

Exhibit I (Municipal Act)

**“Exhibit 1 to Affidavit of Jack Graziosi dated
April 23, 2015”.**

Municipal Act, 2001

S.O. 2001, CHAPTER 25

Consolidation Period: From January 1, 2015 to the [e-Laws currency date](#).

Last amendment: 2014, c. 13, Sched. 9, s. 21, 22.

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PART I GENERAL

Interpretation

1. (1) In this Act,

“assessment corporation” means the Municipal Property Assessment Corporation; (“société d’évaluation foncière”)

“business licensing by-law” means, in respect of a municipality, a by-law of the municipality providing for a system of licences with respect to a business passed under paragraph 11 of subsection 10 (2) or paragraph 11 of subsection 11 (3) or under section 151 if the by-law could also be passed by the municipality under one of those paragraphs; (“règlement sur les permis d’entreprise”)

“county” means an upper-tier municipality that was a county, including the Frontenac Management Board, on the day before this Act came into force; (“comté”)

“economic development services” means, in respect of a municipality, the promotion of the municipality by the municipality for any purpose by the collection and dissemination of information and the acquisition, development and disposal of sites by the municipality for industrial, commercial and institutional uses; (“services de développement économique”)

“First Nation” means a band as defined in the *Indian Act* (Canada); (“Première Nation”)

“highway” means a common and public highway and includes any bridge, trestle, viaduct or other structure forming part of the highway and, except as otherwise provided, includes a portion of a highway; (“voie publique”)

“land” includes buildings; (“bien-fonds”)

“licence”, in relation to a licence issued under this Act, includes a permit, an approval, a registration and any other type of permission, and “licensing” has a corresponding meaning; (“permis”)

“local board” means a municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority; (“conseil local”)

“local municipality” means a single-tier municipality or a lower-tier municipality; (“municipalité locale”)

“lower-tier municipality” means a municipality that forms part of an upper-tier municipality for municipal purposes; (“municipalité de palier inférieur”)

“Minister” means the Minister of Municipal Affairs and Housing; (“ministre”)

“municipality” means a geographic area whose inhabitants are incorporated; (“municipalité”)

“old Act” means the *Municipal Act*, being chapter M.45 of the Revised Statutes of Ontario, 1990, as it read immediately before its repeal under this Act; (“ancienne loi”)

“person” includes a municipality unless the context otherwise requires; (“personne”)

“power”, in relation to the authority of a municipality or other body, includes capacity, rights, powers and privileges; (“pouvoir”)

“prescribed” means prescribed by regulations made under this Act; (“prescrit”)

“public utility” means,

(a) a system that is used to provide any of the following services or things for the public:

(i) water,

- (ii) sewage,
- (iii) fuel, including natural and artificial gas,
- (iv) energy, excluding electricity,
- (v) heating and cooling, and
- (vi) telephone, and

(b) the service or thing that is provided; (“service public”)

“rateable property” means land that is subject to municipal taxation; (“bien imposable”)

“record” means information however recorded or stored, whether in printed form, on film, by electronic means or otherwise, and includes documents, financial statements, minutes, accounts, correspondence, memoranda, plans, maps, drawings, photographs and films; (“document”)

“regional municipality” means an upper-tier municipality that was a regional or district municipality or the County of Oxford on December 31, 2002; (“municipalité régionale”)

“regular election” means the regular election referred to in subsection 4 (1) of the *Municipal Elections Act, 1996*; (“élections ordinaires”)

“sewage” includes,

- (a) storm water and other drainage from land, and
- (b) commercial wastes and industrial wastes that are disposed of in a sewage system; (“eaux d’égout”)

“single-tier municipality” means a municipality, other than an upper-tier municipality, that does not form part of an upper-tier municipality for municipal purposes; (“municipalité à palier unique”)

“spouse” means a person,

- (a) to whom the person is married, or
- (b) with whom the person is living outside marriage in a conjugal relationship, if the two persons,
 - (i) have cohabited for at least one year,
 - (ii) are together the parents of a child, or
 - (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act*; (“conjoint”)

“system” means one or more programs or facilities (including real and personal property) of a person used to provide services and things to the person or to any other person and includes administration related to the programs, facilities, services and things; (“réseau”, “système”)

“transportation system” includes harbours, ports and transportation terminals; (“réseau de transport”)

“unorganized territory” means a geographic area without municipal organization; (“territoire non érigé en municipalité”)

“upper-tier municipality” means a municipality of which two or more lower-tier municipalities form part for municipal purposes. (“municipalité de palier supérieur”) 2001, c. 25, s. 1 (1); 2005, c. 5, s. 44 (1, 2); 2006, c. 9, Sched. H, s. 5 (1); 2006, c. 32, Sched. A, s. 1.

Municipality

(2) In this Act, a reference to a municipality is a reference to its geographical area or to the municipal corporation, as the context requires. 2001, c. 25, s. 1 (2).

Amount added to tax roll

(2.1) If, under this or any other Act, an amount is given priority lien status, the amount may be added to the tax roll against the property in respect of which the amount was imposed or against any other property in respect of which the amount was authorized to be added by this or any other Act. 2002, c. 17, Sched. A, s. 1 (1).

Amounts imposed by upper-tier, etc.

(2.2) The treasurer of a local municipality shall, upon the request of its upper-tier municipality, if any, or of a local board or school board whose area of jurisdiction includes any part of the local municipality, add amounts imposed by the upper-tier municipality, local board or school board, respectively, under subsection (2.1). 2002, c. 17, Sched. A, s. 1 (1).

Priority lien status

(3) If an amount is added to the tax roll in respect of a property under subsection (2.1) or (2.2), that amount, including interest,

- (a) may be collected in the same manner as taxes on the property;
- (b) may be recovered with costs as a debt due to the municipality from the assessed owner of the property at the time the fee or charge was added to the tax roll and from any subsequent owner of the property or any part of it;
- (c) is a special lien on the property in the same manner as are taxes under subsection 349 (3); and
- (d) may be included in the cancellation price under Part XI in the same manner as are taxes on the property. 2002, c. 17, Sched. A, s. 1 (2).

Application to other Acts

(4) This section applies to all other Acts or provisions of Acts affecting or relating to municipal matters unless the context otherwise requires. 2001, c. 25, s. 1 (4).

General definitions

(5) Unless the context otherwise requires, the terms “county”, “local municipality”, “lower-tier municipality”, “municipality”, “regional municipality”, “single-tier municipality” and “upper-tier municipality”, when used in any other Act or regulation, have the same meanings as in subsection (1). 2002, c. 17, Sched. A, s. 1 (3).

Purposes

2. 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. 2006, c. 32, Sched. A, s. 2.

Consultation

3. (1) The Province of Ontario endorses the principle of ongoing consultation between the Province and municipalities in relation to matters of mutual interest and, consistent with this principle, the Province shall consult with municipalities in accordance with a memorandum of understanding entered into between the Province and the Association of Municipalities of Ontario. 2005, c. 8, s. 1.

Review

(2) The Ministry of Municipal Affairs and Housing shall initiate a review of this Act before the end of 2007 and thereafter within five years of the end of the previous review. 2001, c. 25, s. 3 (2).

Agreements with the federal government

3.1 The Province acknowledges that a municipality has the authority to enter into agreements with the Crown in right of Canada with respect to matters within the municipality’s jurisdiction. 2006, c. 32, Sched. A, s. 3.

Body corporate

4. (1) The inhabitants of every municipality are incorporated as a body corporate. 2001, c. 25, s. 4.

Non-application

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a municipality. 2006, c. 32, Sched. A, s. 4.

Powers exercised by council

5. (1) The powers of a municipality shall be exercised by its council. 2001, c. 25, s. 5 (1).

Council a continuing body

(2) Anything begun by one council may be continued and completed by a succeeding council. 2001, c. 25, s. 5 (2).

Powers exercised by by-law

(3) A municipal power, including a municipality’s capacity, rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise. 2001, c. 25, s. 5 (3); 2006, c. 32, Sched. A, s. 5.

Scope

(4) Subsections (1) to (3) apply to all municipal powers, whether conferred by this Act or otherwise. 2001, c. 25, s. 5 (4).

Expropriation

6. (1) The power of a municipality to acquire land under this or any other Act includes the power to expropriate land in accordance with the *Expropriations Act*. 2001, c. 25, s. 6.

Extended power

(2) A municipality, local board or school board that has the authority to expropriate land may, with the approval of the Ontario Municipal Board, exercise the authority with respect to land or an interest in land owned by another municipality, local board or school board that has the authority to expropriate land. 2002, c. 17, Sched. A, s. 2.

Special Acts

7. (1) In this section,

“special Act” means an Act relating to a particular municipality. 2001, c. 25, s. 7 (1).

Relationship between this Act and special Acts

(2) Except where otherwise expressly or by necessary implication provided,

(a) this Act does not limit or restrict the powers of a municipality under a special Act; and

(b) a special Act does not limit or restrict the powers of a municipality under this Act. 2001, c. 25, s. 7 (2).

Override power

(3) Despite subsection (2), a municipality may exercise its powers with respect to any of the following matters to override a special Act, even if the special Act is more specific and is enacted more recently than this Act:

1. Changing the name of the municipality.
2. Transferring powers between upper-tier and lower-tier municipalities.
3. Dissolving or changing local boards.
4. Changing the composition of council.
5. Establishing, changing or dissolving wards.
6. Any other matter dealt with by a provision of an Act which provides, expressly or by necessary implication, that the provision or the exercise of power under the provision prevails over the special Act. 2006, c. 32, Sched. A, s. 6.

Same

(4) Subsection (3) applies despite section 47 of the *Town of Haldimand Act, 1999*, section 37 of the *City of Hamilton Act, 1999*, section 38 of the *Town of Norfolk Act, 1999*, section 38 of the *City of Ottawa Act, 1999* and section 37 of the *City of Greater Sudbury Act, 1999*. 2006, c. 32, Sched. A, s. 6.

Exclusion

(5) Subsection (3) does not apply if the special Act expressly or by necessary implication precludes the exercise of the power by provisions other than those set out in subsection (4). 2001, c. 25, s. 7 (5).

Application re City of Toronto

7.1 (1) This Act does not apply to any of the following, except as otherwise provided by another provision of this Act or of the *City of Toronto Act, 2006*:

1. The City of Toronto, a local board of the City (including a joint local board of the City) or a city corporation.
2. Members of the council of the City, members of a local board of the City (including a joint local board of the City) or directors or members of a city corporation.
3. Officers, employees or agents of the City, of a local board of the City (including a joint local board of the City) or of a city corporation. 2006, c. 11, Sched. B, s. 9 (2).

Same

(2) Subsection (1) does not affect the power of another municipality to enter into an agreement or undertake an activity jointly with the City of Toronto. 2006, c. 11, Sched. B, s. 9 (2).

Same

(3) Unless the context requires otherwise, the terms “municipality”, “local municipality” or “single-tier municipality”, when used in any other Act or regulation, include the City of Toronto and, when defined in any other Act or regulation as having the same meaning as in the *Municipal Act, 2001*, include the City of Toronto. 2006, c. 11, Sched. B, s. 9 (2); 2006, c. 32, Sched. A, s. 7.

Definition

(4) In this section, “city corporation” means a corporation established by the City of Toronto in accordance with section 148 of the *City of Toronto Act, 2006*. 2006, c. 11, Sched. B, s. 9 (2).

**PART II
GENERAL MUNICIPAL POWERS**

Scope of powers

8. (1) The powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues. 2006, c. 32, Sched. A, s. 8.

Ambiguity

(2) In the event of ambiguity in whether or not a municipality has the authority under this or any other Act to pass a by-law or to take any other action, the ambiguity shall be resolved so as to include, rather than exclude, powers the municipality had on the day before this Act came into force. 2006, c. 32, Sched. A, s. 8.

Scope of by-law making power

- (3) Without limiting the generality of subsections (1) and (2), a by-law under sections 10 and 11 respecting a matter may,
- (a) regulate or prohibit respecting the matter;
 - (b) require persons to do things respecting the matter;
 - (c) provide for a system of licences respecting the matter. 2006, c. 32, Sched. A, s. 8.

Scope of by-laws generally

(4) Without limiting the generality of subsections (1), (2) and (3) and except as otherwise provided, a by-law under this Act may be general or specific in its application and may differentiate in any way and on any basis a municipality considers appropriate. 2006, c. 32, Sched. A, s. 8.

Exception

(5) Subsection (4) does not apply with respect to a by-law made under Parts VII, VIII, IX, X, XI and XIII. 2006, c. 32, Sched. A, s. 8.

Powers of a natural person

9. A municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act. 2006, c. 32, Sched. A, s. 8.

Broad authority, single-tier municipalities

10. (1) A single-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public. 2006, c. 32, Sched. A, s. 8.

By-laws

- (2) A single-tier municipality may pass by-laws respecting the following matters:
- 1. Governance structure of the municipality and its local boards.
 - 2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
 - 3. Financial management of the municipality and its local boards.
 - 4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
 - 5. Economic, social and environmental well-being of the municipality.
 - 6. Health, safety and well-being of persons.

7. Services and things that the municipality is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection.
9. Animals.
10. Structures, including fences and signs.
11. Business licensing. 2006, c. 32, Sched. A, s. 8.

One power not affecting another

(3) The power to pass a by-law respecting a matter set out in a paragraph of subsection (2) is not limited or restricted by the power to pass a by-law respecting a matter set out in another paragraph of subsection (2). 2006, c. 32, Sched. A, s. 8.

Services or things provided by others

(4) The power of a municipality to pass a by-law respecting the matter set out in paragraph 7 of subsection (2) does not include the power to pass a by-law respecting services or things provided by a person other than the municipality or a municipal service board of the municipality. 2006, c. 32, Sched. A, s. 8.

Exception

(5) Nothing in subsection (4) prevents a municipality from passing a by-law with respect to services or things provided by any person to the extent necessary,

- (a) to ensure the physical operation of a system of the municipality or of a municipal service board of the municipality is not impaired; or
- (b) to ensure the municipality, a municipal service board of the municipality or a system of the municipality or municipal service board meet any provincial standards or regulations that apply to them. 2006, c. 32, Sched. A, s. 8.

Definition

(6) In this section,

“local board” means a local board other than,

- (a) a society as defined in subsection 3 (1) of the *Child and Family Services Act*,
- (b) a board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*,
- (c) a committee of management established under the *Long-Term Care Homes Act, 2007*,
- (d) a police services board established under the *Police Services Act*,
- (e) a board as defined in section 1 of the *Public Libraries Act*, or
- (f) a corporation established in accordance with section 203. 2006, c. 32, Sched. A, s. 8; 2007, c. 8, s. 218 (1).

SPHERES OF JURISDICTION

Broad authority, lower-tier and upper-tier municipalities

11. (1) A lower-tier municipality and an upper-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4). 2006, c. 32, Sched. A, s. 8.

By-laws

(2) A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters:

1. Governance structure of the municipality and its local boards.
2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
3. Financial management of the municipality and its local boards.
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the municipality.
6. Health, safety and well-being of persons.
7. Services and things that the municipality is authorized to provide under subsection (1).

8. Protection of persons and property, including consumer protection. 2006, c. 32, Sched. A, s. 8.

By-laws re: matters within spheres of jurisdiction

(3) A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting matters within the following spheres of jurisdiction:

1. Highways, including parking and traffic on highways.
2. Transportation systems, other than highways.
3. Waste management.
4. Public utilities.
5. Culture, parks, recreation and heritage.
6. Drainage and flood control, except storm sewers.
7. Structures, including fences and signs.
8. Parking, except on highways.
9. Animals.
10. Economic development services.
11. Business licensing. 2006, c. 32, Sched. A, s. 8.

Rules

(4) The following are the rules referred to in subsections (1), (2) and (3):

1. If a sphere or part of a sphere of jurisdiction is not assigned to an upper-tier municipality by the Table to this section, the upper-tier municipality does not have the power to pass by-laws under that sphere or part and does not have the power to pass by-laws under subsection (1) or (2) that, but for this paragraph, could also be passed under that sphere or part.
2. If a sphere or part of a sphere of jurisdiction is assigned to an upper-tier municipality exclusively by the Table to this section, its lower-tier municipalities do not have the power to pass by-laws under that sphere or part and do not have the power to pass by-laws under subsection (1) or (2) that, but for this paragraph, could also be passed under that sphere or part.
3. If a sphere or part of a sphere of jurisdiction is assigned to an upper-tier municipality non-exclusively by the Table to this section, both the upper-tier municipality and its lower-tier municipalities have the power to pass by-laws under that sphere or part.
4. If a lower-tier municipality has the power under a specific provision of this Act, other than this section, or any other Act to pass a by-law, its upper-tier municipality does not have the power to pass the by-law under this section.
5. If an upper-tier municipality has the power under a specific provision of this Act, other than this section, or any other Act to pass a by-law, a lower-tier municipality of the upper-tier municipality does not have the power to pass the by-law under this section.
6. Paragraphs 4 and 5 apply to limit the powers of a municipality despite the inclusion of the words “without limiting sections 9, 10 and 11” or any similar form of words in the specific provision.
7. The power of a municipality with respect to the following matters is not affected by paragraph 4 or 5, as the case may be:
 - i. prohibiting or regulating the placement or erection of any sign, notice or advertising device within 400 metres of any limit of an upper-tier highway,
 - ii. any other matter prescribed by the Minister. 2006, c. 32, Sched. A, s. 8.

One power not affecting another

(5) The power to pass a by-law respecting a matter set out in a paragraph of subsection (2) or (3) is not limited or restricted by the power to pass a by-law respecting a matter set out in another paragraph of subsection (2) or (3). 2006, c. 32, Sched. A, s. 8.

Services or things provided by others

(6) The power of a municipality to pass a by-law respecting the matter set out in paragraph 7 of subsection (2) does not include the power to pass a by-law respecting services or things provided by a person other than the municipality or a municipal service board of the municipality. 2006, c. 32, Sched. A, s. 8.

Services or things provided by other tier

(7) The power of a municipality to pass a by-law under subsection (3) under each sphere of jurisdiction does not, except as otherwise provided, include the power to pass a by-law respecting services or things provided by its upper-tier or lower-tier municipality, as the case may be, of the type authorized by that sphere. 2006, c. 32, Sched. A, s. 8.

Services or things provided by others

(8) The power of a municipality to pass a by-law under subsection (3) under the following spheres of jurisdiction does not, except as otherwise provided, include the power to pass a by-law respecting services or things provided by any person, other than the municipality or a municipal service board of the municipality, of the type authorized by that sphere:

1. Public utilities.
2. Waste management.
3. Highways, including parking and traffic on highways.
4. Transportation systems, other than highways.
5. Culture, parks, recreation and heritage.
6. Parking, except on highways. 2006, c. 32, Sched. A, s. 8.

Exception

(9) Nothing in subsection (6), (7) or (8) prevents a municipality passing a by-law with respect to services or things provided by any person to the extent necessary,

- (a) to ensure the physical operation of a system of the municipality or of a municipal service board of the municipality is not impaired; or
- (b) to ensure the municipality, a municipal service board of the municipality or a system of the municipality or municipal service board meet any provincial standards or regulations that apply to them. 2006, c. 32, Sched. A, s. 8.

Definition

(10) In this section,

“local board” means a local board as defined in section 10. 2006, c. 32, Sched. A, s. 8.

Regulations

(11) The Minister may make regulations prescribing matters for the purpose of subparagraph 7 ii of subsection (4). 2006, c. 32, Sched. A, s. 8.

TABLE

Sphere of Jurisdiction	Part of Sphere Assigned	Upper-tier Municipality (ies) to which Part of Sphere Assigned	Exclusive or Non-Exclusive Assignment
1. Highways, including parking and traffic on highways	Whole sphere	All upper-tier municipalities	Non-exclusive
2. Transportation systems, other than highways	Airports	All upper-tier municipalities	Non-exclusive
	Ferries	All upper-tier municipalities	Non-exclusive
	Disabled passenger transportation systems	Peel, Halton	Non-exclusive
	Whole sphere, except airports and ferries	Waterloo, York	Exclusive
3. Waste management	Whole sphere, except waste collection	Durham, Halton, Lambton, Oxford, Peel, Waterloo, York	Exclusive
4. Public utilities	Sewage treatment	All counties, Niagara, Waterloo, York	Non-exclusive
		Durham, Halton, Muskoka, Oxford, Peel	Exclusive

Sphere of Jurisdiction	Part of Sphere Assigned	Upper-tier Municipality (ies) to which Part of Sphere Assigned	Exclusive or Non-Exclusive Assignment
	Collection of sanitary sewage	All counties, Niagara, Waterloo, York	Non-exclusive
		Durham, Halton, Muskoka, Oxford, Peel	Exclusive
	Collection of storm water and other drainage from land	All upper-tier municipalities	Non-exclusive
	Water production, treatment and storage	All upper-tier municipalities except counties	Exclusive
	Water distribution	Niagara, Waterloo, York	Non-exclusive
		Oxford, Durham, Halton, Muskoka, Peel	Exclusive
5. Culture, parks, recreation and heritage	Whole sphere	All upper-tier municipalities	Non-exclusive
6. Drainage and flood control, except storm sewers	Whole sphere	All upper-tier municipalities	Non-exclusive
7. Structures, including fences and signs	Whole sphere, except fences and signs	Oxford	Non-exclusive
8. Parking, except on highways	Municipal parking lots and structures	All upper-tier municipalities	Non-exclusive
9. Animals	None	None	
10. Economic development services	Promotion of the municipality for any purpose by the collection and dissemination of information	Durham	Exclusive
		All counties, Halton, Muskoka, Niagara, Oxford, Peel, Waterloo, York	Non-exclusive
	Acquisition, development and disposal of sites for industrial, commercial and institutional uses	Durham	Exclusive
		Halton, Lambton, Oxford	Non-exclusive
11. Business licensing	Owners and drivers of taxicabs, tow trucks, buses and vehicles (other than motor vehicles) used for hire Taxicab brokers Salvage business Second-hand goods business	Niagara, Waterloo	Exclusive
	Drainage business, plumbing business	York	Exclusive
	Lodging houses, septic tank business	York	Non-exclusive

2006, c. 32, Sched. A, s. 8.

Definitions

11.1 In this Part,

“animal” means any member of the animal kingdom, other than a human; (“animal”)

“drainage business” means drain contractors, drain layers and persons who install septic tanks or repair or reconstruct drains, remove tree roots or other obstructions from drains and private drain connections; (“entreprise de drainage”)

“lodging house” means any house or other building or portion of it in which persons are lodged for hire, but does not include a hotel, hospital, long-term care home, home for the young or institution if it is licensed, approved or supervised under any other Act; (“pension”)

“plumbing business” means plumbing contractors and plumbers holding a certificate of qualification under the *Ontario College of Trades and Apprenticeship Act, 2009* to do plumbing work or a person with equivalent qualifications by training or experience; (“entreprise de plomberie”)

“salvage business” means salvage shops and salvage yards, including an automobile wrecking yard or premises; (“entreprise de récupération”)

“second-hand goods” includes waste paper, rags, bottles, bicycles, automobile tires, old metal and other scrap material and salvage; (“marchandises usagées”)

“second-hand goods business” means second-hand goods shops and dealers in second-hand goods, including persons who go from house to house or along highways to collect, purchase or obtain second-hand goods; (“entreprise de marchandises usagées”)

“septic tank business” means persons who carry on the business of providing septic tank cleaning and pumping services; (“entreprise de fosses septiques”)

“taxicab broker” means a person who accepts calls for taxicabs used for hire and owned by someone other than the person, his or her immediate family or the person’s employer. (“agent de taxi”) 2006, c. 32, Sched. A, s. 8; 2007, c. 8, s. 218 (2); 2009, c. 22, s. 99.

Previous transfer of powers

12. If, on December 31, 2002, an order under section 25.2 or 25.3 of the old Act, a by-law passed under section 209, 209.2 or 209.4 of the old Act or a by-law passed under section 41 of the *Regional Municipality of Waterloo Act* or under section 150 of the *Regional Municipalities Act*, as they read on that day, was in force, the order or by-law continues, and the power to pass by-laws conferred as a result of the order or by-law continues, despite section 11 and has the same effect as it had on December 31, 2002. 2001, c. 25, s. 12; 2002, c. 17, Sched. A, s. 5.

GENERAL RESTRICTIONS

Conflict between certain by-laws

13. (1) If there is conflict between a by-law passed by a lower-tier municipality under subsection 11 (3) and a by-law passed by its upper-tier municipality under subsection 11 (3), the by-law of the upper-tier municipality prevails to the extent of the conflict. 2006, c. 32, Sched. A, s. 9.

Example

(2) Without restricting the generality of subsection (1), there is conflict between by-laws of different tiers if a by-law of the lower-tier municipality frustrates an integral part of a system of the upper-tier municipality. 2006, c. 32, Sched. A, s. 9.

Overlapping powers

(3) For the purpose of subsection (1), if a municipality has the power to pass a by-law under subsection 11 (3) and also under any other provision of this or any other Act, the by-law is deemed to have been passed under subsection 11 (3). 2006, c. 32, Sched. A, s. 9.

Inoperative by-law

13.1 (1) A by-law of a lower-tier or upper-tier municipality under subsection 11 (1) or (2) is inoperative to the extent it frustrates an integral part of a system of its upper-tier municipality or lower-tier municipality, as the case may be, authorized by by-law under subsection 11 (1) or (2). 2006, c. 32, Sched. A, s. 9.

Overlapping powers

(2) For the purpose of subsection (1), if a municipality has the power to pass a by-law under subsection 11 (1) or (2) and also under any other provision of this or any other Act, the by-law is deemed not to have been passed under subsection 11 (1) or (2). 2006, c. 32, Sched. A, s. 9.

Conflict between by-law and statutes, etc.

14. (1) A by-law is without effect to the extent of any conflict with,

- (a) a provincial or federal Act or a regulation made under such an Act; or
- (b) an instrument of a legislative nature, including an order, licence or approval, made or issued under a provincial or federal Act or regulation. 2001, c. 25, s. 14.

Same

(2) Without restricting the generality of subsection (1), there is a conflict between a by-law of a municipality and an Act, regulation or instrument described in that subsection if the by-law frustrates the purpose of the Act, regulation or instrument. 2006, c. 32, Sched. A, s. 10.

RESTRICTIONS AFFECTING MUNICIPAL POWERS

Specific powers, by-laws under general powers

15. (1) If a municipality has power to pass a by-law under section 9, 10 or 11 and also under a specific provision of this or any other Act, the power conferred by section 9, 10 or 11 is subject to any procedural requirements, including conditions, approvals and appeals, that apply to the power and any limits on the power contained in the specific provision. 2001, c. 25, s. 15 (1); 2006, c. 32, Sched. A, s. 11 (1).

