

Municipal Government Act

progressive powers for municipalities

Introductory Guide

Topic:	This guide provides general background information about the content of the <i>Municipal Government Act</i> .
Legislation:	The <i>Municipal Government Act</i>
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INTRODUCTION

The *Municipal Government Act* (MGA) is a collection of much of the relevant municipal legislation generally modernized, updated and in a number of instances substantially revised. A general familiarity with the MGA is essential for anyone working in or with municipal government in Nova Scotia.

The new Act incorporates the substance of the *Municipal Act*, the *Towns Act* and the regional municipality Acts. These were often referred to as the constitutions of the different municipal units. In addition, the MGA incorporates the *Municipal Affairs Act*, the *Municipal Boundaries and Representation Act*, the *Deed Transfer Tax Act* and the tax collection provisions of the *Assessment Act*. Also included is a revised *Planning Act*. Villages are now covered by the MGA rather than by the *Village Service Act*.

The reader is cautioned that preparation of a guide containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act*, other relevant statutes and to legal advisors.

Effective Date

The *Municipal Government Act* takes effect April 1, 1999. This date was chosen to give municipalities, villages and other local bodies some time to become familiar with the Act. Changes will commence with the 1999 municipal fiscal year.

There are three clauses in the Act that have delayed effective dates - they are subsections 134(2) and 134(3) and Section 199.

Subsections 134(2) and (3) concern the requirement in the Act that property with taxes in arrears for the preceding three fiscal years shall be sold at tax sale (134(2)) unless the proceedings are deferred for up to two years (134(3)); these two subsections take effect April 1, 2003.

Section 199 repeals the Halifax-Dartmouth Regional Development Plan and Regulations: its effective date is April 1, 2000.

One other provision that in effect has delayed application is the clause in respect to subdivisions which provides that subdivision approval is not required for a subdivision resulting from a devise of land by will executed (i.e. properly signed) on or before January 1, 2000: see 268(2)(j). This means that wills executed after January 1, 2000 will not create subdivisions without subdivision approval.

Preamble and Purpose Clause

The Act includes a preamble that recognizes the importance of municipal government in Nova Scotia.

Section 2 sets out the purpose of the Act - this section is useful for interpreting other sections of the Act and may be used by judges to do so. Of particular note is clause 2(a) which states the purpose of giving “broad authority to councils, including broad authority to pass by-laws...”. This clause should be read with the by-law powers in the Act as it is intended to support the use of broad and general by-law powers in the Act.

Definitions

Section 3 sets out definitions that apply to all Parts of the Act. If the definition includes the words “except as otherwise defined in this Act” (for example, the definition of “street”), this is a hint that the word is defined differently in one or more of the Act’s twenty-three Parts. In that case, the definition in the Part applies for the Part; all other definitions in Section 3 would continue to apply to the Part.

The Parts that include definitions at their beginnings are:

Part VIII, Planning and Development, Section 191, has definitions for use in applying Part VIII and Part IX (Subdivision).

Part XII, Streets and Highways, Section 307, defines “street” for use in applying that Part.

Part XVIII, Villages, Section 403 defines “elector” for use in applying that Part.

Part XIX, Municipal Affairs, Section 449, defines “municipality” for use in applying that Part.

Part XX, Freedom of Information and Protection of Privacy, Section 461, contains a number of definitions for use in applying that Part.

The definitions are a specialized dictionary for the Act and must be kept in mind when reading any section of the Act.

Some changes of note in the definitions are:

3(q) the term “county or district municipality” is used rather than “rural municipality”.

3(r) the definition of “dangerous or unsightly” is amended to include “derelict vehicle, vessel, item of equipment or machinery” and other minor changes.

3(br) adds a definition of “special purpose tax” for use with Part IV.

Parts

Following the Preamble, Purpose Clause and definitions, the Act is divided into twenty-three Parts. For particular staff members, a particular Part or Parts combined with the Preamble, Purpose Clause and definitions may be all they need to use. For example, tax collectors may use primarily Part VI; development officers will use primarily Parts VIII and IX.

Certain Parts will be used only in certain situations, for example Part XX respecting freedom of information and protection of privacy will be used to deal with access to records; Part XVI respecting boundaries will be used to make applications respecting polling district, municipal or county boundaries.

PART I THE MUNICIPALITY

Municipality Names, Council Size

Part I continues existing municipalities; provides their names; contains provision to allow them to change their name (S.9); sets the minimum council size (S.10- three members); and provides for one councillor per polling district (S.10).

Mayors and Warden Systems

The mayor system is continued in Section 11; the warden system in Section 12. Section 12 allows a municipality of a county or district to change to the mayor system if it decides to do so.

