquiries, and remember to consult municipal staff.

There may also be circumstances where decisions are made by designated staff who operate at arm's length from the council, and where it could be inappropriate for elected officials to interfere or be seen to be interfering. Examples of this include decisions made by statutory officers such as the clerk, treasurer, fire chief, chief building official or medical officer of health. These individuals may also be acting in accordance with accountability provisions under other pieces of legislation, which may impact their advice to council.

A councillor who has made promises that they cannot keep may lose credibility with the public and strain their working relationship with staff. If your municipality does not have a policy for handling public inquiries, complaints, and frequently asked questions, you may want to consider working with council and staff to develop such a policy. The Ontario Ombudsman encourages the development of local complaints processes, and you may wish to consult the Ontario Ombudsman's tip sheet for developing a local process.

Policy-making role

Council's role in policy-making is important to providing direction for municipal operations. Policy-making is another key council responsibility identified in section 224 of the Act.

Many council decisions are routine, dealing with the ongoing administration of the municipality, but others establish the principles and direction that may determine the municipality's future actions. These are often considered to be policy decisions. Some policies can be specific, such as a by-law requiring dogs to be kept on leashes in public areas, and others can be broader and more general, such as approval of an official plan.

Policy-making may involve a number of steps and requires council to:

- identify an issue that needs to be dealt with
- reach agreement on the facts of the issue, making sure the objectives are met
- give direction to staff to research the issue, identify the available options and report back to council with recommendations
- engage members of the public on the issue and consider their feedback
- consider the information provided by staff, taking into account demands on time, funding and other issues
- make a decision based on the best course of action available and adopt a policy
- direct staff to implement the policy
- work with staff to evaluate the policy and to update or amend it as required

In many cases, council refers a policy issue to a committee of council to take advantage of the committee's expertise in a particular area or to reduce council's workload. A committee of council may follow the same steps outlined above in making policy or making recommendations back to council.

In practice, however, policy-making is sometimes less orderly because of:

- a rapidly changing environment, the complexity of issues facing local government, and the difficulty in singling out problems that require more immediate attention
- differing and sometimes strongly held views by stakeholders and members of the public
- the lack of time to identify all possible alternatives and to conduct detailed research and analysis
- the legal and financial limits on what council may do

- the complexity of implementing policies and developing ways to monitor and evaluate them

Council is the municipality's primary policy-making body. Staff can provide information and advice to help inform council's policy decisions.

Municipal staff are responsible for implementing policies approved by council. As a result, your council may wish to develop appropriate reporting mechanisms so that council can follow implementation progress.

Stewardship role

Council's objectives are to ensure that the municipality's financial and administrative resources are being used as efficiently as possible.

There is a fine line between council's overall stewardship of the municipality and the administration's management of day-to-day activities. Generally, council monitors the implementation of its approved policies and programs, but the practical aspects of its implementation and administration are a staff responsibility.

The chief administrative officer is a discretionary position whose responsibilities are set out in section 229 of the Act.

> **229**. A municipality may appoint a chief administrative officer who shall be responsible for,
>
> a. exercising general control and management of the affairs of the municipality for the purpose of ensuring the efficient and effective operation of the municipality; and
> b. performing such other duties as are assigned by the municipality.

This approach, if chosen, can help separate policy making from policy implementation, with council concentrating on policy making and the chief administrative officer and others implementing the policy.

Before council can monitor and measure the municipality's administrative effectiveness and efficiency, it may wish to become familiar with policies currently in place. With input from municipal staff, council can determine whether the policies are functioning well or if changes are necessary.

As part of this process, council may wish to:

- define corporate objectives and set goals and priorities
- establish clear administrative practices
- provide specific guidelines and directions to staff on the applications of those policies
- delegate appropriate responsibilities to staff (to the extent permitted under municipal legislation)
- establish a personnel management policy that emphasizes the recruitment, hiring, evaluation, training and development of staff
- ensure that policies with respect to most operations of the municipality are in place, with special note to mandatory policies required by the Act
- develop protocols for the flow of information between council and staff; and
- consider establishing a protocol for sharing approaches with other local governments and indigenous communities that share a common interest in community health, culture and economy

To be effective in this stewardship role, council may wish to have processes in place to help ensure that:

- policies adopted by council are being implemented
- staff are administering services and programs as council intended
- rules and regulations are being applied correctly and consistently
- funds are being spent only as authorized, and the municipality's resources (financial and otherwise) are being used appropriately and as efficiently as possible

Establishing and following such policies and guidelines helps council leave the day-to-day details for staff to manage. Council is freer to deal with exceptional situations, ensure that policies are current and listen to issues raised by the public to represent the broader community interest.

Role of staff

A key feature of effective and efficient councils is an understanding of council-staff relations and the role of each. Just as section 224 of the Act outlines the role of council, section 227 sets out the role of staff:

> **227**. It is the role of the officers and employees of the municipality:
>
> a. to implement council's decisions and establish administrative practices and procedures to carry out council's decisions;
> b. to undertake research and provide advice to council on the policies and programs of the municipality; and
> c. to carry out other duties required under this or any Act and other duties assigned by the municipality.

There are some specific legislative provisions that set out the duties of some officers of the municipality, such as the clerk, treasurer, and the chief administrative officer.

To help staff in meeting council's expectations, council could:

- have a policy requiring comprehensive job descriptions for all staff that specify individual duties and responsibilities
- provide clear policy decisions and directions
- develop policies in an open and consistent manner
- adopt policies that complement and reinforce staff efforts to improve administrative operations
- consult with staff before deciding on policies and programs
- make orientation mandatory for new staff
- establish a staff training and development policy

As a councillor, you can also help staff by:

- making yourself aware of the full range of duties and responsibilities of staff
- treating staff respectfully and considerately
- directing inquiries through the appropriate processes established by the municipality
- providing clear direction to staff
- preparing for council meetings (reviewing the agenda, talking to staff about the history and background of issues, and knowing your constituents' situations and concerns)

Staff, in turn, could:

- provide well-organized agendas, with supporting materials
- provide sufficient, timely information and analysis to make council's decision-making easier
- notify council of changes to legislation and programs
- provide advice on policy (including options and recommended actions),identifying the costs and benefits for the community in human and financial terms
- notify council immediately of any unintended or unexpected impacts of policy decisions
- implement council decisions as effectively and professionally as possible

Council-staff relationship and roles

All municipalities should recognize the importance of council-staff relations. Some councils have established programs that require employee input into operational policies and procedures. Programs like this recognize the experience and expertise of staff and encourage communication between management staff and council.

Councils and their administration have different roles within the municipality, but their roles have common goals and purposes.

The relationship between council and staff is a vital component of an effective municipal government. Staff and council rely on one another to move the municipality forward. Both staff and council provide leadership; council provides political leadership, while staff provide leadership in implementing council decisions.

The relationship between staff and council is intertwined and it is important for council members and staff to respect one another's roles so that they can serve the public in an effective and efficient manner.

Council-staff relationship policies

Municipalities are required to adopt a policy on the relationship between members of council and municipal staff. Municipalities have the flexibility to determine the content of these policies.

Sample considerations: council-staff relationships and roles

Municipalities may wish to consider the following, as they develop a council-staff relationship policy:

- the appropriate roles of council, the head of council and other senior municipal officials – some roles are set out in legislation while others may be specific to the municipality, depending on local needs
- job descriptions for all staff, which outline individual duties and responsibilities
- appropriate processes for directing inquiries
- complaint mechanisms
- guidelines for respectful working relationships
- ethical standards
- establishing an ethics executive to promote an ethical and impartial public service
- the reporting relationships between staff members and members of council

Municipalities may wish to consider how their policy on the relationship between council and municipal staff can complement their local accountability framework for council members.

Strategic planning

Strategic planning is a process by which an organization defines its strategy or direction, and makes decisions about allocating its resources – both financial and staff resources needed to pursue this strategy. Through the strategic planning process, a municipal council can develop strategies, goals, objectives and action plans to achieve the future it desires. Once a strategic plan is adopted, a municipality may wish to measure its success over time and review the plan periodically to ensure that it still aligns with current issues, challenges and realities.

There are many strategic plan models that have been adopted by municipal councils. In some municipalities, strategic plans are supported by other service or subject-specific plans that are more detailed. Examples might include: a recreation and culture plan, a transportation plan, a communications plan, or an economic development plan. These may all help to support council towards reaching its end goal and may help to link in policies, financial allocations, project planning and staffing needs.

A strategic plan is forward-thinking and proactive. Once adopted by council, it can be a guide to decision making, project planning and budgeting. If a municipality doesn't know where it is going, how can it make sure that both council and staff are all going in the same direction?

A first step to developing a strategic plan is to identify the current state of your community. This can be accomplished with what is commonly known as a "Strength, Weaknesses, Opportunities and Threats (SWOT) analysis". A successful SWOT analysis should engage the entire community, including municipal leaders, council, senior management, support staff, stakeholders, residents, local boards, the business community, and rural and urban interests.

Components of a strategic plan

A strategic plan could:

- contain a strategic vision developed with community-wide public input, including input from municipal staff
- align and prioritize strategic goals and initiatives with that vision
- align municipal department business plans with the strategic plan
- develop operational and project plans
- ensure that the vision and goals are taken into consideration during budget decisions
- implement operational and project plans, plans, monitor success, measure and report on the results

Once strategic goals have been set, they can be aligned with specific, measurable, assignable, realistic and time-related (SMART) performance measures. These results can be a powerful tool to communicate and operationalize the strategic plan while also providing a way to monitor and evaluate success.

Decisions, both popular and unpopular, are more easily made when considered in the context of your municipality's broader, long-term strategy. A strategic plan is a framework that encourages consistency in municipal decision-making among both councillors and staff. When developed with public input, a strategic plan represents a shared view of the municipality's future and encourages public commitment and support towards achieving it.

Becoming familiar with your municipality's strategic plan is an effective way of understanding both the organization and the broader environment in your community. Your municipality's administrative, financial and planning decisions should reflect and support the strategic plan.

Succession planning

Succession planning is becoming increasingly important as we see baby boomers age and move into retirement. Succession planning is the process of identifying an organization's current and long-term staffing needs and developing internal talent to help meet those needs. For municipalities, succession planning can be carried out to help ensure that when key personnel leave, the municipality can continue to deliver programs and services with minimal disruption.

The succession planning process allows a municipality to predict where critical staffing requirements will be in the organization and provides the time to adjust programs, training, and recruitment to meet these requirements as efficiently and effectively as possible. Succession planning programs can offer challenging and rewarding career possibilities and empower current employees by helping them to develop the skills and qualifications they might need to move into more senior positions.

Succession planning should be linked to the municipality's strategic plan. Without understanding the municipality's strategic vision, it is difficult to develop an effective succession plan that is consistent with organizational objectives.

Sample considerations: succession planning

Councils may wish to consider the following suggestions as they develop a succession plan:

- the scope of the succession planning program (designing a plan that works for your municipality)
- growth expectations for the municipality
- staff/human resource assessment (upcoming retirements, staff interested in skills development and workplace advancement)
- key positions that are integral to the smooth operation of the municipality (chief administrative officer, clerk, treasurer, etc.)
- recruitment and training strategies
- resources to support succession planning

The responsibility for undertaking a succession planning program and preparing a succession plan is generally that of the chief administrative officer/administrator and management staff, under the guidance of council. The responsibility for implementing a succession plan including staff development initiatives rests with council, the chief administrative officer/administrator, management and the employees. It is important to note that a succession plan is not a static document and a municipality may wish to evaluate and revise it regularly.

Helpful considerations: section 1

- Familiarize yourself with what policies or protocols are in place in your municipality for handling issues such as public inquiries and complaints, and the reporting relationship between staff members and members of council. You can consult your municipal policy manual, code of conduct for council and local board members, and municipal staff
- Familiarize yourself with your responsibilities for matters relating to personal privacy and other confidentiality issues, as well as with the relevant legislation and policies
- Remember that the relationship between staff and council is intertwined and it is important for council members and staff to respect one another's roles so that they can serve the public in an effective and efficient manner
- A municipal strategic plan can be an important part of municipal governance and municipalities are encouraged to create them. If your municipality already has a strategic plan, familiarize yourself with it
- All municipalities, if they have not already done so, are encouraged to create an employee succession plan that is aligned with their strategic plan. This can help your municipality proactively identify and plan for staffing, training, and knowledge needs

2. Accountability and transparency

Ensuring accountability and transparency is one of council's roles under section 224 of the *Municipal Act, 2001* (the Act), and is a priority in maintaining public trust. Councillors are, of course, accountable to the public as elected officials. However, it is also important that procedures and policies are clearly set out and accessible, and that the day-to-day operations of the municipality are transparent.

Ontario municipalities and members of council operate under a legislated accountability and transparency framework that include rules for the municipality and rules for members of council and local boards. Local accountability and transparency frameworks consist of a mix of requirements and options.

Key requirements for municipalities include:

- adopting policies related to accountability and transparency specified in section 270 of the *Municipal Act, 2001*
- establishing a code of conduct for members of council and certain local boards, ensuring access to an Integrity Commissioner
- certain *Municipal Conflict of Interest Act* and open meeting requirements

Discretionary options for municipalities include appointing additional accountability officers, such as a municipal Ombudsman or auditor general. Municipalities may also wish to adopt a broader range of local policies than those mandated under section 270 of the *Municipal Act, 2001*.

Adoption of policies

Many municipalities have developed policy manuals to provide a basis for sound decision-making, and to help ensure that policies are implemented and applied in a consistent way. The policy manual is a reference and information source for council, the administration and the public. Because the policies and procedures it contains may cover many of your municipality's functions and responsibilities, a policy manual can also be a valuable training and orientation tool for new councillors and staff.

Section 270 of the *Municipal Act, 2001* requires municipalities to have policies on:

- sale and other disposition of land
- hiring of employees
- procurement of goods and services
- when and how to provide notice to the public
- how the municipality will try to ensure accountability and transparency to the public
- delegation of powers and duties
- the relationship between council members and municipal officers and employees
- the manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality
- pregnancy leaves and parental leaves of members of council

Codes of conduct and other ethical rules

Codes of conduct usually set out expectations and standards for councillor conduct. Codes may help prevent ethical conflicts and help in their resolution, serve as a basis for council orientation and training, and serve as a reference throughout the operation of the council's term.

Municipalities are required to establish codes of conduct for members of council and certain local boards and include the following subject matters in their local codes:

- gifts, benefits and hospitality
- respectful conduct, including towards officers and employees of the municipality or of local boards
- confidential information
- use of municipal or local board property

With the growing importance of accountability and integrity, more municipalities have adopted codes of conduct for members of council and certain local boards. Some have also adopted other procedures, rules and policies

governing the ethical behaviour of those members.

Sample considerations: codes of conduct

It is up to municipalities to decide on the content and style of their codes of conduct for members of council and local boards. At the same time, as noted above, municipalities are required to include certain subject matters in their codes of conduct.

It will be up to municipalities to decide how to develop their codes. Here are some matters that a municipality may wish to consider when developing and reviewing their codes of conduct:

- Working with local boards when developing local board codes of conduct
- Deciding what subjects to include in local codes of conduct (beyond those that are be required by the above-described Minister's regulation)
- Reviewing and updating existing codes of conduct, including consulting with their Integrity Commissioner on an appropriate review cycle and whether to include it in the code of conduct.
- Including rules about accepting and disclosing gifts, benefits and hospitality of a certain monetary value
- Establishing standards of respectful conduct. Some municipalities have included in their codes of conduct specific rules addressing member conduct at meetings, member conduct towards other members, the public and complainants. Some municipalities have also described in their codes what would be considered a disrespectful conduct (for example bullying and harassment)
- Establishing a local process for complaints about a councillor's conduct and addressing matters such as how complaints are to be made, time limits for making a complaint, confidentiality, options for informal resolution, investigation procedures, and reports
- Working with their Integrity Commissioner to help establish an accessible and open complaints process for codes of conduct
- Reviewing how their codes of conduct fit with the other aspects of their local accountability regime, for example how it fits with an existing council-staff relations policy, or the roles and responsibilities of local Integrity Commissioners

Codes of conduct for other municipal officials

Other statutes may also require specific or general codes of conduct relevant to municipal council. For example, section 7.1 of the *Building Code Act, 1992* (BCA) requires municipalities to establish and enforce a code of conduct for the chief building official and inspectors. The BCA outlines the purposes of a code of conduct and requires that a code of conduct outline rules for its enforcement. According to the BCA, purposes of a code of conduct are:

- promoting appropriate standards of behaviour and enforcement actions
- preventing practices which may constitute an abuse of power
- promoting appropriate standards of honesty and integrity

A code of conduct must include policies or guidelines to be used in responding to allegations of a breach and must set out disciplinary actions that may be taken. The *Building Code Act, 1992* also requires the municipality to ensure that a code of conduct is brought to the attention of the public.

Accountability officers

To help support integrity and accountability in public office, municipalities may pass by-laws to establish certain accountability officers. Municipalities are required to provide access to an Integrity commissioner, and may establish a municipal Ombudsman, Auditor General and/or Lobbyist Registrar.

Role of the Integrity Commissioner

Municipalities are required to provide access to an Integrity Commissioner. The Integrity Commissioner's role is to perform, in an independent manner, the functions assigned by council with respect to:

- applying the local codes of conduct for members of council and certain local boards
- applying local procedures, rules, and policies governing the ethical behavior of members
- applying certain *Municipal Conflict of Interest Act* (MCIA) rules to members
- requests for advice from members of council and certain local boards respecting their obligations under:
    - the local code of conduct applicable to the member
    - local procedures, rules or policies governing the ethical behavior of the members
    - certain sections of the MCIA
- providing educational information to the public, the municipality and members of council and certain local boards about local codes of conduct for members and about the MCIA

The Commissioner's functions also include conducting inquiries into requests from council or a local board, a member of council or a board, or a member of the public about whether a member of council or a local board has contravened the applicable code of conduct. If the Commissioner reports that, in their opinion, a member of the council or local board has contravened the code of conduct, the municipality may impose a penalty in the form of a reprimand or a suspension of pay for a period of up to 90 days. It is up to the municipality to decide how to proceed after an Integrity Commissioner's report. Some municipalities have considered measures that may be outside a code of conduct process, such as requesting an apology and/or removing the member from committees

See sections 223.1 to 223.24, and 239.2, and the legislation more generally, for more information about these topics.

Considerations for Integrity Commissioner arrangements

There is flexibility in how a municipality provides for the responsibilities.

A municipality could consider possibilities such as:

- appointing its own Integrity Commissioner and assigning all mandatory responsibilities to that Commissioner
- appointing its own Integrity Commissioner and assigning some of the mandatory responsibilities to that Commissioner, and making arrangements for the remaining mandatory responsibilities to be provided by a Commissioner of another municipality
- sharing an Integrity Commissioner with another municipality, for example across the upper tier
- making arrangements for all of the mandatory Integrity Commissioner responsibilities to be provided by a Commissioner of another municipality

A municipality could also consider assigning additional responsibilities (beyond the mandatory responsibilities) to an Integrity Commissioner.When deciding on the arrangements for an Integrity Commissioner, a municipality may wish to consider a number of things, including among others:

- the anticipated workload of the Integrity Commissioner in the municipality, as well as the workload in other municipalities if the commissioner is shared between them
- a suitable budget for the anticipated workload of the Integrity Commissioner (such as payment or remuneration that the municipality will provide to the Integrity Commissioner)

- how the Integrity Commissioner will remain independent from the municipality
- where and how the public, council and staff will communicate with the Integrity Commissioner, especially if the municipality is making arrangements with an Integrity Commissioner of a different municipality
- how long the Integrity Commissioner is expected to work for the municipality
- what will happen if issues arise with the work arrangements
- the qualifications and skills for an Integrity Commissioner (such as education, experience, knowledge, etc.)

Indemnity for an Integrity Commissioner

An indemnity is often provided through an agreement stating that one person must compensate another for certain costs (for example costs of legal actions).

Municipalities are required to provide an indemnity to an Integrity Commissioner or any persons acting under their instructions for certain defence costs. This indemnity helps protect Integrity Commissioners against certain financial risks related to their duties.

The amount of an indemnity varies on a case-by-case basis depending on the terms of the indemnity and the facts involved. It is up to the municipality to negotiate details of the indemnity with the Integrity Commissioner.

Rules related to Integrity Commissioner activities during elections

There are rules related to regular elections that apply to the Integrity Commissioner's role. For example, there can be no requests made to an Integrity Commissioner for an inquiry about whether a member has contravened the applicable code of conduct starting on nomination day and ending on voting day in a regular election.

For more information about the role of the Integrity Commissioner see sections 223.3 to 223.8 of the *Municipal Act, 2001* and the legislation generally, as well as the *Municipal Conflict of Interest Act*.

Other accountability officers

To help support integrity and accountability in public office, municipalities may pass by-laws to establish the following:

- A municipal Ombudsman. The municipal Ombudsman investigates, in an independent manner, decisions and recommendations made and acts done in the course of the administration of a municipality, certain local boards and certain municipal corporations. The municipal Ombudsman is a separate office from the Ontario Ombudsman, who also has a role with respect to municipalities.
- An Auditor General. The Auditor General helps council in holding itself and municipal administrators accountable for the quality of stewardship over public funds and achieving value for money in municipal operations. The Auditor General must perform their duties in an independent manner. The Auditor General's responsibilities do not include the responsibilities of the municipal auditor.
- A lobbyist registry and registrar. A municipality may appoint a lobbyist registrar who performs, in an independent manner, the functions assigned by the municipality with respect to the lobbyist registry and other related matters.
- A closed meeting investigator. A municipality may appoint an investigator who investigates, in an independent manner, complaints about closed meetings. Should a municipality not appoint an investigator, the Ontario Ombudsman is the closed meeting investigator, by default, for the municipality. See section 239 and other sections of the Act to find out more about closed meeting rules.

Municipal Conflict of Interest Act matters

The *Municipal Conflict of Interest Act* (MCIA) sets out ethical rules for council and local board members if they have certain pecuniary (financial) interests in a matter that is before their council or local board at a meeting. For example, a member may have to take steps if they are present at a council or local board meeting where that member's land will be discussed.

The possible penalties for contravention of the MCIA include:

- reprimand
- suspension of pay for a period of up to 90 days
- restitution
- removal from office

The courts decide whether or not a contravention of the MCIA has taken place.

A member with a financial interest is required – with certain exceptions – to:

- disclose the interest and its general nature before the matter is considered at the meeting
- not take part in the discussion or voting on any question in respect of the matter
- not attempt to influence the voting before, during, or after the meeting
- immediately leave the meeting, if the meeting is closed to the public

If a member of a council or local board has a financial interest in a matter, the MCIA generally prohibits them from using their office to attempt to influence decisions or recommendations being considered by municipal or local board employees (or by persons with authority delegated from council). For example, a member with a financial interest in a matter could not, in most instances, try to influence a decision or recommendation of a municipal employee who is considering the matter.

A member who discloses a financial interest at a meeting is required to file a written statement of their interest, either at the meeting or as soon as possible afterwards. (This is in addition to the existing requirement for the clerk or secretary to record members' declarations of interest in the meeting minutes.)

Municipalities and local boards are required to establish and maintain a registry of statements and declarations of interests of members and make it available for public inspection. The registry helps increase transparency by providing a compilation of written statements and declarations in one place.

Integrity Commissioner role in *Municipal Conflict of Interest Act* matters

Local Integrity Commissioners may investigate a complaint from an elector or a person demonstrably acting in the public interest concerning an alleged contravention of MCIA rules that apply to members.

After completing an investigation, an Integrity Commissioner may decide to apply to a judge for a determination as to whether the member has contravened the MCIA. If an Integrity Commissioner decides not to apply to a judge, the person who made the complaint may still do so.

See the *Municipal Conflict of Interest Act* and section 223.4.1 of the *Municipal Act, 2001* for more information.

The Ontario Ombudsman

The Ontario Ombudsman has a role with respect to municipalities. This role builds on the local accountability and transparency framework in the *Municipal Act, 2001*. The role is in addition to the Ontario Ombudsman's role as the default meeting investigator for municipalities that have not appointed a local meeting investigator.

The Ontario Ombudsman supports transparency in government and may recommend improvements.

The Ontario Ombudsman may investigate municipalities on complaint or on the Ombudsman's own initiative. Although the Ontario Ombudsman may investigate, they cannot compel municipalities to take action. The Ombudsman may make recommendations to council and the municipality as part of their report. It is up to the municipality whether and how to address any recommendations made by the Ombudsman.

It is up to the Ombudsman how to respond to complaints. For example, the Ontario Ombudsman's practice is to investigate complaints made to local integrity officers (for example, a local Ombudsman) only after the local complaint processes are completed.

The Ontario Ombudsman does not replace locally established complaint mechanisms or act as an Integrity Commissioner for municipalities. Local integrity officers and municipal codes of conduct are an important part of Ontario's local accountability framework.

Certain local boards (for example, police services board and children's aid societies) may be exempted from the Ontario Ombudsman's oversight. For more information, see *Ontario Regulation 114/15* under the Ombudsman Act and the legislation generally.

For more information on the Ontario Ombudsman, including their processes, please see the *Ombudsman Act* and the Ontario Ombudsman's Website.

Privacy and confidentiality

Personal privacy and other confidentiality issues are an important practical and legal consideration for municipal councillors and staff.

The *Municipal Freedom of Information and Protection of Privacy Act* is the primary statute for privacy and confidentiality. It sets out rules for collection, use and disclosure of personal information. According to these rules, councillors (and staff), in most circumstances, would protect personal privacy and only collect, use and disclose personal information in accordance with those rules. For example, depending on circumstances, councillors and staff may or may not be authorized to obtain personal information in the course of their duties. This might mean that at times councillors could not obtain this kind of information from staff.

Municipal freedom of information legislation also regulates confidential information of other kinds (in addition to personal information). Other statutes and laws (including local by-laws) also regulate personal and other kinds of confidential information.

Councillors who may have received personal or other confidential information in the course of their duties will have related responsibilities, such as protecting and safeguarding the information. Councillors may wish to check with municipal staff about appropriate measures and the municipality's practices (for example, providing for physical security to help prevent unauthorized disclosure or loss of confidential information).

Helpful considerations: section 2

- Familiarize yourself with the municipality's policy manuals to help with appropriate decision-making
- Familiarize yourself with the municipality's code of conduct for council members, and work with council members to make updates to your code of conduct if necessary
- Familiarize yourself with the *Municipal Conflict of Interest Act*, which sets out a primary set of ethical rules for council and local board members regarding pecuniary (financial) conflicts of interest
- Familiarize yourself with the role of the Ontario Ombudsman to better understand that role in connection with municipal matters

- Familiarize yourself with your other responsibilities, for example matters relating to personal privacy and other confidentiality issues

3. Meetings

Many of your municipality's important affairs are handled at council meetings. This section provides some important information about holding meetings, setting procedures for meetings and tips you may wish to consider when making decisions about how you conduct council business.

Importance of council meetings

Generally, the powers of your municipality must be exercised by council through by-law. By-laws are passed at council meetings. Council and local board meetings must generally be open to the public and it is a good practice to conduct business in a transparent and accountable way. Central parts of council decision making – including deliberation and voting – take place there. It is important that council meetings be properly called and organized, and that proper procedures are followed.

The effective and efficient conduct of meetings can help move the business of council along in a timely manner. One of the roles of the head of council is to act as the presiding officer (sometimes called chairperson) at council meetings, although council may assign this duty to another member of council with the consent of the head of council. The presiding officer is often responsible for following the agenda, preserving order and enforcing any rules of procedure council may have adopted.

Sample considerations: effective council meetings

Presiding officers (and other members) may wish to consider the following suggestions to help in chairing meetings more effectively:

- be aware of the rules of procedure, be timely, be impartial
- prepare for the meeting by reviewing the entire agenda package
- recognize that the presiding officer is a member of council:
    - they may be able to vote on questions being addressed by council
    - they may wish to temporarily step down as presiding officer during a meeting to debate an item on the agenda
    - the role may include communicating decisions that are made by council as a whole

Procedure by-laws

Every municipality and certain local boards must pass a procedure by-law to govern the calling, place and proceedings of their meetings and meetings of certain committees. The content of the procedure by-law is generally up to the council or the local board.