Interpretation

(1.1) For the purpose of subsection (1) and, unless the context otherwise requires, the fact that a specific provision is silent on whether or not a municipality has a particular power shall not be interpreted as a limit on the power contained in the specific provision. 2006, c. 32, Sched. A, s. 11 (2).

Application to new and existing provisions

(2) Subsection (1) applies whether the specific provision was enacted before or after,

(a) the day this section comes into force; or

(b) the day a by-law passed under section 9, 10 or 11 comes into force. 2001, c. 25, s. 15 (2); 2006, c. 32, Sched. A, s. 11 (3).

No retroactive effect

(3) Nothing in this section invalidates a by-law which was passed in accordance with the procedural requirements in force at the time the by-law was passed. 2001, c. 25, s. 15 (3).

Interpretation

(4) Subsection (1) applies to limit the powers of a municipality despite the inclusion of the words “without limiting sections 9, 10 and 11” or any similar form of words in the specific provision. 2006, c. 32, Sched. A, s. 11 (4).

Fences, signs, etc.

(5) The power to pass a by-law under section 9, 10 or 11 with respect to fences and signs and such other matters as may be prescribed is not affected by this section. 2006, c. 32, Sched. A, s. 11 (4).

Regulations

(6) The Minister may make regulations prescribing matters for the purpose of subsection (5). 2006, c. 32, Sched. A, s. 11 (4).

16. REPEALED: 2006, c. 32, Sched. A, s. 12.

Restrictions, financial matters

17. (1) Sections 9, 10 and 11 do not authorize a municipality to,

(a) impose taxes;

(b) borrow or invest money or sell debt;

(c) incur debt without borrowing money for the purpose of obtaining long-term financing of any capital undertaking;

(d) enter into agreements for the purpose of minimizing costs or financial risk associated with the incurring of debt;

(e) make a grant or a loan;

(f) take any other prescribed financial action;

(g) become a bankrupt under the *Bankruptcy and Insolvency Act* (Canada); or

(h) as an insolvent person, make an assignment for the general benefit of creditors under section 49 of the *Bankruptcy and Insolvency Act* (Canada) or make a proposal under section 50 of that Act. 2006, c. 32, Sched. A, s. 13.

Regulations

(2) The Minister may make regulations prescribing financial actions for the purpose of clause (1) (f). 2006, c. 32, Sched. A, s. 13.

Monopolies

18. A municipality shall not confer on any person the exclusive right of carrying on any business, trade or occupation unless specifically authorized to do so under any Act. 2001, c. 25, s. 18.

GEOGRAPHIC APPLICATION

Limited to municipal boundaries

19. (1) By-laws and resolutions of a municipality apply only within its boundaries, except as provided in subsection (2) or in any other provisions of this or any other Act. 2001, c. 25, s. 19 (1).

Exception, services

(2) A municipality may exercise its powers, other than its power to impose taxes, to provide a municipal system to provide a service or thing in an area in another municipality or in unorganized territory if one of the purposes for so acting is for its own purposes and if one of the following conditions applies:

1. The service or thing is provided only to inhabitants of the municipality providing the service or thing.
2. The other municipality is a single-tier municipality and the service or thing is provided with its consent.
3. The other municipality is a lower-tier municipality and the service or thing is provided with the consent of,
 - i. the lower-tier municipality, if it has jurisdiction to provide the service or thing in the area,
 - ii. its upper-tier municipality, if it has that jurisdiction, or
 - iii. both the lower-tier municipality and its upper-tier municipality, if they both have that jurisdiction.
4. The service or thing is provided in unorganized territory,
 - i. with the consent of a local body that has jurisdiction to provide the service or thing in the area, or
 - ii. with the consent of the person who receives the service or thing, if no local body has jurisdiction. 2001, c. 25, s. 19 (2); 2002, c. 17, Sched. A, s. 7.

Terms

(3) A consent under subsection (2) may be given subject to such conditions and limits on the powers to which the consent relates as may be agreed upon. 2001, c. 25, s. 19 (3).

Definition

(4) In subsection (2),

“local body” means an area services board, local services board, local roads board, statute labour board, school board, district social services administration board, board of health and any other board, commission, body or local authority exercising any power with respect to municipal affairs or purposes in unorganized territory. 2001, c. 25, s. 19 (4).

AGREEMENTS

Joint undertakings

20. (1) A municipality may enter into an agreement with one or more municipalities or local bodies, as defined in section 19, or a combination of both to jointly provide, for their joint benefit, any matter which all of them have the power to provide within their own boundaries. 2001, c. 25, s. 20 (1).

Outside boundaries

(2) The municipality may provide the matter in accordance with the agreement anywhere that any of the municipalities or local bodies have the power to provide the matter. 2001, c. 25, s. 20 (2).

Agreements with First Nation

21. (1) A municipality may enter into an agreement with a First Nation to provide a municipal system within the limits of the reserve occupied by the First Nation, whether the reserve is within the municipality or not. 2001, c. 25, s. 21 (1).

Power

(2) The municipality may provide the system outside its boundaries in accordance with the agreement. 2001, c. 25, s. 21 (2).

Agreements with province

22. (1) A municipality may provide a system that it would otherwise not have power to provide within the municipality, if it does so in accordance with an agreement with the Province of Ontario under a program established and administered by the Province of Ontario. 2001, c. 25, s. 22 (1).

Power

(2) The municipality may provide the system outside its boundaries in accordance with the agreement. 2001, c. 25, s. 22 (2).

Outside boundaries

(3) A municipality may provide a system that it has power to provide within the municipality outside its boundaries in accordance with an agreement with the Province of Ontario under a program established and administered by the Province of Ontario. 2001, c. 25, s. 22 (3); 2006, c. 32, Sched. A, s. 14.

Agreements respecting private services

23. A municipality may enter into an agreement with any person to construct, maintain and operate a private road or a private water or sewage works, including fire hydrants. 2001, c. 25, s. 23.

DELEGATION OF POWERS AND DUTIES

General power to delegate

23.1 (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to delegate its powers and duties under this or any other Act to a person or body subject to the restrictions set out in this Part. 2006, c. 32, Sched. A, s. 15.

Scope of power

(2) The following rules apply to a by-law delegating any of the municipality's powers or duties:

1. A delegation may be revoked at any time without notice unless the delegation by-law specifically limits the municipality's power to revoke the delegation.
2. A delegation shall not limit the right to revoke the delegation beyond the term of the council which made the delegation.
3. A delegation may provide that only the delegate can exercise the delegated power or that both the municipality and the delegate can exercise the power.
4. A delegation or deemed delegation under paragraph 6 of a duty results in the duty being a joint duty of the municipality and the delegate.
5. A delegation may be made subject to such conditions and limits as the council of a municipality considers appropriate.
6. Where a power is delegated, the power is deemed to be delegated subject to any limits on the power and to any procedural requirements, including conditions, approvals and appeals which apply to the power and any duties related to the power are deemed to be delegated with the power. 2006, c. 32, Sched. A, s. 15.

Same

(3) The conditions and limits referred to in paragraph 5 of subsection (2) may include such matters as the following:

1. A requirement that the delegate act by by-law, resolution or otherwise, despite subsection 5 (3).
2. Procedures that the delegate is required to follow.
3. The accountability of the delegate and the transparency of the delegate's actions and decisions. 2006, c. 32, Sched. A, s. 15.

Restriction re delegation of legislative and quasi-judicial powers

23.2 (1) Sections 9, 10 and 11 do not authorize a municipality to delegate legislative and quasi-judicial powers under any Act except those listed in subsection (2) and the legislative and quasi-judicial powers under the listed Acts may be delegated only to,

- (a) one or more members of its council or a council committee;
- (b) a body having at least two members of whom at least 50 per cent are,
 - (i) members of its council,
 - (ii) individuals appointed by its council,
 - (iii) a combination of individuals described in subclauses (i) and (ii); or
- (c) an individual who is an officer, employee or agent of the municipality. 2006, c. 32, Sched. A, s. 15.

Restriction re applicable Acts

(2) For the purposes of subsection (1), the listed Acts are this Act, the *Planning Act*, a private Act relating to the municipality and such other Acts as may be prescribed. 2006, c. 32, Sched. A, s. 15.

Restriction re certain corporations

(3) Despite clause (1) (b), no delegation of a legislative or quasi-judicial power shall be made to a corporation incorporated in accordance with section 203. 2006, c. 32, Sched. A, s. 15.

Restriction re officers, employees, etc.

(4) No delegation of a legislative power shall be made to an individual described in clause (1) (c) unless, in the opinion of the council of the municipality, the power being delegated is of a minor nature and, in determining whether or not a power is of a minor nature, the council, in addition to any other factors it wishes to consider, shall have regard to the number of people, the size of geographic area and the time period affected by an exercise of the power. 2006, c. 32, Sched. A, s. 15.

Same

(5) Without limiting subsection (4), the following are examples of powers considered to be of a minor nature:

1. The power to close a highway temporarily.
2. The power to issue and impose conditions on a licence.
3. The powers of the council of a municipality that are described in the following provisions of the old *Municipal Act*, as those provisions read on December 31, 2002:
 - i. Paragraphs 107, 108, 109 and 110 of section 210.
 - ii. Paragraph 3 of section 308.
 - iii. Subsection 312 (2) and clauses 312 (4) (a) and (b). 2006, c. 32, Sched. A, s. 15.

Regulations

(6) The Minister may make regulations prescribing Acts for the purpose of subsection (2). 2006, c. 32, Sched. A, s. 15.

Powers that cannot be delegated

23.3 (1) Sections 9, 10 and 11 do not authorize a municipality to delegate any of the following powers and duties:

1. The power to appoint or remove from office an officer of the municipality whose appointment is required by this Act.
2. The power to pass a by-law under Parts VIII, IX and X.
3. The power to incorporate corporations in accordance with section 203.
4. The power to adopt an official plan or an amendment to an official plan under the *Planning Act*.
5. The power to pass a zoning by-law under the *Planning Act*.
6. The powers to pass a by-law under subsections 108 (1) and (2) and 110 (3), (6) and (7).
7. The power to adopt a community improvement plan under section 28 of the *Planning Act*, if the plan includes provisions that authorize the exercise of any power under subsection 28 (6) or (7) of that Act or under section 365.1 of this Act.
8. The power to adopt or amend the budget of the municipality.
9. Any other power or duty that may be prescribed. 2006, c. 32, Sched. A, s. 15.

Delegation of administrative powers

(2) Nothing in subsection (1) prevents a municipality from delegating its administrative powers. 2006, c. 32, Sched. A, s. 15.

Regulations

- (3) The Minister may make regulations,
- (a) restricting or imposing conditions on the power of a municipality to delegate its power and duties;
 - (b) prescribing powers and duties for the purpose of paragraph 9 of subsection (1). 2006, c. 32, Sched. A, s. 15.

Effect of delegation to municipal service boards

23.4 (1) When a municipality has delegated a power or duty to a municipal service board, the municipality may provide that any existing by-law or resolution of the municipality that relates to the delegated power or duty is, to the extent it applies in any part of the municipality, deemed to be a by-law or resolution of the municipal service board. 2006, c. 32, Sched. A, s. 15.

Limitation

(2) If a municipal service or activity is under the control and management of a municipal service board, nothing in this Act or a by-law made under this Act,

- (a) authorizes the municipal service board to provide for the financing of the municipal service or activity otherwise than by fees and charges under Part XII (Fees and Charges) unless the municipal service board has the consent of the municipality to do so;
- (b) removes from the municipality its power to finance the capital and operating costs of providing the service or activity as if the municipality had control and management of the service or activity; or
- (c) removes from the municipality its power to deal with real and personal property in connection with the service or activity as if the municipality had control and management of the service or activity. 2006, c. 32, Sched. A, s. 15.

Delegation re hearings

Application

23.5 (1) This section applies when a municipality is required by law to hold a hearing or provide an opportunity to be heard before making a decision or taking a step, whether the requirement arises from an Act or from any other source of law. 2006, c. 32, Sched. A, s. 15.

Delegation authorized

(2) Despite subsection 23.2 (1), sections 9, 10 and 11 authorize a municipality to delegate to a person or body described in that subsection the power or duty to hold a hearing or provide an opportunity to be heard before the decision is made or the step is taken. 2006, c. 32, Sched. A, s. 15.

Rules re effect of delegation

(3) If a municipality delegates a power or duty as described in subsection (2) but does not delegate the power to make the decision or take the step, the following rules apply:

1. If the person or body holds the hearing or provides the opportunity to be heard, the municipality is not required to do so.
2. If the decision or step constitutes the exercise of a statutory power of decision to which the *Statutory Powers Procedure Act* applies, that Act, except sections 17, 17.1, 18 and 19, applies to the person or body and to the hearing conducted by the person or body. 2006, c. 32, Sched. A, s. 15.

PART III SPECIFIC MUNICIPAL POWERS

HIGHWAYS

Definitions

24. In sections 25 to 68,

“bridge” means a public bridge forming part of a highway or on, over or across which a highway passes; (“pont”)

“provincial highway” means a highway under the jurisdiction of the Province of Ontario. (“voie publique provinciale”) 2001, c. 25, s. 24.

Provincial highways

25. Except as otherwise provided in this Act, sections 26 to 68 do not apply to a provincial highway. 2001, c. 25, s. 25.

What constitutes highway

26. The following are highways unless they have been closed:

1. All highways that existed on December 31, 2002.
2. All highways established by by-law of a municipality on or after January 1, 2003.
3. All highways transferred to a municipality under the *Public Transportation and Highway Improvement Act*.
4. All road allowances made by the Crown surveyors that are located in municipalities.
5. All road allowances, highways, streets and lanes shown on a registered plan of subdivision. 2001, c. 25, s. 26.

By-laws

27. (1) Except as otherwise provided in this Act, a municipality may pass by-laws in respect of a highway only if it has jurisdiction over the highway. 2001, c. 25, s. 27 (1).

Joint jurisdiction

(2) If a highway is under the joint jurisdiction of two or more municipalities, a by-law in respect of the highway must be passed by all of the municipalities having jurisdiction over the highway. 2001, c. 25, s. 27 (2).

Jurisdiction

28. (1) Except as otherwise provided in this Act or under section 8 of the *Public Transportation and Highway Improvement Act* or in a by-law passed under this Act, a municipality has jurisdiction or joint jurisdiction, as the case may be, over the following highways:

1. All highways over which it had jurisdiction or joint jurisdiction on December 31, 2002.
2. All highways established by by-law of the municipality on or after January 1, 2003.
3. All highways transferred to the municipality under this Act, the *Public Transportation and Highway Improvement Act* or any other Act. 2001, c. 25, s. 28 (1).

Local municipalities

(2) Except as otherwise provided in this Act or under section 8 of the *Public Transportation and Highway Improvement Act*, a local municipality has jurisdiction over,

- (a) all road allowances located in the municipality that were made by the Crown surveyors; and
- (b) all road allowances, highways, streets and lanes shown on a registered plan of subdivision. 2001, c. 25, s. 28 (2).

Boundary lines

29. (1) Subject to section 28 and to a by-law passed under section 52, the local municipalities on either side of a boundary line between municipalities have joint jurisdiction over any highways forming the boundary line. 2001, c. 25, s. 29 (1).

Joint jurisdiction, bridges

(2) Subject to section 28 and to a by-law passed under section 52, if a bridge joins a highway under the jurisdiction of any municipality to a highway under the jurisdiction of another municipality, the bridge is under the joint jurisdiction of the municipalities. 2001, c. 25, s. 29 (2).

Deviation of boundary lines

(3) If, because of physical difficulties or obstructions, a highway does not follow a boundary line throughout but deviates so that parts of it lie wholly within one of the boundary municipalities, the highway shall be deemed to be the boundary line between the two municipalities for the purposes of determining jurisdiction over the highway. 2001, c. 25, s. 29 (3).

(4), (5) REPEALED: 2002, c. 17, Sched. A, s. 8.

Agreement

29.1 (1) If municipalities having joint jurisdiction over a boundary line highway enter into an agreement under which each municipality agrees to keep any part of the highway in repair for its whole width and to indemnify the other municipality from any loss or damage arising from the lack of repair for that part, the agreement and a copy of the by-law authorizing the agreement may be registered in the proper land registry office for the area in which the highway is located. 2002, c. 17, Sched. A, s. 9.

Effect

(2) If municipalities enter into an agreement under subsection (1), each municipality has jurisdiction over that part of the highway that it has agreed to keep in repair and is liable for any damages that arise from failure to keep the highway in repair and the other municipality is relieved from all liability in respect of the repair of that part. 2002, c. 17, Sched. A, s. 9.

Ownership

30. A highway is owned by the municipality that has jurisdiction over it subject to any rights reserved by a person who dedicated the highway or any interest in the land held by any other person. 2001, c. 25, s. 30.

Establishing highways

31. (1) REPEALED: 2006, c. 32, Sched. A, s. 16 (1).

By-law necessary

(2) After January 1, 2003, land may only become a highway by virtue of a by-law establishing the highway and not by the activities of the municipality or any other person in relation to the land, including the spending of public money. 2001, c. 25, s. 31 (2); 2006, c. 32, Sched. A, s. 16 (2).

Certain highways not affected

(3) Subsection (2) does not apply to highways described in paragraphs 3, 4 and 5 of section 26. 2001, c. 25, s. 31 (3).

Exclusion

(4) A municipality may by by-law assume the following highways for public use and section 44 does not apply to the highways until the municipality has passed the by-law:

1. An unopened road allowance made by the Crown surveyors.
2. A road allowance, highway, street or lane shown on a registered plan of subdivision. 2001, c. 25, s. 31 (4).

Other exclusions

(5) Section 44 does not apply to a highway laid out or built by any person before January 1, 2003 unless it was assumed for public use by the municipality or it has been established by by-law. 2001, c. 25, s. 31 (5).

Widening highways

(6) If a municipality acquires land for the purpose of widening a highway, the land acquired forms part of the highway to the extent of the designated widening. 2001, c. 25, s. 31 (6).

Unorganized territory

32. Despite section 19, a municipality may by by-law establish a highway in adjoining unorganized territory. 2001, c. 25, s. 32.

33. REPEALED: 2006, c. 32, Sched. A, s. 17.

Highway closing procedures

34. (1) A by-law permanently closing a highway does not take effect until a certified copy of the by-law is registered in the proper land registry office. 2006, c. 32, Sched. A, s. 18.

Consent

(2) A by-law permanently closing a highway shall not be passed without the consent of the Government of Canada if the highway,

- (a) abuts on land, including land covered by water, owned by the Crown in right of Canada; or
- (b) leads to or abuts on a bridge, wharf, dock, quay or other work owned by the Crown in right of Canada. 2006, c. 32, Sched. A, s. 18.

Restricting common law right of passage

35. Without limiting sections 9, 10 and 11, a municipality may pass by-laws removing or restricting the common law right of passage by the public over a highway and the common law right of access to the highway by an owner of land abutting a highway. 2006, c. 32, Sched. A, s. 18.

36.-39. REPEALED: 2006, c. 32, Sched. A, s. 18.

Toll highways

40. (1) A municipality may,

- (a) designate a highway as a toll highway; and
- (b) operate and maintain the designated highway as a toll highway. 2001, c. 25, s. 40 (1); 2006, c. 32, Sched. A, s. 19.

Restriction

(2) Despite subsection (1) and section 35, a municipality does not have the power to designate, operate and maintain a highway as a toll highway until a regulation is made under this section that applies to the proposed toll highway. 2001, c. 25, s. 40 (2).

Regulations

(3) The Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable for the purposes of this section, including,

- (a) requiring a municipality to obtain the approval of any person or body before designating, operating or maintaining a highway as a toll highway;
- (b) providing for criteria which must be met before a municipality can designate, operate or maintain a highway as a toll highway;
- (c) imposing conditions and limitations on the powers of the municipality to designate, operate or maintain a highway as a toll highway;
- (d) granting municipalities powers with respect to the operation and maintenance of a toll highway, including powers with respect to the collection and enforcement of tolls imposed for the use of a toll highway;
- (e) without limiting clause (d), providing that the provisions of the *Capital Investment Plan Act, 1993* and the regulations under that Act which relate to toll highways apply to municipalities with such changes as are prescribed;
- (f) establishing process requirements with respect to the designation, operation and maintenance of a highway as a toll highway, including requiring a municipality to provide notice to the Minister or any other person or body of its intention to designate a highway as a toll highway;
- (g) providing that the Minister or any other person or body who receives notice under clause (f) may prohibit the municipality from making the designation even though the designation is otherwise authorized under the regulation. 2001, c. 25, s. 40 (3).

Conflicts

(4) In the event of a conflict between a regulation under this section and a provision of any Act or regulation, the regulation under this section prevails. 2001, c. 25, s. 40 (4).

41., 42. REPEALED: 2006, c. 32, Sched. A, s. 20.

Conveyance of closed highway

43. A municipality that permanently closes a highway shall not convey the land forming the highway if it is covered with water without the consent of the Ministry of Natural Resources. 2001, c. 25, s. 43.

Maintenance

44. (1) The municipality that has jurisdiction over a highway or bridge shall keep it in a state of repair that is reasonable in the circumstances, including the character and location of the highway or bridge. 2001, c. 25, s. 44 (1).

Liability

(2) A municipality that defaults in complying with subsection (1) is, subject to the *Negligence Act*, liable for all damages any person sustains because of the default. 2001, c. 25, s. 44 (2).

Defence

(3) Despite subsection (2), a municipality is not liable for failing to keep a highway or bridge in a reasonable state of repair if,

- (a) it did not know and could not reasonably have been expected to have known about the state of repair of the highway or bridge;
- (b) it took reasonable steps to prevent the default from arising; or
- (c) at the time the cause of action arose, minimum standards established under subsection (4) applied to the highway or bridge and to the alleged default and those standards have been met. 2001, c. 25, s. 44 (3).

Regulations

(4) The Minister of Transportation may make regulations establishing minimum standards of repair for highways and bridges or any class of them. 2001, c. 25, s. 44 (4).

General or specific

(5) The minimum standards may be general or specific in their application. 2001, c. 25, s. 44 (5).

Adoption by reference

(6) A regulation made under subsection (4) may adopt by reference, in whole or in part, with such changes as the Minister of Transportation considers desirable, any code, standard or guideline, as it reads at the time the regulation is made or as it is amended from time to time, whether before or after the regulation is made. 2001, c. 25, s. 44 (6).

(7) REPEALED: 2002, c. 24, Sched. B, s. 25.

Untravelled portions of highway

(8) No action shall be brought against a municipality for damages caused by,

- (a) the presence, absence or insufficiency of any wall, fence, rail or barrier along or on any highway; or
- (b) any construction, obstruction or erection, or any siting or arrangement of any earth, rock, tree or other material or object adjacent to or on any untravelled portion of a highway, whether or not an obstruction is created due to the construction, siting or arrangement. 2001, c. 25, s. 44 (8).

Sidewalks

(9) Except in case of gross negligence, a municipality is not liable for a personal injury caused by snow or ice on a sidewalk. 2001, c. 25, s. 44 (9).

Notice

(10) No action shall be brought for the recovery of damages under subsection (2) unless, within 10 days after the occurrence of the injury, written notice of the claim and of the injury complained of has been served upon or sent by registered mail to,

- (a) the clerk of the municipality; or
- (b) if the claim is against two or more municipalities jointly responsible for the repair of the highway or bridge, the clerk of each of the municipalities. 2001, c. 25, s. 44 (10).

Exception

(11) Failure to give notice is not a bar to the action in the case of the death of the injured person as a result of the injury. 2001, c. 25, s. 44 (11).

Same

(12) Failure to give notice or insufficiency of the notice is not a bar to the action if a judge finds that there is reasonable excuse for the want or the insufficiency of the notice and that the municipality is not prejudiced in its defence. 2002, c. 24, Sched. B, s. 42.

(13) REPEALED: 2002, c. 24, Sched. B, s. 42.

No responsibility for acts of others

(14) Nothing in this section imposes any obligation or liability on a municipality for an act or omission of a person acting under a power conferred by law over which the municipality had no control unless,

- (a) the municipality participated in the act or omission; or
- (b) the power under which the person acted was a by-law, resolution or licence of the municipality. 2001, c. 25, s. 44 (14).

No liability

(15) A municipality is not liable for damages under this section unless the person claiming the damages has suffered a particular loss or damage beyond what is suffered by that person in common with all other persons affected by the lack of repair. 2001, c. 25, s. 44 (15).

No personal liability

45. (1) No proceeding shall be commenced against a member of council or an officer or employee of the municipality for damages based on the default of the municipality in keeping a highway or bridge in a state of repair that is reasonable in light of all of the circumstances, including the character and location of the highway or bridge. 2001, c. 25, s. 45 (1).

Exception, contractors

(2) Subsection (1) does not apply to a contractor with the municipality, including any officer or employee who is acting as a contractor, whose act or omission caused the damages. 2001, c. 25, s. 45 (2).

Nuisance

46. Subsections 44 (8) to (15) apply to an action brought against a municipality for damages that result from the presence of any nuisance on a highway. 2001, c. 25, s. 46; 2006, c. 32, Sched. A, s. 21.

47. REPEALED: 2006, c. 32, Sched. A, s. 22.

Naming private roads

48. A local municipality may name or change the name of a private road after giving public notice of its intention to pass the by-law. 2001, c. 25, s. 48.

49. REPEALED: 2006, c. 32, Sched. A, s. 22.

Restriction, motor vehicles

50. A municipality does not have power to pass a by-law establishing a system of permits for motor vehicles or trailers, as those terms are defined in the *Highway Traffic Act*, similar to the system under Part II of that Act. 2001, c. 25, s. 50.

Restriction, farming vehicles

51. (1) Subject to subsection (2), a municipality does not have the power to require that a licence or permit be obtained in respect of a wheeled vehicle used for farming purposes before the vehicle may be used upon any highway of the municipality. 2006, c. 32, Sched. A, s. 23.

Limitation

(2) Subsection (1) applies to a vehicle used for farm purposes only when travelling from farm to farm for farm purposes or when travelling to or from places for the maintenance or repair of the vehicle. 2001, c. 25, s. 51 (2).

Jurisdiction, upper-tier municipality

52. (1) An upper-tier municipality may add a lower-tier highway, including a boundary line highway, to its highway system from any of its lower-tier municipalities. 2001, c. 25, s. 52 (1).

Boundary line

(2) An upper-tier municipality may add to its highway system such highways forming the boundary line between the upper-tier municipality and an adjoining municipality as are agreed upon between them, in which case the upper-tier municipality and the adjoining municipality have joint jurisdiction over the highways. 2001, c. 25, s. 52 (2).

Jurisdiction

(3) If a highway forms part of the upper-tier highway system, the upper-tier municipality has jurisdiction over the highway. 2001, c. 25, s. 52 (3).