Changing from Warden to Mayor System

On the question of changing from a warden, elected by the council, to a mayor, elected by the public at large, in a county or district municipality, see Section 12, particularly subsection (8). The change must be made at least nine months before the next regular municipal elections and cannot be reversed after February 15 in the year the mayor is to be first elected. That is, once the electoral process is in motion, this is a one-way choice.

Warden's, Deputy Warden's, Deputy Mayor's Term of Office

Section 12 allows a council of a county or district municipality to adopt a term of office for the warden that is shorter than council's term but this decision is to be made before the warden is elected or else the warden's term is the same as council's (four years). A shorter term would allow several councillors to share the warden's duties, as well as the deputy warden's, during a council's term. The same rule applies to deputy mayors. A warden may be removed from office by 2/3rds vote of the council members (s-s.12(7)).

Seals, Quorums, Meetings, Committees

Much of the rest of Part I is the same as past legislation, or clarifies past legislation, for example dealing with seals, signatures, quorums, council meetings, and committees. Some changes of note are:

Accessibility

- Councils must take into account the principle of accessibility for its citizens with disabilities (s-s.14(2)).

Resignations from Council

- Section 17 sets out the process for resigning from council - note that a resignation cannot be withdrawn once it is delivered to the clerk.

Public Notice of Meetings

- Two days public notice of council meetings must be given (s-s 19(5)); the method of notice may be set by council policy (23(1)(a)).

Requirement to Vote

- Section 21 requires all council members present to vote, including the presiding chair (subject to the *Municipal Conflict of Interest Act*).

Closed Sessions of Council or Committee Meetings

- Section 22 lists the only topics that can be discussed in closed council or committee meetings. A record of closed meetings must be made setting out the type of matter that was discussed by referencing the topics list in the Section.

Council and Committee Remuneration

- Section 23 provides authority for annual remuneration for council members; there is no authority for meeting pay for council meetings or for meetings of council committees (s-s.24(5)). Council members that serve on a board or commission or other position that pays remuneration may be required by council, if it adopts such a policy, to pay the remuneration to the municipality; otherwise this type of payment is not prohibited.

- Non-council committee members may be appointed and may be paid an annual honorarium and reimbursed expenses (s-s.24(6)).

PART II ADMINISTRATION

CAOs

Regional municipalities must appoint a chief administrative officer; other municipalities may appoint a chief administrative officer (S.28). If a council of a municipality other than a regional municipality does not appoint a chief administrative officer, the council must fulfill the responsibilities and may exercise the powers or may delegate any of the responsibilities or powers to an employee of the municipality (S.29).

Officers and Directors

The role of the CAO is further described in Sections 30 and 31; some powers are subject to policies of councils. Directors are mentioned in Section 32; Section 33 provides for the CAO (or council) to appoint the clerk; Sections 33, 34, 35 and 36 deal with the clerk's responsibilities. The treasurer's appointment and general duties are dealt with in Sections 37 and 38. For the engineer's appointment and general powers, see Sections 39 and 40.

The administrator responsible for dangerous and unsightly premises is appointed pursuant to Section 41. See Section 507 for the provision making the cost of anything ordered by the engineer or administrator a lien on the property.

The municipal auditor and audit committee's appointments and general powers and duties are found in Sections 42, 43 and 44.

Pensions

Section 45 provides for municipal pensions including ability to allow mayors and councillors to join if council chooses.

Employees Not "At Pleasure"

Section 46 states that municipal employees are not "at pleasure" employees unless their employment contract says so - this means that municipal employees are protected by common law principles respecting wrongful dismissal unless they sign a contract agreeing not to be.

Instructions to Staff

Note that subsection 30(4) provides that no council member, committee or committee member shall instruct or give direction to an employee of a municipality - instructions should come from council itself to the CAO if there is one.

PART III POWERS

Resolutions, Policies and By-laws

This Part provides for resolutions, policies (resolutions that must be recorded in the by-law records - formerly called “recorded resolutions”) and by-laws. The MGA does not give municipalities “powers of a natural person” as some other Provinces’ legislation is doing.

Notice of Policy

Note that council members must have seven days notice of a policy that is to be adopted (s-s 48(1)). Most fees are set by policy (S.49).

Municipal Property

Acquisition, sale and leasing of municipal property are dealt with in Sections 50, 51 and 52. Ministerial approval is no longer required for the sale or lease of municipal property. Section 51 sets out the procedure to be followed if a municipality wishes to sell or lease property to a nonprofit organization for less than market value. Section 52 applies the *Expropriation Act* to expropriations done by municipalities and villages (s-s.52(3)).

Services, Public Private Partnerships, Intermunicipal Joint Service Agreements

Also found in Part III is authority for plebiscites (S.53), police services (S.54), a public transportation service, promotion and beautification (Ss.56 and 57), regional library services, intergovernmental highway and housing projects (S.59), intermunicipal and intergovernmental service agreements to provide municipal or village services (S.60), public private partnerships (S.61) and a municipal flag, symbol or coat of arms (S.62).