Notice

Municipalities are required to provide for public notice of meetings in their procedure by-laws. Notice of meetings is an important factor in strengthening municipal accountability and transparency, and encouraging public participation in local government decision making.

Sample considerations

If your council or local board is reviewing the provisions related to public notice of meetings in its procedure by-law, it may wish to consider matters such as:

- the posting of meeting notices with sufficient information to help the public in understanding the purpose of the meeting, what will be discussed and when and where the meeting will be held
- the posting of notices of meetings and agendas on websites in advance of meetings

Special meetings

The *Municipal Act, 2001* provides for special meetings to be called in certain circumstances, subject to the municipality's procedure by-law. For example, the clerk might call a special meeting upon receipt of a petition from a majority of councillors or the head of council might want to call a special meeting in the event of an extreme weather event. Some municipalities have established a minimum notice period for holding special meetings, requiring that the time, location and purpose of the meeting be clearly stated in the notice.

For more information regarding procedure by-laws, please see section 238 of the Act.

Definition of a meeting

Council meetings are customarily either regular or special. Although the frequency of regular meetings is up to council, they are usually held at regular intervals and at locations set out in the procedure by-law. An exception is the date of council's first meeting after an election, which cannot be held later than 31 days after the term of council begins, at the time set out in the municipality's procedure by-law.

For the purposes of certain meeting rules, the Act now provides that a "meeting" means any regular, special or other meeting of a council, of a local board or of a committee of either of them, where,

a. A quorum of members is present
b. Members discuss or otherwise deal with any matter in a way that materially advances the business or decision-making of the council, local board or committee

A common challenge identified by municipalities is the point where a gathering becomes a "meeting" for the purposes of meeting rules in the *Municipal Act, 2001*.

The inclusion of quorum in the definition of "meeting" helps provide greater certainty to local elected officials – like you – when engaging with other councillors informally outside of the council chambers. As well, the updated definition of meeting provides clarity that a certain level of progress must be made on a council matter to be considered a meeting (that is not a social discussion regarding personal matters).

Sample considerations

The definition is not the complete picture, however. When your council or board is making its decision about whether a gathering of its members is a "meeting" for the purposes of the meetings rules in the Act, it may wish to keep in mind the following important considerations in mind:

- is the subject matter of the meeting something traditionally municipal or something municipalities make decisions about?

- how many members are present?
- did the attendees take a position on, or agree or disagree with, an item of council business?
- are municipal resources being used?
- are municipal staff present and what is their role?
- is the municipal decision-making process transparent?
- how are members participating (e.g. in person, email, teleconference)?

In addition, it is possible that a gathering of council or board members may be a "meeting" for the purposes of the meetings rules in the Act whether or not the gathering:

- was called a "meeting" or some other term (e.g. "'workshop")
- followed formal procedures
- took place on municipal premises or happens within or outside the municipality

Record keeping of municipal meetings

The clerk (in the case of a council meeting) or the appropriate officer (in the case of a meeting of a local board or committee) is required to record, without note or comment, all resolutions, decisions and other proceedings at a meeting of the body, regardless of whether the meeting is open or closed to the public.

Open and closed meetings: public business

The *Municipal Act, 2001* includes provisions related to the transparency and accountability of council as well as certain local boards and committees, including the conduct of meetings. Transparent decision-making processes may be seen as part of foundation of the good municipal governance.

A key transparency rule for municipalities is the requirement that most municipal meetings be open to the public. There are limited exceptions where a closed meeting can be held. Open meeting rules recognize the importance of transparency in local decision-making.

As a result of changes made to the Act, there are now additional reasons for which meetings may be closed.

Balancing transparency and confidentiality

As discussed previously in this chapter, it is a good practice to conduct business in a transparent and accountable manner and that municipal meetings be open to the public, subject to certain exceptions.

In other words, municipalities are encouraged to consider openness and transparency to be appropriate in most circumstances, including when making decisions about whether or not to close a meeting. There will be times, however, in the course of business where information should, or even must, be kept confidential.

Closing a meeting

A meeting or part of a meeting may be closed to the public if the subject matter being considered is:

- the security of the property of the municipality or local board
- personal matters about an identifiable individual, including municipal or local board employees
- a proposed or pending acquisition or disposition of land by the municipality or local board
- labour relations or employee negotiations
- litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board
- advice that is subject to solicitor-client privilege, including communications necessary for that purpose

- a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act
- information explicitly supplied in confidence to the municipality or local board by Canada, a province or territory or a Crown agency of any of them
- a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization
- a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value
- a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board

A meeting or part of a meeting shall be closed to the public if the subject matter being considered is:

- a request under the *Municipal Freedom of Information and Protection of Privacy Act*, if the council, board, commission or other body is the head of an institution for the purposes of that Act, or
- an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ontario Ombudsman, a municipal Ombudsman, or meeting investigator

Closing a meeting for education and training

A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

- the meeting is held for the purpose of educating or training the members
- at the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee

Meeting investigations

If a member of the public believes that a meeting or part of a meeting has been closed improperly, they may request that an investigation be conducted by a meeting investigator appointed by the municipality.

If your municipality has not appointed a meeting investigator, the Ontario Ombudsman may conduct a meeting investigation. For more information about the Ontario Ombudsman's Office see their website, where you can find reports and other materials.

If, after making an investigation, the investigator is of the opinion that the meeting or part of the meeting was closed improperly, the investigator shall report their opinion and the reasons for it to the municipality or local board, as the case may be, and may make such recommendations as he or she thinks fit.

The Act now requires a municipality or local board to pass a resolution stating how it intends to address a report provided by a meeting investigator, where the investigator reports their opinion that a meeting appears to have been closed contrary to the open meetings provisions of the Act or a procedure by-law.

Quorum

A quorum is the minimum number of members needed to conduct business at a meeting. Generally (there are exceptions), a quorum is a majority of members. Electronic participation of members may count towards quorum if the procedure by-law allows it. For additional information about quorum, please see section 237 of the *Municipal Act, 2001*.

Quorum may be affected if a member declares a pecuniary (financial) interest in a matter being considered at a meeting. If a member is required to declare a pecuniary interest in a matter at a meeting, the member cannot vote (or participate generally) with respect to the matter. For more information about a member's duties in this regard, please see the *Municipal Conflict of Interest Act*, particularly section 5, and the accountability and transparency section of this guide.

If there is not a quorum of members for a meeting because of inability to participate the *Municipal Conflict of Interest Act* makes the remaining number of members at the meeting a quorum. The remaining number must not be less than two. An application to court to address the matter may be possible if the remaining number of members is less than two. For more information regarding a remedy for lack of quorum, please see the *Municipal Conflict of Interest Act*, particularly section 7.

If council is unable to hold a meeting for a period of 60 days or more, because of a failure to obtain a quorum, the Minister of Municipal Affairs and Housing may declare all the members' seats vacant and a by-election shall be held (see section 266 of the *Municipal Act, 2001* for more information.

Electronic participation in meetings

The *Municipal Act* allows members of councils, committees and certain local boards to:

- participate in open and closed meetings electronically
- count members participating electronically for purposes of quorum (the minimum number of members needed to conduct business at a meeting)

These provisions are optional. Municipalities can choose whether they wish to use these provisions and incorporate them in their individual procedure by-laws.

What a municipality can do

To allow electronic participation, municipalities can either:

- amend their procedure by-law during a regular meeting
- hold a special meeting to amend their procedure by-law

During this meeting, municipalities can count members participating electronically for the purposes of quorum.

Municipal councils, committees and boards can amend their procedure by-laws to:

- allow electronic participation in meetings
- state whether members can participate electronically in both open meeting and closed meetings
- state whether members participating electronically count towards quorum

It is up to municipalities to determine:

- whether to use these provisions
- the method of electronic participation
- the extent to which members can participate electronically (for example, whether all council members can participate electronically or whether some still need to participate physically in council chambers)

Technology to use for electronic meetings

Municipalities, their boards, and their committees can choose the technology best suited to their local circumstances so that:

- their members can participate electronically in decision-making
- meetings can be open and accessible to the public

Municipalities may want to engage with peers who have electronic participation in place to find out about best practices as they revise their procedure by-laws.

Electronic meetings and open meeting requirements

If a municipality amends their procedure by-law to allow people to participate electronically, meetings must still follow existing meeting rules, including that the municipality:

- provides notice of meetings to the public
- maintains meeting minutes
- holds meetings open to the public (subject to certain exceptions)

The *Municipal Act* specifies requirements for open meetings to ensure that municipal business is conducted transparently, and with access for and in view of the public. There are limited circumstances under the *Municipal Act* when municipal meetings can be conducted in closed session.

Electronic meetings rules for local boards

The following local boards are subject to the meeting rules in the *Municipal Act*:

- municipal service boards
- transportation commissions
- boards of health
- planning boards
- many other local boards and bodies

Some local boards may not be covered. For example, police service, library and school board meetings have different rules, which are found in other legislation.

Municipalities are best positioned to determine whether a local entity is considered a local board. If in doubt about whether a local entity is covered under these rules, municipalities can contact their local Municipal Service Office and can seek legal advice about:

- the status of local entities
- whether the provisions about electronic meetings apply to them

Voting by proxy

Municipalities have the flexibility to allow for proxy votes for municipal council members who are absent. This authority helps ensure that constituents' interests continue to be represented when a member cannot attend in person for reasons including:

- illness
- a leave of absence
- the need to practice physical distancing

Municipalities that wish to allow for proxy voting must amend their procedure by-laws so that a council member can appoint another member of the same council to act in their place when they are absent.

What a municipality can do about voting by proxy

Allowing proxy voting is optional. Each municipality can determine whether they allow proxies for council members and under what circumstances. If a municipal council chooses to allow proxy voting, it is up to each member to decide if they wish to appoint another council member as a proxy when they are absent.

Some considerations

Municipalities have the flexibility to determine the scope and extent of proxy appointments and may wish to consider:

- how to establish and revoke proxies
- circumstances around when to use or not use proxies
- ways proxyholders may participate in a meeting, including voting, speaking or asking questions on behalf of the appointing member
- other rules and limitations

If a municipality chooses to allow proxy voting, the municipal clerk is responsible for establishing a process for appointing and revoking proxies. Municipalities may consider addressing voting by proxy in their code of conduct or other local policies to help ensure that votes are cast appropriately and that the local process is followed.

Once a proxy has been appointed, the appointing member can revoke the proxy using the process established by the municipal clerk.

Limitations for voting by proxy

The act sets out limits to the proxy appointment process, including:

- a proxyholder cannot be appointed unless they are a member of the same council as the appointing member
    - for upper-tier municipalities, this means that a proxyholder must be a member of the same upper-tier council as the appointee, regardless of lower-tier membership
- a member cannot act as a proxyholder for more than one council member at a time
- an appointed proxy is not counted when determining if a quorum is present
- a member appointing a proxy must notify the municipal clerk of the appointment in accordance with the process established by the clerk
- when a recorded vote is taken, the clerk shall record both:
    - the name and vote of the proxyholder
    - the name of the absent member of council for whom the proxyholder is acting

Absence longer than three months

Other existing rules for council member absence rules still apply. A member’s seat would become vacant if they are absent from council meetings for three successive months without being authorized by a resolution of council.

Accountability and transparency rules for voting by proxy

Members who appoint proxies or act as proxyholders are required to follow existing accountability and transparency requirements. For example, if a member has a pecuniary interest in a matter under the *Municipal Conflict of Interest Act*, they may not appoint a proxy or serve as a proxyholder. Municipalities may also consider transparency measures such as:

- informing the public about which members have appointed a proxy or are serving as a proxy

- publishing meeting agendas in advance so that proxies can be appointed, if needed and potential conflicts of interest can be identified
- allowing members who cannot attend meetings in person to participate electronically rather than appointing a proxy

Learn more about existing accountability and transparency requirements, including the *Municipal Conflict of Interest Act*, codes of conduct and the role of the local integrity commissioner.

Helpful considerations: section 3

- Generally, the powers of your municipality must be exercised by council through by-law.
- Procedure by-laws govern the calling, place and proceedings of meetings. The content of the procedure by-law is generally up to the council or local board, as the case may be.
- Municipalities and certain local boards and committees are required to record, without note or comment, all resolutions, decisions and other proceedings of the council, regardless of whether the meeting is open or closed to the public.
- All meetings of council, and certain local boards and committees, must be held in open session with limited exceptions.
- If a member of the public believes that a municipality has closed a meeting improperly, they can put forward a request for an investigation by the appropriate meeting investigator. Meeting investigators are responsible for investigating complaints about whether a municipality or local board has complied with the meeting rules under the Act or the relevant procedure by-law.

4. Municipal government

A municipality is defined in section 1 of the *Municipal Act, 2001* as a "geographic area whose inhabitants are incorporated." There are 444 municipalities in Ontario, all of which play an important role in providing and delivering valuable programs and services to meet the needs of their residents.

In addition to municipalities, there are a number of local and special-purpose bodies, such as school boards, health units, library boards and conservation authorities, with responsibility for public services at the community or regional level.

In northern Ontario, most of the population lives in municipalities, but most of the land mass is "unorganized territory," that is, areas of the province without municipal organization. Local services boards and local roads boards have been created to deliver basic community services to the residents in some of the areas without municipal organization.

Your day-to-day activities as a council member will often involve working with local boards and commissions, other municipalities, other levels of government and various municipal associations. All of these bodies play a part in the functioning of local government. For example, some councils or groups of councils regularly have joint meetings with councils of neighbouring Indigenous communities to partner on issues of mutual interest and benefit.

This section will provide you with a general description of municipal government structures and services. It will also describe the links between municipalities and other players associated with the local sector. For more detailed information, you may wish to consult other materials located on the Ministry of Municipal Affairs and Housing website.

Section 2 of the Act provides that "municipalities are created by the Province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction, and each municipality is given powers and duties under this Act and many other Acts for the purpose of providing good government with respect to those matters."

Municipal roles and responsibilities

The Act is a framework document for municipal government, and provides a foundation for municipal powers, structures, and governance.

Authority for important municipal activities can also be found in many other acts, including the *Planning Act*, the *Building Code Act, 1992*, the *Housing Services Act, 2011* the *Police Services Act*, the *Fire Protection and Prevention Act, 1997*, the *Emergency Management and Civil Protection Act*, the *Municipal Elections Act, 1996*, and the *Ontario Works Act, 1997*, which are all administered by the provincial government.

It is important to note that some municipal services are mandatory (they must be provided) while others are optional (council can decide whether or not to provide them).

The types of services delivered by a municipality may also depend on whether the municipality is part of a two-tier system. In a two-tier system of municipal government, there are lower-tier municipalities (local) and an upper-tier municipality (a county or region). In this type of system, some services are delivered by the upper-tier municipality. Upper-tier municipalities often co-ordinate service delivery between municipalities in their area or provide area-wide services.

It is important to look at the governing legislation to determine whether a service is to be provided by the upper-tier or lower-tier municipality or both. In many cases, services are assigned by legislation to upper or lower-tier municipalities either exclusively or non-exclusively. Waste management is a good example. Certain upper-tier municipalities are exclusively responsible for waste management matters, except for waste collection. In some cases, responsibility can be shared by both levels of local government. Both upper-tier and lower-tier municipalities, for example, can provide parks and other recreational facilities.

Certain responsibilities set out in the Act may be transferred from one tier to the other with triple majority approval. This is when an item has the approval of both a majority of members on the upper-tier council, and a majority of the lower-tier municipal councils representing a majority of all the electors in the upper-tier municipality. As a citizen and a taxpayer, you have some idea of municipal functions. However, as a councillor, you may wish to deepen your knowledge of municipal functions and become familiar with the programs and services that your municipality does or does not provide. If your municipality is part of a two-tier structure, you may wish to know the responsibilities of the upper-tier and lower-tier municipalities in your area.

Service managers

Some municipalities act as service managers (SMs). Generally, these are the municipalities that are designated as service delivery agents for Ontario Works (social assistance), childcare, and social housing. Municipalities that are service managers may also have special responsibilities for land ambulance and other matters. Consolidation of such services helps them to be planned and administered regionally, even in areas not served by two-tier systems.

In addition, in northern Ontario, there are currently ten District Social Services Administration Boards (DSSABs) that are designated as service managers providing certain services.

Many municipalities designated as service managers are upper-tier municipalities; however, some are single-tier municipalities. A service manager's service area may or may not be within the service manager's municipal

boundaries. Instead, it may follow current or historical upper-tier boundaries and may include separated municipalities within the boundaries.

It is important for all councillors to know and understand the role and interests of the service manager.

As a councillor, you may wish to keep a list identifying the service manager and other organizations providing services to the public or to the municipality for your area.

Municipal restructuring

This section will provide you with a general overview of the municipal restructuring process.

The principal forms of municipal restructuring are annexations and amalgamations. In an annexation, municipal boundaries are changed by, for example, transferring jurisdiction for land from one municipality to another. Amalgamations are mergers of neighbouring municipalities.

In northern Ontario, unincorporated territory can be annexed to an adjacent municipality.

The Act (sections 171 to 173) sets out a process for locally developed proposals for municipal restructuring, including both annexations and amalgamations. A locally developed restructuring proposal is implemented by an order of the Minister of Municipal Affairs and Housing, at the Minister's discretion (for more detail on the powers of the Minister in implementing a restructuring proposal, see *Ontario Regulation 204/03*.

The Minister or municipalities in northern Ontario may also request that the Ontario Land Tribunal consider various types of municipal restructuring proposals involving unincorporated territory.

Any future proposed development on lands proposed to be annexed would have to comply with the requirements of the *Planning Act* and any other applicable legislative or regulatory requirements.

Municipal restructuring proposals must describe the components of the proposed restructuring, such as the new boundaries, the effective date, council composition and any transitional provisions. Before voting on a restructuring proposal, the councils of the affected municipalities must give notice and hold at least one public meeting. It is not unusual for all affected municipalities to hold a joint public meeting. Public notice for the meetings is determined by each municipality according to its procedure by-laws.

Municipalities are expected to consult with Indigenous communities to determine if the proposed changes might adversely affect Aboriginal or treaty rights (such as hunting or fishing) or Indigenous interests, and if so, how they will be addressed. Changes related to municipal restructuring of interest to Indigenous communities may include the potential for future land development and related servicing decisions.

Municipalities must have the required council support before submitting a restructuring proposal to the Minister. In areas with a two-tier municipal government, support by the upper-tier is required and a majority of the councils representing a majority of electors in all the local municipalities. The council of any separated municipality included in the proposal must also give its consent (see *Ontario Regulation 216/96*).

In areas without an upper-tier government, the required level of support is a double majority. This means a majority of the local municipalities and the local bodies in unorganized territories affected by the proposal, representing a majority of the electors. For more information, please see *Ontario Regulation 216/96*.

Municipalities that have been created or restructured through special legislation (for example, Toronto, Hamilton, Ottawa, Greater Sudbury, Haldimand County, Norfolk County or regional municipalities) may use the *Municipal Act, 2001* process described above for minor restructuring proposals only (such as small boundary adjustments).

Contacting the Ministry of Municipal Affairs and Housing early in the development stage of the restructuring proposal is recommended to help ensure that the process is complete and that it complies with legislation and regulations. Whenever possible, municipal staff should provide ministry staff with a draft of the municipal restructuring proposal and a legal description of any lands proposed to be annexed before the proposal is given final approval by the municipal councils.

Committees, local boards and other special purpose bodies

As a councillor, you likely know that there are many kinds of local bodies – public bodies involved in the provision of services at or linked to the local government level. They are known by various names: municipal service boards, school boards, police services boards, boards of health, hospital boards, transit commissions, library boards, and conservation authorities, children's aid societies, planning boards and committee of adjustment/land division committees, for example.

Many local bodies are referred to in legislation administered by different provincial ministries. These ministries may have factual or background information about provincial aspects of or interests in these bodies.

For example, the Ministry of Municipal Affairs and Housing administers the *Municipal Act, 2001* and the *Planning Act*. The *Municipal Act, 2001* addresses municipal service boards and municipal services corporations. The *Planning Act* provides for the establishment of planning boards and land division committees.

The Ministry of Education is responsible for the *Education Act*, which, among other matters, sets out duties and responsibilities of school boards. The Ministry of Community Safety and Correctional Services has certain responsibilities with respect to the Police Services Act, which addresses police services boards for municipalities. The *Health Protection and Promotion Act*, which addresses boards of health, and the *Public Hospitals Act*, which addresses boards of hospitals, are administered by the Ministry of Health and Long-Term Care. Public library boards are addressed under the *Public Libraries Act*, administered by the Ministry of Tourism, Culture and Sport. The *Conservation Authorities Act*, administered by the Ministry of Natural Resources and Forestry, addresses conservation authorities.

There is considerable variation in the different local bodies. Not all public bodies involved in the provision of services at, or linked to the local government level, are local boards.

A local board, like a municipality, carries a special legal status in the sense that particular rules, and responsibilities, may apply. Different kinds of local boards can have different rules apply to them. Each case needs to be looked at individually.

Local boards are often subject to the same or similar rules as municipal councils. For example, some kinds of local boards are required to adopt and maintain policies with respect to the sale and other disposition of land, hiring of employees and procurement of goods and services. For more information, please see section 270 of the *Municipal Act, 2001*. Other contexts where there may be rules respecting certain local boards include:

- open meetings
- fees and charges
- audit requirements
- remuneration of employees
- governance of, dissolution of and changes to local boards

As a member of council, you may also find yourself to be a member of a local body, with the associated legal or practical responsibilities for that position. You may wish to familiarize yourself with those responsibilities.

Municipal service boards

Municipal service boards are local bodies that may be established by an individual municipality, or by two or more municipalities. They may, for example, manage and deliver basic services. A municipal service board must have at least two members. Generally, former public utility commissions, parking authorities and boards of park management are municipal service boards.

The municipality or municipalities can decide, among other things:

- the name, composition, quorum and budgetary process
- eligibility of persons to be board members
- manner of selecting members
- term of office
- number of votes of board members
- rules, procedures and policies the board must follow
- relationship to the municipality, including financial and reporting relationship

Municipalities may wish to consider whether it would be useful to delegate some of their powers to municipal service boards.

Municipal committees

Some municipalities have a governance structure that includes standing committees of council. These committees may have many functions and may focus on a particular area of ongoing municipal matters, such as finance and budgeting. Other committees may be set up for a set period of time to deliberate on short-term matters. Often committees provide advice and guidance to council as they consider local matters, such as heritage, environmental, or agricultural issues; others make decisions on local matters.

A municipality may choose to establish one or more community councils. A community council is responsible for exercising certain powers and duties delegated to it by the municipality. They also perform functions assigned by the municipality about matters relating to the municipality (which may include an advisory role, such as making recommendations to council about the budget).

A municipality is responsible for determining the composition of a community council, which may include a council committee or a body with at least two members who are either members of council or individuals appointed by council, or a combination of both. The establishment of community councils that include individuals from the local community appointed by council may help to foster greater public participation in local decision-making.

Generally, municipal committees whose membership is made up of at least 50 per cent of municipal council or local board members must conduct their meetings in accordance with the open meetings provisions in the legislation – including any record-keeping requirements.

The relevant municipal or local board procedure by-law would also apply to these types of committees. Such by-laws describe, among other things, how committee meetings are called, where they will take place, how public notice of the meeting will be given, and other rules on how the meetings will be run.

Municipalities can consider requiring other types of municipal committees to follow procedural rules.

Generally, municipal freedom of information legislation applies to records of municipal committees in the way that it applies to most municipal records.

Council-board relations

Bodies with links to a municipality may have varying degrees of independence from municipal council. Some may be beyond effective control of council for practical or legal reasons. Bodies such as hospital boards, boards

of health, and district social service administration boards, for example, generally operate independently of council.

You may wish to become familiar with the responsibilities of local boards and other special purpose bodies linked to your municipality and to be aware of their relationship to council.

Council-committee relations

Some municipalities have standing committees of council, or other committees that focus on particular areas. Generally, municipalities decide on the make-up of committees and members often include members of council, municipal staff and citizens.

One frequent role of municipal committees is to provide advice and guidance to council on matters related to the committee's mandate. Municipal committees and local boards, and other local bodies, provide an opportunity for council to take advantage of areas of expertise. Committees, local boards and other local bodies may provide opportunities for volunteers to bring views and ideas from a range of perspectives.

Municipal associations

The Act endorses the principle of ongoing consultation between the Province and municipalities on matters of mutual interest. Subsection 3(1) of the Act requires the Province to consult with municipalities in accordance with a memorandum of understanding (MOU) between the Province and the Association of Municipalities of Ontario (AMO). The current MOU provides for consultation between the provincial government and AMO when the government is proposing a change in legislation and regulations that will, in the provincial government's opinion, have a significant financial impact on the current municipal budget year or budget planning cycle. The MOU also requires consultation with AMO on the negotiation of certain agreements between the Government of Canada and Ontario that have a direct municipal impact.

AMO is a non-profit organization that represents almost all municipalities in the province. AMO provides a variety of services – including the gathering and circulation of information, policy development and inter-governmental relations. AMO meets regularly with the Minister of Municipal Affairs and Housing and other provincial ministers to discuss issues of interest to municipalities. For more information on this association, see the AMO website.

There are several specialized municipal associations that are part of the AMO organization. These include the Rural Ontario Municipal Association (ROMA), the Ontario Small Urban Municipalities (OSUM), and regional municipal groups such as the Federation of Northern Ontario Municipalities (FONOM) and the Northwestern Ontario Municipal Association (NOMA). Many other organizations are associate or affiliate supporters of AMO:

There are many other professional municipal organizations with specific subject matter specialties, such as, the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO), the Municipal Finance Officers' Association of Ontario (MFOA), Ontario Municipal Tax and Revenue Association (OMTRA) and the Ontario Municipal Engineers Association (MEA).

There are other municipal groups whose membership includes a mix of political and professional staff related to specific municipal service areas, such as the Ontario Good Roads Association (OGRA), the Ontario Library Association (OLA), the Ontario Non-Profit Housing Association (ONPHA), and the Association of Local Public Health Agencies.

The City of Toronto, along with a few other municipalities, are not members of AMO. Subsection 1(3) of the *City of Toronto Act, 2006* states that "… it is in the best interests of the Province and the City to engage in ongoing consultations with each other about matters of mutual interest and to do so in accordance with an agreement between the Province and the City." The Toronto-Ontario Cooperation and Consultation Agreement

formalizes co-operative practices and commits the two governments to consult with each other on certain matters of mutual interest.

Other municipal political associations – such as Large Urban Mayors Caucus of Ontario (LUMCO); Mayors and Regional Chairs of Ontario (MARCO), which represents the larger single-tier and upper-tier (or regional municipalities) of Ontario; and the Association of Francophone Municipalities of Ontario (AFMO) – also meet regularly with the Ministry of Municipal Affairs and Housing. Contacts between the Ministry of Municipal Affairs and Housing and municipal associations are generally co-ordinated through Ministry of Municipal Affairs and Housing's Intergovernmental Relations and Partnerships Branch.

In addition to the above associations, there are also regional associations that work closely with the Ministry of Municipal Affairs and Housing, including:

- The **Eastern Ontario Wardens' Caucus** (EOWC), which represents 11 counties and two (2) rural, single-tier municipalities (Prince Edward County and City of Kawartha Lakes). Led by the 13 member heads of council, and supported by their Chief Administrative Officers, the EOWC undertakes research and advocates on behalf of the rural municipalities in eastern Ontario.
- The **Eastern Ontario Mayors' Caucus** (EOMC) represents 11 single-tier municipalities in the region. The EOMC advocates on behalf of the region's more urban municipalities. The EOMC is led by a Chair elected from among its member Mayors and is supported by its Chief Administrative Officers.
- The **Western Ontario Wardens Caucus** (WOWC) represents 15 upper and single-tier municipalities in southwestern Ontario. The WOWC members work collectively to influence municipal, provincial and federal legislative, regulatory and program initiatives through advocacy, research, analysis and education. The Ministry's regional office in London is an ex-officio member of the WOWC and serves as the primary contact for the Ministry with WOWC.