Removal

(4) An upper-tier municipality may remove a highway, including a boundary line highway, from its system. 2001, c. 25, s. 52 (4).

Effect of removal

(5) If a highway is removed from an upper-tier highway system, it is under the jurisdiction of the lower-tier municipality in which the highway is located. 2001, c. 25, s. 52 (5).

Joint jurisdiction

(6) If a highway that forms the boundary line between two lower-tier municipalities forming part of the same upper-tier municipality is removed from an upper-tier highway system, section 29 applies in respect of that highway. 2001, c. 25, s. 52 (6).

Same

(7) If a highway that forms the boundary line between an upper-tier municipality and an adjoining municipality is removed from the upper-tier highway system, the lower-tier municipality in which the highway is located and the adjoining municipality have joint jurisdiction over the highway. 2001, c. 25, s. 52 (7).

Transfer of jurisdiction

53. If jurisdiction over a highway is transferred from one municipality to another municipality under section 52,

- (a) the municipality to which jurisdiction over the highway has been transferred stands in the place of the transferor under any agreement in respect of the highway; and
- (b) if jurisdiction over the highway has been transferred from a lower-tier municipality to its upper-tier municipality, the upper-tier municipality shall pay to the lower-tier municipality, before the due date, all amounts becoming due upon any debt of the lower-tier municipality in respect of the highway. 2001, c. 25, s. 53.

Jurisdiction re: bridges

54. An upper-tier municipality that had jurisdiction over a bridge on a lower-tier highway on the day this section came into force continues to have jurisdiction over the approaches to it for 30 metres at each end of the bridge or any other distance agreed upon by the upper-tier municipality and the lower-tier municipality. 2001, c. 25, s. 54.

Upper-tier sidewalks

55. (1) An upper-tier municipality is not responsible for the construction and maintenance of sidewalks on its highways and the lower-tier municipality in which the highways are located is responsible for the construction and maintenance of the sidewalks and has jurisdiction over that part of the highway, unless the municipalities agree otherwise. 2001, c. 25, s. 55 (1).

Injury, damages

(2) A lower-tier municipality that is responsible for the construction and maintenance of the sidewalks on upper-tier highways is liable for any injury or damage arising from the construction or presence of the sidewalk to the same extent and subject to the same limitations to which a municipality is liable under section 44 in respect of a sidewalk on its own highway. 2001, c. 25, s. 55 (2).

Improvements on upper-tier highways

(3) A lower-tier municipality may, with the agreement of the upper-tier municipality, construct a sidewalk or other improvement or service on an upper-tier highway and the lower-tier municipality is liable for any injury or damage arising from the construction or presence of the sidewalk, improvement or service. 2001, c. 25, s. 55 (3).

Intersections

56. Where an upper-tier highway intersects a lower-tier highway, the continuation of the upper-tier highway to its full width across the lower-tier highway intersected is an upper-tier highway. 2001, c. 25, s. 56.

57. REPEALED: 2006, c. 32, Sched. A, s. 24.

Zoning restrictions

58. (1) An upper-tier municipality has, in respect of land lying within 45 metres from any limit of an upper-tier highway, all the powers conferred on a local municipality under section 34 of the *Planning Act* for prohibiting the erecting or locating of buildings and other structures within that area. 2001, c. 25, s. 58 (1).

Conflicts

(2) If there is a conflict between a by-law passed by an upper-tier municipality under subsection (1) and a by-law passed by a lower-tier municipality under section 34 of the *Planning Act*, the by-law of the upper-tier municipality prevails to the extent of the conflict, but in all other respects the by-law passed by the lower-tier municipality remains in effect. 2001, c. 25, s. 58 (2).

Sign restrictions

59. Without limiting sections 9, 10 and 11, an upper-tier municipality may prohibit or regulate the placing or erecting of any sign, notice or advertising device within 400 metres of any limit of an upper-tier highway. 2001, c. 25, s. 59; 2006, c. 32, Sched. A, s. 25.

Entry on land, snow fences

60. Despite section 19, a municipality may, at any reasonable time, enter upon any land within the municipality or within an adjoining municipality and lying along any highway under its jurisdiction, including land owned by Her Majesty in right of Ontario, for the purpose of erecting and maintaining a snow fence. 2001, c. 25, s. 60.

Entry on land, naming highways

61. (1) A municipality may, at any reasonable time, enter upon land lying along a highway to install and maintain a sign setting out the name of a highway. 2001, c. 25, s. 61 (1).

Private roads

(2) If a local municipality has passed a by-law under section 48 to name or change the name of a private road, the municipality may, at any reasonable time, enter upon land lying along the private road to install and maintain a sign setting out the name of the road. 2001, c. 25, s. 61 (2).

Entry on land, tree trimming

62. (1) A municipality may, at any reasonable time, enter upon land lying along any of its highways,
(a) to inspect trees and conduct tests on trees; and

- (b) to remove decayed, damaged or dangerous trees or branches of trees if, in the opinion of the municipality, the trees or branches pose a danger to the health or safety of any person using the highway. 2001, c. 25, s. 62 (1).

Immediate danger

(2) An employee or agent of the municipality may remove a decayed, damaged or dangerous tree or branch of a tree immediately and without notice to the owner of the land upon which the tree is located if, in the opinion of the employee or agent, the tree or branch poses an immediate danger to the health or safety of any person using the highway. 2001, c. 25, s. 62 (2); 2006, c. 32, Sched. A, s. 26.

Application to court

62.1 (1) A municipality may apply to a judge of the Superior Court of Justice for an order requiring the owner of land lying along a highway to remove or alter any vegetation, building or object on the land that may obstruct the vision of pedestrians or drivers of vehicles on the highway, cause the drifting or accumulation of snow or harm the highway if the municipality is unable to enter into an agreement with the owner of the land to alter or remove the vegetation, building or object from the land. 2002, c. 17, Sched. A, s. 10.

Order

(2) Upon application by the municipality under subsection (1), the judge may make an order, subject to the payment of such compensation to the owner or other conditions as the judge may fix,

- (a) requiring the owner of the land to remove or alter the vegetation, building or object in respect of which the application is made; or
- (b) authorizing the municipality to enter upon the land, upon such notice to the owner as the judge may fix, to remove or alter the vegetation, building or object. 2002, c. 17, Sched. A, s. 10.

Impounding of objects, vehicles on highway

63. (1) If a municipality passes a by-law for prohibiting or regulating the placing, stopping, standing or parking of an object or vehicle on or near a highway, it may provide for the removal and impounding or restraining and immobilizing of any object or vehicle placed, stopped, standing or parked on or near a highway in contravention of the by-law and subsection 170 (15) of the *Highway Traffic Act* applies with necessary modifications to the by-law. 2006, c. 32, Sched. A, s. 27.

Exception

(2) Subsection (1) does not authorize any action with respect to a motor vehicle on a parking lot on land not owned or occupied by the municipality. 2006, c. 32, Sched. A, s. 27.

Entry on land

(3) The municipality may, at any reasonable time, enter upon land near a highway for a purpose described in subsection (1). 2006, c. 32, Sched. A, s. 27.

Sale of impounded object, etc.

(4) Despite subsection (1), if the removed object or vehicle, other than a motor vehicle, is used to sell anything on or near a highway and the object or vehicle is not claimed by the owner within 60 days after its removal, it becomes the property of the municipality and may be sold and the proceeds shall form part of the general funds of the municipality. 2006, c. 32, Sched. A, s. 27.

Perishable objects

(5) Despite subsections (1) and (4), any perishable object or refreshment in or on the removed object or vehicle becomes the property of the municipality upon removal and may be destroyed or given to a charitable institution. 2006, c. 32, Sched. A, s. 27.

Exception

(6) Subsection (5) does not apply to a perishable object or refreshment that comes into the possession of a police force in the circumstances described in section 132 of the *Police Services Act*. 2006, c. 32, Sched. A, s. 27.

Territorial district

64. (1) A township in a territorial district, other than a township in The District Municipality of Muskoka, surveyed without road allowances may establish highways, where necessary, on land in which 5 per cent of the land is reserved for highways and the provisions of this Act as to compensation for land taken or injuriously affected by the exercise of the powers conferred by this section do not apply to the establishing of the highways. 2001, c. 25, s. 64 (1).

Definition

(2) In this section,

“township” means a local municipality which had the status of a township on December 31, 2002. 2001, c. 25, s. 64 (2).

Mistakes

65. (1) If, before January 1, 2003, a municipality by mistake opened a highway not wholly upon the original road allowance, the land occupied by the highway shall be deemed to have been expropriated by the municipality and no person on whose land the highway was opened may bring an action in respect of the opening of the highway or to recover possession of the land. 2001, c. 25, s. 65 (1).

Compensation

(2) The person on whose land the highway was opened is entitled to compensation in accordance with the *Expropriations Act* as if the land were expropriated. 2001, c. 25, s. 65 (2).

Highways not opened on original road allowance

66. (1) If, before January 1, 2003, a highway was opened on land in the place of all or part of an original road allowance and compensation was not paid for the land, the owner of the land appropriated for the highway or the successor in title to the owner is entitled to the following:

1. If that person owns the land abutting on the allowance, the owner is entitled to the soil and freehold of the original road allowance and to a conveyance of the original road allowance.
2. If that person does not own the land abutting on the allowance and if the allowance is sold by the municipality, the owner is entitled to the part of the purchase price that bears the same proportion to the whole purchase price as the value of the part of the land occupied by the highway that belonged to the owner bears to the value of the land occupied by the highway. 2001, c. 25, s. 66 (1).

Multiple owners

(2) If the land abutting on the original road allowance or part of the original road allowance is owned by more than one person, each person is entitled to the soil and freehold of and a conveyance of that part of the allowance abutting their land to the middle line of the allowance. 2001, c. 25, s. 66 (2).

Person in possession

67. (1) If, before January 1, 2003, a person in possession of an original road allowance or a predecessor in title of that person opened a highway in the place of the original road allowance on that person’s land without receiving compensation for the land and the person is in possession of all or part of the original road allowance, that person is entitled to the soil and freehold of the allowance or part of it and to a conveyance of the original road allowance or part of it. 2001, c. 25, s. 67 (1).

Multiple persons in possession

(2) If more than one person is in possession of the road allowance, each person is entitled to the soil and freehold of and a conveyance of that part of the allowance abutting their land to the middle line of the allowance. 2001, c. 25, s. 67 (2).

Condition

(3) This section only applies if the highway has been established by by-law of the municipality or otherwise assumed for public use by the municipality and if, in the opinion of the council of the municipality, the original road allowance is not needed by the municipality. 2001, c. 25, s. 67 (3).

Enclosed road allowance

68. (1) If, on the day this Act receives Royal Assent, a person was in possession of part of an original road allowance abutting the person’s land and that part was enclosed with a lawful fence, that person shall, as against every person except the municipality, be deemed to have legal possession of that part of the road allowance until a by-law is passed assuming the road allowance for public use or requiring the person to remove the fence. 2001, c. 25, s. 68 (1).

Limitation

(2) Subsection (1) only applies if the part of the original road allowance has not been assumed for public use because another road is being used in its place or if another road parallel or near to it was established in its place. 2001, c. 25, s. 68 (2).

TRANSPORTATION

Passenger transportation systems

69. (1) This section applies to passenger transportation systems other than the following:

1. Vehicles and marine vessels used for sightseeing tours.
2. Vehicles exclusively chartered to transport a group of persons for a specific trip within the municipality for compensation.
3. Buses used to transport pupils, including buses owned and operated by, or operated under a contract with, a school board, private school or charitable organization.
4. Buses owned and operated by a corporation or organization solely for its own purposes without compensation for transportation.
5. Taxicabs.
6. Railway systems of railway companies incorporated under federal or provincial statutes.
7. Ferries.
8. Aviation systems. 2001, c. 25, s. 69 (1).

By-laws

- (2) A municipality that has the authority to establish, operate and maintain a type of passenger transportation system may,
 - (a) by by-law provide that no person except the municipality shall establish, operate and maintain all or any part of a passenger transportation system of that type within all of the municipality or that area of the municipality designated in the by-law; and
 - (b) despite section 106 and any by-law under clause (a), enter into an agreement granting a person the exclusive or non-exclusive right to establish, operate or maintain all or any part of a passenger transportation system of that type within all of the municipality or that area of the municipality designated in the agreement under such conditions as the municipality provides, including a condition that the municipality pay any deficit incurred by the person in establishing, operating or maintaining the system. 2001, c. 25, s. 69 (2).

More than one authority

(3) If both an upper-tier municipality and one of its lower-tier municipalities have the authority to establish, operate and maintain the same type of passenger transportation system, a by-law under clause (2) (a) with respect to that type of passenger transportation system must be passed by both municipalities. 2001, c. 25, s. 69 (3).

Deficit

(4) A municipality that incurs a deficit in establishing, operating or maintaining its own passenger transportation system, or that enters into an agreement under clause (2) (b) to pay a deficit incurred by another person in establishing, operating or maintaining such a system, may levy a special rate on all the rateable property in the area served by its own system or in the area designated in the agreement to recover the deficit. 2001, c. 25, s. 69 (4).

Rights unaffected

(5) Nothing in this section prevents a person from establishing, operating or maintaining a passenger transportation system that is used to convey passengers or passengers and property through an area designated under subsection (2) from a point within the designated area to a point outside the designated area or from a point outside the designated area to a point inside the designated area. 2001, c. 25, s. 69 (5).

Existing rights

(6) Nothing in this section affects any rights existing on the day before the area is designated under subsection (2) of a person with a valid operating licence under the *Public Vehicles Act*. 2001, c. 25, s. 69 (6).

Power exercised outside municipality re buses, ferries

(7) Despite subsection (1) and section 19 and subject to the *Public Vehicles Act*, a municipality may, if one of the purposes for so acting is for its own purposes, exercise its powers under subsection 10 (1) or 11 (1), paragraph 7 of subsection 10 (2), paragraph 7 of subsection 11 (2) or paragraph 2 of subsection 11 (3) in relation to a bus passenger transportation system and a ferry transportation system in the municipality and between any point within the municipality and any point outside the municipality, including outside Ontario. 2006, c. 32, Sched. A, s. 28.

Airports

70. Despite section 19, a municipality may, if one of the purposes for so acting is for its own purposes, exercise its powers under subsection 10 (1) or 11 (1), paragraph 7 of subsection 10 (2), paragraph 7 of subsection 11 (2) or paragraph 2 of

subsection 11 (3) in relation to airports in the municipality, in another municipality or in unorganized territory. 2006, c. 32, Sched. A, s. 29.

London

71. Nothing in subsection 3 (1) of *The City of London Act, 1960-61* or in section 69 affects the right of any person to establish, operate and maintain a bus transportation system within the City of London in accordance with a valid operating licence issued to that person under the *Public Vehicles Act* on or before December 31, 1992. 2001, c. 25, s. 71.

Waterloo

72. Nothing in section 35 of the *Regional Municipality of Waterloo Act*, as it read immediately before its repeal or in section 69 affects the right of any person to establish, operate and maintain a bus transportation system within The Regional Municipality of Waterloo in accordance with a valid operating licence issued to that person under the *Public Vehicles Act* on or before the day the regional municipality established a transportation system under section 35 of the *Regional Municipality of Waterloo Act*. 2001, c. 25, s. 72.

Deeming provision, Waterloo

73. For the purposes of the *Public Vehicles Act*, a bus transportation system provided by The Regional Municipality of Waterloo within its boundaries shall be deemed to be provided within the corporate limits of one urban municipality. 2001, c. 25, s. 73.

WASTE MANAGEMENT

Power exercised outside municipality re waste management

74. Despite section 19, a municipality may, if one of the purposes for so acting is for its own purposes, exercise its powers under subsection 10 (1) or 11 (1), paragraph 7 of subsection 10 (2), paragraph 7 of subsection 11 (2) or paragraph 3 of subsection 11 (3) in relation to waste management in the municipality, in another municipality or in unorganized territory. 2006, c. 32, Sched. A, s. 30.

Designation of services, facilities

75. (1) Without limiting sections 9, 10 and 11, an upper-tier municipality may designate any of its waste management services or facilities for the management of waste or any class of waste of any of its lower-tier municipalities for which it has the power to provide the service or facility. 2001, c. 25, s. 75 (1); 2006, c. 32, Sched. A, s. 31.

Effect of designation

(2) If a designation has been made, the lower-tier municipality shall not utilize any services or facilities of the upper-tier municipality or any other person for the management of the designated waste other than the services or facilities that have been designated for that lower-tier municipality. 2001, c. 25, s. 75 (2).

Entry and inspection

76. (1) For the purpose of obtaining information that a municipality considers necessary for the municipality to meet the requirements of or to obtain an approval under any Act relating to the planning, establishment, operation, management, alteration or improvement of a waste disposal site or any other waste management facility, the municipality may, at reasonable times, enter on and inspect any land, including conducting tests of the land and removing samples or extracts. 2001, c. 25, s. 76 (1).

Restriction

(2) Subsection (1) does not allow a municipality to enter any building. 2001, c. 25, s. 76 (2).

77. REPEALED: 2006, c. 32, Sched. A, s. 32.

PUBLIC UTILITIES

Entry on land

78. (1) For the purposes of providing a water public utility, a municipality may, at any reasonable time, subject to section 19 and despite section 27, enter on highways in or outside of the municipality to install, construct and maintain pipes and other works for the distribution of water without the consent of the body which owns the highway. 2001, c. 25, s. 78 (1); 2002, c. 17, Sched. A, s. 15 (1).

Entry on highways

(2) For the purposes of providing a public utility, other than a water public utility, a municipality may, at any reasonable time, despite section 27, enter on highways in the municipality to install, construct and maintain pipes, wires, poles,

equipment, machinery and other works without the consent of the body which owns the highway. 2001, c. 25, s. 78 (2); 2002, c. 17, Sched. A, s. 15 (2).

Powers not restricted

(3) Nothing in this section prevents a body that owns a highway from regulating the activities described in subsections (1) and (2) on its highway in a reasonable manner, including regulating with respect to notice, timing and co-ordination of the activities and the requirement to obtain a permit before engaging in the activities. 2001, c. 25, s. 78 (3); 2002, c. 17, Sched. A, s. 15 (3).

Entry into buildings, etc.

79. (1) If a municipality has the consent of an owner or occupant to connect a public utility to a part of a building and other parts of the building belong to different owners or are in the possession of different occupants, the municipality may, at reasonable times, without consent, enter on their land and install, construct and maintain pipes, wires, equipment, machinery and other works necessary to make the connection. 2001, c. 25, s. 79 (1).

Entry on common passages

(2) If a municipality has the consent of an owner or occupant to connect a public utility to land and the owner or occupant shares a mutual driveway or other common passage with the owners or occupants of neighbouring land, the municipality may, at reasonable times, without consent, enter the common passage and install, construct and maintain pipes, wires, equipment, machinery and other works necessary to make the connection. 2001, c. 25, s. 79 (2).

Entry on land served by public utility

- 80.** (1) A municipality may, at reasonable times, enter on land to which it supplies a public utility,
- (a) to inspect, repair, alter or disconnect the service pipe or wire, machinery, equipment and other works used to supply the public utility; or
 - (b) to inspect, install, repair, replace or alter a public utility meter. 2001, c. 25, s. 80 (1).

Reduced supply

(2) For the purposes of subsection (1), a municipality may shut off or reduce the supply of the public utility to the land. 2001, c. 25, s. 80 (2).

Entry on land, discontinuance of utility

- (3) If a customer discontinues the use of a public utility on land or a municipality lawfully decides to cease supplying the public utility to land, the municipality may enter on the land,
- (a) to shut off the supply of the public utility;
 - (b) to remove any property of the municipality; or
 - (c) to determine whether the public utility has been or is being unlawfully used. 2001, c. 25, s. 80 (3).

Shut off of public utility

81. (1) Without limiting sections 9, 10 and 11, a municipality may shut off the supply of a public utility by the municipality to land if fees or charges payable by the owners or occupants of the land for the supply of the public utility to the land are overdue. 2001, c. 25, s. 81 (1); 2006, c. 32, Sched. A, s. 33 (1).

Additional power

(2) In addition to the power under subsection (1), and without limiting sections 9, 10 and 11, a municipality may shut off the supply of water to land if fees or charges payable by the owners or occupants of the land in respect of a sewage system are overdue and the fees or charges are based on the fees payable for the supply of water to the land. 2001, c. 25, s. 81 (2); 2006, c. 32, Sched. A, s. 33 (2).

Notice

(3) Despite subsections (1) and (2), a municipality shall provide reasonable notice of the proposed shut-off to the owners and occupants of the land by personal service or prepaid mail or by posting the notice on the land in a conspicuous place. 2001, c. 25, s. 81 (3).

Recovery of fees

(4) A municipality may recover all fees and charges payable despite shutting off the supply of the public utility. 2001, c. 25, s. 81 (4).

No liability for damages

82. (1) A municipality is not liable for damages caused by the interruption or reduction of the amount of a public utility supplied to a municipality or to the land of any person as a result of an emergency or a breakdown, repair or extension of its public utility if, in the circumstances, reasonable notice of its intention to interrupt or reduce the supply is given. 2001, c. 25, s. 82 (1).

Allocation

(2) If the supply of a public utility to a municipality is interrupted or reduced, the municipality may allocate the available public utility among its customers. 2001, c. 25, s. 82 (2).

Effect

(3) Nothing done under subsection (2) shall be deemed to be a breach of contract, to entitle any person to rescind a contract or to release a guarantor from the performance of the guarantor's obligation. 2001, c. 25, s. 82 (3).

Security

83. Without limiting sections 9, 10 and 11, a municipality may, as a condition of supplying or continuing to supply a public utility, require reasonable security be given for the payment of fees and charges for the supply of the public utility or for extending the public utility to land. 2001, c. 25, s. 83; 2006, c. 32, Sched. A, s. 34.

84. REPEALED: 2002, c. 24, Sched. B, s. 25.

Exemption from seizure

85. Personal property of a municipality which is used for or in connection with the supply of a public utility to land is exempt from seizure,

- (a) against the owner or occupant of the land under the *Execution Act*; and
- (b) against a person with a leasehold interest in the land for overdue rent. 2001, c. 25, s. 85.

Mandatory supply

- 86.** (1) Despite section 19, a municipality shall supply a building with a water or sewage public utility if,
- (a) the building lies along a supply line of the municipality for the public utility;
 - (b) in the case of a water public utility, there is a sufficient supply of water for the building;
 - (c) in the case of a sewage public utility, there is sufficient capacity for handling sewage from the building; and
 - (d) the owner, occupant or other person in charge of the building requests the supply in writing. 2001, c. 25, s. 86 (1).

Exception

(2) Subsection (1) does not apply if the supply of the public utility to a building or to the land on which the building is located would contravene an official plan under the *Planning Act* that applies to the building, land or public utility. 2001, c. 25, s. 86 (2).

Entry on land re: sewage systems

87. A municipality may enter on land, at reasonable times, to inspect the discharge of any matter into the sewage system of the municipality or into any other sewage system the contents of which ultimately empty into the municipal sewage system and may conduct tests and take samples for this purpose. 2001, c. 25, s. 87.

Upper-tier entry on land

88. (1) An upper-tier municipality has, during and after the construction of a work of one of its lower-tier municipalities that is or is intended to be connected to an upper-tier work, the power to enter upon land, at reasonable times, to inspect the lower-tier work and to inspect and copy plans, records, specifications and other information related to the construction, operation and maintenance of the lower-tier work. 2001, c. 25, s. 88 (1).

Definition

(2) In this section,

“work” means land, buildings, structures, plant, machinery, equipment, devices, conduits, intakes, outfalls or outlets and other works used or designed for the collection, treatment or disposition of sewage or the production, treatment, storage or distribution of water. 2001, c. 25, s. 88 (2).

Dual authority

89. If a lower-tier municipality and its upper-tier municipality both have the authority to distribute water in the lower-tier municipality,

- (a) the upper-tier municipality shall not supply water to any person in the lower-tier municipality except the lower-tier municipality; and
- (b) in the case of The Regional Municipality of York, the lower-tier municipality shall not, without the consent of the regional municipality, purchase water from any municipality except the regional municipality. 2001, c. 25, s. 89.

Exemption from levy

90. (1) Despite section 3 of the *Assessment Act*, land that is exempt from taxation under that Act is not exempt from a special upper-tier levy under section 311 or a special local municipality levy under section 312 for raising costs related to sewage works or water works. 2001, c. 25, s. 90 (1).

Exemption by municipality

(2) Despite subsection (1), the upper-tier municipality and the local municipality, as the case may be, may exempt any class of land from all or part of the levy described in that subsection. 2001, c. 25, s. 90 (2).

New parcels of land

(3) Despite any Act, if new parcels of land are created from existing parcels of land in respect of which a municipality has imposed a tax or fee to raise costs related to sewage works or water works, the municipality may impose the tax or fee on each new parcel. 2001, c. 25, s. 90 (3).

Easements, public utilities

Definition

91. (1) In this section, “public utility” includes a street lighting system and a transportation system. 2001, c. 25, s. 91 (1).

Easement

(2) An easement of a public utility provided by a municipality does not have to be appurtenant or annexed to or for the benefit of any specific parcel of land to be valid. 2001, c. 25, s. 91 (2).

Restriction

(3) Part III of the *Registry Act* does not apply to a claim of a person in respect of a part of a municipal public utility constructed on land before June 21, 1990 with the consent or acquiescence of the owner of the land. 2001, c. 25, s. 91 (3).

Interference with utilities

(4) No person shall interfere with a part of a municipal public utility for which there is no municipal public utility easement unless,

- (a) the municipality consents; or
- (b) the interference is authorized by a court order under this section. 2001, c. 25, s. 91 (4).

Court orders with respect to utilities

(5) A person who has an interest in land where part of a municipal public utility is located may apply to the Superior Court of Justice for an order authorizing that person to interfere with that part of the municipal public utility if the use of the land by the person is substantially affected. 2001, c. 25, s. 91 (5).

Notice

(6) A person making an application for an order under subsection (5) shall give the municipality 90 days notice of the application or such other notice as the court may direct. 2001, c. 25, s. 91 (6).

Other orders

(7) In making an order under subsection (5), the court may make such other orders as it considers necessary including an order that the applicant provide an easement for an alternative location of the public utility with such compensation as the court may determine. 2001, c. 25, s. 91 (7).

Stay of orders

(8) The court shall stay an order under subsection (5) at the request of the municipality for such time as the court determines to allow the municipality to acquire an interest in land to accommodate the part of its public utility that is subject to the order. 2001, c. 25, s. 91 (8).

Right to repair utilities

(9) Subject to any court order under this section, a municipality may enter upon any land to repair and maintain its public utilities. 2001, c. 25, s. 91 (9).