Tax Concessions Prohibited

Note that subsection 57(2) prohibits tax concessions to a business or industry.

Intermunicipal Bodies

Also note that subsection 60(3)(e) permits an intermunicipal/village service body to be a corporate body.

Tree Powers

Tree powers - formerly those of tree commissions or tree committees - are found in Section 63.

PART IV FINANCE

Expenditure and Borrowing Authority

This Part includes general municipal expenditure authority, the borrowing provisions formerly contained in the *Municipal Affairs Act* and a number of other financial measures. Section 65

contains the basic list of expenditure authorities. Borrowing authority is covered in Section 66. It is no longer essential for the municipality to own the asset (in an intermunicipal project), and municipalities may borrow if called upon to honour a guarantee.

Tax Sharing

Municipalities may agree among themselves to share taxes: S.68.

Tax Exemptions

Exemptions for poor taxpayers are covered by S.69 and a by-law power for postponed payment of taxes is contained in S.70.

Section 71 contains tax exemption authority formerly included in the *Assessment Act*.

Rates

Rate-setting is covered by Section 72. Section 73 allows all municipal units to set separate urban, suburban and rural rates if they choose to do so (note that this is mandatory for HRM).

Authority for a minimum tax per dwelling unit is given by S.74.

Area Rates

Section 75 governs area rates. Councils can levy different residential and commercial area rates. Plebiscites or petitions are not required unless the council chooses. Area rates can now be charged in towns if council chooses, as well as in the other types of municipalities.

Other Taxes

Sections 76, 77 and 78 include taxation provisions for recreational property, farm property and forest property, including change in use tax. Farm property is exempt and a provincial grant is provided in place of it. These provisions were formerly included in the *Assessment Act*.

User Charges

General user charges are authorized by S.79. A rate on water users (hydrant charge) is authorized by S.80. Note that no property except that of the Province and the federal government is exempt from the rate, *unless exempted by by-law*. The federal exemption is constitutional.

Other Charges

By-law powers for various charges are also included here (S.81). These include sewer operating and capital charges and various local improvement charges, sewer charges and storm water management charges. Some charges, such as the oversized sewer charge, are “one-time” charges that are based on the cost of the capital improvement and so are charged to a property only once (though the charge may be paid over time) (s-s.81(2)). Note that there also is provision in Part IX of the Act for an “infrastructure charge” for both on-site and off-site capital costs incurred or anticipated to be incurred by reason of development in an infrastructure charge area.

Special Purpose Tax Accounts

Special purpose tax accounts are described in S.83; special purpose taxes are created by council by resolution; withdrawals for other purposes are subject to a public hearing and two-thirds majority vote.

Borrowing

Borrowing for operating purposes is covered by S.84. Borrowing for villages or service commissions is authorized by S.85. All capital borrowing continues to require the approval of the Minister of Housing and Municipal Affairs (S.88).

Capital Leases

Capital leases are authorized subject to an approval requirement (s-s.88(4)). Sections 91 to 98 govern debentures.

Capital Reserve Fund

The capital reserve fund replaces the capital section of the special reserve fund: S.99. No other reserve funds are required by the MGA, but councils may choose to establish them. Withdrawals from a capital reserve fund must be for a capital purpose (s-s.99(4)), but no longer require the approval of the Minister.

Investments

Investment requirements are covered in S.100.

PART V DEED TRANSFERS

The deed transfer tax provisions are similar to those in previous legislation, with some important changes. The affidavit of value continues to be mandatory for the registration of all deeds. The form of the affidavit is to be as prescribed by the Minister.

Tax Optional, Tax Rate

The tax is optional. All councils may set the rate at any level up to 1 ½ per cent of the sale price. The grantee (purchaser) is responsible for payment of the tax.

Exemptions

Exemptions include transfers between spouses and between former spouses to settle marital assets and gifts, correcting deeds (deeds of rectification), tax sale deeds, deeds from the Nova Scotia Farm Loan Board to the original borrower, and charities.

Intercorporate transfers are no longer exempt.

Registry of Deeds

More municipalities are taking advantage of the opportunity to use the registries of deeds to collect the tax, and that opportunity is continued.

PART VI TAX COLLECTION

The provisions of Part VI have their roots in the *Assessment Act* but have gone through an extensive reform process.

More comprehensive direction respecting tax collection will be provided in a separate guide.

Setting the Rate

The fundamentals of setting the rate and interest are established in Sections 111 to 113. Interest may be compounded up to monthly if the council so provides. Interest can be backdated.