Lists of municipal and related associations, together with contact information, can be found in the Municipal Directory published by AMCTO.

Helpful considerations: section 4

- As a councillor, you may wish to deepen your knowledge of municipal functions and become familiar with the programs and services that your municipality does or does not provide.
- If your municipality is part of a two-tier structure, familiarize yourself with the responsibilities of the upper-tier and lower-tier municipalities in your area.
- You may wish to consider local circumstances when creating municipal committees and boards.
- As a councillor, you may wish to deepen your knowledge of Indigenous communities and peoples in and near your municipality, and consider how their interests may be represented in the various bodies that make recommendations to council.
- You may wish to familiarize yourself with the scope and nature of the work done by local boards, and other local bodies in your municipality. If you are appointed as a member of a local body, familiarize yourself with the responsibilities of the position.
- Rely on municipal staff to provide guidance and expertise on possible governance structures for program and service delivery.

5. Municipal organization

The official name of your municipality may include a term such as township, village, town or city. You will be familiar with terms such as county or region, often used in the names of upper-tier municipalities. Such terms usually do not determine the legal powers and responsibilities of a municipality.

The *Municipal Act, 2001* (referred to throughout this section as the Act) distinguishes between the following three types of municipalities:

- upper-tier municipalities, found within a two-tier municipal structure
- lower-tier municipalities, found within a two-tier municipal structure
- single-tier municipalities

The legal powers and responsibilities of these three types of municipalities vary from one another.

The City of Ottawa, for example, has the status of single-tier, as does the Town of St. Mary's (although geographically located within Perth County) and the Township of Matachewan in northern Ontario. The City of Cambridge in Waterloo Region, the Town of Hawkesbury in the United Counties of Prescott and Russell, and the Township of Melancthon in the County of Dufferin are examples of lower-tier municipalities in a two-tier system. The Regional Municipality of Durham and the United Counties of Leeds and Grenville have the status of upper-tier municipalities.

Some municipalities have opted to use the generic term "municipality" in their official name, as in the Municipality of Grey Highlands (which has the status of a lower-tier municipality in the County of Grey).

The Act states that a municipality may change its name as long as certain requirements are met, including making sure the new name is not used by another municipality. The legislation also states the change of name does not affect the status of a municipality as an upper-tier, lower-tier or single-tier municipality.

The Act standardizes and clarifies municipal roles and responsibilities for the three types of municipalities – that is, the upper-tier, lower-tier and single-tier structures.

Two-tier municipal structures

If your municipality operates in a two-tier structure, the upper-tier municipality delivers certain services within its geographical boundaries.

Lower-tier municipalities are also sometimes referred to as local municipalities. Membership on local council is by direct election, either by wards (election by the electors in one ward only) or "at large" (election by the electors of the whole municipality).

Upper-tier councils are usually not directly elected. Often, members of upper-tier councils become members by other methods. For example, someone may become an upper-tier council member automatically because he or she is head of a lower-tier council. However, there are many variations. If you have a question regarding your municipality, you may wish to contact your municipal clerk.

The head of the upper-tier council in a county is typically called the warden or the chair. They are usually elected indirectly, by and from among the members of the upper-tier council. This decision usually takes place at the inaugural meeting of the new council. Once again, there are exceptions to this rule. For regional municipalities, other than the County of Oxford, the head of council must be directly elected.

As a lower-tier member of council sitting on an upper-tier council, it may be important to know and understand the broader roles, responsibilities and interests of both councils, as well as their communities.

Single-tier municipalities

Single-tier municipalities are also referred to as local municipalities and include:

- single-tiers created by the amalgamation of former regions, such as the cities of Toronto, Ottawa, Hamilton and Greater Sudbury (generally large, self-contained service areas with sole responsibility for all

municipal services)
- single-tiers created by the amalgamation of all the municipalities within former counties, such as the Municipality of Chatham-Kent and the City of Kawartha Lakes (with sole responsibility for most municipal services)
- separated municipalities in southern Ontario, such as the cities of Cornwall, Barrie, Brockville, Brantford, Guelph, Kingston, London and Windsor, the towns of Gananoque, Prescott, Smiths Falls, St. Mary's and the Township of Pelee. They are not members of the upper-tier municipalities in which they are geographically situated, although they share responsibility with them for certain other services
- all municipalities in northern Ontario

Northern Ontario

Whether you are a councillor in northern Ontario or not, it may be helpful to understand that local governance in northern Ontario is different in some ways from governance in the rest of the province:

All municipalities in northern Ontario are single-tier.

- much of the geographic area of northern Ontario is not organized for municipal purposes. These unorganized areas (also referred to as unincorporated territories) are not municipalities, and are sometimes referred to as territories without municipal organization (TWOMOs)
- in the north, there are currently ten district social services administration boards (DSSABs) that are designated as service managers providing certain services (such as social assistance and child care) to both municipalities and unincorporated territory. There is one municipality in northern Ontario, the City of Greater Sudbury, designated as service manager within the territorial area of the District of Sudbury

DSSABs are created under the *District Social Services Administration Board Act* (DSSAB Act). Each DSSAB is governed by a board consisting of a mix of municipal representatives and individuals in TWOMOs. *Ontario Regulation 278/98* under the *DSSAB Act* sets out the composition of and other matters for each individual board. Services provided by a DSSAB are governed by the statutes and policies applicable to those services. For example, ambulance services are delivered based on provisions in the *Ambulance Act* and any rules set by the Ministry of Health.

There are two kinds of municipal appointments:

- **specific municipal representation** – these members are appointed directly by their respective municipal councils
- **shared municipal representation** – these members are appointed jointly by a group of municipalities in an area that is within a larger DSSAB district. Often, the municipalities that actually nominate representatives have entered into an agreement among themselves

There also may be members representing a TWOMO. These are selected by the residents in the TWOMOs. In practice, each DSSAB conducts elections for these members to coincide with municipal elections.

As with upper-tier and lower-tier councillors, it may be helpful for DSSAB municipal representatives to know and understand their role on the DSSAB board and to consider the interests of the entire board when participating in the DSSAB.

In unincorporated areas, the Ministry of Energy, Northern Development and Mines' helps residents of communities in unorganized territory to set up local services boards to deliver basic services.

Local service boards are established under the *Northern Services Boards Act*. Their services may include fire protection, water supply, garbage collection, sewage, street and area lighting, recreation and public library service. Local service boards are not considered municipalities, but may come/fall under the jurisdiction of the *Municipal Act, 2001* for certain purposes.

Local roads boards (LRBs) are established under the *Local Roads Boards Act*. The Ministry of Energy, Northern Development and Mines allocates funding and, in conjunction with the Ministry of Transportation, supports the maintenance and construction of local roads in areas without municipal organization.

For more information on northern services boards, see the Ministry of Energy, Northern Development and Mines website.

Local government and Indigenous peoples

Many municipalities across Ontario are working to improve municipal-Indigenous relations through ongoing relationship-building activities with Indigenous partners. Engaging Indigenous partners can help your municipality understand where municipal actions may intersect with the interests of Indigenous peoples. A few examples of areas where Indigenous partners and municipalities have shared interests are:

- economic development
- planning and development
- community services
- environmental sustainability
- affordable housing and related services

Positive, long-term relationships between municipalities and Indigenous partners can help:

- avoid and mitigate misunderstandings
- help address challenging issues
- facilitate the development and implementation of mutually beneficial initiatives

Aboriginal and treaty rights

Much of Ontario is covered by treaties between the Crown and Aboriginal communities. In addition, some lands are subject to claims of Aboriginal rights, including Aboriginal title. It is important to be aware of Aboriginal and treaty rights in your area. Court decisions have determined that Crown decisions or actions that have the potential to adversely affect established or credibly asserted Aboriginal or treaty rights trigger a duty to consult with Aboriginal communities. Aboriginal and treaty rights are recognized and affirmed by section 35 of the Constitution Act, 1982.

Treaty rights are the specific collective rights of Aboriginal communities embodied in the treaties they entered into with the Crown. Treaty rights often address the creation of reserves for the exclusive use of First Nations, and their rights to hunt, fish, trap and gather.

Aboriginal rights are collective rights of Aboriginal communities. For an activity to be an Aboriginal right, it must be an element of a practice, custom or tradition which is integral and of central significance to the distinctive culture of the Aboriginal community holding the right. The Courts have established tests for the establishment of continuing Aboriginal rights. Examples of Aboriginal rights include the right to hunt, fish, trap and gather.

Municipalities engaging and consulting with Indigenous communities

Engagement

Engagement is a flexible process ranging from general information sharing to meaningful dialogue and collaboration. Engagement is the term typically used where these activities are undertaken on a policy or relationship basis, or as a statutory or regulatory requirement, but not where such activities are undertaken as part of a constitutional duty to consult Aboriginal communities. However, in the process of engagement it may

be determined that a constitutional duty to consult exists in which case such activities can lead to and become part of the fulfilment of duty to consult obligations.

Engaging Indigenous communities is different from public engagement for the following reasons:

- Indigenous communities have a treaty relationship with the Crown
- Indigenous communities have Aboriginal and treaty rights that are recognized and affirmed by the *Constitution Act, 1982*
- Indigenous communities have different cultural and governance structures

Many municipalities in Ontario have developed positive working relationships with Indigenous partners and found innovative ways to work together for mutually beneficial outcomes.

Consultation

When working with Indigenous communities, the term consultation is generally used to refer to discussions related to fulfilling the duty to consult.

The duty to consult is owed by the Crown, including ministries, Crown corporations, administrative decision-makers or other bodies that are extensions or creations of the Crown. In the exercise of their powers, such as making decisions with respect to land-use planning matters, municipal governments may also have a duty to consult.

The duty to consult is owed to Aboriginal communities when their established or credibly asserted Aboriginal or treaty rights may be adversely affected by a municipality's proposed conduct or decision. Aboriginal and treaty rights are collective rights, so the duty to consult is not owed to individuals.

Most First Nation communities in Ontario hold treaty rights and may also hold or assert Aboriginal rights. Métis communities may also hold or assert Aboriginal or treaty rights. While Inuit people live in Ontario, there are no Inuit communities with established Aboriginal or treaty rights in Ontario. Inuit communities are primarily located in Nunavut, the Northwest Territories and northern parts of Labrador and Québec.

Helpful considerations: section 5

- As a councillor, understand the broader roles, responsibilities and interests of both upper- and lower-tier councils, as well as their communities.
- Even if you are not a councillor in northern Ontario, you may want to improve your understanding of local governance in northern Ontario and how it is different in some ways from governance in the rest of the province.
- As a councillor, you are also encouraged to familiarize yourself with the *Constitution Act, 1982*, learn about the histories, cultures, interests and priorities of neighbouring Indigenous communities and local Indigenous organizations, and make efforts to foster strong municipal-Indigenous relationships in decision-making processes for your municipality.

6. Changes to council composition

There are provisions in the *Municipal Act, 2001* under which a municipality – by local initiative and subject to certain rules – can alter the composition of its council. This includes changes to the size of council, members' titles and certain methods of election or selection of members. The provisions apply, with some differences, to

all single-tier, lower-tier, and upper-tier municipalities. An upper-tier by-law making changes to its council composition must receive certain support, sometimes known as triple majority support, to come into force.

Triple majority support consists of:

- a majority of all votes on upper-tier council
- a majority of all the lower-tier councils have passed resolutions consenting to the by-law
- the total number of electors in the lower-tier municipalities that have passed resolutions consenting to the by-law form a majority of the electors in the upper-tier municipality

Regular reviews of regional council composition

A key principle of fair representation is ensuring that local representation at the regional level keeps up with changing demographics over time. To ensure council that composition continues to reflect local and demographic needs, the Act requires all regional municipalities to review their regional council composition. This requirement starts after the 2018 municipal election, and must be done within two years after every second regular municipal election.

Regional municipalities can either change or affirm their regional council composition. However, if the regional municipality does not receive triple majority support for either decision during this time period, the Minister of Municipal Affairs and Housing has the authority to make a regulation to change that regional municipality's council composition.

Regional municipalities that have passed a by-law between the 2014 and 2018 regular municipal elections to change the number of members of council that represent at least one of its lower-tier municipalities would be required to undertake their first review after the 2026 regular municipal election rather than after the 2018 election.

Ward boundaries

Municipalities, with the exception of the City of Toronto, can choose whether council members are elected at large, by wards or by any combination of the two.

If your municipality chooses to divide itself into wards, it is up to the council to determine how the wards will be divided, including:

- the number of wards the municipality may be divided into
- ward boundaries
- the number of council members representing each ward

Municipalities wanting to create, dissolve or change ward boundaries are required to comply with certain processes and requirements, including:

- passing a by-law that sets out the new ward boundaries or at-large structure
- providing notice of the passing of the by-law to the public within 15 days
- specifying the last date for the public to file a notice of appeal of the by-law

For changes to ward boundaries to be in effect for the next regular municipal election, by-laws must be passed before January 1 in the year of a regular election.

These processes and requirements are set out in section 222 of the *Municipal Act, 2001.*

Electors in a municipality may also initiate ward boundary changes by presenting a petition to their council asking the council to pass a by-law dividing or re-dividing the municipality into wards or dissolving existing

ward boundaries. The process for presenting a petition to council is set out in section 223 of the *Municipal Act, 2001*.

The Ontario Land Tribunal can hear appeals with respect to ward boundary changes (see section 222 and section 223 of the *Municipal Act, 2001* or contact your municipal clerk for more details).

How to fill vacancies on council

If a municipal council seat becomes vacant, council must declare the council seat vacant at its next meeting. However, if the vacancy is due to the death of a member, the declaration may be made at either of its next two meetings. A copy of the declaration must be forwarded immediately to an upper-tier council if the declaration is made by a lower-tier and vice versa. Within 60 days of declaring the council seat vacant, council must decide whether to fill the vacancy through a by-election or by appointment for the remainder of the council term.

If an office becomes vacant after March 31 in a regular election year, the seat may only be filled by appointment. A vacancy must be filled unless it occurs within 90 days before voting day of a regular election. If the vacancy occurs within 90 days before a regular election, the municipality is not required to fill the vacancy.

When deciding whether to fill a vacancy through by-election or through appointment, council may wish to consider circumstances such as whether the vacancy is for the head of council or whether the individual holding the office will sit on both the lower-tier and upper-tier councils.

If council decides to appoint a person to a vacant council seat, the appointee must consent to the appointment and must be eligible to hold office. Council decides what process it will use to choose the person it appoints.

If council decides to hold a by-election instead of appointing a person to fill a vacancy, council must pass a by-law to have a by-election. The *Municipal Elections Act, 1996*, sets out the processes for a municipal by-election. The municipal clerk is responsible for conducting the by-election and fixing nomination day. Voting day is 45 days after nomination day.

Temporary replacements for members of upper-tier council

The Act addresses particular situations involving vacancies or absences of persons who are members of the councils of a lower-tier and its upper-tier municipality.

In the event that a person who is a member of both the lower-tier and its upper-tier council is unable to act as a member of those councils for a period exceeding one month, section 267(1) of the *Municipal Act, 2001* states that the local council may appoint one of its members to act as an alternate member of the upper-tier council. This alternate member would be in place until the original member is able to resume acting as a member of those councils.

Section 267(2) states that if the offices of a person who is a member of both the lower-tier and its upper-tier council become vacant, and the vacancies will not be filled for a period exceeding one month, the lower-tier municipality may appoint one of its members as an alternate member of the upper-tier until the vacancies are filled permanently.

In addition, Section 268(1) allows the council of the lower-tier municipality to appoint one of its members as an alternate member of the upper-tier council in the event that a person who is a member of both the lower-tier and its upper-tier council is unable to attend a meeting of the upper-tier council for any reason. This is subject to certain limitations. For example, lower-tier municipalities may generally only appoint one alternate member per council term. This provision seeks to help ensure that the interests of lower tier councils are properly represented on upper-tier levels of government.

Pregnancy and parental leave

The Act gives council members the opportunity to take pregnancy and parental leave. Council member seats do not become vacant due to absences for a period of 20 consecutive weeks or less related to the member's pregnancy or the birth or the adoption of the member's child. Councils can decide to extend this period and provide for a longer leave for councillors. Municipalities are required to establish local policies regarding pregnancy and parental leave.

Helpful considerations: section 6

Familiarize yourself with relevant sections of the *Municipal Act, 2001* to improve your understanding about filling vacancies as well as appointing temporary replacements on upper-tier council. When reviewing either council composition or ward boundaries, there are several ideas that councils may wish to consider:

- the principle of representation by population, for example, representation of each lower-tier municipality on regional council should be relative to their percentage of the overall regional population
- geographic criteria, such as adequate representation for rural municipalities, which would otherwise be disadvantaged by a pure representation by population formula
- social criteria, such as regard for communities of interest or identity (for example, communities based around language or shared culture and history)
- projected population growth, voters' lists and federal census population data
- If you have questions, you may wish to speak with your municipal clerk

7. Councillors as lawmakers

By-laws passed by council have a significant impact on municipalities. The policies established by council will shape the long-term health and well-being of your community. Most councillors are aware of this role. However, you should also be aware of the various legal limitations on your municipal powers.

Legal considerations on exercising power

A fundamental consideration is the constitutional position of local government. The *Constitution Act, 1982* (formerly the British North America Act, 1867) states that provincial governments have the exclusive right to pass laws respecting municipal institutions. Because municipalities are provincial creations, generally they only do what they have been authorized to do by the provincial government. A number of general consequences follow from this:

- a provincial government may give a municipality only those powers that it may exercise itself within the Constitution's division of federal and provincial powers
- generally, a municipal by-law may not override a conflicting provincial statute. A by-law that was valid when passed may become invalid if an overriding provincial statute is later passed
- if a municipality takes action on something it does not have statutory authority over, or that is not within its authority, the courts could quash the action as being "ultra vires" (beyond the powers of the municipality)

Canadian Charter of Rights and Freedoms

There is another constitutional implication for local government. Part One of the *Constitution Act, 1982*, contains the *Canadian Charter of Rights and Freedoms*. The Charter is relevant for federal and provincial levels of government, as well as municipalities, in passing laws and taking other action.

Human Rights Code

The *Ontario Human Rights Code* provides that every person has a right to equal treatment without discrimination because of race, colour, gender identity, sex, sexual orientation, disability, age and certain other grounds. The code is also relevant for municipalities in passing by-laws and taking other action.

Sources of law

As a councillor, it is important to consider the statutory authority for your actions. The law is complex and you should consult your municipal solicitor whenever any legal issue is in question. However, it is useful to have at least some familiarity with the sources of municipal law, and to try to keep up to date with the ever-changing body of law affecting municipal activity.

Statute law

An important source of law that will affect your municipality is found in the statutes or legislation passed by the provincial government. Here are a few statutes of special importance to municipalities.

Municipal Act, 2001

As previously mentioned, one of the most significant provincial statutes governing Ontario's municipalities is the *Municipal Act, 2001*. The Act gives your municipality flexibility to deal with local circumstances and to react quickly to local economic, environmental or social changes. An up-to-date, consolidated version of the Act is maintained on the provincial e-laws website.

Other general acts

There are many other statutes that apply to municipalities but are focused on specific activities, such as the *Planning Act*, *Line Fences Act*, *Building Code Act,1992*, *Police Services Act*, *Fire Protection and Prevention Act, 1997*, *Safe Drinking Water Act, 2002*, *Accessibility for Ontarians with Disabilities Act, 2005*, *Emergency Management and Civil Protection Act*, the *Municipal Elections Act, 1996*, and the *Ontario Works Act, 1997*. These and most other government of Ontario statutes are available online.

Acts specific to individual municipalities

If your municipality was restructured, it may have its own special Act that establishes particular aspects of its governance or structures (for example, the *City of Toronto Act, 2006*; the *Town of Haldimand Act, 1999*; the *City of Hamilton Act, 1999*; the *Town of Norfolk Act, 1999*; the *City of Ottawa Act, 1999*; and the *City of Greater Sudbury Act, 1999*).

Private acts

A number of private acts have been passed for specific municipalities. The individual municipalities applied for these acts in order to get specific powers not found in the general Acts. These Acts give particular municipalities' flexibility in the way they deal with issues that are of concern to them.

Regulations

Regulations are laws made under statutes such as the *Municipal Act, 2001* and the *Municipal Elections Act, 1996*. The power to make regulations is usually given to the Lieutenant Governor in Council or a minister of the Crown.

Regulations often provide further direction as to how certain provisions of acts are to be applied. For example, a regulation made under section 216 of the *Municipal Act, 2001* gives more detail on making changes to and dissolving local boards, while a regulation made under the *Municipal Elections Act* authorizes the use of certain forms during the election period. Most Ontario regulations can be found online.

Federal statutes

There are some federal statutes, like the *Canada Mortgage and Housing Corporation Act*, which may affect your municipality's activities.

Administrative law

In addition to statute law, you should also be aware of administrative law. Administrative law generally applies to decisions by boards and tribunals and to the interpretation and exercise of powers given by legislation to bodies other than the legislature.

Boards and tribunals

Boards and tribunals are part of the executive branch of government. They are given authority by statute to make decisions about certain matters.

The Ontario Land Tribunal, for example, holds hearings on such matters as long-term borrowing, land use planning, and boundary adjustments involving territory without municipal organization. Similar bodies that your municipality may deal with include the Ontario Labour Relations Board, the Workplace Safety and Insurance Board, the Assessment Review Board, the Conservation Review Board, and the Landlord and Tenant Board.

The decisions that result from these boards and tribunals form administrative case law that may significantly affect your municipal operations.

Case law

Even if you are aware of the statutes affecting your operations and of relevant administrative law, you still may not have a complete picture of the current law on specific issues. The meaning and scope of statutes are interpreted by various court decisions over the years, and this "case law" is also important.

Municipal powers

The *Municipal Act, 2001* and other provincial legislation give all municipalities a variety of powers. These powers fall into various categories:

- natural person powers
- broad permissive powers
- spheres of jurisdiction in a two-tiered system of local government
- specific powers

The municipal powers set out in many statutes and regulations may be complex. As a result, you are encouraged to seek the advice of staff and your solicitor on specific municipal authority for any proposed action or by-law.

Natural person powers

The Act gives municipal governments natural person powers for the purpose of exercising their authority. Natural person powers give municipalities similar flexibility to that of individuals and corporations in managing their organizational and administrative affairs without the need for more specific legislative authority. These powers may help your municipality hire staff, enter into agreements and acquire land and equipment. For example, if a municipality has authority to establish a public transit system, it may use natural person powers to hire staff and buy buses. It is important to be aware that natural person powers are not an independent source of authority for a municipality to act in a particular area.

Municipalities also have powers that are not available to individuals. For example, municipalities have the ability to regulate or prohibit certain activities, require individuals to do certain things and establish a system of licenses, permits, approvals and registrations. Municipalities also have other essential powers, such as the authority to levy taxes and to enforce municipal by-laws.

Broad permissive powers

The Act provides municipalities with broad permissive powers, giving them flexibility in meeting their communities' expectations and fulfilling their responsibilities.

A municipality has broad permissive powers to pass by-laws on the following matters:

- governance structure of the municipality and its local boards
- accountability and transparency of the municipality and its operations and of its local boards and their operations
- financial management of the municipality and its local boards
- public assets of the municipality acquired for the purpose of exercising its authority under this or any other act
- economic, social and environmental well-being of the municipality, including respecting climate change
- health, safety and well-being of persons
- services and things that the municipality is authorized to provide
- protection of persons and property, including consumer protection
- animals
- structures, including fences and signs
- business licensing

Spheres of jurisdiction in two-tiered systems of local government

In addition to the broad powers described above, municipalities in two-tier systems are provided with spheres of jurisdiction to address the division of powers between upper-tier and lower-tier municipalities.

The spheres of jurisdiction include rules about whether the upper-tier or lower-tier municipality (or both) may pass by-laws within all or part of each sphere, such as economic development services or public utilities. For single-tier municipalities, the spheres of jurisdiction were replaced with broad powers. The table at the end of section 11 of the Act sets out the details of how the spheres of jurisdiction are divided between the upper-tier and lower-tier municipalities.

The spheres of jurisdiction are the powers to pass by-laws regarding the following matters:

- highways, including parking and traffic on highways
- transportation systems, other than highways
- waste management
- public utilities
- culture, parks, recreation and heritage

- drainage and flood control, except storm sewers
- structures, including fences and signs.
- parking, except on highways
- animals
- economic development services
- business licencing

For example, in some two-tier municipal systems, waste disposal is assigned exclusively to the upper tier and, as a result, the lower-tier municipalities cannot provide that service. In the case of the "animal" sphere of jurisdiction, the sphere is not assigned to the upper-tiers and therefore only lower-tier municipalities can exercise this power. In other cases, such as the "highways" sphere of jurisdiction, the sphere is assigned non-exclusively to the upper-tiers so both the upper-tier and lower-tier municipalities can exercise the power.

Both upper-tier and lower-tier municipalities can exercise the broad permissive powers where a matter is not dealt with by the spheres of jurisdiction.

Animals, economic development services and business licensing are not broad powers for municipalities in two-tiered systems because they are powers that were divided between upper-tier and lower-tier municipalities before amendments made by the *Municipal Statute Law Amendment Act, 2006*. For two-tier municipalities, these three powers remain spheres of jurisdiction.

If there is a conflict between the by-laws passed under a sphere by an upper-tier and a lower-tier, the upper-tier by-law will prevail. This conflict rule only applies where both the upper-tier and the lower-tier by-laws are passed under a sphere. In any other circumstance, the upper-tier by-law does not automatically prevail over a lower-tier by-law with which it conflicts – for example, if an upper-tier by-law passed under the broad powers conflicts with a lower-tier by-law passed under the broad powers, there is no rule set out in the Act as to which will prevail.

Licensing

Powers to license are set out in section 151 and other sections of the Act, including in the broad powers in sections 10 and 11. Municipalities have authority to license many businesses – such as taxicabs, tow trucks, adult entertainment establishments, trailer camps, etc. A municipality may be able to impose conditions on a license.

Generally, municipalities do not have power to require a business license from:

- a manufacturing or industrial business except to the extent that they are selling products or raw material by retail
- the sale of goods by wholesale
- the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources

A municipality may be able to suspend a license for up to 14 days without a hearing if the municipality is satisfied that continuation of the business poses an immediate danger to health or safety of any person or to any property and if the conditions in the legislation are met. A municipality also could possibly suspend – without a hearing and for a period not more than 28 days – a license authorizing a business to operate on a highway or other municipal property for reasons that include:

- the holding of a special event
- the construction, maintenance or repair of the property; or pedestrian, vehicular or public safety or public health

Specific powers

Specific powers are any powers given to municipalities, under various Acts, other than the broad permissive powers and the spheres of jurisdiction. Some specific powers are set out in the *Municipal Act, 2001*. These specific powers granted to municipalities fall into two categories:

- powers associated with the broad powers or spheres of jurisdiction, dealing with: highways; transportation; waste management; public utilities; culture, parks, recreation and heritage; drainage and flood control; structures including fences and signs; parking; animals; economic development services; health, safety and nuisance; natural environment, etc.
- powers not associated with the broad powers or spheres of jurisdiction, dealing with a number of areas, including enforcement of by-laws and changes to municipal boundaries

Specific powers are also found in many other statutes such as the *Building Code Act, 1992* and the *Police Services Act*.