Utilities located by mistake

(10) If, before June 21, 1990, a municipality located a part of a municipal public utility where it had no right to do so in the mistaken belief that the part was being located on a municipal road allowance, the municipality that owns and operates the utility shall be deemed to have an easement in respect of the utility and the owner of the land on which the part is located shall be entitled to compensation for the easement determined in accordance with the *Expropriations Act*. 2001, c. 25, s. 91 (10).

Offence

(11) Every person who knowingly contravenes subsection (4) is guilty of an offence. 2001, c. 25, s. 91 (11).

92. REPEALED: 2006, c. 32, Sched. A, s. 35.

Non-municipal public utilities

93. (1) Except as otherwise provided, no person shall construct, maintain or operate a water or sewage public utility in any area of a municipality if the municipality has jurisdiction to provide the public utility in that area, without first obtaining the consent of the municipality. 2001, c. 25, s. 93 (1).

Terms

(2) A consent under this section may be given subject to such conditions and limits on the powers to which the consent relates as may be agreed upon. 2001, c. 25, s. 93 (2).

Interpretation

(3) In this section, “person” does not include a municipality. 2002, c. 17, Sched. A, s. 16.

CULTURE, PARKS, RECREATION AND HERITAGE

Power exercised outside municipality re culture, parks, etc.

94. Despite section 19, a municipality may, if one of the purposes for so acting is for its own purposes, exercise its powers under subsection 10 (1) or 11 (1), paragraph 7 of subsection 10 (2), paragraph 7 of subsection 11 (2) or paragraph 5 of subsection 11 (3) in relation to culture, parks, recreation and heritage in the municipality, in another municipality or in unorganized territory. 2006, c. 32, Sched. A, s. 36.

Agreement, conservation authority

95. (1) The upper-tier municipalities of Durham, Halton, Peel and York may enter into an agreement with a conservation authority to manage and control land vested in the conservation authority. 2001, c. 25, s. 95 (1).

Powers

- (2) An upper-tier municipality that has entered into an agreement under subsection (1) may,
- (a) exercise any of its powers in respect of culture, parks, recreation or heritage matters on the land;
 - (b) lay out, construct and maintain highways on the land;
 - (c) with the consent of the local municipality in which any part of the land is located, assume the maintenance of all or part of the existing highways;
 - (d) prescribe the rate of speed for motor vehicles driven on those highways in accordance with section 128 of the *Highway Traffic Act*. 2001, c. 25, s. 95 (2); 2006, c. 32, Sched. A, s. 37.

DRAINAGE AND FLOOD CONTROL

Power exercised outside municipality, flood control

96. Despite section 19, a municipality may, for the purpose of preventing damage to property in the municipality as a result of flooding, exercise its powers under subsection 10 (1) or 11 (1), paragraph 7 of subsection 10 (2), paragraph 7 of

subsection 11 (2) or paragraph 6 of subsection 11 (3) in relation to flood control in the municipality, in another municipality or in unorganized territory. 2006, c. 32, Sched. A, s. 38.

Entry on land

97. A municipality may enter on land, at reasonable times, to inspect the discharge of any matter into a land drainage system of any person and may conduct tests and remove samples for this purpose. 2001, c. 25, s. 97.

STRUCTURES, INCLUDING FENCES AND SIGNS

Non-application of Act

98. (1) A local municipality may provide that the *Line Fences Act* does not apply to all or any part of the municipality. 2001, c. 25, s. 98 (1).

Exclusion

(2) Despite a by-law passed under subsection (1), section 20 of the *Lines Fences Act* continues to apply throughout the municipality. 2001, c. 25, s. 98 (2).

Advertising devices

99. (1) A by-law of a municipality respecting advertising devices, including signs, does not apply to an advertising device that was lawfully erected or displayed on the day the by-law comes into force if the advertising device is not substantially altered, and the maintenance and repair of the advertising device or a change in the message or contents displayed is deemed not in itself to constitute a substantial alteration. 2006, c. 32, Sched. A, s. 39.

Lien for costs and charges

(2) All costs and charges incurred by a municipality for the removal, care and storage of an advertising device that is erected or displayed in contravention of a by-law of the municipality are a lien on the advertising device that may be enforced by the municipality under the *Repair and Storage Liens Act*. 2006, c. 32, Sched. A, s. 39.

Disposal costs

(3) All costs and charges incurred for disposing of an advertising device described in subsection (2) may be recovered by the municipality as a debt owed by the owner of the device. 2006, c. 32, Sched. A, s. 39.

Demolition and conversion of residential rental properties

99.1 (1) A local municipality may prohibit and regulate the demolition of residential rental properties and may prohibit and regulate the conversion of residential rental properties to a purpose other than the purpose of a residential rental property. 2006, c. 32, Sched. A, s. 40.

Same

- (2) The power to pass a by-law respecting a matter described in subsection (1) includes the power,
- (a) to prohibit the demolition of residential rental properties without a permit;
 - (b) to prohibit the conversion of residential rental properties to a purpose other than the purpose of a residential rental property without a permit; and
 - (c) to impose conditions as a requirement of obtaining a permit. 2006, c. 32, Sched. A, s. 40.

Restriction

(3) The municipality cannot prohibit or regulate the demolition or conversion of a residential rental property that contains less than six dwelling units. 2006, c. 32, Sched. A, s. 40.

Effect of building code, etc.

(4) Despite section 35 of the *Building Code Act, 1992*, in the event that the *Building Code Act, 1992* or a regulation made under that Act and a by-law prohibiting or regulating the demolition or conversion of a residential rental property treat the same subject-matter in different ways, that Act or the regulation under that Act prevails and the by-law is inoperative to the extent that the Act or regulation and the by-law treat the same subject-matter. 2006, c. 32, Sched. A, s. 40.

Same

(5) If a permit to demolish a residential rental property is issued under this section, no permit is required under section 8 of the *Building Code Act, 1992* to demolish the property. 2006, c. 32, Sched. A, s. 40.

Report

(6) The municipality shall report statistics and other information concerning the demolition and conversion of residential rental properties to the Minister and shall do so at the times and in the form and manner specified by the Minister. 2006, c. 32, Sched. A, s. 40.

PARKING, EXCEPT ON HIGHWAYS

Parking lots

100. Without limiting sections 9, 10 and 11, a local municipality may, in respect of land not owned or occupied by the municipality that is used as a parking lot, regulate or prohibit the parking or leaving of motor vehicles on that land without the consent of the owner of the land or regulate or prohibit traffic on that land if a sign is erected at each entrance to the land clearly indicating the regulation or prohibition. 2006, c. 32, Sched. A, s. 41.

Other land

100.1 (1) Without limiting sections 9, 10 and 11, a local municipality may, in respect of land not owned or occupied by the municipality, regulate or prohibit the parking or leaving of motor vehicles without the consent of the owner of the land. 2002, c. 17, Sched. A, s. 20; 2006, c. 32, Sched. A, s. 42.

Exclusion

(2) Subsection (1) does not apply to land used as a parking lot. 2002, c. 17, Sched. A, s. 20.

Impounding vehicles parked

101. (1) If a municipality passes a by-law regulating or prohibiting the parking or leaving of a motor vehicle on land, it may provide for the removal and impounding or restraining and immobilizing of any vehicle, at the vehicle owner's expense, parked or left in contravention of the by-law and subsection 170 (15) of the *Highway Traffic Act* applies with necessary modifications to the by-law. 2006, c. 32, Sched. A, s. 43.

Entry on land

(2) A municipality may enter on land at reasonable times for the purposes described in subsection (1). 2006, c. 32, Sched. A, s. 43.

Signs

(3) If signs are erected on land specifying conditions on which a motor vehicle may be parked or left on the land or regulating or prohibiting the parking or leaving of a motor vehicle on the land, a motor vehicle parked or left on the land contrary to the conditions or prohibition shall be deemed to have been parked or left without consent. 2001, c. 25, s. 101 (3).

Enforcement

(4) If it is alleged in a proceeding that a by-law referred to in this section has been contravened, the oral or written evidence of a police officer, police cadet or municipal law enforcement officer is receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated in it in respect of,

- (a) the ownership or occupancy of the land;
- (b) the absence of the consent of the owner or occupant; and
- (c) whether any person is an occupant or is an owner. 2001, c. 25, s. 101 (4).

No notice

(5) Written evidence under subsection (4) shall be admitted without notice under the *Evidence Act*. 2001, c. 25, s. 101 (5).

Accessible parking permits

102. (1) If a municipality passes a by-law for establishing a system of accessible parking, the sole manner of identifying vehicles shall be an accessible parking permit issued and displayed in accordance with the *Highway Traffic Act* and the regulations made under it. 2009, c. 33, Sched. 26, s. 5 (1).

Designated parking spaces

(2) Without limiting sections 9, 10 and 11, a local municipality may require the owners or operators of parking lots or other parking facilities to which the public has access, whether on payment of a fee or otherwise, to provide designated parking spaces for vehicles displaying an accessible parking permit and if it does so, the local municipality shall prescribe the conditions of use of the accessible parking permit and shall prohibit the improper use of the permit. 2009, c. 33, Sched. 26, s. 5 (1).

Removal of vehicle

(3) A by-law passed in accordance with subsection (2) may provide for the removal and impounding of any vehicle, at its owner's expense, parked or left contrary to the by-law. 2006, c. 32, Sched. A, s. 44.

Administrative penalties, parking by-laws

102.1 (1) Without limiting sections 9, 10 and 11, a municipality may require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with any by-laws respecting the parking, standing or stopping of vehicles. 2006, c. 32, Sched. A, s. 45.

Limitation

(2) Despite subsection (1), the municipality does not have the power to provide that a person is liable to pay an administrative penalty in respect of the failure to comply with by-laws respecting the parking, standing or stopping of vehicles until a regulation is made under subsection (3). 2006, c. 32, Sched. A, s. 45.

Regulations

(3) Upon the recommendation of the Attorney General, the Lieutenant Governor in Council may make regulations providing for any matters which, in the opinion of the Lieutenant Governor in Council, are necessary or desirable for the purposes of this section, including,

- (a) granting a municipality powers with respect to requiring that persons pay administrative penalties and with respect to other matters necessary for a system of administrative penalties;
- (b) imposing conditions and limitations on a municipality's powers with respect to administrative penalties;
- (c) providing for the refusal by the Registrar of Motor Vehicles to validate vehicle permits issued, or to issue vehicle permits, to a person who had not paid an administrative penalty that is owing to a municipality. 2006, c. 32, Sched. A, s. 45.

Conflict

(4) In the event of a conflict between a regulation made under this section and a provision of this or any other Act or regulation, the regulation made under this section prevails. 2006, c. 32, Sched. A, s. 45.

ANIMALS

Impounding animals

103. (1) If a municipality passes a by-law regulating or prohibiting with respect to the being at large or trespassing of animals, it may provide for,

- (a) the seizure and impounding of animals being at large or trespassing contrary to the by-law; and
- (b) the sale of impounded animals,
 - (i) if they are not claimed within a reasonable time,
 - (ii) if the expenses of the municipality respecting the impounding of the animals are not paid, or
 - (iii) at such time and in such manner as is provided in the by-law.
- (c) REPEALED: 2006, c. 32, Sched. A, s. 46 (1).

2001, c. 25, s. 103 (1); 2006, c. 32, Sched. A, s. 46 (1).

Definition

(2) In this section,

“animal” has the same meaning as in section 11.1. 2006, c. 32, Sched. A, s. 46 (2).

104. REPEALED: 2006, c. 32, Sched. A, s. 47.

Muzzling of dogs

105. (1) If a municipality requires the muzzling of a dog under any circumstances, the council of the municipality shall, upon the request of the owner of the dog, hold a hearing to determine whether or not to exempt the owner in whole or in part from the requirement. 2002, c. 17, Sched. A, s. 22 (1).

Conditions

(2) An exemption may be granted subject to such conditions as council considers appropriate. 2001, c. 25, s. 105 (2).

(3) REPEALED: 2006, c. 32, Sched. A, s. 48.

Request does not stay requirement

(4) A request of the owner of a dog for a hearing under this section does not act as a stay of the muzzling requirement. 2001, c. 25, s. 105 (4); 2002, c. 17, Sched. A, s. 22 (2).

ECONOMIC DEVELOPMENT SERVICES

Assistance prohibited

106. (1) Despite any Act, a municipality shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose. 2001, c. 25, s. 106 (1).

Same

(2) Without limiting subsection (1), the municipality shall not grant assistance by,

- (a) giving or lending any property of the municipality, including money;
- (b) guaranteeing borrowing;
- (c) leasing or selling any property of the municipality at below fair market value; or
- (d) giving a total or partial exemption from any levy, charge or fee. 2001, c. 25, s. 106 (2).

Exception

(3) Subsection (1) does not apply to a council exercising its authority under subsection 28 (6), (7) or (7.2) of the *Planning Act* or under section 365.1 of this Act. 2001, c. 25, s. 106 (3); 2002, c. 17, Sched. A, s. 23; 2006, c. 23, s. 34.

General power to make grants

107. (1) Despite any provision of this or any other Act relating to the giving of grants or aid by a municipality, subject to section 106, a municipality may make grants, on such terms as to security and otherwise as the council considers appropriate, to any person, group or body, including a fund, within or outside the boundaries of the municipality for any purpose that council considers to be in the interests of the municipality. 2001, c. 25, s. 107 (1).

Loans, guarantees, etc.

(2) The power to make a grant includes the power,

- (a) to guarantee a loan and to make a grant by way of loan and to charge interest on the loan;
- (b) to sell or lease land for nominal consideration or to make a grant of land;
- (c) to provide for the use by any person of land owned or occupied by the municipality upon such terms as may be fixed by council;
- (c.1) to provide for the use by any person of officers, employees or agents of the municipality upon such terms as may be fixed by council;
- (d) to sell, lease or otherwise dispose of at a nominal price, or make a grant of, any personal property of the municipality or to provide for the use of the personal property on such terms as may be fixed by council; and
- (e) to make donations of foodstuffs and merchandise purchased by the municipality for that purpose. 2001, c. 25, s. 107 (2); 2006, c. 32, Sched. A, s. 49.

Small business counselling

108. (1) Without limiting sections 9, 10 and 11 and despite section 106, a municipality may provide for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality. 2006, c. 32, Sched. A, s. 50.

Small business programs

(2) Without limiting sections 9, 10 and 11, a municipality may do the following things in order to encourage the establishment and initial growth of small businesses or any class of them in the municipality:

1. With the approval of the Minister, establish and maintain programs for that purpose.
2. Participate in programs administered by the Crown in right of Ontario. 2006, c. 32, Sched. A, s. 50.

Permitted actions

(3) Without limiting sections 9, 10 and 11, a municipality may do the following for the purposes of a program referred to in subsection (2):

1. Acquire land and erect and improve buildings and structures in order to provide leased premises for eligible small businesses or for a corporation described in paragraph 4.
2. Despite section 106, to make grants to corporations described in paragraph 4.
3. Lease land to small businesses included in a program.
4. Enter into leases of land and other agreements related to the program with a corporation without share capital established by the municipality in accordance with section 203 for the purposes of encouraging the establishment and initial growth of small businesses or any class of them in the municipality.
5. Sell, lease or otherwise dispose of any personal property of the municipality to an eligible small business or to a corporation described in paragraph 4 or provide for the use of such property by the small business or corporation.
6. Provide for the use of the services of any municipal employee by an eligible small business or by a corporation described in paragraph 4.
7. Establish a municipal service board under this Act to administer a program or to administer the municipality's participation in a program referred to in subsection (2).
8. Appoint one or more of the directors of a corporation described in paragraph 4. 2006, c. 32, Sched. A, s. 50.

Grant includes loans

(4) The power to make grants under paragraph 2 of subsection (3) includes the power to make loans, to charge interest on the loans and to guarantee loans. 2006, c. 32, Sched. A, s. 50.

Same

(5) A corporation described in paragraph 4 of subsection (3) that leases any building or structure from the municipality shall use it for the purpose of providing leased premises to small businesses included in a program referred to in subsection (2). 2006, c. 32, Sched. A, s. 50.

Availability of assistance

(6) Despite section 106, a lease of land, the sale, lease or other disposition of personal property or the use of personal property or personal services under subsection (3) may be made or provided at less than fair market value. 2006, c. 32, Sched. A, s. 50.

Limitation

(7) Subsection (6) ceases to apply to an eligible small business on the third anniversary of the day it first occupied premises leased to it under this section. 2006, c. 32, Sched. A, s. 50.

Municipal service board

(8) The power of a municipality to raise money by the issue of debentures or otherwise for the acquisition of land or construction of buildings shall not be delegated to the municipal service board described in paragraph 7 of subsection (3), despite section 23.1. 2006, c. 32, Sched. A, s. 50.

Interpretation

(9) A business is an eligible small business if it is included in a program referred to in subsection (2) and it is in occupation of premises leased to it under this section. 2006, c. 32, Sched. A, s. 50.

109. REPEALED: 2006, c. 32, Sched. A, s. 50.

Agreements for municipal capital facilities

110. (1) This section applies to an agreement entered into by a municipality for the provision of municipal capital facilities by any person, including another municipality, if the agreement provides for one or more of the following:

1. Lease payments in foreign currencies as provided for in subsection (2).
2. Assistance as provided for in subsection (3).
3. Tax exemptions as provided for in subsection (6).
4. Development charges exemptions as provided for in subsection (7). 2006, c. 32, Sched. A, s. 51.

Contents of agreements

(2) An agreement may allow for the lease, operation or maintenance of the facilities and for the lease payments to be expressed and payable partly or wholly in one or more prescribed foreign currencies. 2001, c. 25, s. 110 (2).

Assistance by municipality

(3) Despite section 106, a municipality may provide financial or other assistance at less than fair market value or at no cost to any person who has entered into an agreement to provide facilities under this section and such assistance may include,

- (a) giving or lending money and charging interest;
- (b) giving, lending, leasing or selling property;
- (c) guaranteeing borrowing; and
- (d) providing the services of employees of the municipality. 2001, c. 25, s. 110 (3).

Restriction

(4) The assistance shall only be in respect of the provision, lease, operation or maintenance of the facilities that are the subject of the agreement. 2001, c. 25, s. 110 (4).

Notice of agreement by-law

(5) Upon the passing of a by-law permitting a municipality to enter into an agreement under this section, the clerk of the municipality shall give written notice of the by-law to the Minister of Education. 2001, c. 25, s. 110 (5).

Tax exemption

(6) Despite any Act, the council of a municipality may exempt from all or part of the taxes levied for municipal and school purposes land or a portion of it on which municipal capital facilities are or will be located that,

- (a) is the subject of an agreement under subsection (1);
- (b) is owned or leased by a person who has entered an agreement to provide facilities under subsection (1); and
- (c) is entirely occupied and used or intended for use for a service or function that may be provided by a municipality. 2001, c. 25, s. 110 (6); 2006, c. 19, Sched. O, s. 3 (1).

Development charges exemption

(7) Despite the *Development Charges Act, 1997*, the council of a municipality may exempt from the payment of all or part of the development charges imposed by the municipality under that Act land or a portion of it on which municipal capital facilities are or will be located that,

- (a) is the subject of an agreement under subsection (1);
- (b) is owned or leased by a person who has entered an agreement to provide facilities under subsection (1); and
- (c) is entirely occupied and used or intended for use for a service or function that may be provided by a municipality. 2006, c. 19, Sched. O, s. 3 (2).

Notice of tax exemption by-law

(8) Upon the passing of a by-law under subsection (6), the clerk of the municipality shall give written notice of the contents of the by-law to,

- (a) the assessment corporation;
- (b) the clerk of any other municipality that would, but for the by-law, have had authority to levy rates on the assessment for the land exempted by the by-law; and
- (c) the secretary of any school board if the area of jurisdiction of the board includes the land exempted by the by-law. 2001, c. 25, s. 110 (8).

When agreement entered into

(9) If a municipality designated as a service manager under the *Housing Services Act, 2011* has entered into an agreement under this section with respect to housing capital facilities, any other municipality that has not entered into an agreement under this section with respect to the capital facilities and that contains all or part of the land on which the capital facilities are or will be located may exercise the power under subsections (3), (6) and (7) with respect to the land and the capital facilities but,

- (a) a tax exemption under subsection (6) applies to taxation for its own purposes; and

(b) clauses (8) (b) and (c) do not apply. 2001, c. 25, s. 110 (9); 2011, c. 6, Sched. 1, s. 187 (1).

Reserve fund

(10) The council of a municipality may establish a reserve fund to be used for the exclusive purpose of renovating, repairing or maintaining facilities that are provided under an agreement under this section. 2001, c. 25, s. 110 (10).

Same

(11) An agreement under this section may provide for contributions to the reserve fund by any person. 2001, c. 25, s. 110 (11).

Tax exemption by school board

(12) Despite any Act, a school board that is authorized to enter into agreements for the provision of school capital facilities by any person may, by resolution, exempt from all or part of the taxes levied for municipal and school purposes land or a portion of it on which the school capital facilities are or will be located that,

- (a) is the subject of the agreement;
- (b) is owned or leased by a person who has entered an agreement to provide school capital facilities; and
- (c) is entirely occupied and used or intended for use for a service or function that may be provided by a school board. 2001, c. 25, s. 110 (12); 2006, c. 19, Sched. O, s. 3 (3).

Education development charges exemption

(13) Despite Division E of Part IX of the *Education Act*, a school board that is authorized to enter into agreements for the provision of school capital facilities by any person may exempt from the payment of all or part of the education development charges imposed by the school board under that Part land or a portion of it on which school capital facilities are or will be located that,

- (a) is the subject of the agreement;
- (b) is owned or leased by a person who has entered an agreement to provide school capital facilities; and
- (c) is entirely occupied and used or intended for use for a service or function that may be provided by a school board. 2006, c. 19, Sched. O, s. 3 (4).

Notice of tax exemption by school board

(14) Upon the passing of a resolution under subsection (12), the secretary of the school board shall give written notice of the contents of the resolution to,

- (a) the assessment corporation;
- (b) the clerk and the treasurer of any municipality that would, but for the resolution, have had authority to levy rates on the assessment for the land exempted by the resolution; and
- (c) the secretary of any other school board if the area of jurisdiction of the board includes the land exempted by the resolution. 2001, c. 25, s. 110 (14).

Restriction on tax exemption

(15) The tax exemption under subsection (6) or (12) shall not be in respect of a special levy under section 311 or 312 for sewer and water. 2001, c. 25, s. 110 (15).

Effective date

(16) A by-law passed under subsection (6) or (7) or a resolution passed under subsection (12) or (13) shall specify an effective date which shall be the date of passing of the by-law or resolution or a later date. 2006, c. 19, Sched. O, s. 3 (5).

Tax refund, etc.

(17) Section 357 applies with necessary modifications to allow for a cancellation, reduction or refund of taxes that are no longer payable as a result of a by-law or resolution passed under this section. 2001, c. 25, s. 110 (17).

Taxes struck from roll

(18) Until the assessment roll has been revised, the treasurer of the local municipality shall strike taxes from the tax roll that are exempted by reason of a by-law or resolution passed under this section. 2001, c. 25, s. 110 (18).

Deemed exemption

(19) Subject to subsection (15), the tax exemption under subsection (6) or (12) shall be deemed to be an exemption under section 3 of the *Assessment Act*, but shall not affect a payment required under section 27 of that Act. 2001, c. 25, s. 110 (19).

Regulations

- (20) The Lieutenant Governor in Council may make regulations,
- (a) defining municipal capital facilities for the purposes of this section;
 - (b) prescribing eligible municipal capital facilities that may and may not be the subject of agreements under subsection (1);
 - (c) prescribing eligible municipal capital facilities for which municipalities may and may not grant tax exemptions under subsection (6) or development charges exemptions under subsection (7);
 - (d) prescribing rules, procedures, conditions and prohibitions for municipalities entering agreements under subsection (1);
 - (e) defining and prescribing eligible school capital facilities for which school boards may and may not grant tax exemptions under subsection (12) or exemptions from education development charges under subsection (13);
 - (f) prescribing foreign currencies in which a municipality may make lease payments under such conditions as may be prescribed. 2001, c. 25, s. 110 (20); 2006, c. 19, Sched. O, s. 3 (6, 7).

Promotion by lower-tier municipality, special case

111. (1) Despite section 11, a lower-tier municipality in the upper-tier municipality of Durham may promote the lower-tier municipality for any purpose by the collection and dissemination of information in relation to land it acquired or had entered into a binding agreement to acquire on or before the upper-tier municipality came into existence. 2001, c. 25, s. 111 (1); 2002, c. 17, Sched. A, s. 24 (1); 2006, c. 32, Sched. A, s. 52 (1).

Upper-tier may authorize promotion by lower-tier

(2) Despite section 11, the upper-tier municipality of Durham may authorize one or more of its lower-tier municipalities to promote the lower-tier municipality for any purpose by the collection and dissemination of information. 2001, c. 25, s. 111 (2); 2002, c. 17, Sched. A, s. 24 (2); 2006, c. 32, Sched. A, s. 52 (2).

Conditions

(3) An authorization under this section may be given on such conditions as the upper-tier municipality considers appropriate. 2001, c. 25, s. 111 (3).

Industrial, commercial and institutional sites

112. Despite section 11, a lower-tier municipality in the upper-tier municipality of Durham may acquire, develop and dispose of industrial, commercial and institutional sites it acquired or had entered into a binding agreement to acquire on or before the day the upper-tier municipality came into existence. 2006, c. 32, Sched. A, s. 53.

Markets

- 113.** Without limiting sections 9, 10 and 11, a local municipality may,
- (a) establish, maintain and operate a farmers market, a flea market and other similar types of markets; and
 - (b) regulate a farmers market, a flea market and other similar types of markets of any person including regulating the hours of operation of a market. 2001, c. 25, s. 113; 2006, c. 32, Sched. A, s. 54.

Exhibitions

114. Without limiting sections 9, 10 and 11, a municipality may establish, maintain and operate agricultural, horticultural, commercial or industrial exhibitions. 2001, c. 25, s. 114; 2006, c. 32, Sched. A, s. 55.

HEALTH, SAFETY AND NUISANCE

Smoking in public places, etc.

115. (1) Without limiting sections 9, 10 and 11, a municipality may prohibit or regulate the smoking of tobacco in public places and workplaces. 2001, c. 25, s. 115 (1); 2006, c. 32, Sched. A, s. 56 (1).

Crown bound

- (2) A by-law under this section binds the Crown. 2001, c. 25, s. 115 (2).

Restriction

(3) A by-law under this section shall not apply to a highway but may apply to public transportation vehicles and taxicabs on a highway. 2001, c. 25, s. 115 (3).