Section 114 clearly states that taxes are payable even if there is an appeal, but if there is a refund it must be with interest. Unless council otherwise provides, the rate of interest on a refund is the rate of interest on overdue taxes.

Section 116 provides that an occupant of Crown property is taxable but the property cannot be sold. This is the same as the present *Assessment Act* provision.

Section 117 provides for tax bills.

Taxes Include

Before considering the collection provisions in detail, it is important to note that the definition of taxes includes any sums due the municipality that are a lien. Consider particularly Section 507 which makes charges for work a municipality lawfully causes to be done, a lien.

Collection Methods

Section 119 provides for suing for taxes. It also allows a municipality to set off amounts due the municipality against bills it owes.

Sections 120 to 125 provides for collection by warrant.

The positions of executors, security holders and landlords are covered in Sections 126 to 130.

Application of Payment

Section 131 directs the application of money paid on account. There is a particular provision

where the taxes are paid by a purchaser.

Tax Certificates

Section 132 deals with tax certificates. These must show all municipal charges that create liens, including recoveries under S.507.

Tax Sale

Sections 133 to 157 set out the tax sale process, which has been altered somewhat from prior legislation. Proceedings cannot begin until June 30 in the year after the taxes are levied. An important provision with delayed effect in the requirement that property must be put up for tax sale when there are three years of arrears; this requirement comes into effect April 1, 2003.

A new feature of the process is the requirement for a preliminary notice, or warning (S.138). Title searches are mandatory (S.139).

By Tender

Other variations are the authority to call tenders rather than hold a public auction, and the authority to set a minimum bid that may be below the taxes outstanding (S.141).

The conflict of interest provision has been clarified (S.144).

Redemption Period

The redemption period has been reduced from twelve months to six (S.152).

PART VII BY-LAWS

Existing By-laws Continue

Note that the by-laws, orders, policies and resolutions in force in a municipality or village immediately before April 1, 1999 continue in force to the extent they are authorized by the MGA or another Act, until they are amended or repealed (S.538).

Broad Authority

One of the most significant changes in the *Municipal Government Act* is the authority for by-laws. Formerly, municipal legislation contained very specific authority for what could be done, and often how it could be done. The *Municipal Government Act* has a very different approach, identifying broad subject areas in which by-laws can be passed and some of the detail that can be contained in any by-law. Some more detailed provisions are included for the assistance of municipalities - these are provided for greater certainty, as they relate to things courts have questioned in the past, but these specific powers do not limit the general powers. Note that municipal by-laws still may not be inconsistent with an enactment (statute or regulation) of the

Province. As explained earlier, Section 2 of the Act sets out the purpose of the Act - this section is useful for interpreting other sections of the Act and may be used by judges to do so. Of particular note is clause 2(a) which states the purpose of giving “broad authority to councils, including broad authority to pass by-laws...”. This clause should be read with the by-law powers in the Act as it is intended to support the use of broad and general by-law powers in the Act.

Ministerial Approval

Another major difference is in the removal of the requirement for by-law approval by the Minister of Housing and Municipal Affairs, except for by-laws relating to some planning matters and some matters under other Departments’ legislation. Some by-laws passed under other Departments’ statutes still require those Ministers’ approvals. In that case, the approval of the Minister of Housing and Municipal Affairs also is required so that he or she can use the authority formerly in Section 29 of the *Municipal Affairs Act*, and now in Section 450 of the MGA, to correct errors in the by-law. By-laws requiring joint ministerial approval should continue to be submitted to the Department of Housing and Municipal Affairs for processing. A schedule of these by-laws will be provided. Municipalities will have to take good care to ensure their by-laws do fall within the broader authority conferred by the MGA. The most common problems would be conflict with federal and provincial legislation, covering subjects which the MGA does not authorize, and unauthorized delegation of authority to others.

Adoption

The by-law procedure (Ss. 168-169) is fairly simple:

- two readings
- advertisement of second reading at least fourteen days in advance
- publication of a notice the by-law has been passed.

The advertisement must state the object of the by-law, the date and time of the meeting at which it will be considered and a place where it may be inspected. Council may provide for additional rules and advertising. Publication of a by-law, after it has been passed, means advertising the object of the by-law and the place where it may be read.

After a by-law has been published, a certified copy must be filed with the Department of Housing and Municipal Affairs. This requirement was requested by municipalities and is intended to allow the Department’s files of municipal by-laws to be kept current, for the assistance of other units.

Application

By-laws may apply to only a part of a municipality provided that part is stated in the by-law. Similarly, charges can be set at different levels (S.170). Note that a power to license includes a power to regulate, and the power to regulate includes the power to license and to prohibit (S.171) (except in planning documents). Generally, by-laws are authorized with respect to the health,

well being, safety and protection of people, safety and protection of property, activities in public places, nuisances (including noise, weeds and burning) transportation, businesses, automatic machines, civic holidays, municipal services and by-law enforcement. Additional detail is provided with respect to noise by-laws, pawnbrokers and the regulation of pesticides.