Municipal limitations

The *Municipal Act, 2001* and other provincial legislation place some limitations on your municipality's powers. These limitations reflect common-law and provincial government policy. For example, in general:

- your municipal by-laws cannot conflict with or frustrate the purpose of federal or provincial statutes or regulations or legislative instruments (section 14)
- the broad permissive powers and the spheres of jurisdiction are subject to procedural requirements (rules) and other limitations existing in specific powers (section 15)
- except where expressly authorized, a municipality can only exercise its powers within its municipal boundaries
- the government may, by regulation, further limit certain powers of a municipality (section 451.1)

As well, in a two-tier system, a municipality:

- is generally prohibited from regulating non-municipal systems under six spheres of jurisdiction – public utilities; waste management; highways; transportation systems; culture, parks, recreation and heritage; and parking (subsection 11(8))
- is generally prohibited from using a sphere of jurisdiction to regulate services or things provided by the other tier that are authorized under that sphere of jurisdiction (subsection 11(7))
- cannot pass a by-law under the spheres of jurisdiction or broad permissive powers if the other tier can pass the by-law under a specific power (paragraphs 4 and 5 of subsection 11(4))
- cannot pass a by-law under the spheres of jurisdiction or broad permissive powers if the other tier has the exclusive power to pass the by-law under the spheres of jurisdiction (paragraphs 1 and 2 of subsection 11(4))

Helpful considerations: section 7

- As a councillor, you are encouraged to familiarize yourself with the *Constitution Act, 1982*, the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code.*
- In addition, familiarize yourself with the *Municipal Act, 2001*. This Act is one of the most significant provincial statutes governing Ontario's municipalities and gives your municipality flexibility to deal with local circumstances and to react quickly to local economic, environmental or social changes.
- If your municipality has any private acts, you may want to familiarize yourself with them.
- Remember that the municipal powers set out in many statutes and regulations may be complex. You are encouraged to seek the advice of staff and your solicitor on specific questions.

- You are encouraged to understand of the spheres of jurisdiction in two-tiered systems of local government and the implications for upper-tier and lower-tier municipalities.

8. Exercising municipal powers

Most municipal councils consider it a best practice to exercise their powers and conduct business in a clear and consistent fashion. As a councillor, you may find it helpful to become thoroughly familiar with the proper procedures and necessary conditions for calling and conducting council meetings, passing by-laws and other resolutions, and administering and enforcing by-laws.

Delegation

The *Municipal Act, 2001* provides municipalities with broad authority to delegate (give to other individuals or bodies) powers and duties subject to certain restrictions. Delegation of minor matters may allow your council to streamline its decision-making and focus on the larger matters, making council's agendas more manageable. Delegation builds on a municipality's authority to create local bodies (such as advisory committees) to help with local decision-making. The Minister of Municipal Affairs and Housing may make regulations restricting or imposing conditions on the delegation of powers.

In addition to administrative matters or matters that a natural person could delegate (for example, buying and selling real and personal property, hiring staff, and entering into agreements), council can delegate legislative powers under the Act and other listed Acts (for example, noise, fencing, licensing, signage, and animal control by-laws) as well as quasi-judicial powers under the same Acts (for example, revoking or suspending licenses) to certain persons or bodies subject to certain restrictions (see sections 23.1 to 23.5).

Legislative and quasi-judicial matters can only be delegated to one or more members of council or a council committee, or to a body having at least two members. At least 50 per cent of members of such a body must be council members and/or council appointees. Legislative and quasi-judicial matters can also be delegated to officers, employees or agents of the municipality, but they can only be delegated minor legislative powers such as temporarily closing a highway or imposing conditions on a license (see section 23.2).

Powers that cannot be delegated include (see section 23.3):

- appointing or removing statutory officers required under the Municipal Act, 2001
- imposing taxes
- incorporating corporations
- adopting or amending official plans
- passing zoning by-laws
- passing certain by-laws related to small business counselling and municipal capital facilities
- adopting community improvement plans that authorize bonusing
- approving or amending municipal budgets
- other powers as prescribed

Council can revoke (take back) a delegation unless the original delegation by-law specifically limits the power of council to revoke it. A council cannot stop future councils from revoking a delegation.

Council can, within certain limits, designate a person or body (whether composed of themselves or another body) to conduct a review or appeal of the decisions of another person or body who has been delegated a power or duty (see section 284.1).

By-laws and resolutions

The powers of your municipality are generally exercised by either a by-law or a resolution.

Generally, by-laws must be:

- signed both by the head of council or presiding officer of the meeting at which the by-law was passed and by the clerk
- under the seal of the corporation

See the *Municipal Act, 2001* including sections 5 and 249, and other legislation for more information.

Additional requirements may apply before a by-law can be passed, such as holding a public meeting, giving public notice, or obtaining the approval of a provincial ministry or board.

Many council statements are recorded in a resolution as an expression of an opinion of council. Resolutions are generally submitted in the form of a motion and adopted by a majority vote. The formalities for adopting a resolution may not be as strict as those for passing a by-law.

As noted above, resolutions may be used to record your council's views on a specific issue. Such resolutions often express the municipality's position on various issues or concerns about existing government policy, regulations or funding. They may also call for changes in the provincial-municipal relationship. After adoption, they are often sent to the appropriate government agency, association or Member of Provincial Parliament.

The powers of your council are generally exercised by by-law for matters or for actions that will affect the public. If in doubt, councils may consider whether passing a by-law is the safest approach.

Procedural requirements

Proper procedures are important when passing or amending by-laws. For example, before passing a by-law, generally, an open council meeting would be in session and there would be a quorum of members in attendance.

Some councils may pass by-laws on the day they are first presented, while for others, a longer time may be needed for practical or legal reasons. As examples, your municipality's procedure by-law may require advance notice of the introduction of most by-laws, and statutory rules require two readings of certain by-laws. For an example of a statutory requirement, please see section 75 of the *Drainage Act*.

Every municipality and certain local boards must pass a procedure by-law to govern the calling, place and proceedings of their meetings. The content of the procedure by-law is generally up to the council or the local board. For more information regarding procedure by-laws, please see section 238 of the Act (other provisions may apply).

Legal considerations

Municipalities are responsible and accountable governments, and many important legal considerations may apply to their actions and decisions. Here is a brief description of a few of them. As with any legal matter, people with a specific legal question may wish to contact their own legal advisor.

Hearings

For some of its actions – for example, revoking a business license – council may decide it needs to hold a hearing for legal or other reasons. These reasons might include fair treatment of the people involved (for example, an individual license holder).

The *Statutory Powers Procedure Act* sets out procedural rules that may apply to such hearings. These rules include that most proceedings would be held in public (some might be confidential), and that parties involved would be given reasonable notice.

Municipalities may wish to consider use of their delegation powers in relation to hearings (see, among other provisions, sections 23.1 to 23.5 of the *Municipal Act, 2001* for more information). Some councils have delegated their authority to hold hearings.

Good faith, reasonableness and the courts

Generally, municipal decisions must not be based on fraud, oppression or improper motive. Courts may decide to quash a by-law based on bad faith. The courts decide about good faith and other legal issues on a case by case basis. For example, while generally a by-law passed by council in good faith cannot be quashed or reviewed by the courts because of claims of unreasonableness of the by-law (see section 272 of the *Municipal Act, 2001*), the courts have held that unreasonableness might be evidence of bad faith.

Enforcement of by-laws

Navigating the legal complexities of passing a by-law is only the first step. In practice, a by-law will have little value unless your municipality has the determination and the means to enforce it. Before a by-law is passed, careful consideration of the by-law – including its intended purpose and outcome – may be helpful. Implications of passing the by-law may include such issues as:

- how will the by-law affect the community?
- will it impose restrictions or hardships on particular areas or groups of people?
- will public reaction be favourable? If not, how will council respond?
- what will it cost to administer the by-law?
- can existing staff be expected to handle the additional responsibilities, or will more staff be required?
- is the municipality prepared to enforce the by-law and enforce it consistently?

General responsibility for enforcement

Municipal enforcement personnel

Council may decide to hire one or more by-law enforcement officers. Council may wish to consider if these people will act only on complaints or will actively look for infractions. In either case, your municipality will benefit from employing by-law enforcement officers that have diplomacy, tact and negotiating skills because many complaints can be resolved without going to court.

Action by the public

If a person believes that there has been a contravention of a by-law and is dissatisfied with the level of enforcement provided by a municipality, they may wish to consider taking steps themselves to bring the alleged offender before the courts. To do so, the person would need to appear before a justice of the peace or provincial judge.

Action by police

Council sometimes calls on the local police force or the Ontario Provincial Police, where it provides local police services, to enforce by-laws. You should keep in mind that the police have extensive responsibilities and your council may wish to consider other means of enforcement, or how your enforcement regime might interact with police services.

Offences and penalties

The Act provides that a municipality may establish a system of fines for offences under a by-law of the municipality (see section 429). This includes:

- designating an offence as a continuing offence and establishing a minimum and maximum fine for the offence for each day, or part day, that a contravention continues
- establishing escalating fines for repeat convictions for the same offence
- establishing special fines designed to reduce or eliminate any economic advantages resulting from a contravention

However, a municipality cannot establish fines for a by-law offence for which specific fines are set out in another Act (see subsection 429(4)).

The municipality can also establish a procedure for voluntary payment of penalties out of court for contraventions of by-laws related to the parking, standing or stopping of vehicles, or related to animals being at large or trespassing (see section 432).

Administrative penalties

Administrative penalties are a civil mechanism for promoting compliance with municipal by-laws. Administrative penalties are imposed through administrative processes (rather than fines imposed in quasi-criminal court processes).

A municipality may establish a system of administrative penalties to help the municipality in promoting compliance with its by-laws. The municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the Act (section 434.1).

It is up to the municipality to decide the by-laws for which to impose administrative penalties and to decide the amount of an administrative penalty that a person would be required to pay. However, the amount of an administrative penalty cannot be punitive in nature and cannot exceed the amount reasonably required to promote compliance with a by-law.

Administrative penalties are imposed without a court hearing. However, other protections are typically put in place to help ensure that the process for imposing a penalty is fair. It would be up to municipalities to set up processes and procedures for an administrative penalty system, such as putting in place a review process for a person who has received an administrative penalty.

If a municipality requires a person to pay an administrative penalty for a by-law contravention, the person cannot be charged with an offence for the same contravention.

Any administrative penalty imposed on a person constitutes a debt of that person to the municipality. An unpaid administrative penalty can be added to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the administrative penalty and can be collected in the same manner as taxes.

There are also particular rules for administrative penalties for by-law contraventions related to the parking, and the standing or stopping of vehicles (see section 102.1, *Ontario Regulation 333/07* under the *Municipal Act, 2001*).

Other by-law enforcement powers

In addition to penalties, other powers related to by-law enforcement include:

- powers of entry for purposes of inspection to determine if a by-law is being complied with, and to search for and seize evidence with a warrant (for example, see sections 435 – 439)
- a municipality may make an order requiring certain persons to discontinue a by-law contravention and to undertake work to correct a by-law contravention; and the municipality can carry out work at the person's expense if the person is in default of a work order (see sections 444 – 446)
- a municipality, local board or taxpayer can ask the courts to restrain by-law contraventions (see section 440)
- a municipality can ask the courts to close a premises to any use for up to two years if an owner is convicted of knowingly carrying on a trade, business or occupation on the premises without a license (see section 447)
- if the clerk of a local municipality is notified by a police force that a building in the municipality contained a marijuana grow operation, the municipality must ensure that an inspection is conducted of the building in accordance with the Act (see section 447.2)

All of the above powers are subject to restrictions and conditions as set out in the Act. When contemplating one of these powers, municipal council could consider checking the details of the legislation and consult with municipal staff and/or the municipal solicitor.

As previously mentioned, other statutes such as the *Building Code Act, 1992* and the *Fire Protection and Prevention Act, 1997* also contain by-law making and enforcement powers. Municipal council could consider consulting with the appointed staff and your solicitor regarding their obligations, operation and limitations.

Actions against the municipality

In addition to actions your council can take against local residents, there are actions citizens can take against your municipality.

Ultra vires

Under section 273 of the Act, any person may apply to the Superior Court of Justice to quash a by-law, in whole or in part, for illegality.

Civil action for damages

As a corporation, your municipality may be sued for failure to carry out, or negligence in the conduct of, its legal duties. For example, damage to vehicles caused by poorly maintained roads or an injury suffered in a fall on an icy sidewalk could result in a civil suit. You and the rest of council could ask your staff whether your municipality has adequate insurance to cover this type of civil action.

The legislature and the courts have come up with certain restrictions to protect municipalities from litigation. For example, subsection 44(9) of the Act limits potential municipal liability for personal injury caused by snow or ice on a sidewalk to cases of "gross negligence."

Risk management

More and more, municipalities are adopting risk management strategies to address public liability. Generally, risk management strategies seek to minimize the effects and costs of public liability suits against a municipality. This involves identifying potential hazards and taking the appropriate measures to reduce or eliminate them in your community.

You may find that the biggest areas for potential liability are public works, or parks and recreational services. Risk management initiatives will usually relate to these service areas.

Appeals

Where specifically allowed by statute, an individual may appeal municipal decisions to the courts and to certain quasi-judicial bodies such as the Ontario Land Tribunal and the Assessment Review Board. Several examples can be found in land use planning, with appeals of decisions made by committees of adjustment, land division committees and councils.

Judicial review

This form of court action is limited to situations where it is alleged that the municipality proposes to act, or has acted, without power or beyond its powers, or has refused to exercise a mandatory power. In these circumstances, an individual may take action to bring the matter before the courts for a legal remedy.

Helpful considerations: section 8

- Be aware of the legal framework within which your municipality must operate and the need for legal advice.
- Familiarize yourself with provincial legislation, such as the *Municipal Act, 2001*, *Municipal Conflict of Interest Act* and the *Planning Act*, and how they relate to your municipality, and review your municipality's existing by-laws.
- Municipal non-legal staff, however knowledgeable, should not be expected to provide you with legal advice; that is the responsibility of your municipal solicitor.
- Consider whether your municipality has adequate insurance coverage to protect both staff and councillors in the exercise of their duties.
- Become familiar with how to access federal and provincial statutes, regulations and orders online.
- You may wish to support the development or enhancement of a basic municipal library in hard copy or online that includes your municipality's documents, including:
    - minutes of meetings
    - official plans
    - strategic plans
    - budgets
    - performance measurements
    - by-laws
    - resolutions
    - policies
    - studies
    - inventories
    - registries, etc.
- You may wish to consider options to enforce municipal by-laws, such as offences and administrative penalties.

9. The fiscal context

Municipal governments face a balancing act in maintaining and potentially expanding services and facilities in a way that is fiscally sustainable. Pressures may come from maintaining and replacing aging infrastructure as well as from the need to service growth areas. To meet or balance these demands, your municipality must manage its finances effectively.

The fundamentals of effective financial management include:

- careful long-term planning and budgeting
- financing policies that meet the needs of today and tomorrow
- program and service delivery reviews
- regular financial reporting to council

Budgeting

Budgets are powerful management tools. They help your municipality define levels of municipal services and identify how revenues will fund expenses. Budgeting involves prioritizing projects, programs and service levels in light of the available and potential financial resources.

Your council must prepare and adopt an annual budget that includes estimates of all of your municipality's financial needs during the year (see sections 289 and 290 of the *Municipal Act, 2001*).

Your municipality has flexibility regarding the format and level of detail of its budgets. While the operating and capital components of budgets are inter-related, some municipalities prepare them separately.

Essential elements of budgeting

Budgeting involves at least three key elements: planning, coordination and control.

Planning

This may begin with the development of broad statements of your municipality's needs and what it hopes to accomplish for several years ahead. This means thinking strategically, clarifying the challenges facing your municipality and setting priorities. Long-term financial planning can help a community clarify its goals for the future and can help articulate a pathway to get there. It can also help navigate barriers to those goals. Key aspects of a long-term financial plan include:

- revenue and expenditure forecasts
- strategies for building and maintaining sustainability
- monitoring through mechanisms such as performance indicators and report cards

Coordination

Most municipalities have a budget committee to co-ordinate the budgeting process. The budget committee includes part or all of council and senior staff and usually has the mandate to:

- produce and circulate an approved statement of municipal priorities and goals to department heads
- provide technical budgeting assistance through finance staff to departments
- evaluate individual department budgets submitted to the committee
- consolidate departmental and local board budgets into an overall budget document for council's review and consideration

Control

Once a budget is approved, quarterly or monthly reporting to management and council may help show whether actual expenditures and revenues conform to the budget. Significant differences may be addressed and a course of action prepared and approved to get back on track by alleviating or at least minimizing the variances. Once council adopts the budget, it may serve multiple purposes as a municipal policy document, an operations guide, a financial plan and a communications tool.

Preparation of the budget

A best practice in financial management is to establish a budget before the start of the fiscal year. However, the time of year when budgets are started and finalized varies among municipalities. The steps usually include:

- establishing a budget timetable
- initiating a budget plan, supporting data and guidelines
- evaluating/reviewing draft estimates
- compiling an overall budget document
- approval of the budget and levying by-law(s)
- budget implementation and budgetary control

Engaging the public in the development of the budget is important to build community ownership over the process and outcomes. Some municipalities have adopted innovative practices to engage the public in the budget process. Check with your municipal finance staff to see how your municipal budgeting process is completed.

Operating budgets

Operating budgets are normally used to plan for your municipality's day-to-day spending, such as salaries, wages, benefits, heat, hydro, maintenance of buildings and infrastructure. As a policy document, your operating budget may include a statement of budgetary policy in the form of goals, objectives and strategies. As a communications tool, the budget may help provide summary information that can be used by the media and the public.

As an operations guide, operating budgets often attach or include a chart of the municipal organization, a description of workforce organization (what each municipal department, board and commission does) and enough data to provide a basis for comparison (for example, the previous year's budget, spending in the previous year, and current year-to-date spending on operations).

As a financial plan, a budget usually includes projected operating expenses and revenue sources for a specific time period, and it is formatted in such a way that it parallels a municipality's accounting and financial reporting system. This may help with the monitoring and evaluation of the budget performance.

Capital budgets

A capital budget typically covers existing infrastructure, such as core assets like roads, bridges, water and wastewater, as well as other types of assets to be maintained, or new infrastructure needs to be met in the future. It may set out the specific capital projects to be approved for the budgetary period, such as capital improvements, land acquisitions, new facilities and equipment, and identifies a source of financing for each.

Through capital budgets, your municipality can plan future expenditures, debt repayment and potential reserve fund needs to manage the financial position of your municipality over a specific period of time.

The capital budget process typically calls for a co-ordinated effort between municipal departments and results in a financing plan for the new construction, acquisition or replacement of municipal assets. An asset management plan will help your municipality prepare for meeting upcoming needs (see *Ontario Regulation 588/17* for more on the contents of a municipal asset management plan).

Public sector accounting standards

Municipalities are required by legislation to prepare annual financial statements in accordance with generally accepted accounting principles for local governments as recommended by the Public Sector Accounting Board (PSAB) of the Chartered Professional Accountants of Canada (see section 294.1 of the Act).

The PSAB acts as a national standard-setting authority that is committed to addressing accounting and financial issues of local governments. As a national organization, the PSAB helps to ensure completeness and consistency in financial reporting across Canada. Although the PSAB does not prescribe the way municipalities budget, it is prudent to keep these principles of financial reporting in mind when preparing the budget.

Since 2009, municipalities have used the Public Sector Accounting Handbook's section 3150 on Tangible Capital Assets (TCAs) for accounting and reporting. The PSAB requires municipalities to report on Tangible Capital Assets, and record them in the statement of financial position and to amortize (expense) the asset over its useful life on the statement of operations. This has implications for municipal budgeting as amortization expense is expected to be considered when preparing a budget. According to the PSAB standard, municipalities are also expected to consider post-employment benefits and solid waste landfill closure expenses when preparing a budget (see the Public Sector Accounting Handbook's sections PS 3255 and PS 3270, respectively).

The Act was amended and *Ontario Regulation 284/09* (Budget Matters – Expenses) was put in place to consider the new PSAB standards. This regulation explains that specific expenses may be excluded from the budget if a report is produced annually that describes the future impact on the municipality (see *Ontario Regulation 284/09* for more on excluding budget expenses).

Municipalities must include "surpluses" or "deficits" (as determined according to legislation) from the previous year's operations in its budgeting process (see sections 289 and 290).

Section 291 of the Act provides that municipalities may prepare and adopt a multi-year budget covering a period of up to five years. Generally, multi-year budgets must comply with the provisions of sections 289 or 290. Municipalities must review and re-adopt multi-year budgets each year. The use of multi-year budgeting may aid with long-term financial planning.

Financial reporting to the public

Municipalities are required to publish a copy of the audited financial statements or a notice that the information is available for the previous year, within 60 days of receiving them (see section 295(1) of the Act).

Annual financial statements

Financial statements must include a statement of financial position, a statement of operations, a statement of change in net financial assets (net debt) and a statement of cash flow. Additional supplementary information is provided in schedules and notes to the financial statements.

Financial Information Return (FIR)

The Financial Information Return (FIR) is the main document used by the province to collect financial information from municipalities on an annual basis.

All municipalities are required to submit FIR data to the Ministry of Municipal Affairs and Housing by May 31 of each year. If your municipality does not meet the reporting deadlines, it may not be able to access provincial funding programs. The FIR captures detailed standardized financial and statistical information that allows comparisons with other municipalities over time.

The FIR data is used by the province for a number of purposes, such as:

- calculating grants
- developing policies and programs
- for responding to requests for financial and statistical data

You can view the data by municipality, by schedule or in a multi-year format. A provincial summary showing all the municipal returns is available online.

The information is also used by municipalities, municipal associations, the financial and academic communities, credit rating agencies, and the public.

The data is also useful from a municipal perspective:

- for preparation of year over year comparisons, trend analysis, forecasting
- performance indicators and for comparative purposes with other like municipalities on key indicators (for example, debt and reserve levels)

The information contained in the FIR is invaluable as a decision making tool for council. For example, during budget deliberations, you may be concerned about the impact of certain decisions on individual ratepayers. Data about other, similar municipalities from the FIR can give you a sense of relative taxation level. This is one of many ways the data can be used. Council can also request a municipal staff to produce a variety of reports using data from the FIR.

Data points from the FIR may be used to develop and monitor performance indicators. The ministry does not set out a format for public reporting of performance measures beyond what is currently requested in the FIR. However, the ministry encourages municipalities to independently report performance indicators to the public.

The forms are created by the ministry, which also provides detailed instructions on how to complete them, as well as other advice and assistance that may be needed.

Reporting Requirements for Service Managers – Housing

The Service Manager Annual Information Return (SMAIR) is a summary of certain financial, operating and statistical information for the period from January 1 to December 31. The SMAIR is submitted by 47 service managers (SMs) and Ontario Aboriginal Housing Services annually in March.

The province uses this to report to Canada Mortgage and Housing Corporation (CMHC). The province also uses the report to monitor service levels for social housing and attain statistical information on social housing. *The Housing Services Act, 2011* (HSA) requires service managers to provide the annual report to the Minister of Municipal Affairs and Housing in the form and manner authorized by the Minister, including prescribed information and documents The SMAIR includes the following information:

- service manager identification
- service manager representation report (attests to compliance with the HSA)
- schedule of funding (federal funding and program expenditures)
- combined statistical information (e.g, number and types of households assisted)
- service level standards
- centralized wait list information
- strong communities rent supplement program

The municipal auditor and the audit function

Municipalities must appoint an auditor licensed under the *Public Accounting Act, 2004*. A municipal auditor shall not be appointed for a term exceeding five years. The auditor of a municipality must not be an employee of the municipality or local board of the municipality (see section 296 of the Act).

The municipal auditor's responsibilities extend to the municipality's local boards, and may extend to a local board of more than one municipality (sometimes called a joint board). The municipal auditor reports to council.

The auditor's responsibilities

The auditor's role in the financial management of your municipality is important. The auditor's responsibilities include:

- annually auditing the accounts and transactions of the municipality and its local boards, and expressing an opinion on their financial statements based on the audit
- performing duties required by the municipality or local board

In connection with these responsibilities, the municipal auditor has special powers to access municipal and local board records, require information from council members or municipal officers and employees, require a person to give evidence under oath, and attend certain meetings (see section 297 of the Act).

The audit committee

Many municipalities form an audit committee to prepare for the auditing process and to help the auditor. Its members usually include one or more councillors, the treasurer and the chief administrative officer (if the municipality has one). The committee reviews financial statements, discusses any matters deserving attention, reviews findings of the audit and makes general inquiries of both staff and the auditor to get more information about financial issues.

Financial statements

There are four main components to the financial statements of a municipality: statement of financial position, statement of operations, statement of change in net financial assets (debt), and statement of cash flow. A Common Language Guide to Municipal Financial Statements is available on the ministry's website to help you familiarise yourself with these important documents.

Statement of financial position

The statement of financial position provides information about the municipality's financial position in terms of its assets (what the municipality owns or controls) and liabilities (what the municipality owes) at the end of the fiscal year or accounting period. It reports the municipality's net debt, and its accumulated surplus or deficit, because these figures are indicators that can be used to assess a municipality's financial position.

Net debt shows the amount of future revenues that will have to be raised to pay for past transactions and events. The accumulated surplus/deficit is the primary indicator of the resources (financial and physical) the municipality has available to provide future services.

Reserves and reserve funds

Reserves and reserve funds are included in the accumulated surplus of the municipality. They are both used, among other things, to account for transactions which, for legal or policy reasons, require that amounts specifically earmarked for a project or purpose be identified and spent on that project or activity.

Usually, the purpose is specified when the reserve or reserve fund is established. Reserve fund uses generally are not converted to other uses without council's approval.

Statement of operations

The statement of operations reports the revenues, expenses, results, and surplus or deficit from operations in the fiscal year or accounting period. The statement shows the cost of municipal services provided in the period, the

revenues recognized in the period and the difference between them. It summarizes cost-of-service information at a functional level – for example, social services, recreation, general government, transportation and protection, to name a few.

Statement of change in net financial assets (debt)

The statement of change in net financial assets (debt) explains the difference between the annual surplus or deficit and the change in net financial assets (debt). It tracks what the municipality has spent to acquire tangible capital assets and inventories of supplies. It reports on the disposal of tangible capital assets and the use of inventory.

Statement of cash flow

The statement of cash flow identifies where cash came from, shows how cash was used and provides details on changes in cash and cash equivalents since the previous reporting period. Sources and uses of cash are reported by major activity: operations, capital transactions (acquisitions and disposals), investments (purchases and disposals), and financing (debt proceeds and payments).

Sources of municipal revenue

Revenues may be seen as income for your municipality. They are typically used to pay for the services that the residents of your municipality receive. Some examples of revenue that municipalities may receive include:

- property taxes
- special area rates
- payments in lieu of taxes
- conditional and unconditional grants
- user fees and charges for services, such as recreational and cultural facilities (libraries, pools, etc.) and local improvement charges (sidewalks, etc.)
- fees for licenses, permits and rents
- fines and penalties
- investment income
- development charges, which are subject to provincial legislation which regulates how the revenue from these charges can be used

Payments in lieu of taxes are payments made to municipalities for certain properties exempt from municipal taxation, such as certain property owned by the province or the federal government.

Property taxes

The property tax is your municipality's main source of revenue. It is calculated by your municipality based on two main components – a tax base, determined in accordance with the *Assessment Act*, and tax rates, determined by your municipality, but subject to provincial rules.

Assessment (tax base)

The base for property taxation is the assessed value of properties. The *Assessment Act* governs the assessment process in Ontario, including rules on how the assessed value of a property is derived.

Properties are assessed by the Municipal Property Assessment Corporation (MPAC). Every municipality is a member of this corporation and pays MPAC for the services it receives.

The assessment of land is based on current value, generally as measured by the price that would be paid by a willing buyer to a willing seller at arm's length.

Section 19.2 of the *Assessment Act* provides that the value of land is to be updated every four years. Section 19.1 of the *Assessment Act* provides for the phasing in, over a four-year period, of an eligible increase in the current value of land that happens as a result of a general reassessment.

If a ratepayer in your municipality believes that the assessed value, as shown on their notice of assessment, is not appropriate, there are ways they can address it. A ratepayer should be encouraged to contact MPAC's customer contact centre to discuss their concerns. If they still disagree with their assessed value, the ratepayer could then ask MPAC to review their assessment by filing a Request for Reconsideration. For more information on the reconsideration and appeal process and related deadlines, see MPAC's website.

Section 7 of the *Assessment Act* and *Ontario Regulation 282/98* set out the eight main categories of property classes on the assessment roll: residential, multi-residential, new multi-residential, farmland, managed forest, commercial, industrial, pipeline and landfill property classes. Your municipality can also adopt optional classes within the commercial and industrial classes.

Tax rates

A tax rate is the rate applied to each dollar of taxable assessment to determine the amount of taxes to be paid. In simple terms, a tax rate of 1.23% raises 0.0123 cents per dollar of assessment.