Scope of by-law

- (4) Without limiting sections 9, 10 and 11, a municipality, in a by-law passed under this section, may,
- (a) define “public place” for the purpose of the by-law;
 - (b) require a person who owns, occupies or operates a place to which the by-law applies to post signs setting out such information relating to the smoking of tobacco as is required by the by-law;
 - (c) establish the form and content of signs referred to in clause (b) and the place and manner in which the signs shall be posted;
 - (d) permit persons who own, occupy or operate a place to which the by-law applies to set aside an area that meets criteria set out in the by-law for the smoking of tobacco within the place;
 - (e) establish criteria applicable to smoking areas in clause (d), including the standards for the ventilation of such areas;
 - (f) require areas set aside for the smoking of tobacco in places to which the by-law applies to be identified as an area where the smoking of tobacco is permitted; and
 - (g) require the owner or occupier of a public place, the employer of a workplace, other than a public transportation vehicle and a taxicab, or the owner or operator of a public transportation vehicle or a taxicab to ensure compliance with the by-law. 2001, c. 25, s. 115 (4); 2006, c. 32, Sched. A, s. 56 (2).

Upper-tier municipality

- (5) A by-law passed by an upper-tier municipality under this section shall not come into force unless,
- (a) a majority of all votes on the council of the upper-tier municipality are cast in its favour;
 - (b) after the by-law is passed, a majority of the councils of all its lower-tier municipalities have passed resolutions giving their consent to the by-law; and
 - (c) the total number of electors in the lower-tier municipalities that pass resolutions under clause (b) form a majority of all the electors in the upper-tier municipality. 2001, c. 25, s. 115 (5).

Repeal

- (6) A by-law passed by an upper-tier municipality under this section is repealed if,
- (a) after the by-law comes into force, a majority of its lower-tier municipalities rescind their resolutions under clause (5) (b) giving their consent to the by-law; and
 - (b) the total number of electors in the lower-tier municipalities that have rescinded resolutions form a majority of all electors in the upper-tier municipality. 2001, c. 25, s. 115 (6).
- (7), (8) REPEALED: 2006, c. 32, Sched. A, s. 56 (3).

Conflicts

(9) If there is a conflict between a by-law passed by a lower-tier municipality under this section and a by-law passed by an upper-tier municipality under this section, the by-law that is the most restrictive of the smoking of tobacco prevails. 2001, c. 25, s. 115 (9).

Conflicts

(10) Despite section 14, if there is a conflict between a provision of any Act or regulation and a provision of a by-law passed by a municipality under this section, the provision that is the most restrictive of the smoking of tobacco prevails. 2001, c. 25, s. 115 (10).

Definitions

(11) In this section,

“elector” means a person whose name appears on the voters’ list, as amended up until the close of voting on voting day, for the last regular election preceding the coming into force of a by-law under subsection (1) or the repeal of a by-law under subsection (6), as the case may be; (“électeur”)

“smoking of tobacco” includes the holding of lighted tobacco; (“usage du tabac”)

“workplace” includes a public transportation vehicle and a taxicab. (“lieu de travail”) 2001, c. 25, s. 115 (1).

Emergency communication system

116. (1) Without limiting sections 9, 10 and 11, a municipality may establish, maintain and operate a centralized communication system for emergency response purposes. 2001, c. 25, s. 116 (1); 2006, c. 32, Sched. A, s. 57.

Power of entry

(2) A municipality that has passed a by-law under subsection (1) may at any reasonable time enter upon land to affix numbers to buildings or erect signs setting out numbers on land. 2001, c. 25, s. 116 (2).

117. REPEALED: 2006, c. 32, Sched. A, s. 58.

Scaffolding, trenches, safety devices

118. Without limiting sections 9, 10 and 11, a local municipality may,

- (a) regulate the construction and use of scaffolding and any other thing used in constructing, repairing or altering buildings or other structures;
- (b) regulate the excavating, construction and use of trenches;
- (c) require and regulate the installation, maintenance and use of safety devices on buildings for persons cleaning the outside of windows;
- (d) prohibit the activities described in this section unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans. 2006, c. 32, Sched. A, s. 59.

Discharge of weapons

119. Without limiting sections 9, 10 and 11, a local municipality may, for the purpose of public safety, prohibit or regulate the discharge of guns or other firearms, air-guns, spring-guns, cross-bows, long-bows or any other weapon. 2001, c. 25, s. 119; 2006, c. 32, Sched. A, s. 60.

Explosives

120. (1) Without limiting sections 9, 10 and 11, a local municipality may,

- (a) prohibit and regulate the manufacture of explosives in the municipality;
- (b) prohibit and regulate the storage of explosives and dangerous substances in the municipality;
- (c) regulate the keeping and transportation of explosives and dangerous substances in the municipality;
- (d) prohibit the manufacture or storage of explosives unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans. 2006, c. 32, Sched. A, s. 61 (1).

Interpretation

(2) In this section, “explosive” has the same meaning as in section 2 of the *Explosives Act* (Canada) and “dangerous substance” means a substance that falls within a class of dangerous goods set out in the schedule to the *Transportation of Dangerous Goods Act, 1992* (Canada). 2001, c. 25, s. 120 (2); 2010, c. 16, Sched. 12, s. 3.

(3) REPEALED: 2006, c. 32, Sched. A, s. 61 (2).

Fireworks

121. Without limiting sections 9, 10 and 11, a local municipality may,

- (a) prohibit and regulate the sale of fireworks and the setting off of fireworks;
- (b) prohibit the activities described in clause (a) unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans. 2006, c. 32, Sched. A, s. 62.

Snow and ice

122. (1) Without limiting sections 9, 10 and 11, a local municipality may require the owners and occupants of buildings to remove snow and ice from the roofs of the buildings and may regulate when and how the removal shall be undertaken. 2001, c. 25, s. 122 (1); 2006, c. 32, Sched. A, s. 63.

Power of entry

- (2) A local municipality may enter at any reasonable time upon land to remove snow and ice,
- (a) from the roofs of unoccupied buildings; and
 - (b) from private sidewalks between a highway, including a highway of an upper-tier municipality and the Province of Ontario, and the main entrance of a building. 2001, c. 25, s. 122 (2); 2002, c. 17, Sched. A, s. 26.

Recovery of costs

(3) A municipality may recover the costs under clause (2) (a) incurred by the municipality from the owners of the buildings by action or by adding the costs to the tax roll and collecting them in the same manner as taxes. 2001, c. 25, s. 122 (3).

Dangerous places

123. Without limiting sections 9, 10 and 11, a local municipality may, for the purpose of public safety, regulate with respect to cliffs, pits, deep waters and other dangerous places. 2001, c. 25, s. 123; 2006, c. 32, Sched. A, s. 64.

Pits and quarries

- 124.** (1) Without limiting sections 9, 10 and 11, a local municipality may,
- (a) regulate the operation of a pit or a quarry;
 - (b) require the owner of a pit or a quarry that has not been in operation for a period of 12 consecutive months to level and grade the floor and sides of it and the area beyond the edge or rim that is specified in the by-law. 2006, c. 32, Sched. A, s. 65.
- (2) REPEALED: 2006, c. 32, Sched. A, s. 65.

Non-application of by-law

(3) A by-law under this section does not apply to a pit or a quarry, as those terms are defined in the *Aggregate Resources Act*, located in a part of Ontario designated in a regulation under subsection 5 (2) of that Act. 2001, c. 25, s. 124 (3).

Heating and cooking appliances

- 125.** Without limiting sections 9, 10 and 11, a local municipality may regulate,
- (a) the use and installation of heating and cooking appliances;
 - (b) the storage of fuel for use in heating and cooking appliances. 2006, c. 32, Sched. A, s. 66.

Public fairs and events

- 126.** Without limiting sections 9, 10 and 11, a local municipality may,
- (a) regulate cultural, recreational and educational events including public fairs;
 - (b) prohibit the activities described in clause (a) unless a permit is obtained from the municipality for those activities and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans. 2006, c. 32, Sched. A, s. 66.

Refuse and debris

- 127.** Without limiting sections 9, 10 and 11, a local municipality may,
- (a) require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings;
 - (b) regulate when and how matters required under clause (a) shall be done;
 - (c) prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and
 - (d) define “refuse” for the purpose of this section. 2001, c. 25, s. 127; 2006, c. 32, Sched. A, s. 67.

Public nuisances

128. (1) Without limiting sections 9, 10 and 11, a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances. 2001, c. 25, s. 128 (1); 2006, c. 32, Sched. A, s. 68.

Not subject to review

(2) The opinion of council under this section, if arrived at in good faith, is not subject to review by any court. 2001, c. 25, s. 128 (2).

Noise, odour, dust, etc.

129. Without limiting sections 9, 10 and 11, a local municipality may,

- (a) prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and
- (b) prohibit the matters described in clause (a) unless a permit is obtained from the municipality for those matters and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans. 2006, c. 32, Sched. A, s. 69.

130. REPEALED: 2006, c. 32, Sched. A, s. 69.

Wrecking, salvaging of motor vehicles

131. Without limiting sections 9, 10 and 11, a local municipality may prohibit and regulate the use of any land for the storage of used motor vehicles for the purpose of wrecking or dismantling them or salvaging parts from them for sale or other disposition. 2006, c. 32, Sched. A, s. 69.

Repairs or alterations

132. (1) A local municipality may authorize the owner or occupant of land to enter adjoining land, at any reasonable time, for the purpose of making repairs or alterations to any building, fence or other structures on the land of the owner or occupant but only to the extent necessary to carry out the repairs or alterations. 2001, c. 25, s. 132 (1).

Conditions

(2) The following apply to a power of entry under a by-law under this section:

1. The power of entry may be exercised by an employee or agent of the owner or occupant of land.
2. A person exercising the power of entry must display or, on request, produce proper identification.
3. Nothing in a by-law under this section authorizes entry into a building.
4. The owner or occupant shall provide reasonable notice of the proposed entry to the occupier of the adjoining land.
5. The owner or occupant of land shall, in so far as is practicable, restore the adjoining land to its original condition and shall provide compensation for any damages caused by the entry or by anything done on the adjoining land. 2001, c. 25, s. 132 (2).

Fortification of land

133. (1) Without limiting sections 9, 10 and 11, a municipality that is responsible for the enforcement of the *Building Code Act, 1992* may,

- (a) regulate in respect of the fortification of and protective elements applied to land in relation to the use of the land; and
- (b) prohibit the excessive fortification of land or excessive protective elements being applied to land in relation to the use of the land. 2001, c. 25, s. 133 (1); 2006, c. 32, Sched. A, s. 70 (1).

Definitions

(2) In this section,

“land” means land, including buildings, mobile homes, mobile buildings, mobile structures, outbuildings, fences, erections, physical barriers and any other structure on the land or on or in any structure on the land; (“bien-fonds”)

“protective elements” include surveillance equipment. (“éléments protecteurs”) 2001, c. 25, s. 133 (2).

(3) REPEALED: 2006, c. 32, Sched. A, s. 70 (2).

By-law and building code

(4) A permit shall not be issued under the *Building Code Act, 1992* if the proposed building or construction or use of the building will contravene a by-law to which this section applies. 2001, c. 25, s. 133 (4); 2009, c. 33, Sched. 21, s. 6 (1).

Conflict

(5) Despite section 35 of the *Building Code Act, 1992*, if there is a conflict between the building code under the *Building Code Act, 1992* and a by-law to which this section applies, the building code prevails. 2001, c. 25, s. 133 (5); 2009, c. 33, Sched. 21, s. 6 (2).

Period for compliance for existing fortifications

(6) If a municipality makes an order to do work under subsection 445 (1) with respect to a contravention of the by-law, the order shall give not less than three months to complete the work if the fortifications or protective elements were present on the land on the day the by-law is passed. 2006, c. 32, Sched. A, s. 70 (3).

(7)-(9) REPEALED: 2006, c. 32, Sched. A, s. 70 (3).

Conveyance of prisoners

134. If the attendance of a prisoner in a correctional institution is required at a hearing or proceeding, the municipality that was responsible for delivering the prisoner to the correctional institution is responsible for conveying the prisoner from the correctional institution to the place of the hearing or proceeding and for the prisoner's return. 2001, c. 25, s. 134.

NATURAL ENVIRONMENT

Tree by-laws

135. (1) Subject to subsection (4) and without limiting sections 9, 10 and 11, a local municipality may prohibit or regulate the destruction or injuring of trees. 2006, c. 32, Sched. A, s. 71 (1).

Woodlands

(2) Without limiting sections 9, 10 and 11, an upper-tier municipality may prohibit or regulate the destruction or injuring of trees in woodlands designated in the by-law. 2006, c. 32, Sched. A, s. 71 (1).

Definition

(3) In this section,

“woodlands” means woodlands as defined in the *Forestry Act* that are one hectare or more in area. 2001, c. 25, s. 135 (3).

Restriction

(4) If an upper-tier municipality by-law in respect of woodlands is in effect in a lower-tier municipality, the lower-tier municipality may not prohibit or regulate the destruction of trees in any woodlands designated in the upper-tier by-law and any lower-tier by-law, whether passed before or after the upper-tier by-law comes into force, is inoperative to the extent that it applies to trees in the designated woodlands. 2001, c. 25, s. 135 (4).

Factor to be considered

(5) In passing a by-law regulating or prohibiting the injuring or destruction of trees in woodlands, a municipality shall have regard to good forestry practices as defined in the *Forestry Act*. 2001, c. 25, s. 135 (5); 2002, c. 17, Sched. A, s. 27 (1).

Notice

(6) An upper-tier municipality shall immediately notify its lower-tier municipalities of the passing of a by-law under subsection (2). 2001, c. 25, s. 135 (6).

Conditions

(7) Without limiting sections 9, 10 and 11, a municipality may, in a by-law passed under this section,

- (a) require that a permit be obtained to injure or destroy trees; and
- (b) impose conditions to a permit, including conditions relating to the manner in which destruction occurs and the qualifications of persons authorized to injure or destroy trees. 2001, c. 25, s. 135 (7); 2006, c. 32, Sched. A, s. 71 (2).

Delegation to lower-tier municipality

(8) An upper-tier municipality may delegate all or part of its power to pass a by-law respecting the destruction or injuring of trees in woodlands to one or more of its lower-tier municipalities with the agreement of the lower-tier municipality or municipalities, as the case may be. 2001, c. 25, s. 135 (8).

Effect of delegation

(9) Subsection (4) does not apply to that part of a lower-tier by-law authorized by the delegation of power from the upper-tier municipality. 2001, c. 25, s. 135 (9).

Delegation to upper-tier municipality

(10) A lower-tier municipality may delegate all or part of its power to pass a by-law respecting the destruction or injuring of trees to its upper-tier municipality with the agreement of the upper-tier municipality. 2001, c. 25, s. 135 (10).

(11) REPEALED: 2006, c. 32, Sched. A, s. 71 (3).

Exemption from by-law

(12) A by-law passed under this section does not apply to,

- (a) activities or matters undertaken by a municipality or a local board of a municipality;
- (b) activities or matters undertaken under a licence issued under the *Crown Forest Sustainability Act, 1994*;
- (c) the injuring or destruction of trees by a person licensed under the *Surveyors Act* to engage in the practice of cadastral surveying or his or her agent, while making a survey;
- (d) the injuring or destruction of trees imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
- (e) the injuring or destruction of trees imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under the regulation;
- (f) the injuring or destruction of trees by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
- (g) the injuring or destruction of trees undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*; or
- (h) the injuring or destruction of trees undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*. 2001, c. 25, s. 135 (12); 2002, c. 17, Sched. A, s. 27 (3, 4).

136.-138. REPEALED: 2006, c. 32, Sched. A, s. 72.

Agreement re: enforcement by upper-tier

139. An upper-tier municipality may enter into an agreement with any of its lower-tier municipalities for the upper-tier municipality to designate one or more of its officers to enforce by-laws passed by the lower-tier municipality under section 135. 2001, c. 25, s. 139; 2006, c. 32, Sched. A, s. 73.

Agreement re: enforcement by lower-tier

140. A lower-tier municipality may enter into an agreement with its upper-tier municipality for the lower-tier municipality to designate one or more of its officers to enforce by-laws passed by the upper-tier municipality under section 135. 2001, c. 25, s. 140; 2006, c. 32, Sched. A, s. 74.

Planting trees adjacent to highways

141. Without limiting sections 9, 10 and 11, a municipality may provide trees to the owners of land adjacent to any highway and may plant the trees on the owners' land with their consent. 2001, c. 25, s. 141; 2006, c. 32, Sched. A, s. 75.

Site alteration

Definition

142. (1) In this section,

“topsoil” means those horizons in a soil profile, commonly known as the “O” and the “A” horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat. 2001, c. 25, s. 142 (1).

Powers of local municipality

- (2) Without limiting sections 9, 10 and 11, a local municipality may,
- (a) prohibit or regulate the placing or dumping of fill;

- (b) prohibit or regulate the removal of topsoil;
- (c) prohibit or regulate the alteration of the grade of the land;
- (d) require that a permit be obtained for the placing or dumping of fill, the removal of topsoil or the alteration of the grade of the land; and
- (e) impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to grading, filling or dumping, the removal of topsoil and the rehabilitation of the site. 2006, c. 32, Sched. A, s. 76 (1).

Delegation to upper-tier

(3) A lower-tier municipality may delegate all or part of its power to pass a by-law respecting the dumping or placing of fill, removal of topsoil or the alteration of the grade of land to its upper-tier municipality with the agreement of the upper-tier municipality. 2001, c. 25, s. 142 (3).

(4) REPEALED: 2006, c. 32, Sched. A, s. 76 (2).

Exemptions

- (5) A by-law passed under this section does not apply to,
 - (a) activities or matters undertaken by a municipality or a local board of a municipality;
 - (b) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002 as a condition to the approval of a site plan, a plan of subdivision or a consent under section 41, 51 or 53, respectively, of the *Planning Act* or as a requirement of a site plan agreement or subdivision agreement entered into under those sections;
 - (c) the placing or dumping of fill, removal of topsoil or alteration of the grade of land imposed after December 31, 2002 as a condition to a development permit authorized by regulation made under section 70.2 of the *Planning Act* or as a requirement of an agreement entered into under that regulation;
 - (d) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken by a transmitter or distributor, as those terms are defined in section 2 of the *Electricity Act, 1998*, for the purpose of constructing and maintaining a transmission system or a distribution system, as those terms are defined in that section;
 - (e) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land described in a licence for a pit or quarry or a permit for a wayside pit or wayside quarry issued under the *Aggregate Resources Act*;
 - (f) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken on land in order to lawfully establish and operate or enlarge any pit or quarry on land,
 - (i) that has not been designated under the *Aggregate Resources Act* or a predecessor of that Act, and
 - (ii) on which a pit or quarry is a permitted land use under a by-law passed under section 34 of the *Planning Act*; or
 - (g) the placing or dumping of fill, removal of topsoil or alteration of the grade of land undertaken as an incidental part of drain construction under the *Drainage Act* or the *Tile Drainage Act*. 2001, c. 25, s. 142 (5); 2002, c. 17, Sched. A, s. 30 (2, 3).

Exception

(6) A by-law respecting the removal of topsoil does not apply to the removal of topsoil as an incidental part of a normal agricultural practice including such removal as an incidental part of sod-farming, greenhouse operations and nurseries for horticultural products. 2001, c. 25, s. 142 (6).

Exclusion

(7) The exception in subsection (6) respecting the removal of topsoil as an incidental part of a normal agricultural practice does not include the removal of topsoil for sale, exchange or other disposition. 2001, c. 25, s. 142 (7).

By-law ceases to have effect

(8) If a regulation is made under section 28 of the *Conservation Authorities Act* respecting the placing or dumping of fill, removal of topsoil or alteration of the grade of land in any area of the municipality, a by-law passed under this section is of no effect in respect of that area. 2001, c. 25, s. 142 (8).

143., 144. REPEALED: 2006, c. 32, Sched. A, s. 77.

Agreement re: enforcement by upper-tier

145. An upper-tier municipality may enter into an agreement with any of its lower-tier municipalities for the upper-tier municipality to designate one or more of its officers to enforce by-laws passed by the lower-tier municipality under section 142. 2001, c. 25, s. 145; 2006, c. 32, Sched. A, s. 78.

Agreement re: enforcement by lower-tier

146. A lower-tier municipality may enter into an agreement with its upper-tier municipality for the lower-tier municipality to designate one or more of its officers to enforce by-laws passed by the upper-tier municipality under section 142. 2001, c. 25, s. 146; 2006, c. 32, Sched. A, s. 79.

Energy conservation programs

147. (1) Without limiting sections 9, 10 and 11, a municipality may provide, arrange for or participate in an energy conservation program in the municipality to encourage the safe and efficient use and conservation of all forms of energy including, but not limited to,

- (a) the improvement of an energy system in a building;
 - (b) the substitution of one form of energy for another form of energy;
 - (c) the improvement of the capacity of a building to retain heat;
 - (d) the reduction of energy use through more efficient use of energy; and
 - (e) the shifting of electrical loads from times of high demand to times of low demand. 2001, c. 25, s. 147 (1); 2006, c. 32, Sched. A, s. 80 (1).
- (2) REPEALED: 2006, c. 32, Sched. A, s. 80 (2).

CLOSING OF RETAIL BUSINESS ESTABLISHMENTS

Hours of closing

148. (1) Without limiting sections 9, 10 and 11, a local municipality may require that retail business establishments be closed to the public at any time. 2006, c. 32, Sched. A, 81 (1).

Definitions

- (2) In this section,

“holiday” has the same meaning as in subsection 1 (1) of the *Retail Business Holidays Act*; (“jour férié”)

“retail business establishment” means the premises where goods or services are sold or offered for sale by retail. (“établissement de commerce de détail”) 2001, c. 25, s. 148 (2); 2006, c. 32, Sched. A, s. 81 (2).

Regional municipalities

(3) Without limiting sections 9, 10 and 11, if a regional municipality has passed a by-law under subsection 1.2 (1) of the *Retail Business Holidays Act* providing that that Act does not apply to the regional municipality, the regional municipality may require that retail business establishments be closed to the public on a holiday. 2006, c. 32, Sched. A, s. 81 (3).

Effect on by-law of local municipality

(3.1) If a regional municipality passes a by-law under subsection (3), a by-law passed by a local municipality under subsection (1) respecting the closing of a retail business establishment on a holiday is of no effect. 2006, c. 32, Sched. A, s. 81 (3).

Exemptions

- (4) A by-law passed under this section does not apply to the sale or offering for sale by retail of,
- (a) goods or services in the form of or in connection with prepared meals or living accommodation;
 - (b) liquor under the authority of a licence or permit issued under the *Liquor Licence Act*; and
 - (c) any other prescribed goods or services. 2001, c. 25, s. 148 (4); 2006, c. 32, Sched. A, s. 81 (4).

Regulations

(5) The Minister may make regulations prescribing goods and services for the purpose of clause (4) (c). 2006, c. 32, Sched. A, s. 81 (5).

ANNUAL FARM DUES

Annual dues

149. (1) A local municipality may authorize the annual dues of members of any farm organization approved by the Minister of Agriculture, Food and Rural Affairs to be entered on the tax roll and collected in the same manner as taxes. 2001, c. 25, s. 149 (1).

Notice

(2) If, before the tax roll is certified, the treasurer of the local municipality receives written notice from a member of a farm organization directing the annual dues of that member be collected in the same manner as taxes, the dues of the member shall be entered on the tax roll. 2001, c. 25, s. 149 (2).

Discontinuation

(3) A member who has given a notice under subsection (2) may by similar notice require the treasurer to discontinue the collection of dues. 2001, c. 25, s. 149 (3).

Due not a charge

(4) The dues do not form a lien upon land and are not subject to late payment charges. 2001, c. 25, s. 149 (4).

Payment

(5) The treasurer shall, upon request, pay dues collected to the treasurer of the appropriate farm organization. 2001, c. 25, s. 149 (5).

By-law continued

(6) A by-law under this section remains in force until amended or repealed and it is not necessary to pass the by-law annually. 2001, c. 25, s. 149 (6).

PART IV LICENCES

Definition

150. In this Part,

“business” means any business wholly or partly carried on within a municipality even if the business is being carried on from a location outside the municipality and includes,

- (a) trades and occupations,
- (b) exhibitions, concerts, festivals and other organized public amusements held for profit or otherwise,
- (c) the sale or hire of goods or services on an intermittent or one-time basis and the activities of a transient trader,
- (d) the display of samples, patterns or specimens of goods for the purpose of sale or hire. 2006, c. 32, Sched. A, s. 82.

Powers re licences

151. (1) Without limiting sections 9, 10 and 11, a municipality may provide for a system of licences with respect to a business and may,

- (a) prohibit the carrying on or engaging in the business without a licence;
- (b) refuse to grant a licence or to revoke or suspend a licence;
- (c) impose conditions as a requirement of obtaining, continuing to hold or renewing a licence;
- (d) impose special conditions on a business in a class that have not been imposed on all of the businesses in that class in order to obtain, continue to hold or renew a licence;
- (e) impose conditions, including special conditions, as a requirement of continuing to hold a licence at any time during the term of the licence;
- (f) license, regulate or govern real and personal property used for the business and the persons carrying it on or engaged in it; and
- (g) 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 any part of a system of licences established by the municipality. 2006, c. 32, Sched. A, s. 82.

Power to suspend a licence

(2) Without limiting sections 9, 10 and 11, for the purpose of clause (1) (b), if a municipality is satisfied that the continuation of a business poses an immediate danger to the health or safety of any person or to any property, the municipality may, for the time and on such conditions as it considers appropriate, without a hearing, suspend a licence subject to the following:

1. Before suspending the licence, the municipality shall provide the licensee with the reasons for the suspension, either orally or in writing, and an opportunity to respond to them.
2. The suspension shall not exceed 14 days. 2006, c. 32, Sched. A, s. 82.

Same

(3) Despite subsection (2) and without limiting sections 9, 10 and 11, for the purpose of clause (1) (b), the municipality may, on such conditions as it considers appropriate, without a hearing, suspend a licence authorizing a business to operate on a highway or other property of the municipality or its local boards for a period not exceeding 28 days for the following reasons:

1. The holding of a special event.
2. The construction, maintenance or repair of the property.
3. The installation, maintenance or repair of a public utility or service.
4. Pedestrian, vehicular or public safety or public health. 2006, c. 32, Sched. A, s. 82.

Exercise of power

(4) The exercise of a power under clause (1) (b), (d), (e) or (g) is in the discretion of the municipality, and the municipality shall exercise its discretion,

- (a) upon such grounds as are set out by by-law; or
- (b) in the case of a power under clause (1) (b), (d) or (e), upon the grounds that the conduct of any person, including the officers, directors, employees or agents of a corporation, affords reasonable cause to believe that the person will not carry on or engage in the business in accordance with the law or with honesty and integrity. 2006, c. 32, Sched. A, s. 82.