Enforcement, Ticket Systems

Section 172 is the most important section in the MGA for general by-law authority and enforcement of by-laws. Section 172 (sub-clause (1)(1)(vii)) will allow a municipality to set up its own out of court settlement process, in lieu of summary offence tickets. In setting up such a system, records and fairness will be very important. Also note that the municipal ticket, unlike a summary offence ticket, will not be the equivalent of starting a prosecution with the court and so if the person fails to pay and the municipality wishes to enforce its by-law, the person will have to be re-served with either a long form information or a summary offence ticket (if the by-law is in a summary offence ticket schedule).

Specific Authority

Additional by-law authority is provided in Sections 173 to 181. Topics covered include vending and mobile vendors, rooming houses, fires, off-road vehicles, animals, dogs, protection of water supply areas and minimum standards.

Injunction, Validity

Authority for an injunction to ensure compliance with a by-law is contained in S.184. Section 189 establishes how a member of the public can apply to a court to determine the validity of a by-law.

PART VIII PLANNING AND DEVELOPMENT

Note: Part VIII will be covered comprehensively in a separate guide.

MPS, LUB, Development Agreements, etc.

Part VIII generally deals with planning: municipal planning strategies, land-use by-laws, development agreements, nonconforming uses, appeals and the like. All were formerly incorporated in the *Planning Act*, which is repealed April 1, 1999. All existing by-laws continue in force (S.538).

New Planning Tools

Changes include the addition of new planning tools including site-plans (S.231), incentive and bonus zoning (clause 220(5)(k)), transportation reserves (S.224), increase authority to grant variances (S.235), greater authority to regulate issues of an environmental nature and power to enter into airport planning agreements with the federal government under the *Aeronautics Act* (s-

s.220(6)). Notice, approval and appeal processes are streamlined.

District Planning Commissions

Existing district planning commissions are continued but there is no provision for new ones. The equivalent power would be under an intermunicipal service agreement (S.60).

Provincial Statements

Provincial interests in the use and development of land (by way of provincial statements of interest) are clarified, and five statements are included as Schedule 'B' to the Act.

Definitions

Note that Part VIII and IX have their own sub-dictionaries in Section 191, but the general definitions in Section 3 also apply. However, in Part VIII and Part IX the power to "regulate" does not allow prohibition unless expressly stated.

Enforcement

Section 266, respecting enforcement, applies to both Parts VIII and IX as do the sections addressing appeals.

PART IX SUBDIVISION

Note: Part IX will be covered comprehensively in a separate guide.

Subdivision

The subdivision provisions formerly contained in the *Planning Act* are incorporated in Part IX of the *Municipal Government Act*, with significant amendments and clarifications. Subdivision by-laws are continued (S.292) and Provincial Subdivision Regulations are deemed to be municipal by-laws.

Definitions

The definition and enforcement sections of Part VIII also apply to Part IX (S.191 and S.266).

Subdivision continues to include lot consolidation. Instruments of subdivision are permitted in a county or district municipality (S.269).

Lot Consolidations

Lot consolidations will not be permitted *for lots in different ownerships* unless deeds to put the consolidation into effect are provided: see s-s. 269(5) and S.282.

Exemptions

Exemptions from subdivision approval are set out in subsection 268(2). These are generally unchanged. However, subdivision by will is not effective if the will is signed after January 1, 2000. The Act also provides that a deed or other instrument creating an exempt subdivision should incorporate an affidavit verifying the facts to support the exemption.

Infrastructure Charges

A major change is the provision for infrastructure charges (sometimes called off-site or development charges) (Ss. 274, 275, 276).

Parkland

The provisions respecting the transfer of land or cash in lieu on subdivision approval have been extensively revised (S.273). With support in a municipal planning strategy up to 10% of the area being subdivided now may be required.

PART X FIRE AND EMERGENCY SERVICES

Definitions

This Part, combined with the definitions for “fire services” and “emergency services” (in Section 3) authorize municipalities to provide these services using various means.

Registration

It authorizes bodies corporate (such as volunteer fire departments incorporated as societies, or corporations with their own fire departments who are willing to provide assistance) to register with the municipality to provide specified services and by reason of the registration to benefit from liability protections and eligibility for assistance, such as municipal grants or loans or loan guarantees (Ss. 294 and 295), that may be made available by municipalities at their discretion. Municipal expenditure authority in this area also is found in the finance powers in Sections 65 and 66. Note that a municipality’s own fire department, if it has one, and village fire departments also should register (s-s. 294(3)).