Property tax has two components: a municipal portion and an education portion.

With some limits, municipalities may set their own municipal tax rates and there are separate tax rates for each property class.

The rates for the education portion of the tax are established by the Minister of Finance and help to fund the elementary and secondary education system in Ontario. Education tax rates are set in *Ontario Regulation 400/98* under the *Education Act*.

Special area rates

Municipalities may impose special area rates to raise certain costs of a special service in a designated area of the municipality. A special service is a service or activity that is not being generally provided throughout the municipality, or is provided in a different way or at a different level in different parts of the municipality. Certain health programs and services cannot be area-rated.

For more information see section 326 of the *Municipal Act, 2001* and *Ontario Regulation 585/06*.

Setting tax rates

To minimize the possibility that taxes are shifted from one property class to another, the provincial government restricts the relative tax burden on the different property classes in a number of ways, such as tax ratios, transition ratios and ranges of fairness.

Tax ratios

A tax ratio is the ratio that the tax rate for a property class must be in relation to the residential class tax rate (the tax ratio for the residential class is set at 1.00). They determine how much of a municipality's tax burden is borne by each of the property classes. Municipalities with authority to set tax ratios are limited by transition ratios and tax ratio ranges of fairness in accordance with the Act.

Transition ratios

The Minister of Finance prescribes a transition ratio for certain circumstances, such as when a new class is established in a municipality (for example large industrial). The transition ratio represents the maximum tax ratio value the municipality can adopt. Tax ratios can only be equal to or less than transition ratios, unless the transition ratio is below or within the range of fairness.

Ranges of fairness

The ranges of fairness are target levels of taxation prescribed by the province for each property class to encourage the reduction of tax rate differences and tax shifting between classes. If the property class tax ratio is outside the range of fairness set for that class, the municipality must either maintain the existing tax ratio or adjust the ratio so that it moves closer to the range of fairness. Generally, a municipality cannot move its tax ratios away from the ranges of fairness. However, the Minister of Finance has prescribed exceptions.

Tax restrictions on multi-residential, commercial, industrial and landfill classes

Tax ratio limits (known as municipal levy restriction thresholds) also apply with respect to the commercial, industrial, multi-residential, and landfill property classes. Generally, municipalities with a property class tax ratio that is above the applicable limit cannot impose general levy increases on the property in the class until the ratio is brought to or below the limit. *Ontario Regulation 73/03* sets out the tax ratio limits and provides partial relief from the levy restriction.

Tax ratio flexibility

Since 2004, municipalities have been provided with the flexibility to reset tax ratios, in order to avoid reassessment-related tax shifts onto residential properties. Municipalities are allowed to increase business tax ratios in order to prevent tax shifts from business taxpayers onto residential taxpayers as a result of reassessment. This measure allows municipalities to offset reassessment-related tax shifts – it does not permit them to further increase the burden on business owners. Municipalities can set tax ratios based on the prescribed formula set in *Ontario Regulation 385/98* which is amended annually to update the applicable tax year.

For more information regarding tax ratios please refer to Part VIII of the *Municipal Act, 2001*.

Reduced rates for farm and managed forests classes

Properties in the Farm and Managed Forests property classes are taxed at 25% of the residential rate established in the municipality. Upper-tier and single-tier municipalities can further reduce the municipal tax rate on the farm property class to below 25% of the residential tax rate.

Tax tools

To help lessen tax shifts resulting from reassessments or provide relief to certain types of properties, your municipality has several tax tools under the *Municipal Act, 2001*. Some of these tools are summarized as follows:

Optional classes

As stated earlier, single-tier and upper-tier municipalities have the flexibility to adopt optional classes, in addition to the standard property classes, which give municipalities more flexibility in spreading the municipality's property tax burden within the commercial and industrial property classes.

Graduated tax rates (banding)

Single-tier and upper-tier municipalities have the authority to create two or three bands of assessments for commercial, industrial and landfill properties for the purposes of applying graduated tax rates. Graduated tax rates allow a municipality to shift some of the tax burden from lower-valued properties to higher-valued properties while maintaining overall class revenues.

Lowering tax ratios

Single-tier and upper-tier municipalities can alter tax ratios toward or within the range of fairness established by the provincial government (as discussed above under Ranges of Fairness).

Tax relief for low-income seniors and low-income disabled homeowners

Under the Act, single-tier and upper-tier municipalities must pass a by-law to provide for deferrals or other relief from increases resulting from reassessment on residential properties owned by low-income seniors or low-income disabled persons. An upper-tier by-law providing for such relief also covers the tax increases for lower-tier purposes.

Rebates for charities and tax reduction for heritage properties

Under the Act, single-tier and upper-tier municipalities must establish a program to provide property tax rebates to registered charities located in commercial and industrial properties, and may provide rebates to similar organizations, located in any property type as determined by the municipality.

Local municipalities can also provide property tax reductions or refunds to owners of eligible buildings designated under the *Ontario Heritage Act* as being of architectural or historical value.

Tax rebates for vacant commercial and industrial buildings

Municipalities have broad flexibility to provide property tax rebates for vacant commercial, industrial and landfill buildings. The Act and *Ontario Regulation 325/01* provide details regarding eligibility criteria, the application process, and how the rebate is to be calculated. Municipalities may tailor the vacant rebate program to meet local needs, while considering the impact of such changes on the business community. Upper- and single-tier municipalities that have decided to modify their vacancy rebate program are required to notify the Minister of Finance and provide details of the proposed changes, along with a council resolution. Any changes to the rebate program are implemented through regulation for each municipality.

Capping for multi-residential, commercial and industrial properties

Part IX of the Act sets out the rules around tax capping and clawbacks, which is a mechanism that allows municipalities to limit tax increases or decreases for certain properties within the commercial, industrial and multi-residential property classes.

If the property taxes on a given property increase beyond a certain threshold as a result of a change in assessment, a municipality is required to limit the increase in property taxes. Conversely, in order to recover revenues lost by the capping of tax increases, municipalities can also limit property tax decreases, through clawbacks. Increases in property taxes resulting from an increase in the municipal budget by council are not subject to capping.

Municipalities have a range of options to move capped properties closer to their current value assessment taxes, to limit capping protection only to reassessment-related changes in prior years as well as options to exit or

phase-out from the program under certain conditions.

For additional information regarding tax capping, refer to Part IX of the Act and related regulations.

Tax for general municipal purposes

Simply put, tax rates are calculated as part of the budget process. In summary, estimated revenues from all sources other than property taxes are subtracted from the estimated total expenses to calculate the amount the municipality intends to raise through its property tax levies. Deficit and surplus must also be considered. Then the tax rates are calculated. Even in cases where the budget remains constant from one year to the next, taxes may change because of property reassessments.

Tax for region, county and school purposes

The tax rates for any upper-tier municipality (county or regional government) are calculated by the upper-tier in a similar fashion as the local levy for general municipal purposes by a lower-tier or single-tier municipality. In other words, municipalities determine their total expenditures, subtract their non-tax revenues, consider any surplus/deficit amounts and then calculate their tax rates. The upper-tier rate for each class of property must be the same for each lower-tier municipality. Upper-tier taxes are collected by the lower-tiers and are given in instalments to the upper-tier. The amounts raised by each lower tier depend on the amount of assessment and the types of properties located within its boundaries.

For school purposes, the Ministry of Finance establishes education property tax rates in *Ontario Regulation 400/98* under the *Education Act*.

A single education tax rate is set each year for residential, multi-residential, and new multi-residential classes across the province (farm and managed forest classes are set at 25% of the residential rate).

Education tax rates for business property classes are set each year for each individual upper-tier and single-tier municipality. Education taxes are collected by the local municipality and submitted to the local school boards on a quarterly basis.

Tax billing

Each year, MPAC provides every municipality with a copy of the assessment roll to calculate taxes for the following year. The roll includes the following information about each assessed property:

- the roll number
- description/identification of the property
- the name of the property owner
- the property's assessed value
- the type of assessment (for example, residential, commercial, industrial)
- the tax qualifier (for example, taxable, tax exempt, exempt but eligible for payment in lieu)
- the type of school board that the owner or tenant, as the case may be, supports under the *Education Act*

The treasurer of a single or lower-tier municipality must prepare a "tax roll" based on the last returned assessment roll for the year (see section 340 of the Act for more information). For the most part, the tax roll shows the contents described above. It also needs to show the total taxes payable and a breakdown of the general and special local municipal taxes payable, for general and special upper-tier taxes, for each school board, and for all other purposes.

The treasurer adjusts the tax roll for a year to reflect any changes to the assessment roll for that year under the *Assessment Act* (e.g. from assessment appeals). Taxes are collected in accordance with the adjusted tax roll, as if

the adjustments had formed part of the original tax roll and the relevant local municipality refunds any overpayments or sends another tax bill to raise the amount of any underpayment, as the case may be.

Preparing tax bills is the responsibility of the treasurer. Only lower-tier and single-tier municipalities issue tax bills to property owners. The treasurer must send a tax bill to every property owner at least 21 days before any taxes shown on the tax bill are due. Tax bills may be sent electronically to a taxpayer, if the taxpayer has chosen to receive the tax bill in that manner. The tax bill separates the school levies and upper-tier levies from the general local levy and other special rates. The form and content of the tax bill are set out under *Ontario Regulation 75/01*.

To support municipalities in their property tax analysis, planning and billing, the province provides the Online Property Tax Analysis (OPTA) system to municipalities free of charge. The OPTA system includes tools to help municipal staff with evaluating tax policy options, tax rate setting and tax capping adjustments. Training and operational support on the OPTA system is readily available and also provided free of charge to municipalities.

For tax billing purposes, your council should also consider matters such as:

- whether taxes will be paid in one lump sum or in instalments
- the dates on which payments will be due
- whether to impose penalties for late payments
- whether to give discounts for advance payments

Many municipalities have adopted an instalment payment system. Instalments are convenient for taxpayers and provide the municipality with a steady cash flow, reducing the need for temporary borrowing. A further reduction in borrowing is possible if your municipality introduces an interim tax before adopting its annual budget.

Your municipality must pass a by-law to levy interim taxes. The interim amount levied on a property shall not exceed 50% of the total taxes, both municipal and education, levied on the property for the previous year (or such other percentage as may be prescribed). See section 317 of the Act for more information on the interim tax.

Your municipality can pass by-laws to impose late-payment charges (penalties and interest) on unpaid taxes. Taxes that are not paid by the due date may be subject to a penalty up to a maximum of 1.25% of the amount owed on the first day of default (or such later date as the by-law specifies. Interest of up to a maximum of 1.25% per month may be imposed on taxes that are due and unpaid but may not start to accrue before the first day of default. Interest cannot be compounded. See section 345 of the Act for more information about late payment charges.

Tax collection

Your municipality can explore a number of ways to collect unpaid taxes, such as through a court, or other processes in accordance with applicable legislation. These might include, for example, a tax sale, requiring tenants to pay their rent to the municipality instead of their landlord, or seizure of personal property.

Tax sales

Part XI of the Act and other provisions including the tax sales regulations (*Ontario Regulation 181/03*) provide a process that municipalities can follow to collect outstanding property taxes – selling the property in question to recover the property taxes owed.

Generally, where a property tax on a property goes into arrears, the municipality can initiate a tax sale in the second year after the amount becomes owing.

Following a successful tax sale, the municipality recovers its cancellation price from the proceeds and then is required to pay any remaining proceeds from the sale into Court. The Act provides for a process for payment out of Court, of sale proceeds to persons who have an interest in the land.

Government contributions

Payments in lieu of taxes

Payments in lieu of taxes, generally, are payments made by provincial and federal governments on certain property that is exempt from property taxation because it is owned by those governments. As well, in certain circumstances, municipalities may be required to pay PILs.

Payments in lieu of taxes are generally calculated based on the assessment of land or based on a set amount. For example, the payments in lieu of taxes on institutions such as hospitals, universities and correctional institutions are calculated based on $75 per bed, student or inmate.

Grants and subsidies

Grants and subsidies may be contributions made by the provincial and federal governments to help a municipality, for example, meet the costs of delivering services to its residents. Provincial grants play an important role as a revenue source for municipalities, accounting for $8.2 billion in annual revenues reported by municipalities in 2016.

Conditional and unconditional grants

Generally, conditional grants are understood as made for a specific program or service. By contrast, generally unconditional grants can be used to pay for expenses as council decides. Conditional grants account for about 94.3% of total provincial grants used by municipalities and are subject to specific eligibility and spending criteria. The major conditional grants are for social and health services, transportation, social housing, and protection services. Unconditional grants, which represent about 5.7% of total grants used by municipalities, consist mainly of funding provided through the Ontario Municipal Partnership Fund (OMPF), the province's main transfer payment to municipalities.

Through the OMPF, 389 municipalities are receiving $510 million in unconditional funding for 2018.

In 2018, the Province will have fully implemented its commitment to upload social assistance benefit costs as well as court security and prisoner transportation costs from the property tax base, as agreed with municipalities in 2008. Ontario municipalities are benefiting from over $2.1 billion in reduced costs in 2018 alone. The province's uploads have ensured that more property tax dollars are available for important municipal priorities, including investments in infrastructure and economic development.

The OMPF, combined with the municipal benefit resulting from the provincial uploads, will total over $2.6 billion in 2018 – the equivalent of over 14% of municipal property tax revenue in the province. It is important to note that overall support to municipalities will continue to increase.

You can find additional information regarding the OMPF on the Ministry of Finance website.

Other revenue sources

Ontario municipalities, as a whole rely more heavily on municipal revenue sources than on federal and provincial government contributions, both in amount and in impact on the municipal budgeting and financing process. These municipal revenues are increasingly important for the operation of municipalities.

Many municipalities have diversified and expanded their revenue base in recent years to reduce their dependence on municipal taxation as the major revenue source. The use of appropriately set user fees can result in more sustainable funding for key infrastructure and may contribute towards positive environmental impacts.

User fees

Section 391 of the Act describes important aspects of the power of your municipality to impose fees and charges for services and for the use of municipal property. Your municipality may have a range of choices in deciding on the services for which it will charge a fee, the amount of the fee, the basis for calculating the fee, and who will pay the fee. Examples of fees charged by municipalities include fees for licenses, permits and services such as water, waste, sewage, transit and recreation.

Ontario Regulation 584/06 provides that a municipality or local board does not have the power to impose fees on a number of things, including, among others, fees for:

- capital costs captured by existing by-laws or agreements under the *Development Charges Act, 1997*
- processing of *Planning Act* planning applications
- collection of school and upper-tier taxes
- some services, activities or costs related to telecommunications, electricity or gas businesses located on municipal highways

See Part 12 of the Act and *Ontario Regulation 584/06* for more information about user fees.

Transient accommodation tax

As of December 1, 2017, single- and lower-tier municipalities have the option of imposing a tax on the purchase of transient accommodation in the municipality (such as hotels and other types of short-term accommodation).

It is up to the local municipality to decide how to design the transient accommodation tax, including the tax rate and the types of short-term accommodations to which the tax would apply. A municipality that chooses to implement such a tax is required to share a portion of the revenue with eligible not-for-profit tourism organization(s).

Revenues from the transient accommodation tax that exceed the amount that municipalities are required to share with a not-for-profit tourism organization may be retained by municipalities for their own purposes.

See Part XII.1 of the *Municipal Act, 2001* and *Ontario Regulation 435/17* for more information about the transient accommodation tax and related sharing requirements.

Local improvement charges

A local improvement may be generally described as a municipal capital work (or project) that a municipality undertakes through the local improvements process. Municipalities may put in place local improvement charges to raise all or part of the costs of certain capital works (for example sidewalks or sewers). In particular, a municipality may impose costs of local improvement works through special charges on properties abutting (or bordering) the work, and on properties that do not abut the work but will immediately benefit from the project. Municipalities often spread the costs of local improvements over several years, to help reduce the annual amounts those paying the charges – which may include future owners along with original owners – must pay.

Many of the rules are found in the local improvement charges regulation (*Ontario Regulation 586/06*) which sets out details of the process, addressing matters such as a municipality's and an owner's share of the cost of a work, and the ways costs may be charged.

Licenses, permits and rents

Revenues under this category include those from issuing licenses, permits and fees related to businesses, vendors, trailers and animals. These revenues also include rents charged to use or occupy municipal properties, and concessions or franchises to use or operate municipal facilities.

The *Building Code Act, 1992* includes fee transparency requirements. These include requirements for public meetings before permit fees are changed, and that there be an annual report, made available to the public, on the total fees collected, the direct and indirect costs of delivering services, and the amount of any reserve fund that has been set up by the municipality.

Fines

This source of revenue includes fines imposed for not complying with municipal by-laws, fines related to the *Building Code Act, 1992*, and various other acts. The most common fines are for local parking or traffic violations, and for violations of building regulations.

Local municipality treasurers may, in certain circumstances, add an unpaid *Provincial Offences Act* fine to the property tax roll if all of the owners of the property are responsible for paying the fine.

Investment income

During the year, your municipality may have cash on hand that is not immediately needed. Some may be amounts held in reserve funds or acquired through interim tax collections or grant payments. It may be possible to invest these funds to earn a return.

Sections 418 and 418.1 of the Act and *Ontario Regulation 438/97*, Eligible Investments and Related Financial Agreements and Prudent Investment set out many of the rules relating to municipal investment. In the past, the regulation set out only a prescribed list of securities in which a municipality could invest. Credit rating and other requirements may apply to investments made under the list. As a result of recent amendments to the Act and the regulation, municipalities can now either invest using the prescribed list of securities or it may, as of January 1, 2019, be able to pass a by-law to invest in any security using the prudent investor standard.

Under the prudent investment rules, municipalities that satisfy certain criteria may invest in any security subject to exercising the care, skill, diligence and judgement that a prudent investor would exercise in making an investment. The rules include, a requirement that municipal council develop an investment policy and a requirement to invest through an investment board. Joint investment options may be available to municipalities that are not individually eligible to invest under the new standard. Other legislation may also be relevant.

Your municipal treasurer may be a source to research and suggest investments that consider your council's policy and directions about appropriate levels of risk and reward.

Development charges

Development charges are an optional revenue tool designed to help municipalities pay for a portion of the capital costs of infrastructure to support new growth. The charges help ensure that a municipality's existing taxpayers are not required to pay the full capital costs of infrastructure or services required to serve new residents and businesses. The charges do not pay for operating costs or for the future repair of infrastructure.

To ensure they have the resources to support growth, municipalities can use development charges to fully recover the eligible costs of services listed under the *Development Charges Act, 1997* (DCA). These services are:

- water supply services, including distribution and treatment services
- wastewater services, including sewers and treatment services
- storm water drainage and control services

- services related to a highway as defined in subsection 1 (1) of the *Municipal Act, 2001* or subsection 3 (1) of the *City of Toronto Act, 2006*, as the case may be
- electrical power services
- Toronto-York subway extension, as defined in subsection 5.1 (1) in O. Reg 192/07 Toronto-York subway extension
- transit services other than the Toronto-York subway extension
- waste diversion services
- policing services
- fire protection services
- ambulance services
- services provided by a board under the *Public Libraries Act*
- services related to long-term care
- parks and recreation services, but not the acquisition of land for parks
- services related to public health
- child care and early years programs and services under part VI of the *Child Care and Early Years Act, 2014* and any related services
- housing services
- services related to proceedings under the *Provincial Offences Act*, including by-law enforcement services and municipally administered court services
- services related to emergency preparedness services related to airports, but only in the Regional Municipality of Waterloo

Municipalities may impose development charges through a municipal development charge by-law. Before passing the by-law, your municipality must prepare a detailed background study that identifies the estimated increased capital costs projected to be incurred as a result of new development and must hold at least one public meeting.

A development charge by-law expires in five years unless repealed or replaced earlier. When a by-law expires, a new background study must be completed prior to passing a new by-law.

Development charges are generally payable at the time the first building permit is issued, or at the beginning of each stage in the case of multi-phased developments. Your municipality can deny a building permit if the development charge is not paid or if no satisfactory arrangements have been made to pay the charge.

To increase the predictability of development charges for homebuilders, development charges are frozen at the time a site plan application, or if there is none, at the time a zoning application and remain frozen for a period of two years after the relevant application is approved. For certain types of development, including rental housing, institutional and non-profit housing developments, the payment of development charges is deferred to the time of occupancy and paid in installments over a number of years. Development charges for rental housing and institutional (for example, long-term care homes and retirement homes) development are paid over five years; development charges for non-profit housing developments are paid over twenty years.

Community benefits charges

To ensure the cost of building new housing is more transparent and costs are assessed fairly, the new community benefits charge provides local municipalities with the flexibility to collect funds to help pay for services and infrastructure that are needed due to higher density development.

Municipalities can use the charge to fund the capital costs of any public service associated with new growth, including parkland, if those costs are not already recovered from development charges and parkland provisions.

The community benefits charge is an optional tool for lower-tier and single-tier municipalities. An upper-tier municipality cannot pass a community benefits charge by-law. If a municipality passes a community benefits charge by-law, the charge will only apply to the development or redevelopment of buildings that are five or more

storeys and have 10 or more residential units. The maximum charge payable in any instance cannot exceed four percent of the value of land being developed.

The community benefits charge replaces the former section 37 height and density bonusing, under the *Planning Act*, and provides greater transparency and accountability of building costs.

Municipalities will have until up to September 18, 2022, to continue using previous tools while they plan to transition to this new framework to fund local infrastructure and services in growing communities.

Shared service arrangements

Shared service arrangements between two or more municipalities may be an invaluable tool for municipalities to maintain, expand or add services, including those that might otherwise be beyond their reach. It is a proven way to reduce servicing costs. Municipalities could consider possibilities for sharing such as administrative staff, equipment, office space, police, emergency services, recreational facilities, roads maintenance, libraries, by-law enforcement, waste management, accountability officers, or any range of services that are the responsibility of municipalities.

Municipalities may enter into agreements with each other (and certain local bodies) to jointly provide, for their mutual benefit, many kinds of matters. These are sometimes called joint undertaking agreements. See section 20 of the *Municipal Act, 2001* for more information about joint undertakings).

Your municipality's objectives, as may be outlined in a municipal strategic plan, can help identify whether shared services may benefit your municipality, and can help determine which services are appropriate for shared service agreements and which approaches are best suited to meet municipal needs. There are many innovative ways municipalities are working together to deliver additional or better services while cutting costs and generating revenue.

Examples of objectives that may motivate municipalities to consider shared services:

- cost savings from economies of scale
- service enhancements and expansions
- access to specialists, skilled labour and/or better quality equipment
- tapping into new revenue streams that require many users or inputs
- seamless service integration across a region

Financing sources

Sources of capital funding fall into three main groups: internal sources, external sources and debt or lease financing.

Internal financing sources include transferring or using funds from or identified in the current-year operating budget or existing reserves and reserve funds to help finance capital works. The sale of existing assets which your municipality no longer needs (such as surplus real estate or buildings) can also generate funding for new capital projects

External sources of financing include other government grants (both federal and provincial), fundraising or donations

The third source – debt, lease or other kinds of financing – includes external borrowing and other financing involving long-term payment obligations for the municipality

Debt management

Generally, a municipality may not commit more than 25% of its total own-purpose revenues to service long-term debt and other long-term obligations without first getting approval from the Ontario Land Tribunal (see *Ontario Regulation 403/02*, Debt and Financial Obligation Limits). Often, the limit for a municipality is referred to as the Annual Repayment Limit (ARL).

The ministry calculates an ARL for each municipality annually, using the data that municipalities submit annually through the FIR on their long-term liabilities and debt charges.

Prior to authorizing most new long-term borrowing or other long-term financial obligations, the council of the municipality is required to have its treasurer update the ministry-determined limit. This is part of the process a municipality uses to determine if there is capacity within its ARL to undertake the planned borrowing or commitment.

Some of the indicators that municipalities use to help figure out their ability to service debt are:

- debt per capita
- debt charges per capita
- debt charges as a percentage of revenue
- debt charges as a percentage of the municipal levy
- debt-to-assessment ratio
- debt charges to tax rate ratio

The municipality decides whether to use debt or pay-as-you-go financing. Either way may be beneficial to individual municipalities in certain circumstances. However, as a best practice, municipalities may wish to evaluate the long-term financial impact of a proposed approach before making these decisions.

Expenditures vs. expenses

Capital expenditures or capital purchases

A capital purchase or expenditure is generally one that results in the purchase, construction, development or improvement of a tangible capital asset. See Table 1: examples of capital expenditures and operating expense.

Capital purchases are not considered expenses. Amortization from the tangible capital assets is expensed in the statement of operations.

Operating expenses

An operating expense is generally seen as something that is consumable or has a short life. Operating expenses are often generated by ongoing programs, or on projects that constantly recur. For example, fire and police protection, park maintenance, and garbage collection costs are typically recorded as operating expenses.

Table 1: examples of capital expenditures and operating expense

The following table provides some examples of how capital budget expenditures may be different from operating budget expenses. The items listed are suggestions only, and may not necessarily be accurate or complete in your municipality's experience.

Type of facility	Capital budget expenditure	Operating budget expense

Type of facility	Capital budget expenditure	Operating budget expense
Streets	Physical change, such as street widening or design	Paving repair, seal-coating
Traffic	New or upgraded signal equipment	Equipment repair, lane marking
Public buildings	Major remodelling and structural changes, new construction	Preventive maintenance repairs that do not significantly upgrade the structure or increase its previously estimated useful life (for example, minor roof repair)
Water treatment	Rehabilitation of major components of a treatment facility to extend useful life or capacity, new construction	General repair or maintenance of equipment or facilities to continue operations

Budgets vs. financial statements

There is a disconnect between the budget used for raising the sums needed by a municipality and operating results reported in financial statements which follow PSAB's accounting standards. A budget disconnect may arise from – among other possibilities – a municipality including transfers to and from reserves in the annual budget. Under PSAB's accounting standards, transfers to and from reserves are considered neither revenues nor expenses. There may then be a difference between the budget used to raise the sums needed by a municipality, and a result reported exclusively using PSAB's principles.

Municipal asset management planning

Asset management planning is the process of making coordinated decisions regarding the building, operating, maintaining, renewing, replacing, and disposing of infrastructure assets. Leadership at the local level is needed to help ensure infrastructure investment decisions are aligned with community needs and are sustainable in the long-term.

The overall asset management planning process requires a thorough understanding of the characteristics and condition of the municipality's infrastructure assets, as well as the service levels expected from them. It considers a municipality's infrastructure assets and objectives, current and proposed levels of infrastructure service and the life-cycle of the assets, and then develops a financial strategy for providing infrastructure services. Having an asset management plan in place is useful when making infrastructure investment decisions. Council may wish to consult its asset management plan when making such decisions.

Asset management planning ties into the municipality's other strategic planning processes, including the budgeting process and the long-term financial planning process, as infrastructure investment decisions impact both operating and capital expenses. Council may wish to keep this in mind throughout the decision-making process.

Asset Management Planning for Municipal Infrastructure – Highlights of *Ontario Regulation 588/17*

The regulation builds on the progress municipalities have made on asset management planning. It promotes standardization and consistency in municipal asset management plans across the province while providing municipalities with the flexibility to tailor their plans to local needs and circumstances. The requirements of the regulation are phased-in over a period of six years from 2019 to 2024, and apply to all municipally-owned infrastructure assets. The regulation came into force on January 1, 2018 and is phased in as follows:

- by July 1, 2019: A strategic asset management policy must be developed that includes, among other things, an explanation of council's involvement in the municipality's asset management planning
- by July 1, 2021: A phase one asset management plan must be developed that identifies current levels of service for core infrastructure assets
- by July 1, 2023: The phase two plan builds on the phase one plan to include current levels of service for all remaining infrastructure assets
- by July 1, 2024: The phase three plan is the final plan that builds on phase one and two and must include the proposed levels of service for all infrastructure assets, as well as a life-cycle management strategy and financial strategy with respect to the assets

Every asset management plan requires approval by resolution passed by council regardless of the phase under which it is completed. Commencing the year after completion of the phase three asset management plan, municipalities must conduct an annual review of their asset management progress on or before July 1 each year. The municipality's asset management plans must also be updated at least every five years and posted to a publically available website.