Application re system of licences

(5) Subsections (1) to (4) apply with necessary modifications to a system of licences with respect to any activity, matter or thing for which a by-law may be passed under sections 9, 10 and 11 as if it were a system of licences with respect to a business. 2006, c. 32, Sched. A, s. 82.

Proviso

(6) Nothing in this section authorizes an upper-tier or a lower-tier municipality to pass a business licensing by-law with respect to a business if the other municipality has exclusive authority to pass a business licensing by-law with respect to the business under paragraph 11 of subsection 11 (3). 2006, c. 32, Sched. A, s. 82.

Same

(7) Subsection (6) does not prevent a municipality from providing for a system of licences for a business under any other by-law, other than a business licensing by-law. 2006, c. 32, Sched. A, s. 82.

Restriction re systems of licences

152. (1) A municipality shall not pass a business licensing by-law providing for a system of licences which makes it illegal for a business listed below to carry on or engage in the business without a licence:

1. A manufacturing or an industrial business, except to the extent that it sells its products or raw material by retail.
2. The sale of goods by wholesale.
3. The generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources. 2006, c. 32, Sched. A, s. 82.

Same

(2) Nothing in subsection (1) prevents a municipality from providing for a system of licences for a business under any by-law, other than a business licensing by-law. 2006, c. 32, Sched. A, s. 82.

Limitation re location of business

153. (1) Despite sections 9, 10, 11 and 151, a municipality shall not, except as otherwise provided, refuse to grant a licence for a business under this Act by reason only of the location of the business. 2006, c. 32, Sched. A, s. 82.

Compliance with land use control by-law

(2) Despite subsection (1), a by-law providing for a system of licences for a business may require as a condition of obtaining, continuing to hold or renewing a licence that the business comply with land use control by-laws or requirements under the *Planning Act* or any other Act. 2006, c. 32, Sched. A, s. 82.

Continuation

(3) Despite subsection (2), a municipality shall not refuse to grant a licence by reason only of the location of the business if the business was being lawfully carried on at that location at the time the by-law requiring the licence came into force so long as it continues to be carried on at that location. 2006, c. 32, Sched. A, s. 82.

Restrictions re adult entertainment establishments

154. (1) Without limiting sections 9, 10 and 11, a local municipality, in a by-law under section 151 with respect to adult entertainment establishments, may,

- (a) despite section 153, define the area of the municipality in which adult entertainment establishments may or may not operate and limit the number of adult entertainment establishments in any defined area in which they are permitted; and
- (b) prohibit any person carrying on or engaged in an adult entertainment establishment business from permitting any person under the age of 18 years to enter or remain in the adult entertainment establishment or any part of it. 2006, c. 32, Sched. A, s. 82.

Premises

- (2) Any premises or any part of them is an adult entertainment establishment if, in the pursuance of a business,
- (a) goods, entertainment or services that are designed to appeal to erotic or sexual appetites or inclinations are provided in the premises or part of the premises; or
 - (b) body-rubs, including the kneading, manipulating, rubbing, massaging, touching or stimulating by any means of a person's body, are performed, offered or solicited in the premises or part of the premises, excluding premises or part of them where body-rubs performed, offered or solicited are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered to do so under a statute of Ontario. 2006, c. 32, Sched. A, s. 82.

Power of entry

(3) Despite subsection 436 (1), a local municipality may exercise its administrative power of entry under section 436 at any time of the day or night to enter an adult entertainment establishment. 2006, c. 32, Sched. A, s. 82.

Evidence rule

(4) For the purpose of a prosecution or proceeding under a by-law with respect to adult entertainment establishments, the holding out to the public that the entertainment or services described in subsection (2) are provided in the premises or any part of them is admissible in evidence as proof, in the absence of evidence to the contrary, that the premises or part of them is an adult entertainment establishment. 2006, c. 32, Sched. A, s. 82.

Licensing tow trucks, etc.

155. Without limiting sections 9, 10 and 11, a local municipality, in a by-law under section 151 with respect to owners and drivers of tow trucks and vehicles, other than motor vehicles, used for hire, may,

- (a) establish the rates or fares to be charged for the conveyance of property or passengers either wholly within the municipality or from any point in the municipality to any point outside the municipality; and
- (b) provide for the collection of the rates or fares charged for the conveyance. 2006, c. 32, Sched. A, s. 82.

Licensing taxicabs

156. (1) Without limiting sections 9, 10 and 11, a local municipality, in a by-law under section 151 with respect to the owners and drivers of taxicabs, may,

- (a) establish the rates or fares to be charged for the conveyance of property or passengers either wholly within the municipality or from any point in the municipality to any point outside the municipality;

- (b) provide for the collection of the rates or fares charged for the conveyance; and
- (c) limit the number of taxicabs or any class of them. 2006, c. 32, Sched. A, s. 82.

Restriction

(2) A business licensing by-law of a municipality with respect to the owners and drivers of taxicabs is void to the extent that it restricts, limits or prevents the owners and drivers of taxicabs from engaging in conveyances that meet both of the following criteria:

- 1. The purpose of the conveyance is to transport persons with physical, emotional or mental disabilities from any point in the municipality to any point outside the municipality.
- 2. The conveyance is made pursuant to a written contract for the use of a taxicab which can legally operate in the municipality in which the conveyance begins or ends. 2006, c. 32, Sched. A, s. 82.

Airports

(3) A business licensing by-law of a municipality with respect to the owners and drivers of taxicabs does not apply in respect of taxicabs conveying property or passengers from any point within the municipality to an airport situated outside the municipality if,

- (a) the airport is owned and operated by the Crown in right of Canada and the taxicab bears a valid and subsisting plate issued in respect of the airport under the Government Airport Concession Operations Regulations made under the *Department of Transport Act* (Canada); or
- (b) the airport is operated by a corporation or other body designated by the Governor in Council as a designated airport authority under the *Airport Transfer (Miscellaneous Matters) Act* (Canada) and the taxicab bears a valid and subsisting permit or licence issued by the designated airport authority. 2006, c. 32, Sched. A, s. 82.

Mississauga

(4) No business licensing by-law passed by the City of Mississauga with respect to the owners and drivers of taxicabs applies in respect of taxicabs, other than taxicabs licensed by the city, engaged in the conveyance of goods or passengers, if the conveyance commenced at the Lester B. Pearson International Airport. 2006, c. 32, Sched. A, s. 82.

Reciprocal licensing arrangement

157. (1) If a municipality and the police services board of the municipality agree to enforce a by-law providing for a system of licences with respect to a business on behalf of each other or on behalf of another municipality, another police services board or another body performing a public function prescribed by the Minister, the municipality or the police services board, as the case may be, may designate one or more persons as officers to enforce the licensing by-laws. 2006, c. 32, Sched. A, s. 82.

Delegation

(2) A municipality may delegate to another municipality, with the consent of the other municipality, the power to provide for a system of licences with respect to a business specified in the by-law and, for that purpose, sections 9, 10, 11 and 150 to 165 apply with necessary modifications to the other municipality. 2006, c. 32, Sched. A, s. 82.

Regulations

(3) For the purpose of this section, the Minister may prescribe the bodies performing a public function and may impose conditions and limitations on the powers of the municipality to enter into agreements with those bodies. 2006, c. 32, Sched. A, s. 82.

Regulations

158. (1) The Minister may make regulations,

- (a) exempting any business or class of business from all or any part of a by-law providing for a system of licences under any Act, including self-regulated businesses;
- (b) imposing conditions and limitations on the powers of a municipality under this Act to provide for a system of licences with respect to a business;
- (c) prohibiting municipalities from imposing on any business, in respect of which a provincial certificate has been issued, a condition on a licence requiring testing on the subject-matter of the certification. 2006, c. 32, Sched. A, s. 82.

Scope

(2) A regulation under this section may,

- (a) be retroactive for a period not exceeding one year;
- (b) require a municipality to return licence fees collected during that period; and
- (c) require a municipality to use the licence fees in the prescribed manner. 2006, c. 32, Sched. A, s. 82.

Conflicts

159. If there is a conflict between a provision in this Act and a provision of any other Act authorizing a municipality to license a business, the provision that is less restrictive of a municipality's power prevails. 2006, c. 32, Sched. A, s. 82.

Other by-laws

160. Sections 9, 10, 11 and 150 to 159 apply, with necessary modifications, to municipalities in the exercise of a power to pass by-laws licensing businesses under any section of this Act or any other Act. 2006, c. 32, Sched. A, s. 82.

Regional Municipality of Waterloo

161. A lower-tier municipality in The Regional Municipality of Waterloo may by resolution require the upper-tier municipality to investigate an alleged contravention of a business licensing by-law of the upper-tier municipality and to report to the lower-tier municipality. 2006, c. 32, Sched. A, s. 82.

Regional Municipality of York

162. (1) A business licensing by-law of The Regional Municipality of York with respect to a lodging house, as defined in section 11.1, has no force in a lower-tier municipality in which a business licensing by-law passed by the lower-tier municipality is in force in respect of the same lodging house. 2006, c. 32, Sched. A, s. 82.

Same

(2) A lower-tier municipality in The Regional Municipality of York may by resolution require the upper-tier municipality to investigate an alleged contravention of a business licensing by-law of the upper-tier municipality and to report to the lower-tier municipality. 2006, c. 32, Sched. A, s. 82.

Restrictions re group homes

163. (1) A municipality shall not pass a business licensing by-law for group homes unless there is in effect in the municipality a by-law passed under section 34 of the *Planning Act* that permits the establishment and use of group homes in the municipality. 2006, c. 32, Sched. A, s. 82.

Same

(2) A business licensing by-law for group homes may prohibit a person from carrying on the business of a group home without a licence and may provide for the following conditions, but shall not provide for any additional conditions concerning the operation of the group home:

1. The by-law may require the payment of licence fees.
2. The by-law may require a licensee or an applicant for a licence to give the municipality such information as the municipality considers appropriate concerning the business name, ownership and method of contacting the licensee or applicant. 2006, c. 32, Sched. A, s. 82.

Definition

(3) In this section,

“group home” means a residence licensed or funded under a federal or provincial statute for the accommodation of three to 10 persons, exclusive of staff, living under supervision in a single housekeeping unit and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being. 2006, c. 32, Sched. A, s. 82.

Trailers

164. (1) Without limiting sections 9, 10 and 11, a local municipality may prohibit or licence trailers located in the municipality. 2006, c. 32, Sched. A, s. 82.

Restriction

(2) If a municipality licenses trailers in the municipality, no licence fee shall be charged in respect of a trailer assessed under the *Assessment Act*. 2006, c. 32, Sched. A, s. 82.

Restriction, trailer camps

(3) If a municipality licenses trailer camps under a business licensing by-law and imposes a licence fee for each lot in the trailer camp to be occupied by one trailer, no licence fee shall be charged in respect of a lot that is to be made available only for a trailer that is assessed under the *Assessment Act*. 2006, c. 32, Sched. A, s. 82.

Definitions

(4) In this section,

“trailer” means any vehicle constructed to be attached and propelled by a motor vehicle and that is capable of being used by persons for living, sleeping or eating, even if the vehicle is jacked-up or its running gear is removed; (“roulotte”)

“trailer camp” means any land on which a trailer is kept. (“parc à roulottes”) 2006, c. 32, Sched. A, s. 82.

Motor vehicle racing

165. Without limiting sections 9, 10 and 11, a local municipality may prohibit or license, regulate and govern the racing of motor vehicles and the holding of motor vehicle races. 2006, c. 32, Sched. A, s. 82.

166.-170. REPEALED: 2006, c. 32, Sched. A, s. 82.

PART V MUNICIPAL REORGANIZATION MUNICIPAL RESTRUCTURING

Purposes

171. (1) The purposes of sections 172 to 179 are,

- (a) to provide for a process which allows municipal restructuring to proceed in a timely and efficient manner;
- (b) to facilitate municipal restructuring over large geographic areas; and
- (c) to facilitate municipal restructuring of a significant nature which may include elimination of a level of municipal government, transfer of municipal powers and responsibilities and changes to municipal representation systems. 2001, c. 25, s. 171 (1).

Interpretation

(2) In sections 172 to 179, a reference to a municipality does not include the cities of Toronto, Hamilton, Ottawa and Greater Sudbury, Haldimand County or Norfolk County or a regional municipality or its lower-tier municipalities except with respect to minor restructuring proposals described in subsection 173 (16). 2001, c. 25, s. 171 (2).

Definitions

172. In sections 171 to 186,

“local body” means, in respect of unorganized territory, a local body as described in the regulations; (“organisme local”)

“resident” means a person who is a permanent resident or a temporary resident having a permanent dwelling within a geographic area and who is a Canadian citizen and is at least 18 years of age; (“résident”)

“restructuring” means,

- (a) annexing part of a municipality to another municipality,
- (b) annexing a geographic area that does not form part of a municipality to a municipality,
- (c) amalgamating a municipality with another municipality,
- (d) separating a local municipality from an upper-tier municipality for municipal purposes,
- (e) joining a local municipality to an upper-tier municipality for municipal purposes,
- (f) dissolving all or part of a municipality, and
- (g) incorporating the inhabitants of a geographic area as a municipality. (“restructuration”) 2001, c. 25, s. 172.

Proposal to restructure

173. (1) A municipality or local body in a geographic area may, subject to subsection (2), make a restructuring proposal to restructure municipalities and unorganized territory in the geographic area by submitting to the Minister a restructuring report containing,

- (a) a description of the restructuring proposal in a form and in such detail as the Minister may require; and
- (b) proof in a form satisfactory to the Minister that,
 - (i) the restructuring proposal has the prescribed degree of support of the prescribed municipalities and local bodies in the geographic area,
 - (ii) the support was determined in the prescribed manner,
 - (iii) the municipalities and local bodies which support the restructuring proposal meet the prescribed criteria, and
 - (iv) the municipality or local body consulted the public in the required manner. 2001, c. 25, s. 173 (1).

Limitation

(2) A restructuring proposal shall not provide for a type of restructuring other than a prescribed type of restructuring. 2001, c. 25, s. 173 (2).

Consultation

(3) Before the council of a municipality votes on whether to support or oppose a restructuring proposal, the council shall or may, as applicable, do the following things when the proposal is being developed or after it is developed:

1. Council shall consult with the public by giving notice of, and by holding, at least one public meeting.
2. Council shall consult with such persons or bodies as the Minister may prescribe.
3. Council may consult with such other persons and bodies as the municipality considers appropriate. 2001, c. 25, s. 173 (3).

Implementation

(4) The Minister may, by order, implement a restructuring proposal in accordance with the regulations made under subsection (17) if,

- (a) the restructuring proposal and report under subsection (1) meet the requirements of this section; and
- (b) in the opinion of the Minister, the proposal and report comply with the restructuring principles and standards established under section 179. 2001, c. 25, s. 173 (4).

Amendment of restructuring proposal

(5) After the following requirements are met and despite subsection (4), the Minister may allow a restructuring proposal submitted under subsection (1) or under subsection 149 (1) of the *City of Toronto Act, 2006* to be amended and, if an order implementing the proposal has already been made, the Minister may make another order to implement the amended restructuring proposal:

1. An amended restructuring report setting out the amended restructuring proposal must be submitted to the Minister by one of the municipalities or local bodies entitled to make the original restructuring proposal, other than the City of Toronto.
2. The amended restructuring proposal must have the prescribed degree of support of the prescribed municipalities and local bodies in the geographic area whose support was required for the original restructuring proposal.
3. The amended restructuring proposal must have the prescribed degree of support of the prescribed municipalities and local bodies in the geographic area whose support would be required if the amended proposal were an original restructuring proposal.
4. The provisions of any order implementing the original restructuring proposal which are to be amended are not in force. 2006, c. 32, Sched. A, s. 83 (1).

Same

(6) An amended restructuring proposal and report submitted to the Minister under subsection (5) shall be deemed to have been submitted to the Minister under subsection (1) for the purposes of this section. 2001, c. 25, s. 173 (6).

Same

(7) If the Minister makes an order under subsection (4) or under subsection 149 (4) of the *City of Toronto Act, 2006* and then makes another order under subsection (5) implementing an amended restructuring proposal, the second order is deemed to have been made under subsection (4) or under subsection 149 (4) of the *City of Toronto Act, 2006*, as the case may be, for the purposes of this section. 2006, c. 32, Sched. A, s. 83 (2).

Limitation

(8) The Minister shall not make an order under subsection (4) to implement the restructuring proposal in a geographic area if any part of the geographic area is in a geographic area for which a commission has been established under section 174. 2001, c. 25, s. 173 (8).

Same, restructuring principles and standards

(9) If the Minister is not satisfied that the restructuring proposal and report meet the requirements of this section and comply with the restructuring principles and standards established under section 179, the Minister shall not make an order implementing the proposal and he or she may refer the proposal and report back to the municipality or local body that submitted them for reconsideration. 2001, c. 25, s. 173 (9).

Effect of order

(10) A restructuring proposal and report shall be deemed to comply with the restructuring principles and standards established under section 179 once an order implementing the proposal is made under subsection (4). 2001, c. 25, s. 173 (10).

Filing

(11) The Minister shall,

(a) publish an order under subsection (4) in *The Ontario Gazette*; and

(b) file a copy of an order under subsection (4) with each municipality to which the order applies. 2001, c. 25, s. 173 (11).

Inspection

(12) Each municipality described in clause (11) (b) shall make the order available for public inspection. 2001, c. 25, s. 173 (12).

Not regulation

(13) An order of the Minister under subsection (4) is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2001, c. 25, s. 173 (13); 2006, c. 21, Sched. F, s. 136 (1).

Regulations

(14) The Minister may make regulations,

(a) in respect of unorganized territory, providing that any body or class of persons is a local body for the purposes of this section;

(b) for the purpose of subsection (1),

(i) establishing types of restructuring,

(ii) providing which municipalities and local bodies may support a restructuring proposal with respect to each type of restructuring,

(iii) providing for the degree of support required to support a restructuring proposal with respect to each type of restructuring,

(iv) providing for the manner of determining the support, and

(v) providing for criteria which must be met by the municipalities and local bodies supporting a restructuring proposal;

(c) providing that a municipality in a geographic area for which a restructuring proposal has been submitted under subsection (1),

(i) shall not exercise a specified power under any Act,

(ii) shall exercise, in the specified manner, a specified power under any Act,

(iii) shall obtain the approval of a person or body specified in the regulation before exercising any of its powers under any Act;

(d) for the purpose of paragraph 2 of subsection (3), prescribing the persons or bodies to be consulted. 2001, c. 25, s. 173 (14).

Differing support requirement

(15) A regulation under subsection (14) may provide for different support requirements for restructuring proposals which are minor and restructuring proposals which are not minor. 2001, c. 25, s. 173 (15).

Minor restructuring proposal

- (16) A restructuring proposal is minor if,
- (a) the proposal provides for one or more annexations of part of a local municipality to another local municipality and makes any changes to the boundaries of upper-tier municipalities necessary to reflect the annexations;
 - (b) the proposal does not provide for any type of restructuring other than described in clause (a); and
 - (c) the Minister, after reviewing the proposal, is of the opinion that it is of a minor nature. 2001, c. 25, s. 173 (16).

Regulations

(17) Despite any Act, the Lieutenant Governor in Council may make regulations setting out the powers that may be exercised by the Minister or a commission established under section 174 in implementing a restructuring proposal. 2001, c. 25, s. 173 (17).

Commission

174. (1) At the request of one of the following, the Minister may establish a commission on or before December 31, 2002 or such later date as the Lieutenant Governor in Council may prescribe, either before or after the December 31, 2002 deadline has passed, to develop a proposal for restructuring municipalities and unorganized territory in a geographic area or in such greater or lesser area as the Minister may prescribe:

1. A municipality in a geographic area.
2. At least 75 residents of the unorganized territory in the geographic area. 2001, c. 25, s. 174 (1).

Restructuring proposal

(2) The commission shall develop a restructuring proposal for the prescribed geographic area or for such part of it as the commission considers advisable. 2001, c. 25, s. 174 (2).

Limitation

(3) A restructuring proposal shall not provide for a type of restructuring other than a prescribed type of restructuring. 2001, c. 25, s. 174 (3).

Consultation

(4) When developing a restructuring proposal, the commission shall consult with each municipality in the prescribed geographic area and with such persons or bodies as the Minister may prescribe and may consult with such other bodies and persons as the commission considers appropriate. 2001, c. 25, s. 174 (4).

Draft proposal

(5) The commission shall prepare a draft of the restructuring proposal and shall give a copy of the draft to each municipality and make it available for inspection by members of the public in the prescribed geographic area. 2001, c. 25, s. 174 (5).

Public meeting

(6) The commission shall hold at least one public meeting at which any person who attends is given an opportunity to make representations about the draft. 2001, c. 25, s. 174 (6).

Written submissions

(7) The commission shall invite written submissions about the draft and shall establish a deadline for receiving them. 2001, c. 25, s. 174 (7).

Inspection

(8) The commission shall make the submissions available for inspection by each municipality and by members of the public in the prescribed geographic area. 2001, c. 25, s. 174 (8).

Notice

(9) The commission shall notify each municipality in the prescribed geographic area of its opportunity to make representations and shall advise them where they can inspect written submissions received by the commission. 2001, c. 25, s. 174 (9).

Notice to the public

- (10) The commission shall give notice to the public in the prescribed geographic area advising them of the opportunity,
- (a) to inspect the draft;
 - (b) to make representations at the public meeting and to give written submissions by the deadline; and
 - (c) to inspect the written submissions received by the commission. 2001, c. 25, s. 174 (10).

Final proposal

(11) After considering the representations and submissions about the draft, the commission shall finalize the restructuring proposal and shall give a copy of it to each municipality in the prescribed geographic area and make it available for inspection by members of the public in the prescribed geographic area. 2001, c. 25, s. 174 (11).

Notice

(12) The commission shall give notice to the public in the prescribed geographic area advising them of the opportunity to inspect the restructuring proposal. 2001, c. 25, s. 174 (12).

Method of giving public notice

(13) The commission shall give notice to the public under this section in a form and manner and at the times that the commission considers adequate to give the public in the prescribed geographic area reasonable notice. 2001, c. 25, s. 174 (13).

Commission orders

175. (1) The commission may make orders to implement a restructuring proposal if the requirements in section 174 have been met and if, in the opinion of the commission, the proposal complies with the restructuring principles and standards established under section 179. 2001, c. 25, s. 175 (1).

Same

(2) For the purposes of implementing a restructuring proposal, the commission has the powers under a regulation made under subsection 173 (17). 2001, c. 25, s. 175 (2).

Effect of order

(3) A restructuring proposal shall be deemed to comply with the restructuring principles and standards established under section 179 once an order implementing the proposal is made under subsection (1). 2001, c. 25, s. 175 (3).

Restriction

(4) The commission shall not finalize the restructuring proposal or make orders to implement it until at least 30 days after the later of,

- (a) the day on which the final public meeting about the draft is held; and
- (b) the deadline for receiving written submissions about the draft. 2001, c. 25, s. 175 (4).

Publication and filing

(5) The commission shall publish an order in *The Ontario Gazette* and shall file a copy of the order with each municipality to which the order applies. 2001, c. 25, s. 175 (5).

Inspection

(6) Each municipality described in subsection (5) shall make the order available for public inspection. 2001, c. 25, s. 175 (6).

Not regulation

(7) An order of the commission is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2001, c. 25, s. 175 (7); 2006, c. 21, Sched. F, s. 136 (1).

Regulations

- 176.** The Minister may, for the purposes of sections 174 and 175, make regulations,
- (a) establishing a commission;
 - (b) providing for the composition of the commission, which may be composed of one person;
 - (c) describing the geographic area for which the commission shall develop a restructuring proposal;

- (d) in respect of unorganized territory, providing that any body or class of persons is a local body;
- (e) establishing types of restructuring;
- (f) authorizing the commission to determine its costs and to apportion the costs among the municipalities and local bodies in the geographic area for which the commission was established;
- (g) providing that a municipality in a geographic area for which a commission has been established to develop a restructuring proposal under subsection 174 (1),
 - (i) shall not exercise a specified power under any Act,
 - (ii) shall exercise, in the specified manner, a specified power under any Act,
 - (iii) shall obtain the approval of a person or body specified in the regulation before exercising any of its powers under any Act;
- (h) for the purpose of subsection 174 (4), prescribing the persons or bodies to be consulted. 2001, c. 25, s. 176.

Procedures

177. (1) The Minister may require that a commission follow such procedures as the Minister may provide, in addition to the procedures set out in this Part. 2001, c. 25, s. 177.

Legislation Act, 2006

(2) Part III (Regulations) of the *Legislation Act, 2006* does not apply to procedures established by the Minister under subsection (1). 2006, c. 21, Sched. F, s. 120 (2).

Debt

178. Costs which the commission apportions to a municipality or local body are a debt of the municipality or local body to the Crown. 2001, c. 25, s. 178.

Principles and standards to be considered

179. The Minister may, by regulation, establish restructuring principles and standards,

- (a) that relate to restructuring proposals under section 173 or 174; and
- (b) that shall be considered by the Ontario Municipal Board when making a decision under section 180, 181 or 182. 2001, c. 25, s. 179.

Incorporation in unorganized territory

180. (1) The Minister, with the approval of the Lieutenant Governor in Council, may apply to the Ontario Municipal Board to incorporate the inhabitants of a geographic area in unorganized territory as a single-tier municipality. 2001, c. 25, s. 180 (1).

Boundaries

(2) The Board may incorporate the geographic area or incorporate a geographic area which is larger or smaller than the geographic area for which the application is made. 2001, c. 25, s. 180 (2).

Overlap

(3) If the geographic area incorporated as a single-tier municipality includes areas in more than one territorial district as set out in the regulations under the *Territorial Division Act, 2002*, the municipality shall form part of the territorial district specified by the Board. 2001, c. 25, s. 180 (3); 2009, c. 33, Sched. 21, s. 6 (3).

Annexation

181. (1) The Ontario Municipal Board may annex a geographic area in unorganized territory to a local municipality upon the application of,

- (a) the local municipality;
- (b) the Minister with the approval of the Lieutenant Governor in Council; or
- (c) at least 25 residents of the geographic area for which the application is made. 2001, c. 25, s. 181 (1).

Boundaries

(2) The Board may annex a geographic area that is larger or smaller than the geographic area for which the application is made. 2001, c. 25, s. 181 (2).

Dissolution

182. (1) The Minister, with the approval of the Lieutenant Governor in Council, may apply to a single-tier municipality or the Ontario Municipal Board to dissolve all or part of the single-tier municipality in a territorial district as set out in the regulations under the *Territorial Division Act, 2002*. 2001, c. 25, s. 182 (1); 2009, c. 33, Sched. 21, s. 6 (4).

Powers of Board

- (2) Upon an application under subsection (1), the Ontario Municipal Board may,
- (a) dissolve all or part of the single-tier municipality;
 - (b) annex all or part of the single-tier municipality to another municipality; or
 - (c) do any combination of (a) and (b). 2001, c. 25, s. 182 (2).