The registration process may contribute to greater cooperation amongst fire departments and municipalities and greater certainty respecting territories and services provided. The Fire Marshall’s office will be providing municipalities and fire departments with check lists that can be used to determine what services the body corporate is capable of providing.

Liability Protections

This Part contains protections from liability (S.300) including that individual members or employees cannot be sued (S.301).

Rural Fire Districts

The *Rural Fire District Commission Act* continues to exist and provide additional authority for those commissions.

PART XI ELECTRICAL SERVICES

This Part is of concern to those municipalities that still operate an electrical utility. Essentially, this Part is a simplified version of provisions in the *Municipal Affairs Act* and formerly in the *Power Corporation Act*.

PART XII STREETS AND HIGHWAYS

Municipal Streets

This Part does not apply to provincial highways. The municipality owns all other streets, and cannot lose title by adverse possession (S.308).

Authority

A municipal council can use its own by-law authority and all of the powers of a local authority contained in the *Motor Vehicle Act*. A new power is the ability to designate controlled access streets (clause 309(4)(d)).

Snow Clearing

Snow clearing by-laws can be enforced by charging the cost back to the owner (S.310). Recall that if the engineer orders work to be done, if the municipality then has to do the work the cost is recoverable from the owner and becomes a lien (Ss.503 and 507).

Traffic Authority

Section 311 provides for the appointment of a traffic authority. This appointment is necessary for speed limits, parking restrictions and like controls on all streets owned by the municipality.

Civic Numbering, Street Names, Encroachments, Street Closings

Civic numbers and street names are covered in S.313. Encroachments on streets are the subject of S.314. The engineer is entitled to permit encroachments to continue, and council can, by by-law, establish regulations for encroachments. Street closings no longer require the approval of the Minister of Housing and Municipal Affairs. However, notice of the public hearing must be sent to the Minister of Transportation and Public Works (S.315).

The remainder of the Part deals with excavation (S.317), obstructions (S.318), signs (S.320) and vegetation (S.321) obstructing views and temporary street closings (S.322).

PART XIII SOLID WASTE RESOURCE MANAGEMENT

This part includes the authority for by-laws respecting solid waste collection and disposal (S.325) and for providing compensation to an area that hosts a solid waste facility (S.326).

PART XIV SEWERS

Protection of Sewers

The sewer provisions of the *Municipal Government Act* mark a substantial expansion, in terms of detail, of municipal *and village* powers in this field.

They include a statutory prohibition against unauthorized connections to sewers (S.328). Councils *or village commissions* can determine what part of the building service connection is the owner's responsibility: none of it, just to the property line or all of it (S.329). The engineer can order any property that may be connected to the sewer to connect (S.332). There is no distance limit. Section 333 contains a list of items that may be included in a sewer by-law in order to control the strength or toxicity of the effluent. Other sections deal with grease, oil and sand interceptors (S.334) and control service accesses (S.335). General prohibitions, now common to many sewer by-laws, are made statutory offences by S.338. The statutory offences found here would be enforced rather than the by-law offences, after April 1, 1999.

Wastewater management districts (S.342) may be established by council by by-law. Stormwater management by-laws (S.343), including grading standards, are complemented by potential requirements in a subdivision by-law for drainage or grading plans (S.272).

Sewer Charges

The financial side of sewers and stormwater drainage is incorporated in Part IV, Finance, particularly Section 81.

PART XV DANGEROUS AND UNSIGHTLY PREMISES

Definitions

The MGA provisions respecting dangerous and unsightly premises reflect a continuing concern of municipalities to have workable and effective authority in this area. Of critical importance is the definition of "dangerous or unsightly" in clause 3(r). This may be the most important of the 88 definitions in Section 3, the Act's dictionary.

Delegation to Administrator, Committee

Council may delegate authority to the administrator, a municipal official charged by council with the responsibility for dangerous and unsightly premises, or to a committee or community council. The council cannot delegate its authority to order demolition to the administrator - council or a committee or community council must exercise the demolition authority (S.345). When council (or the person or committee to whom the power is delegated) orders a dangerous or unsightly condition to be rectified, it must specify what is to be done (s-s.346(1)). An order may be appealed to the council; council may delegate its appeal powers to a committee. An owner must be given an opportunity to be heard before demolition is ordered.

Court Application

Section 347 allows a municipality to apply to a court to pursue the correction of a dangerous or unsightly condition. This choice settles the legal issues before the work is done, an advantage if a significant expense is expected.

Powers

The administrator may require that an unsafe property be vacated (S.349). Section 350 is an override provision allowing the administrator to take action where public safety requires immediate action. Inspection powers are included in Section 352.