The regulation does not require municipalities to submit their asset management policy or plan to the province. However, the province will continue to require municipalities to submit completed asset management plans in connection with municipal infrastructure funding programs. It is also important to note that the province plans on collecting information from asset management plans in order to gain a better understanding of the infrastructure challenges municipalities face, one year after the final requirements of the regulation are phased in (July 1, 2024).

The province has made an initial suite of tools and supports available to help municipalities implement the asset management planning regulatory requirements.

Ontario Regulation 588/17 requires varying levels of engagement and participation from council, and so it is recommended that council members familiarize themselves with the asset management planning process and the requirements of *Ontario Regulation 588/17*.

Infrastructure funding

Ontario municipalities may be required to develop detailed asset management plans to accompany any request for provincial infrastructure funding. Municipalities are responsible for tailoring their asset management planning practices to their unique needs and ensuring that all the relevant expertise is applied.

Municipal financial tools for economic development

Ontario municipalities are working in many ways to plan and design communities for people and businesses, by linking the built environment to economic well-being.

Municipalities have broad powers in this context, including to pass by-laws concerning the economic, social and environmental well-being of the municipality and to provide economic development services. There are some limits, including certain differences that depend on the municipality.

Municipalities are generally prohibited from providing direct or indirect financial assistance to commercial and other businesses (for more information, please see section 106 of the Act). This kind of assistance is also known

as a “bonus,” and the prohibition is sometimes called the rule against municipal bonusing. There are exceptions to this rule, some linked to the tools mentioned below.

Your municipality has financial and other tools within this framework that can promote economic development. This suite of tools may be referred to as municipal economic development tools. Some are listed below.

For more information on municipal economic development tools, please see the Municipal Planning and Financial Tools for Economic Development Handbook.

Grants

Municipalities have broad power to provide grants for purposes that the council considers to be in the interests of the municipality, subject to the rule against municipal bonusing. Grants may include, for example:

- loan guarantees
- selling or leasing land at a nominal amount
- providing for the use of municipal employees on terms stated by council
- donating food and merchandise

For more information please see section 107 of the Act.

Small business programs/small business incubators

Municipal small business programs or business incubators are an opportunity for your municipal council to encourage the growth of small businesses in your community. Certain municipal financial assistance to business may be possible for the purpose of a small business program.

As a result of recent amendments to the Act and a recent regulation, a municipality can establish and maintain programs to encourage small businesses in the municipality if they satisfy the conditions set out in the regulation. These conditions provide municipalities with the flexibility to establish business incubators based on their unique economic development objectives, while ensuring a municipality has completed a public consultation and its own due diligence.

For more information, please see section 108 of the Act and *Ontario Regulation 594/17*.

Municipal capital facilities agreements

Your municipality may choose to use a municipal capital facilities agreement to deliver a range of municipal capital facilities through agreements with any person, which may include other public bodies, the private sector, not-for-profit organizations, and Indigenous groups. These agreements are a tool that municipalities have to help with flexible financing and provision of their capital facilities. For example, municipal capital facilities not owned by the municipality – as opposed to capital facilities, such as a recreational facility, owned by a municipality – may, if the municipality decides, be exempted from municipal taxation. Certain municipal financial assistance to business may be possible when municipal capital facilities are provided.

Common examples of facilities provided through municipal capital facilities agreements include municipal affordable housing, recreational, or parking facilities.

For more information, please see section 110 of the Act, and *Ontario Regulation 603/06*.

Municipal services corporations

Your municipality may establish a Municipal Services Corporation for most services that municipalities could deliver themselves. A Municipal Services Corporation may provide economic development services or

municipal financial assistance to business.

For more information, please see section 203 of the Act, along with *Ontario Regulation 599/06*.

Business improvement areas

Municipalities may designate an area as an improvement area and establish a board of management to promote it as a business or shopping area. These are often called business improvement areas.

A business improvement areas is a made-in-Ontario innovation that allows local business people and commercial property owners and tenants to join together and, with the support of the municipality, to organize, finance, and carry out physical improvements and promote economic development in their district.

More information on business improvement areas and the role of the municipality may be found in the Business Improvement Area Handbook.

For more information about the legislation, please see sections 204 to 215 of the Act.

Helpful considerations: section 9

Important considerations, before voting on the adoption of a budget, include assessing:

- the significant costs the budget document is committing the municipality to
- the revenues required to meet these obligations
- how the budget will help the municipality achieve long-term financial sustainability

Public input can be helpful in the municipal budget process. It promotes trust in the municipality and ensures council is aware of residents' opinions.

Consider provincial reporting requirements or timelines. Compliance helps ensure access to capital programs and receipt of provincial grants on time.

Take advantage of the opportunity to use the breadth of FIR data to support evidence-based decision-making.

Consider establishing, or reviewing existing, tax rate stabilization reserves – that is reserves to help address changes in tax revenue, for example, to make up for expected or potential tax (assessment) appeal-related decisions. Assessment appeals can take several years to resolve, particularly for more complex commercial and industrial property. An unexpected appeal loss may result in a need for a significant tax increase for many ratepayers if a municipality does not have the resources set aside to pay the amount.

Consider using special area rates. Municipalities that provide different services or levels of service in different areas, such as urban or rural regions, have used special area rates to help fund those services from within the communities that benefit from them

If a property does not sell at the initial tax sale, a municipality may wish to consider re-advertising the property a second time, or taking ownership of the land following the failed tax sale.

Councils may wish to consider using development charges to help cover a portion of the municipality's growth-related capital costs.

Consider opportunities for sharing services or resources with your neighbouring municipalities or local bodies to achieve economies of scale, tap into a new revenue stream, or reduce expenditures.

Review your municipality's asset management plan to help you understand the infrastructure priorities and needs within your community. Ensure the asset management plan is supported by a finance strategy and that the plan is integrated into the long-term financial plan.

Integrate climate change adaptation best practices, such as storm water management, into your municipality's asset management planning.

Consider undertaking private works as local improvements. Municipalities have also put in place local improvement programs to help property owners with energy efficiency improvements and septic system rehabilitation.

10. Land use planning

Community or land use planning can be defined as managing our land and resources. Through careful land use planning, municipalities can manage their growth and development while addressing important social, economic and environmental concerns. More specifically, the land use planning process balances the interests of individual property owners with the wider needs and objectives of your community, and can have a significant effect on a community's quality of life.

You have a key role to play in land use planning. As a representative of the community, you are responsible for making decisions on existing and future land use matters and on issues related to local planning documents.

It is important to note that land use planning affects most other municipal activities and almost every aspect of life in Ontario. Council will need to consider these effects when making planning decisions, while recognizing that most planning decisions are long-term in nature. Public consultation is a mandatory part of the planning process. You and your colleagues will devote a large part of your time to community planning issues. You may also find that much of your interaction with the public involves planning matters.

Good planning contributes significantly to long-term, orderly growth and efficient use of services. On a day-to-day basis, it is sometimes difficult to see how individual planning decisions can have such impact. Making decisions on planning issues is challenging and, for these reasons, it is important to understand the planning system and process.

The land use planning framework

The responsibility for long-term planning in Ontario is shared between the province and municipalities. The province sets the ground rules and directions for land use planning through the *Planning Act* and the Provincial Policy Statement (PPS). In certain parts of the province, provincial plans provide more detailed and geographically-specific policies to meet certain objectives, such as managing growth, or protecting agricultural lands and the natural environment. The Greenbelt Plan, Niagara Escarpment Plan (NEP), the Oak Ridges Moraine Conservation Plan (ORMCP), the A Place to Grow: Growth Plan for the Greater Golden Horseshoe and the Growth Plan for Northern Ontario are examples of geography-specific regional plans. These plans work together with the PPS, and generally take precedence over the PPS in the geographic areas where they apply. While decisions are required to be "consistent with" the PPS, the standard for complying with these provincial plans is more stringent, and municipal decisions are required to "conform" or "not conflict" with the policies in these plans.

Municipalities and planning boards implement the province's land use planning policy framework. Municipalities and planning boards prepare official plans and make land use planning decisions to achieve their communities' economic, social and environmental objectives, while implementing provincial policy direction. Municipal decisions must be "consistent with" the PPS, which means that municipalities are given some flexibility in deciding how best to achieve provincial policy direction.

The diagram below shows the land use planning system and its main components from left to right:

- the province sets out the legislative framework and policies
- municipalities and planning boards are the primary decision makers and implement the policy direction through their official plans and zoning by-laws, and also through decisions on planning matters
- approval authorities and the Ontario Land Tribunal (OLT) provide dispute resolution mechanisms for protection of provincial interests and interests in individual land owners and proponents

Planning is fundamentally a public process. It includes the input of developers, residents, Indigenous communities and individuals to help municipalities achieve their goals and implement the provincial and municipal policy frameworks.

The following provides you with an overview of the responsibilities and roles of the main parties involved in the planning system:

1. **The public:**
    - Early involvement in consultations/meetings
    - Keep informed
    - Provide input (for example, attend public meetings, express views on development proposals and participate in making policy)
2. **Proponents/Applicants:**
    - Early consultation with municipality/approval authority
    - Submit complete application
    - Meeting provincial policy, official plan(s) and zoning requirements
    - Community involvement
3. **Municipal Council:**
    - Adopt up-to-date official plan
    - Early consultation
    - Decisions “shall be consistent with” PPS
    - Public notice and meetings
    - Engage with Indigenous communities
    - Apply provincial and local interests
    - Decision making on planning applications
    - Defend decisions at the Ontario Land Tribunal (OLT)
    - Measure Performance
4. **The Province:**
    - Policy and statute development
    - Approval authority for certain planning matters
    - Engage with Indigenous communities
    - Broad provincial/inter-regional planning
    - Education and training
    - Technical input
    - Research and information
    - Performance measures

5. **Ontario Land Tribunal**

    - Appeal body for hearing and deciding appeals of planning matters

The Planning Act

The *Planning Act* is the basis of Ontario's land use planning system. It defines the approach to planning, and assigns or provides the roles of key participants. All decisions under the *Planning Act* must follow provincial policy direction as set out in the PPS and provincial plans.

The *Planning Act* is the legal foundation for key planning processes such as:

- local planning administration
- the preparation of planning policies
- development control
- land division
- the management of provincial interests
- the public's right to participate in the planning process

The *Planning Act* also sets out processes and tools for planning and controlling development or redevelopment. These tools include:

- official plans
- zoning by-laws (including minor variances)
- community planning permit systems
- land division (for example, plans of subdivision or consents)
- site plan control
- community improvement plan.

Decisions on land use planning documents and applications are the responsibility of the applicable authority. This can be different depending on your local circumstances and the type of planning document or application. Your municipal staff or planning board officials will advise you on which body is responsible for making decisions on different types of planning documents in your municipality or planning area. Note: In some situations municipalities may not have a dedicated planner on staff and may retain the services of a planning consultant/firm.

The Provincial Policy Statement

The Provincial Policy Statement (PPS) is issued under section 3 of the *Planning Act* and provides policy direction on matters related to land use planning that are of provincial interest (including those as set out in section 2 of the *Planning Act*).

The PPS provides the policy foundation for regulating the development and use of land in Ontario. The PPS includes direction on matters such as managing growth and new development, housing, economic development, natural heritage, agriculture, mineral aggregates, water and natural and human-made hazards.

Municipalities implement the PPS through their official plans, zoning by-laws and decisions on planning applications. The *Planning Act* provides that decisions made by councils exercising any authority that affects a planning matter "shall be consistent with" the PPS. This means that the PPS must be applied when making land use planning decisions and in developing planning documents, such as official plans and zoning by-laws. Every planning situation must be examined in light of the relevant PPS policies.

Local conditions should also be taken into account when applying PPS policies and when developing planning documents. The PPS makes it clear that planning authorities, including councils, are able to go beyond the minimum provincial standards in specific policies when developing official plan policies and when making planning decisions – unless doing so would conflict with another PPS policy or with a policy in a provincial plan (see below).

Provincial plans

The PPS provides the policy foundation for a number of provincial plans. As with the PPS, municipal official plans and zoning by-laws are the primary vehicle for implementing provincial plans. Decisions under the *Planning Act* (for example approval of official plans or plans of subdivision) must conform or not conflict with the applicable provincial plan in place.

Unlike the PPS, which applies province-wide, a number of provincial plans apply to particular areas in the province. They provide policy direction to address specific needs or objectives in the geographies where they apply – such as environmental, growth management and/or economic issues.

Provincial plans include:

1. Growth Plans under the *Places to Grow Act, 2005*

   A Place to Grow: Growth Plan for the Greater Golden Horseshoe (A Place to Grow) was established to provide a framework for growth management in the Greater Golden Horseshoe region centered around the Greater Toronto and Hamilton Area (GTHA). It includes population and employment forecasts and policies for intensification, compact built form, transit and transportation. The policies of the plans provide guidance to municipalities on the appropriate locations and characteristics of growth within their settlement areas.

   The Growth Plan for Northern Ontario is a framework to guide decision-making to support priority economic sectors and structured around six themes: economy, people, communities, infrastructure, environment and Indigenous peoples. The Growth Plan for Northern Ontario does not set population targets for municipalities. It lets municipalities determine intensification targets for growth and exactly where growth should occur.

2. The Greenbelt Plan is issued under the *Greenbelt Act, 2005* and provides policy coverage primarily for the protected countryside area by identifying and providing permanent protection to areas where urbanization should not occur. The plan provides policies for permanent agricultural and environment protection in the protected countryside area, supporting an agricultural and rural economy while also providing for a range of recreation, tourism and cultural opportunities. The Greenbelt Plan also includes an urban river valley designation to allow for Greenbelt protections to be provided within urban areas. The *Greenbelt Act, 2005* provides for the Oak Ridges Moraine Conservation Plan and Niagara Escarpment Plan to continue to apply within their areas and stipulates that the total land area of the Greenbelt area is not to be reduced in size.
3. The Oak Ridges Moraine Conservation Plan (ORMCP): The Oak Ridges Moraine extends 160 km from the Trent River in the east to the Niagara Escarpment in the west and has a concentration of environmental, geological and hydrological features. It is the regional north-south watershed divide, and the source and location of the headwaters for most major watercourses in south-central Ontario. The ORMCP, approved as Minister's regulation *Ontario Regulation140/02* under the *Oak Ridges Moraine Conservation Act, 2001*, is an ecologically-based plan that provides direction for land use and resource management in the 190,000 hectares of land and water in the Moraine.
4. Niagara Escarpment Plan (NEP): Although the NEP is an example of a geography-specific provincial plan, it is implemented slightly differently than the other provincial plans. The NEP is implemented through a **development control system** outside of urban areas and is administered by the Niagara

Escarpment Commission, an agency of the Government of Ontario. This system requires that the Commission regularly make decisions on site specific applications for development permits in the NEP area based on whether a proposed development is in accordance with Plan policies. While this is done in consultation with municipalities, the Niagara Escarpment development permit takes precedence and must be issued prior to any other municipal approval being granted. The subsequent municipal decisions are required to "not conflict with" the NEP.

5. Other provincial plans include the:
    - Central Pickering Development Plan, (2012 update) under the *Ontario Planning and Development Act, 1994*
        - The Central Pickering Development Plan was issued to provide planning details for the community of Central Pickering. The Plan took effect on May 3, 2006 and was amended on June 6, 2012.
    - Parkway Belt West Plan under the *Ontario Planning and Development Act, 1994*
        - The Parkway Belt West Plan took effect in 1978 to reserve land for infrastructure, separate urban areas, and connecting open spaces in Halton, Peel, York, Hamilton and Toronto.
    - Lake Simcoe Protection Plan (2009), under *Lake Simcoe Protection Act, 2008*
        - The Lake Simcoe Protection Plan combines elements of land-use control with regulating certain activities (for example, sewage treatment plant effluent standards) to reduce phosphorus within the Lake Simcoe watershed.
    - Source Protection Plans
        - Source protection plans are local, watershed-based plans that contain a series of locally developed policies that, as they are implemented, protect existing and future sources of municipal drinking water.
        - Source Protection Plans are developed by Source Protection Committees, with support from Conservation Authority and municipal staff.

How provincial plans work together

A Place to Grow: Growth Plan for the Greater Golden Horseshoe is designed to be read in conjunction with the other provincial plans (Greenbelt Plan, Oak Ridges Moraine Conservation Plan and Niagara Escarpment Plan) and the Provincial Policy Statement. A Place to Grow generally prevails where there is a conflict between it and the PPS . Where there is a conflict between the direction in A Place to Grow and the direction of another plan or policy with respect to a matter relating to human or environmental health, the most protective policy takes precedence.

Municipal official plans

Municipal official plans are the primary vehicle for implementing the PPS and provincial plans. Having up-to-date official plans that reflect provincial interests and integrate planning for matters that affect land-use decisions such as sewer and water, transportation, affordable housing, economic development and cultural heritage, provides a foundation for economic readiness and timely decisions on planning applications.

Other regulatory systems connected to land use planning

There are certain uses and kinds of development that have additional and/or separate processes for their approval such as:

- infrastructure development (for example, sewage pipes, wastewater treatment facilities, energy transmission lines, energy generation facilities) - *Environmental Assessment Act*
- mineral aggregates extraction - *Aggregate Resources Act*
- landfills - *Environmental Protection Act*

There are also provincial frameworks regulating operations and activities that may have the potential for negative impacts on the landscape, such as:

- water-taking - *Ontario Water Resources Act* (permit to take water)
- tree-cutting, and grading of land - *Municipal Act, 2001* (tree cutting and site alteration by-laws)
- removing or damaging certain plants or habitat of certain animals - *Endangered Species Act*
- dumping of toxic waste - *Environmental Protection Act*
- development and activities in regulated areas including hazardous lands (floodplains, shorelines, valleylands, wetlands etc.) - *Conservation Authorities Act* (development and interference regulation)
- building of certain structures - *Building Code Act* (building permit)

Planning decisions and appeals

In recent years there have been a number of changes to Ontario's land use planning and appeal system. The changes will have an impact on your role as a land use planning decision-maker. For example, the recent changes include:

- establishing the Ontario Land Tribunal as the province-wide appeal body for land use planning appeals, replacing the Ontario Municipal Board
- limiting appeals of certain types of planning matters, such as removing the ability to appeal provincial decisions on new municipal official plans and major official plan updates

You can find more information about the land use planning system, including the Ontario Land Tribunal, in the sections below and in the Citizens' Guides to Land Use Planning.

The Ontario Land Tribunal (OLT)

People do not always agree on planning decisions made by local planning authorities. Because of this, the Ontario Land Tribunal exists as an independent tribunal to hear appeals and make decisions on a variety of municipal land use planning matters. When people are unable to resolve their differences and/or disputes on decisions made by local planning authorities, they can appeal those decisions to the Ontario Land Tribunal. The failure of a planning authority to make a decision on most planning applications within specified time periods can generally also be appealed to the Ontario Land Tribunal.

The OLT was formerly known as the Ontario Municipal Board before it was renamed the Local Planning Appeal Tribunal (LPAT) in 2018. On June 1, 2021 the LPAT was merged with the Environmental Review Tribunal, Board of Negotiation, Conservation Review Board and the Mining and Lands Tribunal into a new single tribunal called the Ontario Land Tribunal.

When certain matters are appealed to the OLT, the tribunal may take the place of the local planning authority and can make a decision within the authority provided for in the *Planning Act*.

In making its determination, the Ontario Land Tribunal is required to have regard to the municipality or approval authority's decision on the matter and any information and material that the municipality or approval authority considered when making its decision.

The Ontario Land Tribunal's decisions on all matters appealed to it under the *Planning Act* are final, with the following exceptions:

- when the Minister of Municipal Affairs and Housing (referred to in this section as the Minister) has declared a matter to adversely affect a provincial interest
- when a request is made to the Ontario Land Tribunal for a review of its decision
- when the court gives permission to appeal the tribunal's decision to Divisional Court

Any person or public body, subject to meeting certain requirements, can appeal a planning decision with reasons to the Ontario Land Tribunal or, in the case of minor variance, consent or site plan application decisions, to a Local Appeal Body (LAB), if your municipality has established one to hear these appeals.

Participation in the municipal planning process is an important criterion if the public wishes to make an appeal. You may therefore wish to encourage your constituents to participate in planning matters of interest to them. Some planning decisions regarding policies and applications relating to settlement area boundaries or new areas of settlement, employment areas and second residential dwelling units cannot be appealed. Other matters that cannot be appealed include official plans in their entirety, and certain other provincial approvals. You should always ask municipal planning or legal staff to advise you on whether a matter can be appealed. This is another reason why council must consider all relevant local and provincial interests when making decisions.

Local Appeal Bodies

The *Planning Act* provides municipalities with the authority to establish their own Local Appeal Body (LAB) for appeals regarding applications for minor variances, consents to sever land, and appeals related to site plan matters. Once established, a Local Appeal Body replaces the function of the Ontario Land Tribunal for those matters it has been empowered to hear.

The Local Appeal Body would not have jurisdiction in the case where a consent, minor variance and/or site plan appeal is related to a type of planning matter that is adjudicated by the Ontario Land Tribunal (for example subdivision or official plan).

At the time of writing, only the City of Toronto has established a LAB. On May 3, 2017, the Toronto Local Appeal Body replaced the function of the Ontario Land Tribunal to hear Toronto-based appeals of Committee of Adjustment decisions on minor variance and consent applications.

One window planning service and municipal plan review

While municipalities are primarily responsible for implementing the PPS through official plans, zoning by-laws and local planning decisions, the authority to make land use planning decisions may rest at the provincial or the local level. As a councillor, it is important to understand the authority that your municipality has been delegated or assigned for different land use planning functions.

Where the Minister is responsible for land use planning decisions under the *Planning Act*, there is a process in place referred to as the "one window planning service." This streamlined service communicates provincial planning interests and decisions to municipalities using one voice. For example, the Minister approves all upper-tier and single-tier official plans and official plan updates.

Where municipalities or planning boards are responsible for land use planning decisions, there is a process in place referred to as "municipal plan review." For example, some upper-tier and some single-tier official plan amendments are exempt from the Minister's approval.

These approval processes were created by the province to:

- act as one-stop portals between decision-makers and applicants for land use matters
- co-ordinate provincial or municipal positions back to an applicant
- maximize the effectiveness of early consultation
- ensure consistent decision-making
- improve planning service delivery and use resources efficiently

The two processes differ in several key ways.

Differences between one window planning service and municipal plan review

One window planning service	Municipal plan review
The Minister provides an integrated provincial decision on applications Partner ministries collaborate to provide advice and technical support to the Minister (guided by an internal memorandum of understanding known as the “One Window Protocol”) Province prepares guidance and support materials and may provide education and training	Municipalities review and make decisions on local planning applications Municipalities are responsible for obtaining technical expertise through external experts, peer review, background studies Municipalities access provincial ministries for technical (rather than policy) support and data sharing

Regardless of the decision-maker, early consultation is encouraged to ensure an efficient process with the early identification of key planning issues. Decisions shall be consistent with the PPS and conform with or not conflict with provincial plans where applicable. All decision-makers must make responsible, accountable and timely planning decisions.

Aside from the Ministry of Municipal Affairs and Housing (referred to as the ministry in the rest of this section) the following provincial ministries are part of the one window planning service that may be consulted to get their input prior to making a decision on any planning application:

- Ministry of Natural Resources and Forestry
- Ministry of the Environment, Conservation and Parks
- Ministry of Agriculture, Food and Rural Affairs
- Ministry of Energy, Northern Development and Mines
- Ministry of Heritage, Sport, Tourism and Culture Industries
- Ministry of Transportation
- Ministry of Infrastructure
- Ministry of Health
- Ministry of Economic Development, Job Creation and Trade

Roles of provincial ministries and conservation authorities

Municipal planning also involves obtaining various site-specific permits and/or approvals of a technical nature before a development project can proceed. These permits and approvals typically involve other provincial ministries, and where applicable, a local conservation authority (if one has been established). In most cases, these other ministries and parties should be part of the planning approval review process to identify their interests so they can be built in and/or designed for from the outset. This allows for technical permits further in the development process.

Conservation authorities should work closely with municipalities in using their authority and carrying out their responsibilities related to natural hazard management including flooding and erosion. Conservation authorities may also provide services for their municipalities reviewing proposed plans for matters like natural heritage, spercies at risk and climate change adaptation. Municipally appointed representatives collectively govern a conservation authority in accordance with the *Conservation Authorities Act*. It is important to understand the roles of the conservation authority or authorities in your municipality and how they work with municipal land use planning process.

The following are the types of work that may require approvals in a regulated area:

- the construction, reconstruction, erection or placing of a building or structure of any kind
- changes that would alter the use, or potential use, of a building or structure

- increasing the size of a building or structure, or increasing the number of dwelling units in the building or structure
- site grading
- the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere; the straightening, changing, diverting or interfering with the existing channel of a river, creek, stream or watercourse; or changing or interfering with a wetland
- the straightening, changing, diverting or interfering with the existing channel of a river, creek, stream or watercourse,
- the changing or interfering in any way with a wetland

Municipal empowerment

Over the last few years, upper-tier, single-tier and regional municipalities across the province with up-to-date official plans in force have been given additional authority to approve certain planning files (for example, official plans/amendments, subdivisions) in order to give more decision making powers to municipalities and streamline the local land use planning process. This allows the province to focus its resources on broader policy issues involving matters of provincial interest.

Municipal planning tools

This section describes the key planning tools provided by the *Planning Act*. These tools help municipalities plan and control development and achieve priorities like affordable housing, economic development and growth management. Reviewing your municipality's planning documents and discussing them with planning staff will give you a better understanding of their application.

The official plan

An official plan describes your municipality's goals and objectives on how land should be used over the long term and includes specific policies to meet the needs of your municipality. It is prepared with broad input from you and your municipality's citizens, businesses, community groups, stakeholders and Indigenous communities.

As a councillor, it is your role to make decisions on new official plans, plan updates and privately and municipally proposed amendments to the plan. You must also ensure that those decisions are consistent with the PPS, and conform with or do not conflict with any applicable provincial plan.

It is important for your official plan to be up-to-date. Your official plan addresses issues such as:

- where new housing, industry, offices and shops will go and how the built environment will look and function
- what environmental features and farmland are to be protected
- specific actions to be taken to achieve the provision of affordable housing
- what services, like roads, water mains, sewers, parks and schools, will be needed (and the financial implications of maintaining them through, for example, alignment with your asset management plan)
- when, and in what order, parts of your municipality will grow
- community improvement initiatives
- measures and procedures for informing and obtaining the views of the public on planning matters

When preparing an official plan or amending an existing one, municipalities must inform the public and give people an opportunity to voice their concerns and opinions. For example, council must hold at least one public meeting before the plan is adopted.

In the case of a statutory official plan update, a public open house must be held prior to the public meeting. At the beginning of the review process a special meeting of council must be held to discuss the changes that may be

required.

Where the ministry is the approval authority, a copy of the proposed official plan or official plan amendment must be submitted to the ministry at least 90 days prior to the municipality providing notice of a public meeting.

When an official plan has been adopted, the *Planning Act* requires that notice of adoption be given to any person who asked for it. Once adopted by the municipality, a copy of the official plan is sent for final approval to the appropriate approval authority.

The approval authority is the Minister or the upper-tier municipality that has been assigned the authority to approve lower-tier municipal official plans. It is the responsibility of the approval authority to approve, refuse or modify the plan in whole or in part. Once notice of approval is given, there is a 20-day appeal period provided for in the *Planning Act*. If no appeal is made, the plan comes into effect once the 20-day period has expired. There is no appeal of a Minister's decision on a new official plan or official plan update.

However, if part of the plan is appealed or if there is an appeal of the approval authority's failure to make a decision within the legislated timeframe, the Ontario Land Tribunal would deal with the matters under appeal. After an appeal is made, Council has the authority to suspend the appeal process for 60 days prior to sending the appeal record to the Ontario Land Tribunal to allow time for possible mediation. This allows for a pause in the process to work out disputes and potentially avoid a Ontario Land Tribunal hearing. If the matter proceeds to a hearing, the Tribunal must have regard to the local decision and make its decision based on the facts presented at a hearing.