Dissolution

(3) The Board may dissolve or annex a geographic area that is larger or smaller or different than the geographic area for which the application is made. 2001, c. 25, s. 182 (3).

Public hearing

183. (1) The Ontario Municipal Board shall hold a public hearing before making an order under section 180, 181 or 182. 2001, c. 25, s. 183 (1).

Powers

(2) In making an order under section 180, 181 or 182, the Board has the same powers as the Minister has in a regulation made under subsection 173 (17) and that regulation applies with necessary modifications to the power being exercised. 2001, c. 25, s. 183 (2).

Annexation

(3) If the Board annexes an area to a local municipality under section 180, 181 or 182, the area forms part of the upper-tier municipality, if any, or territorial district as set out in the regulations under the *Territorial Division Act, 2002* in which the local municipality is located. 2001, c. 25, s. 183 (3); 2009, c. 33, Sched. 21, s. 6 (5).

(4) REPEALED: 2009, c. 33, Sched. 2, s. 47 (1).

Deferred proceedings

(5) The Minister may notify the Board in writing that in his or her opinion an application to the Board under section 180, 181 or 182 should be deferred and upon so doing all proceedings in the application are stayed until the Minister notifies the Board in writing that they may be continued. 2001, c. 25, s. 183 (5).

Conflicts with official plan

184. A by-law of a municipality approving a restructuring proposal under section 173, requesting the establishment of a commission under section 174 or authorizing an application to the Ontario Municipal Board under section 180, 181 or 182 is not invalid on the ground that it conflicts with an official plan. 2001, c. 25, s. 184.

Transition

185. If, as a result of a restructuring under this Part, all or part of an existing municipality forms part of a new municipality, the council of the existing municipality shall, within that part, continue to have the same powers as it had before the restructuring until the council of the new municipality is organized. 2001, c. 25, s. 185.

Order prevails

186. (1) An order of the Minister under section 173, a commission under section 175 or the Ontario Municipal Board under section 180, 181 or 182,

- (a) is conclusive evidence that all conditions precedent to the making of the order have been complied with and that the municipalities have been restructured in accordance with this Act; and
- (b) prevails over any Act or regulation with which it conflicts except,
 - (i) this section and regulations made under this section,
 - (ii) sections 171 to 185, and
 - (iii) regulations made under sections 171 to 185. 2001, c. 25, s. 186 (1); 2006, c. 32, Sched. A, s. 84 (1).

Exception

(2) Despite clause (1) (b), a municipality may exercise its powers with respect to any of the following matters before or after an order of the Minister under section 173 or an order of a commission under section 175 comes into force, unless the order precludes it expressly or by necessary implication:

1. Changing the name of the municipality.
2. Transferring powers between upper-tier and lower-tier municipalities.
3. Dissolving or changing local boards.
4. Changing the composition of council.
5. Establishing, changing or dissolving wards.
6. Any other matter dealt with by a provision of an Act that provides, expressly or by necessary implication, that the provision or the exercise of power under the provision by a municipality prevails over an order of the Minister under section 173, a commission under section 175 or the Ontario Municipal Board under section 180, 181 or 182. 2006, c. 32, Sched. A, s. 84 (2).

Exception

(3) Despite clause (1) (b), an order described in subsection (1) does not affect any exemption or partial exemption from taxes or rates or any authority to provide for those exemptions in any Act. 2001, c. 25, s. 186 (3).

Taxes

(4) If, as a result of an order described in subsection (1), an area of a municipality is subject to taxes or rates which do not apply generally across the municipality, section 21 of the *Assessment Act* applies with respect to those taxes or rates as if the area were the whole municipality. 2001, c. 25, s. 186 (4).

Revocation of restructuring orders

186.1 (1) Every order described in subsection (2) whose effective date is earlier than January 2, 2005 and that remains in force on the day before the day on which the *Good Government Act, 2009* receives Royal Assent is revoked. 2009, c. 33, Sched. 21, s. 6 (6).

Same

(2) Subsection (1) applies to,

- (a) orders of the Minister made under subsection 173 (4) or (5) or under a predecessor of one of those subsections; and
- (b) orders of a commission made under subsection 175 (1) or a predecessor of that subsection. 2009, c. 33, Sched. 21, s. 6 (6).

Exception, provisions with continuing effect

(3) Despite subsection (1), if a provision of an order that is revoked by that subsection still has effect on the day before the day on which the *Good Government Act, 2009* receives Royal Assent, the provision is not revoked and continues to apply. 2009, c. 33, Sched. 21, s. 6 (6).

Application of *Legislation Act, 2006*, ss. 51, 53, 56 and 57

(4) When an order is revoked by subsection (1), sections 51, 53, 56 and 57 of the *Legislation Act, 2006* apply as if the order were a revoked regulation. 2009, c. 33, Sched. 21, s. 6 (6).

CHANGE OF NAME

Change of name

187. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to change its name so long as the new name is not the same as the name of another municipality. 2006, c. 32, Sched. A, s. 85.

Conflict

(2) In the event of a conflict between a by-law described in subsection (1) and any provision of this or any other Act or any regulation made under any other Act, the by-law prevails. 2006, c. 32, Sched. A, s. 85.

Notification

(3) A municipality that passes a by-law changing its name shall send a copy of the by-law to the Director of Titles appointed under the *Land Titles Act* and to the Minister promptly after its passage. 2001, c. 25, s. 187 (3).

Status unchanged

(4) A by-law changing the name of a municipality does not affect the status of a municipality as an upper-tier municipality, a lower-tier municipality or a single-tier municipality, as the case may be. 2001, c. 25, s. 187 (4).

Rights, obligations not affected

(5) A change in the name of a municipality does not affect its rights or obligations. 2001, c. 25, s. 187 (5).

TRANSFER OF POWERS BETWEEN TIERS**Interpretation**

188. (1) In sections 189 to 193,

“elector” means a person whose name appears on the voters’ list, as amended up until the close of voting on voting day, for the last regular election preceding the coming into force of a by-law under section 189 or 191; (“électeur”)

“lower-tier power” means a power a lower-tier municipality or its local boards may exercise under any Act, including any limitations on the power, with respect to the following matters:

1. Waste management.
2. Fire protection and prevention.
3. Public transportation systems, other than highways.
4. Business licensing.
5. Economic development services.
6. Collection, transmission, treatment and disposal of sewage.
7. Production, distribution and supply of water.
8. Policing in accordance with the *Police Services Act*.
9. Any other matter prescribed by the Minister; (“pouvoir de palier inférieur”)

“upper-tier power” means a power an upper-tier municipality or its local boards may exercise under any Act, including any limitations on the power, with respect to the following matters:

1. Waste collection.
2. Fire protection and prevention.
3. Public transportation systems, other than highways.
4. Business licensing.
5. Economic development services.
6. Any other matter prescribed by the Minister. (“pouvoir de palier supérieur”) 2001, c. 25, s. 188 (1); 2002, c. 17, Sched. A, s. 38.

Conflict

(2) In the event of a conflict between a by-law under clause 189 (1) (a) or 191 (1) (a) and a provision of any Act or regulation, the by-law prevails. 2001, c. 25, s. 188 (2).

Conflict

(3) In the event of a conflict between a regulation under section 193 and a provision of any Act or regulation, the regulation under section 193 prevails. 2001, c. 25, s. 188 (3).

Transfer of power to upper-tier

189. (1) An upper-tier municipality may pass a by-law to provide for,

- (a) the transfer of all or part of a lower-tier power to the upper-tier municipality from one or more of its lower-tier municipalities which are specified in the by-law; and
- (b) transitional matters to facilitate the assumption of the lower-tier power. 2001, c. 25, s. 189 (1).

Conditions

- (2) A by-law under subsection (1) shall not come into force unless,
- (a) a majority of all votes on the council of the upper-tier municipality are cast in its favour;
 - (b) a majority of the councils of all the lower-tier municipalities forming part of the upper-tier municipality for municipal purposes have passed resolutions giving their consent to the by-law; and
 - (c) the total number of electors in the lower-tier municipalities that have passed resolutions under clause (b) form a majority of all the electors in the upper-tier municipality. 2001, c. 25, s. 189 (2).

No repeal

(3) A provision of a by-law passed under clause (1) (a) shall not be repealed in whole or in part after it comes into force. 2001, c. 25, s. 189 (3).

Exception

(4) Despite subsection (3), if a by-law of an upper-tier municipality passed under subsection (1) is in force, the by-law shall be deemed to be repealed to the extent it conflicts with a by-law of a lower-tier municipality passed under section 191 which comes into force at a later date. 2001, c. 25, s. 189 (4).

Effect of by-law

190. (1) When a by-law passed under section 189 comes into force,

- (a) the upper-tier municipality may exercise the transferred lower-tier power of the lower-tier municipalities specified in the by-law;
- (b) a lower-tier municipality specified in the by-law and its local boards are bound by the by-law and no longer have the power to exercise the transferred lower-tier power;
- (c) an existing by-law or resolution of a lower-tier municipality and its local boards that relate to the transferred lower-tier power shall, to the extent it applies in any part of the lower-tier municipality, be deemed to be a by-law or resolution of the upper-tier municipality; and
- (d) the existing by-law or resolution referred to in clause (c) shall remain in force in that part of the lower-tier municipality until the earlier of two years after the transfer by-law comes into force and the day the existing by-law or resolution is repealed by the upper-tier municipality. 2001, c. 25, s. 190 (1).

Continuation of matters

(2) When a lower-tier power is transferred to an upper-tier municipality under section 189, the upper-tier municipality may continue anything that the lower-tier municipality began under the transferred lower-tier power before the transfer but did not complete. 2001, c. 25, s. 190 (2).

Transfer of power to lower-tier

191. (1) A lower-tier municipality may pass a by-law to provide for,

- (a) the transfer of all or part of an upper-tier power from its upper-tier municipality to one or more of the lower-tier municipalities forming part of the upper-tier municipality for municipal purposes which are specified in the by-law; and
- (b) transitional matters to facilitate the assumption of the upper-tier power. 2001, c. 25, s. 191 (1).

Coming into force

(2) A by-law under subsection (1) shall not come into force unless,

- (a) at least half of all the lower-tier municipalities forming part of the upper-tier municipality for municipal purposes, excluding the lower-tier municipality which passed the by-law, have passed resolutions giving their consent to the by-law;
- (b) the total number of electors in the lower-tier municipalities which have passed resolutions under clause (a) and in the lower-tier municipality which passed the by-law form a majority of all the electors in the upper-tier municipality; and
- (c) the council of the upper-tier municipality has passed a resolution giving its consent to the assumption of the power and a majority of all the votes on the council were cast in favour of the resolution. 2001, c. 25, s. 191 (2).

No repeal

(3) A provision of a by-law passed under clause (1) (a) shall not be repealed in whole or in part after it comes into force. 2001, c. 25, s. 191 (3).

Exception

(4) Despite subsection (3), if a by-law of a lower-tier municipality passed under subsection (1) is in force, the by-law shall be deemed to be repealed to the extent it conflicts with a by-law of an upper-tier municipality passed under section 189 which comes into force at a later date. 2001, c. 25, s. 191 (4).

Effect of by-law

192. (1) When a by-law under section 191 comes into force,

- (a) each lower-tier municipality specified in the by-law is bound by the by-law and may exercise the transferred upper-tier power but may do so only for its own purposes;
- (b) the upper-tier municipality and its local boards are bound by the by-law and no longer have the power to exercise the transferred upper-tier power in those lower-tier municipalities;
- (c) an existing by-law or resolution of an upper-tier municipality and its local boards that relates to the transferred upper-tier power shall, to the extent it applies in any part of a lower-tier municipality specified in the transfer by-law, be deemed to be a by-law or resolution of the lower-tier municipality; and
- (d) the existing by-law or resolution referred to in clause (c) shall remain in force in that part of the lower-tier municipality until the earlier of two years after the transfer by-law comes into force and the day the existing by-law or resolution is repealed by the lower-tier municipality. 2001, c. 25, s. 192 (1).

Continuation of matters

(2) When an upper-tier power is transferred to a lower-tier municipality under section 191, the lower-tier municipality may continue anything that the upper-tier municipality began under the transferred upper-tier power before the transfer but did not complete to the extent the thing applies to the lower-tier municipality. 2001, c. 25, s. 192 (2).

Regulations

193. The Minister may make regulations,

- (a) prescribing matters which fall within the definition of lower-tier power or upper-tier power in section 188;
- (b) providing for the continuation, cessation or amendment of by-laws and resolutions;
- (c) imposing conditions and limitations on powers of an upper-tier municipality and lower-tier municipalities under sections 189 and 191;
- (d) imposing conditions and limitations on lower-tier powers and upper-tier powers transferred under sections 189 and 191;
- (e) providing that any body performing a public function is a local board for the purpose of sections 188 to 192 and this section;
- (f) providing for any matter that, in the opinion of the Minister, is necessary or desirable to allow a municipality to which a power has been transferred under section 189 or 191 to exercise the power;
- (g) providing for any matter that, in the opinion of the Minister, is necessary or desirable to allow a municipality from which a power has been transferred under section 189 or 191 to exercise its remaining powers;
- (h) providing for any transitional matter related to the transfer of a power under sections 189 and 191. 2001, c. 25, s. 193.

MUNICIPAL SERVICE BOARDS

Definitions

194. (1) In this section and in sections 195 to 202,

“municipality” means, in relation to a municipal service board, the municipality of which the board is a local board; (“municipalité”)

“public utility” includes, in relation to a municipality, any system of the municipality, the control and management of which has been given under any Act to a public utilities commission continued by section 195. (“service public”) 2001, c. 25, s. 194 (1); 2006, c. 32, Sched. A, s. 86 (1, 2).

(2) REPEALED: 2006, c. 32, Sched. A, s. 86 (3).

Municipal service boards

195. A public utility commission established or deemed to have been established under the *Public Utilities Act*, a parking authority established under paragraph 57 of section 207 of the old Act and a board of park management established under the *Public Parks Act*, which exist on December 31, 2002, are deemed to be municipal service boards established under this Act and continue with the same name, composition and service area and have the same powers and the same control and management of the same services as they had on that day. 2006, c. 32, Sched. A, s. 87.

Power to establish municipal service boards

196. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to establish a municipal service board and to provide for the following matters:

1. The name, composition, quorum and budgetary process of the board.
2. The eligibility of persons to hold office as board members.
3. The manner of selecting board members, the resignation of members, the determination of when a member's seat becomes vacant and the filling of vacancies.
4. The term of office and remuneration of board members.
5. The number of votes of the board members.
6. The requirement that the board follow rules, procedures and policies established by the municipality.
7. The relationship between the municipality and the board, including their financial and reporting relationship. 2006, c. 32, Sched. A, s. 87.

Restriction

- (2) A municipal service board must be composed of at least two members. 2006, c. 32, Sched. A, s. 87.

Same, election of members

(3) A municipality cannot require any member of a municipal service board to be elected to that office under the *Municipal Elections Act, 1996*. 2006, c. 32, Sched. A, s. 87.

Same, term of office

(4) The term of office of a member of a municipal service board cannot exceed four years but members may be eligible for appointment for more than one term. 2006, c. 32, Sched. A, s. 87.

Same

(5) Despite subsection (4), the term of office of a member continues until his or her successor becomes a member of the board. 2006, c. 32, Sched. A, s. 87.

Same

(6) Except as otherwise provided by subsections (2) to (4), the following provisions apply with necessary modifications to a municipal service board and its members as if they were council and members of council: section 242, clauses 259 (1) (c) to (h) and sections 260, 264 and 265. 2006, c. 32, Sched. A, s. 87.

Status of municipal service boards

197. (1) A municipal service board is a body corporate unless the municipality provides otherwise when establishing the board. 2006, c. 32, Sched. A, s. 87.

Agency

- (2) A municipal service board is an agent of the municipality. 2006, c. 32, Sched. A, s. 87.

Local board

- (3) A municipal service board is a local board of the municipality for all purposes. 2006, c. 32, Sched. A, s. 87.

Non-application of *Corporations Act*, etc.

(4) The *Corporations Act* and the *Corporations Information Act* do not apply to a municipal service board that is a body corporate. 2006, c. 32, Sched. A, s. 87.

Functions of municipal service boards

198. (1) A municipality may give a municipal service board the control and management of such services and activities of the municipality as the municipality considers appropriate and shall do so by delegating the powers and duties of the municipality to the board in accordance with this Act. 2006, c. 32, Sched. A, s. 87.

Powers and duties

(2) The following provisions apply with necessary modifications to a municipal service board, except as otherwise provided by by-law:

1. Section 9.
2. Part XIV (Enforcement), except sections 433, 434, 442 and 447.1.
3. Part XV (Municipal Liability). 2006, c. 32, Sched. A, s. 87.

Restriction

(3) A power provided to a municipal service board under subsection (2) is subject to any limits on and duties related to the power and to any procedural requirements, including conditions, approvals and appeals which apply to the power. 2006, c. 32, Sched. A, s. 87.

199.- 201. REPEALED: 2006, c. 32, Sched. A, s. 87.

Joint municipal service boards

202. (1) Two or more municipalities may enter into agreements to establish a joint municipal service board and to provide for those matters which, in the opinion of the participating municipalities, are necessary or desirable to facilitate the establishment and operation of the joint municipal service board. 2001, c. 25, s. 202 (1).

Same

(2) Different participating municipalities may give control and management of different municipal services to the same joint municipal service board and may give control and management of different aspects of the same municipal service to the same joint municipal service board. 2001, c. 25, s. 202 (2).

Powers, etc.

(3) Subject to subsections (4) and (5), the provisions of this Act that apply to municipal service boards also apply with necessary modifications to joint municipal service boards. 2001, c. 25, s. 202 (3).

Consent required

(4) Except where otherwise specifically provided in any Act, an action of a municipality related to an existing or proposed joint municipal service board is of no effect unless the municipality obtains the consent of all the other participating municipalities of which the board is a local board or will be a local board as a result of the action. 2001, c. 25, s. 202 (4).

Exception

(5) Despite subsection (4), an agreement under subsection (1) may provide for circumstances where the consent of the other participating municipalities is not required under subsection (4) or where only the consent of the municipalities specified in the agreement is required under subsection (4). 2001, c. 25, s. 202 (5).

POWERS TO ESTABLISH CORPORATIONS

Power to establish corporations

203. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to do the following things in accordance with such conditions and restrictions as may be prescribed:

1. To establish corporations.
2. To nominate or authorize a person to act as an incorporator, director, officer or member of a corporation.
3. To exercise any power as a member of a corporation.
4. To acquire an interest in or to guarantee such securities issued by a corporation as may be prescribed.
5. To exercise any power as the holder of such securities issued by a corporation as may be prescribed. 2006, c. 32, Sched. A, s. 88.

Duties of corporations, etc.

(2) A corporation established by a municipality and a secondary corporation and the directors and officers of the corporation shall comply with such requirements as may be prescribed. 2009, c. 33, Sched. 21, s. 6 (7).

Exceptions

(3) This section does not apply with respect to a corporation established under section 142 of the *Electricity Act, 1998*, a corporation established under section 13 of the *Housing Development Act*, a local housing corporation as defined in the *Housing Services Act, 2011* or any other corporation that a municipality is expressly authorized under any other Act to establish or control. 2006, c. 32, Sched. A, s. 88; 2011, c. 6, Sched. 1, s. 187 (2).

Definition

(3.1) For the purposes of this section,

“secondary corporation” means a corporation established by a corporation that was established under subsection (1) and a corporation deemed under the regulations to be a secondary corporation. 2009, c. 33, Sched. 21, s. 6 (8).

Regulations

(3.2) The Lieutenant Governor in Council may make regulations providing that specified corporations are deemed to be secondary corporations. 2009, c. 33, Sched. 21, s. 6 (8).

Regulations re corporations

(4) The Lieutenant Governor in Council may make regulations governing the powers of a municipality under this section and governing corporations established under subsection (1) and secondary corporations, including regulations,

- (a) prescribing the purposes for which a municipality may exercise its powers referred to in this section and imposing conditions and restrictions on the use of those powers;
- (b) prescribing the purposes for which a corporation may carry on business or engage in activities;
- (c) prescribing securities for the purposes of paragraphs 4 and 5 of subsection (1);
- (d) imposing conditions and requirements that apply to a corporation and its directors and officers;
- (e) providing that specified corporations are deemed to be or are deemed not to be local boards for the purposes of any provision of this Act or for the purposes of the definition of “municipality” in such other Acts as may be specified;
- (f) providing that specified corporations are deemed for the purposes of any Act or specified provisions of an Act not to be operating a public utility in such circumstances as may be prescribed;
- (g) exempting a municipality from the application of section 106 with respect to specified corporations;
- (h) providing for transitional matters relating to a municipality’s exercise of its powers under section 106 or relating to a specified corporation’s exercise of its powers. 2006, c. 32, Sched. A, s. 88; 2009, c. 33, Sched. 21, s. 6 (9).

Conflict

(5) If there is a conflict between a regulation made under this section and a provision of this Act, other than this section, or of any other Act or regulation, the regulation made under this section prevails. 2006, c. 32, Sched. A, s. 88.

BUSINESS IMPROVEMENT AREAS

Designation of improvement area

204. (1) A local municipality may designate an area as an improvement area and may establish a board of management,

- (a) to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally; and
- (b) to promote the area as a business or shopping area. 2001, c. 25, s. 204 (1).

Corporation

(2) A board of management is a corporation consisting of the number of directors established by the municipality. 2001, c. 25, s. 204 (2).

Local board status

(2.1) A board of management is a local board of the municipality for all purposes. 2006, c. 32, Sched. A, s. 89.

Composition

(3) A board of management shall be composed of,

- (a) one or more directors appointed directly by the municipality; and

(b) the remaining directors selected by a vote of the membership of the improvement area and appointed by the municipality. 2001, c. 25, s. 204 (3).

Membership

(4) Members of an improvement area consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property. 2001, c. 25, s. 204 (4).

Determining tenancy

(5) In determining whether a person is a tenant or not, the clerk of the municipality may accept a list provided under clause 210 (2) (b) or the declaration of a person that the person is a tenant and the determination of the clerk is final. 2001, c. 25, s. 204 (5).

One vote

(6) Each member of an improvement area has one vote regardless of the number of properties that the member may own or lease in the improvement area. 2001, c. 25, s. 204 (6).

Nominee

(7) A corporate member of an improvement area may nominate in writing one individual to vote on behalf of the corporation. 2001, c. 25, s. 204 (7).

Joint nominee

(8) Subject to subsection (6), one individual may be nominated for voting purposes by two or more corporations that are members of an improvement area. 2001, c. 25, s. 204 (8).

Refusal to appoint

(9) The municipality may refuse to appoint a person selected by the members of an improvement area, in which case the municipality may leave the position vacant or direct that a meeting of the members of the improvement area be held to elect or select another candidate for the municipality's consideration. 2001, c. 25, s. 204 (9).

Term

(10) The term of the directors of a board of management is the same as the term of the council that appointed them but continues until their successors are appointed. 2001, c. 25, s. 204 (10).

Reappointment

(11) Directors are eligible for reappointment. 2001, c. 25, s. 204 (11).

Vacancies

(12) Subject to subsection (9), if a vacancy occurs for any cause, the municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area. 2001, c. 25, s. 204 (12).

Budget

205. (1) A board of management shall prepare a proposed budget for each fiscal year by the date and in the form required by the municipality and shall hold one or more meetings of the members of the improvement area for discussion of the proposed budget. 2002, c. 17, Sched. A, s. 40 (1).

Council to approve

(2) A board of management shall submit the budget to council by the date and in the form required by the municipality and the municipality may approve it in whole or in part but may not add expenditures to it. 2001, c. 25, s. 205 (2); 2002, c. 17, Sched. A, s. 40 (2).

Limitations

- (3) A board of management shall not,
 - (a) spend any money unless it is included in the budget approved by the municipality or in a reserve fund established under section 417;
 - (b) incur any indebtedness extending beyond the current year without the prior approval of the municipality; or
 - (c) borrow money. 2001, c. 25, s. 205 (3).

Limitations on power

(4) Section 65 of the *Ontario Municipal Board Act* and section 401 of this Act apply to the municipality's approval under clause (3) (b) in the same manner as if it were incurring a debt of the municipality. 2001, c. 25, s. 205 (4).

Notice

206. A board of management shall give reasonable notice to the general membership of the improvement area of a meeting to hold a vote under clause 204 (3) (b) or for the purposes of a discussion under subsection 205 (1). 2001, c. 25, s. 206; 2002, c. 17, Sched. A, s. 41.

Annual report

207. (1) A board of management shall submit its annual report for the preceding year to council by the date and in the form required by the municipality and the report shall include audited financial statements. 2001, c. 25, s. 207 (1).

Auditor

(2) The municipal auditor is the auditor of each board of management and may inspect all records of the board. 2001, c. 25, s. 207 (2).

Funds to be raised

208. (1) The municipality shall annually raise the amount required for the purposes of a board of management, including any interest payable by the municipality on money borrowed by it for the purposes of the board of management. 2001, c. 25, s. 208 (1).

Special charge

- (2) The municipality may establish a special charge for the amount referred to in subsection (1),
- (a) by levy upon rateable property in the improvement area that is in a prescribed business property class; or
 - (b) by levy upon rateable property in the improvement area that is in a prescribed business property class and that, in council's opinion, derives special benefit from the improvement area, which levy may be calculated using different percentages of the assessment for one or more separately assessed properties or categories of separately assessed properties in the prescribed class if the resulting levy is equitable in accordance with the benefits that, in council's opinion, accrue to the properties from the activities related to the improvement area. 2001, c. 25, s. 208 (2).

Minimum and maximum charges

- (3) The municipality may establish a minimum or maximum charge or both, expressed for one or more separately assessed properties or categories of separately assessed properties in a prescribed class, as,
- (a) percentages of the assessed value of rateable property in the improvement area that is in a prescribed business property class;
 - (b) dollar amounts; or
 - (c) percentages of the board of management's annual budget. 2001, c. 25, s. 208 (3).

Effect of by-law

- (4) When a by-law under subsection (3) is in force,
- (a) the amount of a charge levied in a year under subsection (2) shall not, when calculated for the individual property in the prescribed class to which it applies, be less than or greater than the amount of the applicable minimum and maximum charge for the property established under the by-law; and
 - (b) if necessary for a fiscal year to raise the amount referred to in subsection (1) because a minimum or maximum charge applies to one or more separately assessed properties or categories of separately assessed properties in the prescribed class, the municipality shall for the year adjust any charges applicable to the remaining individual properties or subclasses of properties in the prescribed class by adjusting the percentage or percentages of assessment established under subsection (2) for those properties. 2001, c. 25, s. 208 (4).