Cost Recovery

Provision for recovery of the cost of work ordered by the council, committee, etc. or the administrator is made in Section 507. The cost becomes a lien. The definition of taxes in clause 3(bz) includes debts due the municipality which are liens, allowing the use of the tax sale process to collect. Note that a municipality can also sue to recover the debt, as it can for taxes (S.119). Council will have to set the interest rate by policy.

PART XVI BOUNDARIES

Municipal, County, Village and Polling District Boundaries

The boundary provisions of the *Municipal Government Act* come from the *Municipal Boundaries and Representation Act*. Part XVI deals with the determination of uncertain municipal, village or county boundaries, changes to municipal and village boundaries by agreement, annexation or amalgamation and polling district boundaries (including wards in towns).

Existing boundaries are confirmed, subject to any future changes to be made pursuant to the MGA (S.354). Docks, etc. connected to the shore are included within the municipality (S.355).

A simplified procedure for boundary changes agreed upon by all affected parties is set out in Section 357.

Annexation, Amalgamation

Annexation or amalgamation are covered by Sections 358 to 367.

Polling Districts

Polling districts are the subject of Section 368. Note that in 1999 a study of the number and boundaries of polling districts, including town wards, must be completed and an application made to the Utility and Review Board for confirmation or change (S.369). All municipalities must also review the size of council and apply to have it confirmed or changed. A county or district municipality intending to change from the warden system to a mayor elected at large system should implement that change before conducting the study if there is any thought of maintaining the same size of council. See s-s. 12(8).

PART XVII MUNICIPAL INCORPORATION

Regional Municipalities

Provisions for the establishment of regional municipalities (Ss. 371 to 382) require a unanimous application to the Utility and Review Board for a study and, on completion of a study, a plebiscite.

Towns

Town incorporation, replacing similar provisions in the *Municipal Boundaries and Representation Act*, is covered by Sections 383 to 393. Dissolution of towns is the subject of Sections 394 to 402.

Villages

Note that a dissolved town may be continued as a village, if ordered by the Board (clause 399(2)(d)). There is no other provision for incorporating villages.

PART XVIII VILLAGES

Borrowing

Villages were formerly the subject of the *Village Service Act*. Most (but not all) specific provisions affecting villages are contained in Part XVIII, but other references appear throughout the Act. Among the most important are the borrowing provisions in Section 88 of Part IV.

Names

The legal name of villages has been changed from the “Village Commissioners of” to the “Village of ...”.

Commissions, Elections

Villages are governed by a village commission, the equivalent of a council, of three to five members (as determined by the village). Elections are at annual meetings or, if so provided by the village, at an election day. Terms are for three years and overlap, so there is an election every year.

Expenditure Authority

Expenditure authority is set out in Section 423. The list is considerably more complete than in prior legislation and should be read in detail. Village by-laws require the approval of the Minister of Housing and Municipal Affairs. Refer to Sections 426 to 437. Villages now have express authority to apply for an injunction to enforce their by-laws.

Tax Collection

Villages are given the same powers as municipalities to collect taxes, or they may agree with a municipality to collect taxes for them (Ss. 440, 441).

Boundaries, Dissolution

Also included are sections respecting changes in village boundaries (S.447, but see also S.356 and S.357) and dissolution (S.448).

Other Sections

Other Sections of the Act, not found in Part XVIII, and important to villages are:

- S. 60- authority for joint service agreements for village services
- S. 61- public private partnerships
- S. 78- village fire hydrant charges
- Ss. 85, 146 - collection of village taxes by the municipality
- S. 85 - municipal loans to villages
- Ss.86, 87- borrowing limits
- S.89 - municipal guarantees of village loans
- S.90 - electors approvals of borrowings
- Clause 144(2)(b) - limits on who may purchase land sold by a village at tax sale
- Subsections 200(3), 201(3) and 206(6) and Section 247 - planning matters
- Part X - registration as a fire department with the municipality (S-s.294(3)) and the new provisions respecting protections from liability
- ***Part XIV - authority over village sewers (also note the definition of “engineer” and “municipal sewer” in Section 3)***
- Part XX - Freedom of information and protection of privacy rules apply to villages. Please see Part XX of this Guide
- Sections 503 and 507 - authority to recover the cost of work lawfully done as taxes are recovered
- Sections 510 to 516 - sections relevant to court proceedings.

PART XIX MUNICIPAL AFFAIRS

Minister's Powers, "Municipality" Here Includes Villages and Service Commissions

This Part comes from the *Municipal Affairs Act*, and covers the powers of the Minister and Cabinet respecting municipal government. The definition of municipality (S.449) is much broader than elsewhere in the Act, and includes villages and service commissions.

Ministerial Approval

Section 450 sets out powers of the Minister. While the Minister's approval is not required for as many matters under the MGA as it was under previous legislation, the Minister's approval is required any time the approval of another Minister of the Crown is required.