The Tribunal has authority to make a final decision on the matter and will seek to make the "best" planning decision while making sure their decisions are consistent with the PPS and conform with any applicable provincial plans and municipal official plans. In making its decision, the Tribunal can allow or dismiss the appeal and approve, approve as modified or refuse to approve all or part of the plan or amendment.

Summary of the official plan amendment process (plans not exempt from approval)

1. Council initiates the process for an official plan amendment
2. The proposed official plan amendment is prepared. Following this, notice and information is provided to the public and the approval authority is consulted. Other agencies may also be consulted
3. If the amendment is an official plan update under section 26 of the *Planning Act*, such as a statutory official plan review, an open house must be held prior to council holding a public meeting. This step is not required for all other official plan amendments
4. A public meeting is held
5. Council adopts the official plan amendment
6. Council gives notice of adoption and sends the official plan amendment to the approval authority
7. The approval authority may consult (as needed), makes a decision on the official plan amendment, and gives notice of its decision. The official plan amendment comes into effect if there are no appeals within the 20-day appeal period
8. Possible appeal to the Ontario Land Tribunal (OLT): With some restrictions, any qualifying person or public body may appeal the approval authority's decision to the OLT. However, where the Minister is the approval authority (for matters under section 26 of the *Planning Act*), there is no ability to appeal the Minister's decision on an official plan update
9. If an appeal is made, the record of the approval authority's decision is sent to the OLT. The OLT will then give notice of appeal and mandatory case management conference
10. A mandatory case management conference is held. At the case management conference, there is an opportunity to discuss possible settlement, including mediation and to identify, define and/or narrow issues
11. Mediation can take place on all or some of the issues

12. If a hearing is required, the OLT has authority to make a final decision on the matter and may dismiss the appeal without holding a hearing or will hold a hearing and make a final decision except when a provincial interest is declared.

As a councillor, you should be aware that council may amend an official plan at any time. For example, the needs of a community evolve and changes to your official plan may be necessary to address new and emerging social, economic and environmental matters that your current plan does not address. These changes may be made through an official plan amendment, which is prepared and approved in the same manner as the plan itself. An amendment can be initiated by the municipality or by the public. It is important to note, however, that applications to amend a new, comprehensive official plan are not permitted for two years after the new official plan comes into effect, unless your council passes a resolution to allow these applications to proceed.

In addition, the official plan amendments of some municipalities are exempt from approval. In these cases, the approval authority has exempted a municipality from requiring its formal approval of the amendment. After a municipality gives notice of its adoption of an official plan amendment, any person, or public body that has made a verbal presentation or a written submission prior to adoption, or the approval authority/Minister, can appeal the adoption to the Ontario Land Tribunal. This appeal must be made within the 20-day appeal period allowed by the *Planning Act*, and the amendment must be of the type permitted to be appealed by the *Planning Act*.

If there is no appeal, the amendment comes into effect automatically on the day after the 20-day appeal period expires. You may wish to ask your municipal staff if your municipality's official plan amendments are exempt from approval by the approval authority.

Your municipality's official plan provides the overall direction and guidance for planning in your community. Once approved, it means that:

- you and the rest of council and municipal staff must follow the plan
- all public works (for example, new sewers) must conform with the plan
- all by-laws must conform with the plan

If your municipality has an official plan, you are required to review and update the official plan to ensure that it conforms or does not conflict with provincial plans, has regard to matters of provincial interest and is consistent with the PPS. If your municipality creates a new official plan or replaces an existing official plan in its entirety, it will need to be reviewed and updated no later than 10 years after it comes into effect. A five-year review and update cycle continues to apply in situations where an official plan is being updated and not replaced in its entirety.

These measures help to ensure that the plan is kept current and is sensitive to both provincial and municipal circumstances. An up to date official plan supports investment-ready communities with a local vision for how the community will develop.

Zoning by-laws

A zoning by-law controls the use of land. It implements the objectives and policies of the official plan by regulating and controlling specific land uses (and as such, must conform with the plan). A zoning by-law achieves this by stating exactly:

- what land uses may be permitted (for example, residential or commercial)
- where buildings and other structures can be located
- which types of buildings are permitted (for example, detached houses, semi-detached houses, duplexes, apartment buildings, office buildings, etc.) and how they may be used

- lot sizes and dimensions, parking requirements, building heights and densities, and setbacks from a street or lot boundary

As an elected representative, it is your job to make decisions on new zoning by-laws, updates to the zoning by-law, and municipally and privately initiated zoning amendments. You must ensure that those decisions are consistent with the PPS, and conform or do not conflict with any applicable provincial plan. As well, zoning decisions must conform with all applicable official plans.

As with an official plan, your municipality must consult the public when preparing a zoning by-law or replacing an existing zoning by-law. A public meeting must be held before the by-law is passed. Citizens may make their views known either verbally at the public meeting or through written submissions before the by-law is passed. Only a person or public body that does this may appeal all or part of a council's decision, provided the matter may be appealed. Your municipal staff can advise you on which matters can and cannot be appealed.

Your municipality must also provide 20 days advance notice of the public meeting and provide information about the proposed by-law. After all concerns have been fully considered, council has the authority to pass or refuse to pass the zoning by-law.

Zoning by-law amendments (or rezonings) may be necessary when the existing by-law does not permit a proposed use or development of a property. A rezoning follows the same basic process as passing the zoning by-law itself, including opportunities to appeal to the Ontario Land Tribunal (OLT). An amendment can be initiated by the municipality or by the public.

As with a new, comprehensive official plan, privately-initiated applications to amend a new, comprehensive zoning by-law are not permitted for two years after the new by-law comes into effect, unless your council passes a resolution to allow these applications to proceed.

Any person or public body, provided certain requirements are met, may appeal your council's decision to the Ontario Land Tribunal within 20 days of the date the notice of the passage of the by-law is given. This can be done by filing the appeal with your municipal clerk. When an appeal is filed, the OLT holds a public hearing and may approve, repeal or amend the by-law. If no appeal is filed within the appeal period, the by-law is considered to have taken effect on the day it was passed by council.

A municipality must update its zoning by-law to conform with its official plan within three years following the adoption of a new official plan, or following an official plan's five or 10-year update. A municipality is required to hold an open house to give the public an opportunity to review and ask questions about the proposed by-law at least seven days before the public meeting.

Having an up-to-date zoning by-law ensures that the locally developed policies in the official plan are capable of being fully carried out in a timely way. It is an important element of being an investment-ready community.

Summary of the zoning bylaw process

1. Council initiates the process for the zoning bylaw
2. The bylaw is prepared. Following this, notice and information is provided to the public. Other agencies may also be consulted
3. A public meeting is held
4. Council makes a decision to pass the bylaw
5. Council gives notice of its decision
6. Possible appeal to the OLT: With some restrictions, any qualifying person or public body may appeal the decision to the OLT
7. If there are no appeals, the zoning bylaw is effective on the date council passes the bylaw

8. If an appeal is made, the record of the municipal decision is sent to the OLT. The OLT will then give notice of appeal and mandatory case management conference
9. A mandatory case management conference is held. At the case management conference, there is an opportunity to discuss possible settlements, including mediation and to identify, define and/or narrow issues
10. Mediation can take place on all or some of the issues
11. If a hearing is required, the OLT may dismiss the appeal without holding a hearing or will hold a hearing and make a final decision except when a provincial interest is declared

Minor variances

Generally, if a development proposal does not conform exactly to a zoning by-law, but is desirable and maintains the general intent and purpose of the official plan and the zoning by-law, an application may be made for a minor variance. For example, a property owner with an odd-shaped lot may propose a development that does not meet the zoning by-law's minimum side yard setbacks. In this case, granting a minor variance eliminates the need for a formal re-zoning application. However, unlike a zoning amendment, it does not change the existing by-law. A minor variance allows for an exception from a specific requirement of the zoning by-law for a specific property, and allows the owner to obtain a building permit.

Minor variances are obtained by applying to the local committee of adjustment, which is appointed by council to hear applications for permission to vary from zoning by-law standards applications. The application process includes a public hearing and a decision by the committee of adjustment. Applications for minor variances are generally assessed against four tests set out in the *Planning Act*, however municipalities can augment these tests through locally-developed ones as set out in an applicable by-law.

Any person or a public body may appeal a decision of the local committee of adjustment to the Ontario Land Tribunal or a Local Appeal Body if the municipality has chosen to establish one. The Ontario Land Tribunal or Local Appeal Body may dismiss an appeal or make any decision that the committee could have made on the original application.

Plans of subdivision

The *Planning Act* applies when a property is proposed to be subdivided into separate parcels of land that can be sold separately. One way of subdividing property is through a subdivision plan that is prepared and submitted to the appropriate approval authority. Your municipal staff or planning board officials will advise you on which body approves subdivision plans in your municipality or planning area. Subdivision approval ensures that:

- the land is suitable for its proposed use
- the proposal conforms with the official plan and zoning in your municipality, as well as with provincial legislation and policies
- your municipality is protected from developments that are inappropriate or may put an undue strain on municipal facilities, services or finances

Decisions must be consistent with the PPS and conform any applicable provincial plan.

Subdivision approval is a two-step process. The process begins when a property owner (or an authorized agent) submits a proposed draft plan of subdivision application to the approval authority for review. The approval authority consults with municipal officials and other agencies that are considered to have an interest in the proposed subdivision (such as utility companies). In addition, a public meeting must be held with advance notice. Each application is reviewed in light of existing policies, legislation and regulations.

Comments received from the consulted agencies (including the municipality in which the proposed subdivision lands are located) are also reviewed. The approval authority may either "draft approve" or refuse an application.

A draft approval will generally be subject to one or more conditions that must be fulfilled before the subdivision plan is eligible for final approval and registration.

These conditions might include:

- a road widening
- archaeological assessment
- parkland dedication
- signing of a subdivision agreement between the municipality and the developer to secure various obligations that continue beyond final approval
- rezoning requirements

For example, the property owner may be required, as a condition to granting final approval, to enter into a subdivision agreement with your municipality and/or the approval authority to guarantee that services within the subdivision (such as roads and sidewalks) will be constructed to your municipality's standards.

If council wants to ensure that the applicant follows through with the development, a lapsing provision can be established at the time of draft approval. This is a time frame within which the conditions must be satisfied before the draft approval lapses. If the applicant is unable to fulfill the conditions prior to the lapsing date, the Planning Act permits an extension to the period of draft approval. However, when determining whether a draft approval should be extended, provincial policies and plans must be considered in the review process.

When all draft approval conditions have been met, the subdivision plan receives final approval and can then be registered. The registered plan is a legal document that sets out the precise boundaries of the property, the dimensions of the blocks and building lots and the widths of all streets, walkways, etc., within the property.

Certain persons or public bodies, as identified in the Planning Act, who make their views known by making a verbal presentation or written submission to the approval authority before draft approval is granted may appeal a decision or conditions within 20 days. However, only the applicant and certain persons or public bodies who made a written submission or verbal presentation to the approval authority before it made its decision may appeal conditions of approval after the 20 days have expired. Certain persons or public bodies who made a written submission or oral presentation to the approval authority before it made its decision, or made a written request to be notified of any changed conditions, may appeal any changed condition for which notice is required to be given.

If the subdivision approval authority does not make a decision within the legislated timeframe, the applicant may appeal the lack of decision to the Ontario Land Tribunal.

If a plan of subdivision has been registered for eight years or more and does not meet the growth management objectives of provincial policies or plans, municipalities are encouraged to use their authority under the Planning Act to deem the plan to not be registered and, where appropriate, amend site-specific official plan designations and zoning by-law permissions.

Subdivision approval authorities also have authority to grant approval of condominium proposals pursuant to the *Condominium Act, 1998*. Although the condominium approval process has not been included in this section, it is similar to the subdivision process with certain modifications.

Summary of the subdivision process

1. Before an application is submitted, the applicant should consult with municipal staff or the approval authority
2. Following the pre-consultation, a complete application is submitted to the approval authority

3. The approval authority ensures notices of the application are given and a public meeting may be held
4. The approval authority will make its decision to approve the draft plan of subdivision with conditions or refuse it
5. Notice of decision is sent to the applicant and those requesting notification.
6. Certain persons or public bodies may appeal to the Ontario Land Tribunal (OLT)
7. If an appeal is made, the OLT may dismiss the appeal without holding a hearing or will hold a hearing and make a decision
8. If no appeal is made and the applicant fulfills all conditions of draft approval prior to the lapsing date, the plan of subdivision receives final approval and can be registered
9. Once a plan of subdivision receives final approval and is registered, lots can be sold and transferred

The consent process

Your municipality can also use the consent process for subdividing property. For example, a property owner who wants to create only one or two new lots may apply for a consent (sometimes referred to as a "land severance"). Consent-granting authority may reside with a municipal council, a committee of adjustment, a land division committee, a planning board or the Minister of Municipal Affairs and Housing. Municipal staff will advise you on which body is responsible for land severances in your municipality. Consent decisions must be consistent with the PPS and conform or not conflict with any applicable provincial plan.

When evaluating a consent application, the approval body consults with the municipality in which the subject lands are located, and with agencies that are considered to have an interest in the proposed consent. Many approval bodies will also hold a public meeting with advance notice. Once the approval body has made a decision, it must notify the applicant and any person or public body that has requested notification within 15 days. A 20-day appeal period follows the giving of the notice. If the consent-granting authority does not make a decision within the legislated timeframe, the applicant may appeal the lack of decision to the Ontario Land Tribunal (OLT).

Similar to a subdivision draft approval, a consent approval (known as a provisional consent or consent-in-principle) may have certain conditions attached to it. There may be requirements for a road widening, parkland dedication or a rezoning. If the consent conditions are satisfied within one year, the consent-granting authority issues a certificate of consent. If any of the conditions remain unsatisfied, the provisional approval expires automatically.

Appeals to the OLT – or to the local appeal body, if the municipality has chosen to establish one – must be filed with the consent-granting authority. When a decision is appealed, the OLT or local appeal body holds a hearing and can make any decision that the consent-granting authority could have made on the application.

It is important to note that a consent (or plan of subdivision) is required in order to sell, mortgage, charge or enter into any agreement for a portion of land for 21 years or more. If the two parts are split already (by a road, for example) consent may not be needed. Other instances requiring consents include rights-of-way, easements and changes to existing property boundaries.

If a landowner is proposing to create a number of lots, a plan of subdivision rather than a consent is generally the best approach for the proper and orderly development of the property.

Summary of the land severance (or consent) process

1. Before an application is submitted, the applicant should consult with municipal staff or the consent-granting authority

2. Following the pre-consultation, a complete application is submitted to the consent-granting authority
3. The consent-granting authority gives notice of the application and a public meeting may be held
4. The consent-granting authority will make its decision to give either provisional consent or to refuse the application
5. Notice of decision is sent to the applicant and those requesting notification
6. Any person or public body may appeal to the OLT or local appeal body if one is established
7. If no appeal is made, when the conditions of provisional consent are satisfied, a certificate is issued and lots can be transferred
8. If an appeal is made, the OLT may dismiss the appeal without holding a hearing or will hold a hearing and make a decision

Site plan control

Site plan control gives municipalities detailed control of how a particular property is developed and allows municipalities to regulate the various features on the site. Council can designate areas of a municipality for site plan control, in which case developers must submit plans and drawings for approval before undertaking development. Site plan control can regulate certain external building, site and boulevard design matters (for example, character, scale, appearance, streetscape design). Further, you may require a site plan agreement with a developer. The agreement could set out details such as parking areas, elevations and grades, landscaping, building plans and services. The agreement can be registered on title and must be complied with by the owner and all subsequent owners.

Community improvement

A community improvement plan is another important municipal planning tool in the *Planning Act* that allows municipalities to prepare community improvement policies. The policies describe plans and programs that encourage redevelopment and/or rehabilitation improvements in a community. Municipalities are required to consult with the Ministry of Municipal Affairs and Housing as part of this process.

Improvements may include:

- industrial area remediation and redevelopment
- streetscape and facade improvements
- refurbishing of core business areas, affordable housing
- heritage conservation of homes or commercial buildings

They may also include land assembly policies to make projects feasible or to create financial incentives that encourage increased housing choices, mixed densities and compact spatial forms in redevelopment and/or rehabilitation areas. Municipalities can make grants or loans within the community improvement plan project areas to help pay for certain costs despite the general municipal prohibition on bonusing. Some municipalities have established Tax Increment Equivalent Financing programs as part of community improvement plans.

Community Planning Permit System (CPPS)

The Community Planning Permit System (CPPS), also known as the Development Permit System, is a discretionary land use planning tool that municipalities can use to make development approval processes more streamlined and efficient, and get housing to market more quickly. Municipalities can use this tool to help support local priorities (for example, community building, developments that support public transit, affordable housing and greenspace protection) and create certainty and transparency for the community, landowners and developers.

The Community Planning Permit System provides a land use approval system that combines the zoning, site plan and minor variance processes into one application and approval process. It gives additional local flexibility in the land use planning system by allowing variations in development standards and discretionary uses. These are subject to criteria and minimum and/or maximum standards that are set out in a community planning permit by-law. A Community Planning Permit System also allows a municipality to establish conditions that can be imposed in making decisions on community planning permit applications, including conditions that require community facilities or services to be made available.

Enabling official plan policies and a community planning permit by-law are required to implement the Community Planning Permit System. Public participation is focused at the front end of the system, which results in increased certainty. After a community planning permit by-law is passed, privately-initiated applications to amend the community planning permit by-law are not permitted for five years, unless the municipality passes a resolution to allow these applications to proceed.

The Minister of Municipal Affairs and Housing may require municipalities to use the Community Planning Permit System in specified areas, such as:

- around major transit stations for GO rail, light rail, bus rapid transit and subways
- along main streets or waterfront areas

In these cases, only the Minister can appeal the official plan policies or community planning permit by-law to implement the tool.

Affordable housing

There are a number of tools under the *Planning Act*, the *Municipal Act, 2001* and the *Development Charges Act, 1997* that can be used to help create affordable housing.

A range of land use planning and municipal finance tools are available to municipalities to help meet local needs and circumstances.

The *Planning Act* requires all municipalities to establish official plan policies and amend their zoning by-laws to allow second units in detached, semi-detached, row houses and ancillary structures. The *Planning Act* restricts appeals of both second unit official plan policies and zoning by-laws to the Ontario Land Tribunal except by the Minister.

The establishment of a second unit is at the discretion of individual homeowners and may take place in existing or new residences. Second units must comply with health, safety and municipal property standards, including, but not limited to, Ontario's Building Code, the Fire Code and municipal property standards by-laws.

Another land use planning tool that is designed to encourage affordable housing is the garden suite. Garden suites are temporary one-unit, detached residences containing housekeeping facilities that are ancillary to existing houses and that are designed to be portable. To give potential homeowners more certainty given the potential expense of installing a garden suite, the *Planning Act* provides that garden suites may be temporarily authorized for up to 20 years.

Inclusionary zoning

Inclusionary zoning is a land use planning tool used to address affordable housing needs by requiring that new housing developments need to include affordable housing units. Inclusionary zoning can only be used in protected major transit station areas, areas where the community planning permit system has been mandated or as prescribed by the Minister. A municipality may use the tool to require affordable housing units to be included in residential development of 10 units or more. These units would then need to be maintained as affordable over a specified period of time.

The tool is typically used to create affordable housing for low-and moderate-income households. In Ontario, this means families and individuals in the lowest 60% of the income distribution for the regional market area, as defined in the Provincial Policy Statement, 2020. However, it is critical for municipalities of all sizes to assess whether this is an appropriate tool for achieving their affordable housing goals. Generally, inclusionary zoning tends to work best in locations experiencing rapid population growth and high demand for housing, accompanied by strong economies and housing markets.

The *Planning Act* and the associated regulations set out the framework for developing an inclusionary zoning program. Each program will differ as it is informed by local affordable housing needs, conditions and priorities. The key components of inclusionary zoning programs include:

- an assessment report on housing in the community
- official plan policies in support of inclusionary zoning
- a by-law or by-laws passed under section 34 of the *Planning Act* implementing inclusionary zoning official plan policies
- procedures for administration and monitoring, and
- public reporting every two years

Inclusionary zoning is implemented through zoning by-laws passed by lower-tier and single-tier municipal councils. Following the completion of an assessment report to examine potential impacts of inclusionary zoning on the housing market and the financial viability of development, or redevelopment, a lower-tier municipality may adopt official plan policies for inclusionary zoning without any specific or general policies for inclusionary zoning in the upper-tier official plan.

Lower-tier municipalities may wish to discuss and coordinate with the upper-tier municipality on matters relating to administration and monitoring so that affordable housing units created through an inclusionary zoning program are kept affordable over the long-term.

A municipal council may implement inclusionary zoning within a Community Planning Permit System, as set out in *Ontario Regulation 173/16* (Community Planning Permits).

Economic development through land use planning

Municipal councils can promote economic development through their land use planning decisions and by implementing planning tools. Your municipality should have an up to date official plan and zoning by-law in order to adhere to required provincial deadlines, and to be investment-ready and able to seek and take advantage of economic opportunities.

The following table summarises some of the *Planning Act* tools and their benefits:

***Planning Act* tool**	**Description**	**Benefit**
Community improvement plans (CIPs) (section 28)	CIPs are used by municipalities as one way of planning and financing development activities that effectively use, reuse and restore lands, buildings and infrastructure.	Municipalities may make grants or loans within designated CIP project areas to help pay for all or part of eligible costs.
Brownfields community improvement planning	Provincial participation through the Brownfields Tax Incentive Program (BFTIP) matches municipal brownfield CIP property tax incentives with the provincial education tax portion.	Can provide financial incentive by making clean up and development less expensive.

Planning Act tool	Description	Benefit
Community planning permit (section 70.2)	Optional land use planning tool that replaces a standard multi-layered development approval process (zoning, site plan and minor variance), with a single process. Previously known as Development Permit System. Inclusionary zoning for affordable housing may be implemented within an area with a community planning permit system established in response to a Minister's order.	Results in a more streamlined, timely development process that: • Reduces review timelines to 45 days • Removes third party appeals to the OLT • Helps municipalities achieve their land use vision, and provides more certainty in the form of development • May enable the use of inclusionary zoning
Protection of employment lands (sections 22 and 34)	No appeal of a council refusal to re-designate/ rezone lands from employment to other uses.	Allows municipalities to maintain a sufficient supply of serviced and ideally located (near transit, highways, ports, rail, airports) employment lands.
Community benefits charges (section 37)	Community benefits charges enable single and lower-tier municipalities to collect funds from new developments or redevelopments to cover the capital costs of community benefits required because of the development. If a municipality passes a community benefits charge by-law, the charge will only apply to development of buildings that are 5 or more storeys and have 10 or more residential units. The maximum charge payable in any instance cannot exceed 4 percent of the value of land being developed. Community benefits charges are a complementary tool to development charges (which allow municipalities to collect funds from developers for any services listed as eligible). Please see Section 9 for more information on development charges. A community benefits charge by-law may be appealed to the Ontario Land Tribunal. Community benefits charges replace the former section 37 density bonusing provisions in the *Planning Act*, subject to transition rules.	The new tool, which came into effect September 18, 2020, can be used with development charges and parkland dedication to enable growth to pay for growth, so that municipalities can provide important local services that growing communities need. Community benefits charges increase transparency and accountability providing municipalities with the flexibility to collect funds to help pay for growth related services and infrastructure. CBCs can help make the costs of building housing in Ontario more predictable.
Reduction or waiving of application fees (section 69)	A tool that lets council reduce or waive planning application processing fees.	Could reduce the cost of planning approvals.

Planning Act tool	Description	Benefit
Conveyance of parkland or cash in lieu (sections 42 and 51.1)	Allows a municipality to pass a by-law applicable to all or part of a municipality, which can require the conveyance of land (up to 5 per cent) for park purposes or cash in lieu as a condition of development or redevelopment (s. 42) or as a condition of approval of a plan of subdivision (s. 51.1).	Could act as a financial incentive if the by-law excludes geographic areas where development/ redevelopment is desired or the condition is not imposed on plans of subdivision within that area.
Alternative parkland dedication rate for cash-in-lieu dedications (section 42)	Allows a municipality to pass a by-law applicable to all or part of a municipality, which, as a condition of development or redevelopment, can require the conveyance of land for park purposes at an alternative rate of one hectare for every 300 dwelling units. For cash-in-lieu dedications, the alternative rate is one hectare for every 500 dwelling units. Parkland by-laws that make use of the alternative rates may be appealed to the Ontario Land Tribunal.	Can help provide parkland more quickly and address current needs in communities. May be useful in cases of higher density development.
Parks plans (section 42)	Prior to passing a by-law and adopting new or updated official plan policies that allow for an alternative rate of land conveyance for park purposes, municipalities must develop a parks plan in consultation with school boards, and, as appropriate, the general public	Better positions municipalities to strategically plan for parks and be prepared for potential opportunities to acquire parkland to meet community needs. Provides opportunities to identify and discuss future surplus sites (including school sites) in the community and plan accordingly.
Reduction of cash in lieu of parkland when sustainability criteria met (section 42)	Where sustainability criteria set out in an official plan are met and no land is available for conveyance a municipality may reduce cash in lieu of parkland.	Can reduce cost of development and redevelopment while improving sustainability (could result in energy savings).
Reduction or exemption from parking requirements (section 40)	Provides that council may enter into an agreement to reduce or exempt an applicant from parking requirements in exchange for cash payments.	Could reduce cost of development by not having to supply as much parking, which can require additional land or parking facilities.

A balanced view

Before approving any planning application, you and the rest of council should look closely at all the related environmental, social and financial costs and benefits that may affect your municipality.

Environmental considerations include the effects of development on land, air and water. Social considerations include the local need for housing and job opportunities, as well as the possible demand for additional services

such as schools, parks, day cares, nursing homes, group homes and other social support facilities.

From a financial point of view, when developing new official plans or assessing planning applications, council should weigh the benefits of additional tax revenues in light of:

- the capital costs of the hard and soft services that will be required
- the ongoing costs of maintaining those services
- the effects of both the initial and long-term costs on the tax rate and the existing ratepayers

Your municipality may also be undertaking other long-term strategic initiatives such as asset management planning, long term financial planning and planning for affordable housing through a housing and homelessness plan. The objectives and outcomes of these exercises and your land use planning documents should align.

Responsible community planning involves examining both the potential positive and negative impact of a proposed development on your community. The policies your municipality adopts should reflect a balance between supporting the economy, meeting social needs and respecting the environment.

Participants in land use planning

In addition to technical experts, commenting agencies, and the provincial government, there are two other potential important players in the land use planning process: the public and Indigenous communities.

The role of the public

The public plays an essential role in the planning process. Planning decisions made by council directly affect the people living in your community. The planning process is designed to give citizens the opportunity to share views on your community's planning policies, examine planning proposals, register their concerns and ideas before decisions are made, and appeal decisions.

To ensure that the public and stakeholders are involved and understand the details of the planning process, the *Planning Act* provides for certain regulations to be made. For example, regulations exist that set out procedures for public involvement in the process, procedures for giving notice of planning applications and other procedures. As these regulations are minimum requirements, your municipality can provide for increased public involvement. Your municipal or planning board staff can explain the regulations related to public involvement in your municipality.

The *Planning Act* provides flexibility for your municipality to tailor their notice procedures (for example, who receives notice and how it is given) through the use of alternative notice procedures for a broad range of planning matters including official plan amendments, zoning by-laws and amendments, plans of subdivision and land severances. Council can determine whether a departure from provincial notice requirements is appropriate through an official plan public engagement process.

Council can also consider how to meet the *Planning Act*'s requirements using electronic and virtual channels to engage and solicit feedback from the public on land use planning matters. This may include a mixture of technologies to meet local public needs (for example, webinars, video conferencing, moderated teleconference).

Engaging with Indigenous communities

As neighbours or as community members, Indigenous peoples may have interests in the land use planning decisions of municipalities. There are linkages between land use planning, and Indigenous economies and cultures, their use of traditional lands, and commitment to a healthy environment. Engagement with Indigenous communities on land use planning issues helps with relationship building, information sharing, and achieving

common goals related to social and economic development. For more information on municipal engagement with Indigenous communities, see Section 5: municipal organization.

Land use planning for Northern Ontario

If you are a councillor in Northern Ontario, you probably know that some aspects of land use planning are different in your region. Some of the factors that make land use planning in Northern Ontario different:

- all municipalities are single-tier, in comparison to the upper-tier and lower-tier structure of much of Southern Ontario
- in contrast to its vast land base – that covers 90% of the province – about six per cent of the province's population lives in Northern Ontario. While over half of northerners live in the five biggest cities, many live in smaller, rural communities
- large portions of Northern Ontario have no municipal organization and are referred to as a territory without municipal organization or "unincorporated areas." While there are a number of local service delivery organizations in territory without municipal organization, including local roads boards, local services boards and planning boards, there are large areas where these services may not be available
- crown land makes up about 87% of the province's land mass and more than 95% of the land base in Northern Ontario. The Ministry of Natural Resources and Forestry is responsible for land use planning on Crown land, which is generally directed under the *Public Lands Act* or the *Far North Act, 2010*. In these cases, it is generally not subject to the *Planning Act* or the *Provincial Policy Statement*. Before Crown land is developed, however, the Ministry of Natural Resources and Forestry consults affected councils and takes any official plans and policies that are in effect into account

Responsibility for land use planning in some northern municipalities and in areas without municipal organization is shared by planning boards and the Minister of Municipal Affairs and Housing.

Planning boards are unique to Northern Ontario and present an opportunity for municipalities to share planning services and coordinate development across municipal boundaries. In territorial districts, the Minister of Municipal Affairs and Housing can define a planning area that may include two or more municipalities, one or more municipalities and unorganized territory, or only unorganized territory. The Minister can establish a planning board to handle land use planning activities in these areas.

- Members of planning boards representing municipalities are appointed by the municipal councils, and members from areas without municipal organization are appointed by the Minister of Municipal Affairs and Housing.
- A planning board is authorized to prepare an official plan for a planning area. A planning board also has the power to pass zoning by-laws for areas without municipal organization within a planning area.
- Most planning boards have been delegated a range of other land use planning responsibilities from the Minister of Municipal Affairs and Housing, such as the power to grant consents, approve subdivision applications and administer Minister's zoning orders.

In areas that are without municipal organization (and that are not Crown land), where planning boards do not exist, the Minister of Municipal Affairs and Housing continues to make decisions on land use matters such as land division. The Minister has made zoning orders in some areas, which are similar to municipal zoning by-laws, to control land use and development.

Land use planning decisions in our provincial policy-led system are made by informed councillors who consider both technical advice from professional planning staff and the views of the community. Your involvement in community planning will require you to make decisions on issues of public concern that are often controversial. Despite this, your participation in a process that will determine the future of your community may well be one of the most enduring and gratifying contributions you can make as a councillor.

Read more about land use planning.

Helpful considerations: section 10

- Land use planning decisions are a large part of your job as an elected official. You are responsible for making decisions on land use matters according to the level of authority in your municipality. The decisions you make need to balance technical advice, public consultation and environmental, social and financial considerations.
- The Provincial Policy Statement and any applicable provincial plans must be followed when making land use planning decisions and in developing planning documents, such as official plans and zoning by-laws.
- The public and Indigenous communities play a key role in the planning process. Engaging with the public and Indigenous Peoples and considering their input is part of your responsibility as a councillor when making land use planning decisions.
- Most land use planning decisions can be appealed to the Ontario Land Tribunal. You should be aware of the matters that can be appealed.
- As an elected representative, it is your responsibility to consider new and evolving tools in the land use planning system that may be of benefit to your community, such as the community planning permit system or a local appeal body.

11. Building regulation

The *Building Code Act, 1992* (BCA) lays out the legislative framework governing the construction, renovation, demolition and change of use of buildings in Ontario. The Building Code is a regulation made under the *Building Code Act*. It sets out technical and administrative requirements.

The *Building Code Act* defines the purposes of the Building Code to include standards for public health and safety, fire protection, structural sufficiency, energy conservation, water conservation, environmental integrity and barrier-free accessibility of buildings.

Under the *Building Code Act*, municipalities are responsible for the enforcement of the Act and the Building Code within their jurisdiction (except in certain locations such as where boards of health or conservation authorities are responsible for enforcing the sewage system requirements). Municipal councils must appoint a chief building official and as many building inspectors as are necessary for the proper enforcement of the Act and the Building Code. The chief building official and inspectors must meet qualification requirements, which include successful completion of Building Code legal and technical examinations in their area of practice.

Chief building officials and inspectors are to perform their duties in accordance with a code of conduct established by the municipality in compliance with the *Building Code Act*.

The role of a chief building official includes establishing operational policies for the enforcement of the *Building Code Act* and Building Code, and coordinating and overseeing their enforcement.

The chief building official is also responsible for issuing permits for the construction, renovation, change of use or demolition of buildings that conform to the requirements of the *Building Code Act* and the Building Code. These requirements include compliance with the list of applicable law in the Building Code, making the Building Code a powerful enforcement tool.

Chief building officials and inspectors are also responsible for exercising powers and performing other duties assigned to them under the *Building Code Act* and the Building Code, including reviewing plans, inspecting construction and issuing orders.

It is important to note that this enforcement role is assigned specifically to the chief building official and inspectors by the *Building Code Act*, which is a provincial law. Council does not have a role under the *Building Code Act* or the Building Code in decision-making on building permit applications or the issuance of orders. Chief building officials and inspectors are independent of municipal council when exercising these powers and duties. The *Building Code Act* was amended in December 2017 to specifically state that chief building officials and inspectors are to exercise their powers and perform their duties in an independent manner. However, it is appropriate for municipal councillors or staff to direct concerns regarding the safety of buildings to building officials, so that they can take action as they see fit.

The *Building Code Act* requires that municipalities and other principal authorities establish and enforce a code of conduct for chief building officials and building inspectors. The purposes of a code of conduct include:

- promoting appropriate standards of behaviour and enforcement actions
- preventing practices that may constitute an abuse of power
- promoting appropriate standards of honesty and integrity by a chief building official or building inspector in the exercise of a power or the performance of a duty under the *Building Code Act* or Building Code

A code of conduct must provide for its enforcement, include policies or guidelines to be used when responding to allegations that the code of conduct has been breached, and include disciplinary actions that may be taken if the code of conduct is breached. A code of conduct must also be brought to the attention of the public.

The Building Code is written in an objective-based format. This means that the objectives behind the requirements in the code are clearly identified. This allows for a better understanding of code requirements, and creates a framework for the evaluation of innovative building materials, systems and designs. Specifically, the objective-based format allows designers and builders to submit as part of their permit applications "alternative solutions" to the technical requirements of the Building Code. An alternative solution is a proposal regarding building materials, systems and designs that differs from, yet still provides the same level of performance as, the technical requirements found in the Building Code. As part of their role in reviewing building permit applications, building officials are also responsible for reviewing and approving alternative solutions.

The Building Code includes service level standards that municipalities must meet, including timeframes for making a decision on a building permit application. These timeframes include issuing a permit or refusing to issue a permit, giving full reasons, and timeframes for construction inspections following the receipt of notice from the building permit holder. For example, the Building Code sets a 10-day timeframe for the approval or refusal of a building permit application for a house.

Chief building officials and inspectors also have the power to issue orders when buildings are found to be unsafe and in emergency situations. Chief building officials may also take actions to remedy the unsafe conditions and immediate dangers.

Building permit fees

The *Building Code Act* and the Building Code also address fees charged by municipalities for building permit applications and related activity. These services should generally be self-supporting. Permit application fees can be set at an amount that covers the cost to operate the building department (although the municipality could always choose to set fees at less than full cost recovery of service delivery). In this way, delivery of building department services should generally not affect the municipal budget. However, the fees are not permitted to exceed the anticipated reasonable costs of the municipality to enforce the *Building Code Act*.

Building permit fees can also include a component designated for a reserve fund. The reserve fund is intended to ensure that, even if building activity in a municipality goes down, building department services can continue to be provided for a time without affecting the municipality's finances or staffing Money in the reserve fund can only be used for costs of delivering services related to the administration and enforcement of the *Building Code Act*. The reserve fund is, therefore, not accessible for council to use to fund other municipal activities. Building

permit fees and reserve fund policies are often subject to regular review by council, and can be modified to reflect local conditions.

Municipalities are also permitted under the *Building Code Act* to enter into agreements to share the costs of delivery of building services, and successful examples exist. Alternatively, private sector firms known as a "Registered Code Agency" can also be contracted to deliver many building services on behalf of a municipality or municipalities. You can find Registered Code Agencies on the ministry's public registry (the Qualification and Registration Tracking System or QuARTS).

Updates to the Building Code

The Building Code is subject to regular review and update. The current edition, the 2012 Building Code, came into effect in January 2014.

Building Code amendments are also made to reflect government priorities, innovations in construction and design, changes in other jurisdictions, emerging issues and coroner's jury recommendations.

For more information on the *Building Code Act* and the Building Code call the Ministry of Municipal Affairs and Housing Building and Development Branch at or fax at .

Property standards by-laws

The *Building Code Act* gives municipalities the power to adopt a municipal property standards by-law. The by-law may establish standards for the maintenance and occupancy of properties within all or part of the municipality, and require properties that do not conform to the standards to conform.

Prior to making a property standards by-law, council must include policies relating to property conditions in the municipal official plan or adopt, by by-law approved by the Minister of Municipal Affairs and Housing, a policy statement containing provisions relating to property conditions. A municipal Property Standards Committee must be established to hear appeals from property owners and occupants who have received orders to comply with the by-law.

The *Building Code Act* also states that municipal property standards officers may inspect properties and issue orders to enforce property standards.

A municipality may also establish a system of administrative penalties to help the municipality in promoting compliance with its property standards by-law. The municipality may require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with the property standards by-law passed under the *Building Code Act* (sections 15.4.1 and 15.4.2).

It is up to the municipality to decide to impose administrative penalties in relation to its property standards by-law and to decide the amount of an administrative penalty that a person would be required to pay. However, the amount of an administrative penalty cannot be punitive in nature and cannot exceed the amount reasonably required to promote compliance with a by-law.

The property standards by-law does not necessarily have to be administered by the chief building official, despite the fact that it is the *Building Code Act* which provides municipalities with the ability to have a property standards by-law. Council has the discretion to decide how best to deliver this function. Some assign this role to the buildings department; other municipalities establish an independent property standards department.

Helpful considerations: section 11

- Consider sharing building department services with your neighbouring municipalities.
- Familiarize yourself with the code of conduct approved by council that outlines appropriate standards of behaviour and practices governing the activities of the chief building officials and inspectors.
- Remember that the work of the building department within your municipality is to help ensure the health and safety of the public. This department operates independently and without interference from council or councillors when exercising the powers and duties assigned to them under the *Building Code Act*.
- Building Permit revenue can only be used for costs of delivering services related to the administration and enforcement of the *Building Code Act* – it is not accessible for council to use to fund other municipal activities.

12. Emergency management and disaster financial assistance

Emergencies capture the public's attention like few other events. One of your municipality's most important responsibilities is the safety and security of your community. Whether it is a widespread power failure or spring flooding, emergencies and natural disasters call us all to action.

Ontario is experiencing more natural disasters and extreme weather events. As a result, the costs and economic impacts of natural disasters are increasing for people and governments at all levels. Evidence suggests that targeted investments to mitigate disaster risk and improve climate resilience can be cheaper and more effective than disaster recovery efforts after an incident.

Helping communities recover following natural disasters remains a priority for the province. At the same time, it is important that municipalities consider maintaining sufficient reserves and appropriate insurance coverage to manage the costs of disasters, within their capacity. It is also important to consider long-term planning tools, such as asset management plans, as infrastructure ages and is renewed, to support community resilience.

Risk management approach

Ontario's approach to emergency management includes activities under five pillars: prevention, mitigation, preparedness, response and recovery.

Prevention refers to the actions taken to prevent the emergency itself. One example of prevention is land use planning that keeps development away from high-risk areas like flood plains.

Mitigation refers to actions taken to reduce or eliminate the effects of an emergency. An example of mitigation is rebuilding a road with larger culverts to reduce the impact of extreme rainfall.

Preparedness refers to measures taken in advance of an emergency to ensure an effective response framework is in place. Having a municipal emergency response plan is a key element of preparedness.

Response refers to measures taken to respond to an emergency, such as actions by first responders or providing shelter to residents.

Recovery refers to actions taken to recover after an emergency or disaster. Recovery includes rebuilding damaged infrastructure.

While we cannot control the weather, municipalities can influence many risk factors. One element under a municipality's direct control is maintenance of sufficient reserves to ensure that it is financially prepared for unexpected events. Another is a municipality's emergency management program. Robust emergency

management programs reduce your municipality's risks and help to ensure that you are prepared to respond when an emergency happens.

Legislation and regulation

In Ontario, the *Emergency Management and Civil Protection Act*, along with other legislation, establishes the province's framework for managing emergencies. Key provisions in the Act include:

- the requirement that municipalities and provincial ministries develop and implement an emergency management program
- the authority for the head of council of a municipality to declare an emergency in the municipality, and to make such orders as he or she considers necessary and are not contrary to law to implement the emergency response plan of the municipality
- the authority for the Lieutenant-Governor in Council or the Premier of Ontario to declare that an emergency exists in any part of Ontario (subject to the criteria in the Act)

The Ministry of the Solicitor General has set the program standards for municipal emergency management programs in *Ontario Regulation 380/04*. Under the regulation, every municipality must maintain an:

- emergency management program committee to advise on the development and implementation of the emergency management program
- emergency control group to coordinate a municipality's response in an emergency
- emergency operations centre
- emergency response plan

The regulation also requires each municipality to designate staff persons or a member of council to fulfill the roles of emergency management program coordinator and emergency information officer. Having designated and trained staff is critical to responding quickly to emergencies.

Roles and responsibilities

All Ontarians have a role to play in emergency management.

Individuals are responsible for the safety, preparedness and well-being of themselves and their families. At a minimum, everyone should be aware of the hazards that might affect them and be prepared to deal with these hazards.

Each **municipality** is required to develop and implement an emergency management program tailored to local needs and priority risks. In many cases, the response capability of the municipality (for example fire, police, emergency medical services, public works, etc.) is sufficient to deal with routine incidents.

The **province** maintains emergency management programs for specific hazards and risks, and delivers emergency services that complement programs implemented by communities.

Emergency Management Ontario (EMO) of the Ministry of the Solicitor General as the overall provincial emergency management coordinator, is responsible for the promotion, development, implementation and maintenance of effective emergency management programs throughout Ontario.

EMO is the primary emergency response contact for municipalities requesting provincial support. Field Officers are stationed throughout Ontario and are ready to provide advice and assistance to communities as required. EMO also maintains the Provincial Emergency Operations Centre (PEOC) on a 24/7 basis. Any municipality that requires help to respond to an emergency can call the PEOC at or at any time to request provincial assistance. Your municipal emergency management coordinator is your primary link to the PEOC and is an essential liaison to other organizations and stakeholders that may be needed to support an emergency response.

The **federal government** may provide assistance to the provincial government when requested.

Disaster financial assistance

The Ministry of Municipal Affairs and Housing administers the Disaster Recovery Assistance for Ontarians (DRAO) and Municipal Disaster Recovery Assistance (MDRA) programs that provide financial assistance following sudden, unexpected natural disasters:

- Disaster Recovery Assistance for Ontarians helps eligible individuals, small owner-operated businesses, farms and not-for-profit organizations cover emergency expenses and repair or replace essential property following a natural disaster.
- Municipal Disaster Recovery Assistance reimburses eligible municipalities for extraordinary costs associated with emergency response and repairs to essential property and infrastructure following a natural disaster.

The Minister of Municipal Affairs and Housing has the authority to activate the DRAO and MDRA programs. An emergency declaration under the *Emergency Management and Civil Protection Act* is not required for either program to be activated.

In order to be eligible for the MDRA program, a municipality must have:

- experienced a sudden, unexpected and extraordinary natural disaster
- incurred costs over and above regular budgets that can be demonstrably linked to the disaster. These costs must equal at least three per cent of the municipality's Own Purpose Taxation levy
- passed a resolution of council and submitted an initial claim (with supporting documentation) within 120 calendar days of the date of the onset of the disaster

It is important that a municipality submitting a claim for MDRA assistance carefully read and review the program guidelines and claim form user guide at the onset of the disaster. Consider ways for tracking costs and gathering information about damage as part of your municipality's emergency planning. Additional information is also available from your regional Municipal Services Office.

Helpful considerations: section 12

- We all have a role to play in emergency management.
- Your municipality is responsible for the annual compliance of its emergency management program with the *Emergency Management and Civil Protection Act.*
- Consider using a risk management approach for your municipality's emergency management program and disaster mitigation measures.
- Consider maintaining reserves to ensure your municipality is financially prepared to manage unexpected events.
- The Disaster Recovery Assistance for Ontarians and Municipal Disaster Recovery Assistance programs may be activated if a disaster occurs in your municipality.

13. Affordable and social housing

Municipalities, through service managers, play an important role in the delivery of housing and homelessness programs and services in Ontario. For example, service managers are the primary funders of social housing for

low-to-moderate income households. In addition, service managers oversee numerous affordable housing initiatives that provide housing assistance for people at a range of incomes who cannot afford local market rents.

Service managers also play an important role in addressing homelessness. The Province provides annual funding to service managers who are given flexibility to design and deliver a wide range of programs and services for people experiencing – or at risk of – homelessness.

Additional information on Ontario's housing and homelessness programs can be found at the Ministry of Municipal Affairs and Housing website.

National Housing Strategy

On November 22, 2017, the federal government announced Canada's 10 year National Housing Strategy. The goal of this strategy is to make sure Canadians across the country can access housing that meets their needs and that they can afford.

On April 30, 2018, the federal and Ontario government signed a bilateral agreement under the National Housing Strategy.

Ontario and the federal government will continue to work together on implementation details related to the National Housing Strategy.

Housing and homelessness plans

Service managers play an important role in coordinating a wide range of housing and homelessness programs and services in their communities.

To support this, the *Housing Services Act, 2011* requires service managers to develop comprehensive, multi-year plans (10 years or more) to:

- assess current and future local housing needs
- plan for local housing and homelessness services to address needs
- measure and report on progress achieved towards meeting the objectives and targets set out in their plans

The Ministry encourages councillors to become familiar with the housing and homelessness plan for their service manager area.

At least once every five years, service managers must review their plans and make amendments, as necessary, to ensure alignment with provincial priorities and consistency with any policy statements issued by the Province. As initial plans were required to be in place by January 1, 2014, service managers were required to initiate a five-year review of their plan by January 1, 2019 and finalized their updated plan by December 31, 2019.

Affordable housing

Affordable housing generally refers to housing for low-to-moderate-income households priced at or below the average market rent or selling price for comparable housing in a specific geographic area.

A range of planning and financial tools are available to service managers to encourage the creation of affordable housing, including:

- property tax exemptions for municipal housing project capital facilities
- establishing inclusionary zoning policies
- loans and grants for municipal services corporations for affordable housing purposes

- establishing targets through official plans

For more details on municipal tools for affordable housing, please visit the Ministry of Municipal Affairs and Housing website.

Social housing

Social housing is government-assisted housing that provides lower cost rental units to households with low-to-moderate incomes and can include:

- public housing (owned directly or indirectly by service managers)
- not-for-profit and co-operative housing
- rent supplement programs (often in the private market)
- rural and native housing (owned by Ontario Aboriginal Housing Services)

The Social Housing Agreement (SHA) signed by the Canada Mortgage and Housing Corporation and Ontario in 1999, transferred responsibility for social housing from the federal government to the Province, with the exception of federal housing co-operatives.

Subsequently, the Ontario government transferred responsibility for administering and funding most social housing projects to service managers, including District Social Services Administration Boards (DSSABs) in 2000.

Under the *Housing Services Act, 2011*, service managers are responsible for administering and funding social housing and maintaining service level standards.

In spring 2019, the ministry announced Ontario's Community Housing Renewal Strategy which is focused on affordable housing for low-income households and the non-profit, co-operative and municipal housing sector. The strategy will help sustain, repair and grow our community housing system, making it work better for the people it serves.

For more details on social housing, please see the Ministry of Municipal Affairs and Housing website.

Supportive housing

Supportive housing refers to a combination of housing assistance (for example, rent-geared-to-income, rent supplements, group living) and support services (for example, counselling, life skills training, activities of daily living such as bathing or dressing, behaviour supports) to enable people to live as independently as possible in the community.

Supportive housing is funded by the Ministry of Health, Ministry of Children, Community, and Social Services, and the Ministry of Municipal Affairs and Housing.

The Ministry of Municipal Affairs and Housing provides funding to 47 local service managers across the province to deliver housing and homelessness services. Some service managers use this funding to assist clients experiencing or at-risk of homelessness with obtaining supportive housing.

Service manager homeless enumeration

The *Housing Services Act, 2011* requires service managers to conduct regular homeless enumeration.

Homeless enumeration is the measurement of the number of people experiencing homelessness over a specific period of time. Enumeration will help communities to better understand the scale and nature of homelessness,

which can be used to inform local service planning.

Service managers were required to conduct their first local homelessness enumeration in 2018 and are required to enumerate again in 2021.

Review the minister's directive on enumeration requirements for service managers.

Helpful considerations: section 13

- Become informed on the full range of housing and homelessness needs and issues in your community and service manager area
- Understand the various municipal, provincial and federal housing and homelessness policies and programs
- Understand and promote municipal planning and financial tools for the creation of new affordable housing
- Promote and understand the benefits of delivering social services in an integrated fashion
- Participate on local housing and homelessness committees

Appendix

Questions that the Financial Information Return (FIR) may help address.

The FIR is the main data collection tool used by the Ministry of Municipal Affairs and Housing to collect financial and statistical information on municipalities. The data required to complete the FIR each year reflects the most recently completed fiscal year.

The FIR may be a useful source of information to help your council make decisions. For example, council may be able to use the data to compare your municipality to other, similar municipalities who have made decisions about the same issues.

Council may request FIR data reports from municipal staff. Below is a list of sample questions that the FIR may help to answer. This is not intended to be an exhaustive list.

1. How do your tax levels compare to other, similar municipalities? What are some of the factors your council considers when setting tax rates?
2. Does the municipality have policies or practices in place to address the pressures from outstanding assessment appeals (e.g, tax stabilization reserves, reserves to help address changes or decreases in tax revenue)?
3. Is the level of tax arrears in your municipality increasing or decreasing? What factors in your community have affected the level of tax arrears? How does your municipality compare to others?
4. What funding sources does the municipality allocate to capital projects (own source revenues, user fees, debt, grants, etc.)?
5. Is your municipality's level of long-term debt increasing? How does its long-term debt level compare to other municipalities? Are debt servicing costs increasing or decreasing? Is this consistent with any debt management policy?
6. How much does the municipality have in reserves? Are the reserves adequate? Does the municipality have a reserve policy? Does the municipality have a diverse set of reserves? Is this consistent with any asset management plan?

7. How much does the municipality acquire from user fees? What municipal services does your municipality charge a user fee for? Does the current level of user fees help significantly with financing the particular service?
8. What is the value of your tangible capital assets? How are the assets divided among municipal departments?

For additional support, refer to the multi-year FIRs by municipality at the links below.

- Multi-Year FIR Review (2000-2008)
- Multi-Year FIR Review (2009-on)

Resources

Province of Ontario

A wide variety of government publications and resources, including the Ontario Building Code, provincial growth plans and Provincial Policy Statement (to name a few), are on the Ministry of Municipal Affairs and Housing website.

Other resources

The resources and websites below are provided for information only and are not created or controlled by the Province of Ontario.

Municipal World

Municipal Monitor

Milestones Magazine

Canadian Urban Institute

Institute of Municipal Finance and Governance

Intergovernmental Committee on Urban and Regional Research

Municipal Information Network

Northern Policy Institute

Rural Ontario Institute

Association of Municipalities of Ontario (AMO)

Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO)

Association Française des Municipalités de l'Ontario (AFMO)

Federation of Canadian Municipalities (FCM)

Municipal Engineers Association (MEA)

Municipal Finance Officers Association of Ontario (MFOA)

Northern Ontario Service Deliverers Association (NOSDA)

Ontario Good Roads Association (OGRA)

Ontario Municipal Administrators Association (OMAA)

Ontario Municipal Management Institute (OMMI)

Ontario Municipal Social Services Association (OMSSA)

Ontario Professional Planners Institute (OPPI)

Ontario Public Works Association (OPWA)

Rural Ontario Municipal Association

Public Sector Digest

Municipal services offices

We hope that this guide has provided you with an overview of the many duties and challenges you can expect to face. The guide is no substitute for legal or financial advice, of course, but you may want to keep it handy for use as a quick source of information. For more detailed information on any aspect of your duties, you may wish to consult the reference sources listed in this section, talk to municipal staff, contact a professional advisor, or call a municipal or planning advisor in the nearest Municipal Services Office (MSO) of the Ministry of Municipal Affairs and Housing.

Central Municipal Services Office

777 Bay Street, 13th Floor
Toronto ON M7A 2J3
Telephone: or

Lower Tier, Upper Tier and Single Tier Municipalities (Barrie, Durham, Halton, Hamilton, Muskoka, Niagara, Orillia, Peel, Simcoe, Toronto, York).

Eastern Municipal Services Office

8 Estate Lane
Kingston ON K7M 9A8
Telephone: or

Lower Tier, Upper Tier and Single Tier Municipalities (Belleville, Brockville, Cornwall, Dundas/ Glengarry, Frontenac, Gananoque, Haliburton, Hastings, Kawartha Lakes, Kingston, Lanark, Leeds and Grenville, Lennox & Addington, Northumberland, Ottawa, Pembroke, Peterborough, Prescott, Prescott-Russell, Prince Edward, Quinte West, Renfrew, Smith Falls and Stormont).

Western Municipal Services Office

659 Exeter Road, 2nd Floor
London ON N6E 1L3
Telephone: or

Lower Tier, Upper Tier and Single Tier Municipalities (Brant, Brantford, Bruce, Chatham-Kent, Dufferin, Elgin, Essex, Grey, Guelph, Haldimand, Huron, Lambton, London, Middlesex, Norfolk, Oxford , Pelee, Perth, St.

Mary's, St. Thomas, Stratford, Waterloo, Wellington and Windsor).

Northern Municipal Services Office (Sudbury)

159 Cedar Street, Suite 401
Sudbury ON P3E 6A5
Telephone: or

Districts (Algoma, Cochrane, Manitoulin, Nipissing, Parry Sound, Sudbury and Timiskaming).

Northern Municipal Services Office (Thunder Bay)

435 James Street South, Suite 223
Thunder Bay ON P7E 6S7
Telephone: or

Districts (Kenora, Rainy River and Thunder Bay)

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Footnotes

- [1] ^ Indigenous peoples have a special constitutional relationship with the Crown and are acknowledged as partners not stakeholders. In this document, the term Indigenous partners is intended to include Indigenous communities and organizations.
- [2] ^ Aboriginal is the term used in section 35 of the Constitution Act, 1982 to refer to certain constitutionally protected rights and the peoples who hold those rights. Indigenous is a collective term that encompasses First Nation, Métis and Inuit groups and replaces the collective term "Aboriginal" except in legal or official contexts.
- [3] ^ Aboriginal title is a particular type of Aboriginal right. If established, Aboriginal title to land may include the right to decide how the land is used and the right to benefit from those uses.
- [4] ^ An asserted Aboriginal or treaty right means that it has not been recognized by a court, through a settlement agreement with the Crown, or outlined in a treaty where there is no dispute regarding the meaning of the treaty right in question. Determining if there is a credible basis for an asserted right is done through a preliminary assessment that reviews and analyzes available information to gain a general understanding of the strength of the evidence to support the claim.
- [*] ^ For two-tier municipalities (municipalities with a county or regional level as well as a local level), these powers are spheres of jurisdiction (areas where municipalities have authority) and not broad permissive powers. These powers are subject to certain rules because of this. Single-tier municipalities have all eleven broad powers. Municipalities in two-tier systems have the first eight broad powers plus the spheres of jurisdiction.