Orders, Regulations

Section 451 establishes the Minister's authority to provide direction to municipalities, for example by prescribing the Municipal Accounting and Reporting Manual. These powers are regulations. Other, more general, powers are covered in Sections 452 to 456.

Registration of Auditors

Registration of municipal auditors is covered by Section 457.

Trusteeship

Sections 458 to 460 covers the situation of a municipality that is about to fail financially and provides for trusteeship powers.

PART XX FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

A separate guide to this Part is in preparation.

The effect of this Part is to make municipalities, including villages and service commissions, and commissions, boards, committees and joint bodies, subject to essentially the same rules of disclosure of information as the provincial government. The provisions closely parallel the *Freedom of Information and Protection of Privacy Act*. Section 502 ensures that any changes to that Act also apply to the MGA.

PART XXI GENERAL

Ordering Work Done, Inspection, Recovery of Costs

Part XXI has provisions that apply generally, and are frequently of importance in a number of situations. For example, Section 503 contains provisions respecting ordering work done and

powers of an inspector. Section 507 covers recovery of the cost as a first lien, which makes the cost recoverable as taxes (clause 3(bz)).

Offences, Penalties, Notices, Legal Proceedings, Liability

Sections 505, 506 and 508 relate to offences and penalties generally. Sections 509 and 512 cover service of notices and legal proceedings. Sections 504 and 513 to 517 are limitations on municipal liability.

Consultation Required Before Amendment

The Minister is required to consult the executive of the Union of Nova Scotia Municipalities respecting any proposed amendment to the MGA (S.518).

Notice Required

The Minister must advise the UNSM at least twelve months before any action by the Province that would either decrease municipal revenues or increase required municipal expenditures: (S.519).

Regulations

Section 520 is the Minister's general regulation authority.

PART XXII HALIFAX REGIONAL MUNICIPALITY

The provisions of this Part apply only to Halifax Regional Municipality; most are taken from the *Halifax Regional Municipality Act*. They relate to community councils, the Dartmouth Common, the Halifax Regional School Board, the Atlantic Winter Fair, the Halifax Regional Water Commission, pesticides, HRM's solid waste landfill site, amalgamation costs, park constables and, notices of spring weight restrictions *and HRM's pension plan*.

PART XXIII TRANSITIONAL AND REPEAL

The main purpose of this Part is to provide for an orderly transition from the present legislative setting to the new provisions of the *Municipal Government Act*, that come into force April 1, 1999. Other provisions repeal the statutes incorporated in or replaced by the MGA and make consequential changes to other affected statutes.

Existing By-laws, Policies and Resolutions Continue

Existing by-laws, policies and resolution are continued to the extent they still are authorized (S.538).

BIDCs, Industrial Commissions, Other Commissions, Corporations, Authorities Dissolved

Business improvement district commissions are dissolved; their assets can be conveyed to non-profit groups for similar purposes (S.539). Similar provisions apply to industrial commissions (S.540). Regional transit authorities are dissolved but they continue as intermunicipal service agreements (S.541).

Incorporated waterfront development, recreation, parks, parking, and tree corporations or commissions are dissolved (S.542). This applies only to those bodies established by a municipality or by statute. **A more detailed guide on this topic will be available.**

Tax Exemptions, School Board Term, Remedial Environmental Clean Up Cost Recovery

Included in the changes to various statutes are clarification for the exemptions for the Army, Navy and Airforce Veterans in Canada and hospitals (S.547). School board terms will coincide with municipal terms of office (S.555). Municipalities will have the same authority as the Minister of the Environment to recover the costs of remedial environmental work (clean ups) (S.557).

Appeal re Heritage Conservation District

A change to the *Heritage Property Act* provides an appeal with respect to development in a heritage conservation district (S.561).

Elections, Disclosure of Contributions

Very significant changes are made by the amendments to the *Municipal Elections Act* in S.568. Beginning with the year 2000 elections, municipal terms of office are extended to four years. Canadian citizenship must be determined as of nomination day. Authorization to use a federal or provincial permanent electoral list is included. A new Section 49A requires the disclosure of campaign contributions over \$50.00, and prohibits anonymous donations.

SCHEDULE 'A'

Tax Collection Forms

Schedule 'A' includes the basic tax collection forms: the warrant and return, tax sale certificate, redemption certificate and tax deeds. Any other forms needed can be designed by the municipality.

SCHEDULE 'B'

Statements of Provincial Interest (Planning)

Schedule 'B' contains the statements of provincial interest referred to in Part VIII. These are of particular importance to planners as municipal planning documents must be consistent with these statements and any others adopted pursuant to the Act.

The separate guide that is being prepared respecting Part VIII and Part IX will address Schedule 'B', as well.