Exclusion

- (5) Section 210 does not apply to an adjustment made under clause (4) (b). 2001, c. 25, s. 208 (5).

Borrowings

(6) If only a part of money borrowed by the municipality in any year for the purposes of a board of management is required to be repaid in that year or a subsequent year, only that part and any interest payable on the total amount shall be included in the levies under this section in that year or subsequent year, respectively. 2001, c. 25, s. 208 (6).

Priority lien status

(7) Charges levied under this section shall have priority lien status and shall be added to the tax roll. 2002, c. 17, Sched. A, s. 42.

Changes to boundary

209. The municipality may alter the boundaries of an improvement area and the board of management for that improvement area is continued as the board of management for the altered area. 2001, c. 25, s. 209.

Notice

210. (1) Before passing a by-law under subsection 204 (1), clause 208 (2) (b), subsection 208 (3) or section 209, notice of the proposed by-law shall be sent by prepaid mail to the board of management of the improvement area, if any, and to every person who, on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class which is located,

- (a) where the improvement area already exists, in the improvement area and in any geographic area the proposed by-law would add to the improvement area; and
- (b) where a new improvement area would be created by the proposed by-law, in the proposed improvement area. 2001, c. 25, s. 210 (1).

When notice received

- (2) A person who receives a notice under subsection (1) shall, within 30 days after the notice is mailed,
 - (a) give a copy of the notice to each tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property; and
 - (b) give the clerk of the municipality a list of every tenant described in clause (a) and the share of the taxes that each tenant is required to pay and the share that the person is required to pay. 2001, c. 25, s. 210 (2).

Objections

- (3) A municipality shall not pass a by-law referred to in subsection (1) if,
 - (a) written objections are received by the clerk of the municipality within 60 days after the last day of mailing of the notices;
 - (b) the objections have been signed by at least one-third of the total number of persons entitled to notice under subsection (1) and under clause (2) (a); and
 - (c) the objectors are responsible for,
 - (i) in the case of a proposed addition to an existing improvement area,
 - (A) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area, or
 - (B) at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the geographic area the proposed by-law would add to the existing improvement area, or
 - (ii) in all other cases, at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 210 (3).

Withdrawal of objections

(4) If sufficient objections are withdrawn in writing within the 60-day period referred to in clause (3) (a) so that the conditions set out in clause (3) (b) or (c) no longer apply, the municipality may pass the by-law. 2001, c. 25, s. 210 (4).

Determination by clerk

(5) The clerk shall determine whether the conditions set out in subsection (3) have been met and, if they are, shall issue a certificate affirming that fact. 2001, c. 25, s. 210 (5).

Determination final

(6) The determination by the clerk is final. 2001, c. 25, s. 210 (6).

Repeal of by-law

211. (1) Council shall give notice in accordance with subsection 210 (1) of a proposed by-law to repeal a by-law under subsection 204 (1) if the municipality has received,

- (a) a resolution from the board of management requesting the repeal; or
- (b) a request for the repeal signed by persons who are responsible for at least one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (1).

Statement

(2) A person signing a request under clause (1) (b) shall state what amount of taxes on rateable property in the area that the person is required to pay. 2001, c. 25, s. 211 (2).

Time

(3) Council shall give the notice within 60 days after receiving the resolution or request. 2001, c. 25, s. 211 (3).

Repeal

(4) Council shall repeal the by-law under subsection 204 (1) if requests for the repeal are received by the clerk of the municipality within 60 days after the last day of mailing of the notices and,

- (a) the requests have been signed by at least one-half of the total number of persons entitled to notice under subsection 210 (1) and under clause 210 (2) (a); and
- (b) those who have signed the requests are responsible for at least 50 per cent of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the improvement area. 2001, c. 25, s. 211 (4).

Timing

(5) The repealing by-law must come into force on or before December 31 of the year in which it is passed. 2001, c. 25, s. 211 (5).

Requests withdrawn

(6) If sufficient requests are withdrawn in writing within the 60-day period referred to in subsection (4) so that either condition set out in that subsection no longer applies, the municipality is not required to repeal the by-law. 2001, c. 25, s. 211 (6).

Determination by clerk

(7) The clerk shall determine whether the conditions set out in clause (1) (b) and subsection (4) have been met and, if so, shall issue a certificate affirming that fact. 2001, c. 25, s. 211 (7).

Determination final

(8) The determination by the clerk is final. 2001, c. 25, s. 211 (8).

Restriction

(9) If the conditions of subsection (4) are not satisfied, council is not required to give notice under subsection (1) in response to a resolution or request for a period of two years after the last mailing of the notices. 2001, c. 25, s. 211 (9).

Non-application

(10) No requirement under this section or under section 210 applies to the repeal by a municipality on its own initiative of a by-law under subsection 204 (1). 2001, c. 25, s. 211 (10).

Effect of by-law

212. A by-law passed under subsection 204 (1), subsection 208 (2) or (3), section 209 or subsection 211 (4) is not invalid by reason only that,

- (a) a person required to give a copy of a notice to a tenant or other information to the municipality under subsection 210 (2) has not done so;

- (b) the objections referred to in clause 210 (3) (b) have not been signed by at least one-third of the total number of persons entitled to receive notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so; or
- (c) the requests referred to in clause 211 (4) (a) have not been signed by at least one-half of the total number of persons entitled to notice under subsections 210 (1) and (2) because a person required to give a copy of the notice under subsection 210 (2) has not done so. 2001, c. 25, s. 212.

Tenants

213. For the purposes of clauses 210 (3) (c) and 211 (1) (b), subsection 211 (2) and clause 211 (4) (b), a tenant shall be deemed to be responsible for the part of the taxes that the tenant is required to pay under the tenant's lease or under sections 367 and 368. 2001, c. 25, s. 213.

Dissolution of board

214. (1) Upon the repeal of a by-law under subsection 204 (1), the board of management is dissolved and the assets and liabilities of the board become the assets and liabilities of the municipality. 2001, c. 25, s. 214 (1).

Liabilities exceed assets

(2) If the liabilities assumed under subsection (1) exceed the assets assumed, the council may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class. 2001, c. 25, s. 214 (2).

Regulations

215. The Minister may make regulations prescribing one or more classes of real property prescribed under the *Assessment Act* as business property classes for the purposes of sections 204 to 214. 2001, c. 25, s. 215.

DISSOLUTION AND CHANGE OF LOCAL BOARDS

Power to dissolve or change local boards

216. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to dissolve or change a local board. 2006, c. 32, Sched. A, s. 90.

Conflict

(2) In the event of a conflict between a by-law described in subsection (1) and any provision of this or any other Act, excluding this section and sections 194 to 202, or in the event of a conflict with a regulation made under any other Act, the by-law prevails. 2006, c. 32, Sched. A, s. 90.

Restriction

(3) Despite subsection (1), a municipality shall not, in accordance with subsection (1), dissolve or change a local board that is,

- (a) a society as defined in subsection 3 (1) of the *Child and Family Services Act*;
- (b) a board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*;
- (c) a committee of management established under the *Long-Term Care Homes Act, 2007*;
- (c.1) an appeal body established under section 8.1 of the *Planning Act*;
- (d) a police services board established under the *Police Services Act*;
- (e) a board as defined in section 1 of the *Public Libraries Act*;
- (f) a corporation established in accordance with section 203;
- (g) such other local boards as may be prescribed. 2006, c. 32, Sched. A, ss. 90, 91 (2); 2007, c. 8, s. 218 (4).

Exception, City of Greater Sudbury

(4) Despite subsection (3), the City of Greater Sudbury may, in accordance with subsection (1), change the number of members it appoints as its representatives on the board of health of the Sudbury and District Health Unit, subject to the following rules:

1. The number shall not be smaller than two or larger than seven.
2. At least one of the members shall also be a member of the council of the City.

3. At least one of the members shall not be a member of the council of the City. 2006, c. 32, Sched. A, s. 90.

Scope of power to change a local board

(5) Without limiting sections 9, 10 and 11, the power of a municipality to change a local board under those sections includes the power to pass by-laws with respect to,

- (a) the matters described in paragraphs 1 to 7 of subsection 196 (1), subject to the restrictions set out in section 196;
- (b) the assumption of a power or duty of the board, but if the power or duty was delegated to the board by the municipality, the municipality cannot assume the power or duty if it cannot revoke the delegation;
- (c) the delegation of a power or duty to the board to the extent authorized under this Act;
- (d) the restriction or expansion of the mandate of the board. 2006, c. 32, Sched. A, s. 90.

Dissolution, etc., of joint board

(6) If a municipality passes a by-law in accordance with subsection (1) to dissolve or change a local board which is a local board of the municipality and one or more other municipalities,

- (a) the by-law does not come into force until at least half of the municipalities, excluding the municipality that passed the by-law, have passed a resolution giving their approval to the by-law; and
- (b) when the by-law comes into force, the by-law is deemed to be a by-law passed by each of the municipalities of which the board is a local board. 2006, c. 32, Sched. A, s. 90.

Regulations

(7) For the purposes of this section, the Minister may, despite any Act, make regulations,

- (a) providing that any body performing any public function is a local board;
- (b) providing that a local board is a local board of the municipality specified in the regulation;
- (c) providing that a municipality does not have the power to dissolve or make a prescribed change to a local board specified in the regulation;
- (d) imposing conditions and limitations on the powers of a municipality under this section;
- (e) providing that, for the purposes specified in the regulation, a municipality is deemed to be a local board of the type dissolved or changed under this section;
- (f) providing that, for the purposes specified in the regulation, a municipality shall stand in the place of a local board dissolved or changed under this section;
- (g) providing for matters that, in the opinion of the Minister, are necessary or desirable to allow the council of a municipality to act as a local board, to exercise the powers of a local board or to stand in the place of a local board for any purpose;
- (h) providing that the provisions of any Act specified in the regulation do not apply to the council of a municipality acting as a local board, exercising the powers of a local board or standing in the place of a local board for any purpose;
- (i) providing for the continuation, cessation or amendment of any or all by-laws and resolutions of a local board which is dissolved or changed under this section;
- (j) providing that a municipality or local board pay money to each other or to another municipality or local board;
- (k) providing for transitional matters related to a dissolution of or change to a local board under this section. 2006, c. 32, Sched. A, s. 90.

CHANGES TO COUNCIL

Composition of council of local municipality

217. (1) Without limiting sections 9, 10 and 11, those sections authorize a local municipality to change the composition of its council subject to the following rules:

- 1. There shall be a minimum of five members, one of whom shall be the head of council.
- 2. The members of council shall be elected in accordance with the *Municipal Elections Act, 1996*.
- 3. The head of council shall be elected by general vote.

4. The members, other than the head of council, shall be elected by general vote or wards or by any combination of general vote and wards.
 5. The representation of a local municipality on the council of an upper-tier municipality shall not be affected by the by-law of the local municipality under this section. 2001, c. 25, s. 217 (1); 2006, c. 32, Sched. A, s. 92 (1).
- (2) REPEALED: 2006, c. 32, Sched. A, s. 92 (2).

Coming into force

- (3) A by-law described in this section does not come into force until the day the new council is organized,
 - (a) after the first regular election following the passing of the by-law; or
 - (b) if the by-law is passed in the year of a regular election before voting day, after the second regular election following the passing of the by-law. 2001, c. 25, s. 217 (3); 2006, c. 32, Sched. A, s. 92 (3).

Election

(4) The regular election held immediately before the coming into force of a by-law described in this section shall be conducted as if the by-law was already in force. 2001, c. 25, s. 217 (4); 2006, c. 32, Sched. A, s. 92 (4).

Term unaffected

- (5) Nothing in this section authorizes a change in the term of office of a member of council. 2001, c. 25, s. 217 (5).

Composition of upper-tier council

218. (1) Without limiting sections 9, 10 and 11, those sections authorize an upper-tier municipality to change the composition of its council subject to the following rules:

1. There shall be a minimum of five members, one of whom shall be the head of council.
2. The head of council shall be elected by general vote, in accordance with the *Municipal Elections Act, 1996*, or shall be appointed by the members of council.
3. The members of council, except the head of council, shall be elected in accordance with the *Municipal Elections Act, 1996* to the upper-tier council or to the council of one of its lower-tier municipalities.
4. The head of council shall be qualified to be elected as a member of council of the upper-tier municipality.
5. If the members of council are directly elected to the upper-tier council and not to the council of a lower-tier municipality, the members shall be elected by general vote or wards or by any combination of general vote and wards.
6. Each lower-tier municipality shall be represented on the upper-tier council. 2001, c. 25, s. 218 (1); 2006, c. 32, Sched. A, s. 93 (1).

Types of changes

- (2) Without limiting sections 9, 10 and 11, the power to change the composition of council includes the power to,
 - (a) change the size of council;
 - (b) change the method of selecting members of the council, including having members directly elected to the upper-tier council and not to the council of a lower-tier municipality, members elected to serve on both the upper-tier and lower-tier councils or members elected to the lower-tier councils and appointed to the upper-tier council by the lower-tier municipalities, or a combination of methods of election;
 - (c) have a member representing more than one lower-tier municipality;
 - (d) require that if a member of council is appointed by the members of council as the head of the upper-tier council, the member is no longer entitled to hold office on the council of a lower-tier municipality or any other office on the council of the upper-tier municipality or both; and
 - (e) require that if a member of council is appointed by the members of council as the head of the upper-tier council, the appointed member must hold office on the council of a lower-tier municipality. 2001, c. 25, s. 218 (2); 2006, c. 32, Sched. A, s. 93 (2).

Number of votes

(3) Without limiting sections 9, 10 and 11, those sections authorize an upper-tier municipality to change the number of votes given to any member but each member shall have at least one vote. 2006, c. 32, Sched. A, s. 93 (3).

Term of office

(4) Without limiting sections 9, 10 and 11, those sections authorize an upper-tier municipality to change the term of office of an appointed head of council so long as the new term does not extend beyond the term of council. 2006, c. 32, Sched. A, s. 93 (3).

Regional municipalities

(5) A regional municipality shall not pass a by-law described in this section until the Minister has, by regulation, authorized the regional municipality to exercise the powers described in this section. 2006, c. 32, Sched. A, s. 93 (3).

Regulations

(6) The Minister may make regulations authorizing a regional municipality to exercise any power described in this section. 2006, c. 32, Sched. A, s. 93 (3).

Condition

(7) The Minister shall not make a regulation under subsection (6) unless the Minister has received a resolution from the regional municipality requesting the regulation. 2001, c. 25, s. 218 (7); 2002, c. 17, Sched. A, s. 43 (3).

Term unaffected

(8) Except as provided in subsection (4), nothing in this section authorizes a change in the term of office of a member of council. 2001, c. 25, s. 218 (8).

Notice

219. (1) Before passing a by-law described in section 218, the municipality shall give notice of its intention to pass the by-law and shall hold at least one public meeting to consider the matter. 2001, c. 25, s. 219 (1); 2006, c. 32, Sched. A, s. 94 (1).

Coming into force of by-law

(2) A by-law described in section 218 making changes described in clauses 218 (2) (a), (b) and (c) or in subsection 218 (3) is not valid unless,

- (a) a majority of all votes on the upper-tier council are cast in its favour;
- (b) a majority of the councils of all lower-tier municipalities forming part of the upper-tier municipality have passed resolutions consenting to the by-law; and
- (c) the total number of electors in the lower-tier municipalities that have passed resolutions referred to in clause (b) form a majority of all the electors in the upper-tier municipality. 2001, c. 25, s. 219 (2); 2006, c. 32, Sched. A, s. 94 (2).

Commencement

(3) Despite subsection (2), a by-law described in section 218 does not come into force until the day the new council is organized following,

- (a) the first regular election following the passing of the by-law; or
- (b) if the by-law is passed in the year of a regular election before voting day, the second regular election following the passing of the by-law. 2001, c. 25, s. 219 (3); 2006, c. 32, Sched. A, s. 94 (2).

Election

(4) The regular election held immediately before the coming into force of a by-law described in section 218 shall be conducted as if the by-law was already in force. 2001, c. 25, s. 219 (4); 2006, c. 32, Sched. A, s. 94 (2).

Definition

(5) In this section,

“elector” means a person whose name appears on the voters’ list, as amended up until the close of voting on voting day, for the last regular election preceding the coming into force of a by-law described in section 218. 2001, c. 25, s. 219 (5); 2006, c. 32, Sched. A, s. 94 (3).

Change of titles

220. Without limiting sections 9, 10 and 11, those sections authorize a municipality to change the titles for its head of council and other members of its council. 2006, c. 32, Sched. A, s. 95.

Conflicts

221. In the event of a conflict between section 217, 218 or 220 or a by-law passed under those sections and any other Act in respect of the composition of a council, the term of office of the head of an upper-tier council, the number of votes given to each member or the titles of its members, section 217, 218 or 220 or a by-law passed under those sections prevails. 2001, c. 25, s. 221.

WARDS

Establishment of wards

222. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to divide or redivide the municipality into wards or to dissolve the existing wards. 2006, c. 32, Sched. A, s. 96 (1).

Conflict

(2) In the event of a conflict between a by-law described in subsection (1) and any provision of this Act, other than this section or section 223, any provision of any other Act or a regulation made under any other Act, the by-law prevails. 2006, c. 32, Sched. A, s. 96 (1).

Notice

(3) Within 15 days after a by-law described in subsection (1) is passed, the municipality shall give notice of the passing of the by-law to the public specifying the last date for filing a notice of appeal under subsection (4). 2006, c. 32, Sched. A, s. 96 (1).

Appeal

(4) Within 45 days after a by-law described in subsection (1) is passed, the Minister or any other person or agency may appeal to the Ontario Municipal Board by filing a notice of appeal with the municipality setting out the objections to the by-law and the reasons in support of the objections. 2006, c. 32, Sched. A, s. 96 (1).

Notices forwarded to Board

(5) Within 15 days after the last day for filing a notice of appeal under subsection (4), the municipality shall forward any notices of appeal to the Ontario Municipal Board. 2001, c. 25, s. 222 (5).

Other material

(6) The municipality shall provide any other information or material that the Board requires in connection with the appeal. 2001, c. 25, s. 222 (6).

Board decision

(7) The Board shall hear the appeal and may, despite any Act, make an order affirming, amending or repealing the by-law. 2001, c. 25, s. 222 (7).

Coming into force of by-law

(8) A by-law of a municipality described in this section comes into force on the day the new council of the municipality is organized following,

- (a) the first regular election after the by-law is passed if the by-law is passed before January 1 in the year of the regular election and,
 - (i) no notices of appeal are filed,
 - (ii) notices of appeal are filed and are all withdrawn before January 1 in the year of the election, or
 - (iii) notices of appeal are filed and the Board issues an order to affirm or amend the by-law before January 1 in the year of the election; or
- (b) the second regular election after the by-law is passed, in all other cases except where the by-law is repealed by the Board. 2001, c. 25, s. 222 (8); 2006, c. 32, Sched. A, s. 96 (2).

Election

(9) Despite subsection (8), where a by-law comes into force on the day the new council of a municipality is organized following a regular election, that election shall be conducted as if the by-law was already in force. 2001, c. 25, s. 222 (9).

Notice to assessment corporation

(9.1) When a by-law described in this section is passed, the clerk of the municipality shall notify the assessment corporation,

- (a) before January 1 in the year of the first regular election after the by-law is passed, if clause (8) (a) applies;
- (b) before January 1 in the year of the second regular election after the by-law is passed, if clause (8) (b) applies. 2009, c. 33, Sched. 21, s. 6 (10).

Regulations

(10) The Minister may prescribe criteria for the purpose of subsection (2). 2001, c. 25, s. 222 (10).

Petition re: wards

223. (1) Electors in a municipality may present a petition to the council asking the council to pass a by-law dividing or redividing the municipality into wards or dissolving the existing wards. 2001, c. 25, s. 223 (1); 2006, c. 32, Sched. A, s. 97 (1).

Number of electors required

(2) The petition requires the signatures of 1 per cent of the electors in the municipality or 500 of the electors in the municipality, whichever is less, but, in any event, a minimum of 50 signatures of the electors in the municipality is required. 2001, c. 25, s. 223 (2).

Definition

(3) In this section,

“elector” means a person whose name appears on the voters’ list, as amended up until the close of voting on voting day, for the last regular election preceding a petition being presented to council under subsection (1). 2001, c. 25, s. 223 (3).

Failure to act

(4) If the council does not pass a by-law in accordance with the petition within 90 days after receiving the petition, any of the electors who signed the petition may apply to the Ontario Municipal Board to have the municipality divided or redivided into wards or to have the existing wards dissolved. 2001, c. 25, s. 223 (4); 2006, c. 32, Sched. A, s. 97 (2).

Order

(5) The Board shall hear the application and may, despite any Act, make an order dividing or redividing the municipality into wards or dissolving the existing wards and subsection 222 (6) applies with necessary modifications in respect to the hearing. 2001, c. 25, s. 223 (5).

Coming into force

(6) An order of the Board under this section comes into force on the day the new council of the municipality is organized following,

- (a) the first regular election after the order is made, if the order is made before January 1 in the year of the regular election; or
- (b) the second regular election after the order is made, if the order is made on or after January 1 in the year of a regular election but before voting day. 2001, c. 25, s. 223 (6).

Election

(7) Despite subsection (6), if an order comes into force on the day the new council of a municipality is organized following a regular election, that election shall be conducted as if the order was already in force. 2001, c. 25, s. 223 (7).

Deemed by-law

(8) Once an order of the Board is in force, the order shall be deemed to be a by-law of the municipality and may be amended or repealed by the municipality by by-law described in section 222. 2001, c. 25, s. 223 (8); 2006, c. 32, Sched. A, s. 97 (3).

PART V.1 ACCOUNTABILITY AND TRANSPARENCY

Definitions

223.1 In this Part,

“code of conduct” means a code of conduct described in section 223.2; (“code de déontologie”)

“grant recipient” means a person or entity that receives a grant directly or indirectly from the municipality, a local board or a municipally-controlled corporation; (“bénéficiaire d’une subvention”)

“local board” means a local board other than,

- (a) a society as defined in subsection 3 (1) of the *Child and Family Services Act*,
- (b) a board of health as defined in subsection 1 (1) of the *Health Protection and Promotion Act*,
- (c) a committee of management established under the *Long-Term Care Homes Act, 2007*,
- (d) a police services board established under the *Police Services Act*,
- (e) a board as defined in section 1 of the *Public Libraries Act*,
- (f) a corporation established in accordance with section 203,
- (g) such other local boards as may be prescribed; (“conseil local”)

“municipally-controlled corporation” means a corporation that has 50 per cent or more of its issued and outstanding shares vested in the municipality or that has the appointment of a majority of its board of directors made or approved by the municipality, but does not include a local board as defined in subsection 1 (1); (“société contrôlée par la municipalité”)

“public office holder” means,

- (a) a member of the municipal council and any person on his or her staff,
- (b) an officer or employee of the municipality,
- (c) a member of a local board of the municipality and any person on his or her staff,
- (d) an officer, director or employee of a local board of the municipality, and
- (e) such other persons as may be determined by the municipality who are appointed to any office or body by the municipality or by a local board of the municipality. (“titulaire d’une charge publique”) 2006, c. 32, Sched. A, s. 98; 2007, c. 8, s. 218 (5).

Code of conduct

223.2 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to establish codes of conduct for members of the council of the municipality and of local boards of the municipality. 2006, c. 32, Sched. A, s. 98.

No offence

(2) A by-law cannot provide that a member who contravenes a code of conduct is guilty of an offence. 2006, c. 32, Sched. A, s. 98.

Integrity Commissioner

223.3 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to,

- (a) the application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them;
- (b) the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them; or
- (c) both of clauses (a) and (b). 2006, c. 32, Sched. A, s. 98.

Powers and duties

(2) Subject to this Part, in carrying out the responsibilities described in subsection (1), the Commissioner may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 98.

Delegation

(3) The Commissioner may delegate in writing to any person, other than a member of council, any of the Commissioner’s powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(4) The Commissioner may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

(5) The Commissioner is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part,

- (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or
- (b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member. 2006, c. 32, Sched. A, s. 98.

Powers on inquiry

(2) The Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry. 2009, c. 33, Sched. 6, s. 72 (1).

Information

(3) The municipality and its local boards shall give the Commissioner such information as the Commissioner believes to be necessary for an inquiry. 2006, c. 32, Sched. A, s. 98.

Same

(4) The Commissioner is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality or a local board that the Commissioner believes to be necessary for an inquiry. 2006, c. 32, Sched. A, s. 98.

Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days. 2006, c. 32, Sched. A, s. 98.

Same

(6) The local board may impose either of the penalties described in subsection (5) on its member if the Commissioner reports to the board that, in his or her opinion, the member has contravened the code of conduct, and if the municipality has not imposed a penalty on the member under subsection (5) in respect of the same contravention. 2006, c. 32, Sched. A, s. 98.

Duty of confidentiality

223.5 (1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Exception

(2) Despite subsection (1), information may be disclosed in a criminal proceeding as required by law or otherwise in accordance with this Part. 2006, c. 32, Sched. A, s. 98.

Section prevails

(3) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 32, Sched. A, s. 98.

Report to council

223.6 (1) If the Commissioner provides a periodic report to the municipality on his or her activities, the Commissioner may summarize advice he or she has given but shall not disclose confidential information that could identify a person concerned. 2006, c. 32, Sched. A, s. 98.

Report about conduct

(2) If the Commissioner reports to the municipality or to a local board his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report. 2006, c. 32, Sched. A, s. 98.

Publication of reports

(3) The municipality and each local board shall ensure that reports received from the Commissioner by the municipality or by the board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 98.

Testimony

223.7 Neither the Commissioner nor any person acting under the instructions of the Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under this Part. 2006, c. 32, Sched. A, s. 98.

Reference to appropriate authorities

223.8 If the Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code* (Canada), the Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. 2006, c. 32, Sched. A, s. 98.

Registry

223.9 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to establish and maintain a registry in which shall be kept such returns as may be required by the municipality that are filed by persons who lobby public office holders. 2006, c. 32, Sched. A, s. 98.

Requirement to file returns, etc.

(2) Without limiting sections 9, 10 and 11, those sections authorize the municipality to provide for a system of registration of persons who lobby public office holders and to do the following things:

1. Define “lobby”.
2. Require persons who lobby public office holders to file returns and give information to the municipality.
3. Specify the returns to be filed and the information to be given to the municipality by persons who lobby public office holders and specify the time within which the returns must be filed and the information provided.
4. Exempt persons from the requirement to file returns and provide information.
5. Specify activities with respect to which the requirement to file returns and provide information does not apply.
6. Establish a code of conduct for persons who lobby public office holders.
7. Prohibit former public office holders from lobbying current public office holders for the period of time specified in the by-law.
8. Prohibit a person from lobbying public office holders without being registered.
9. Impose conditions for registration, continued registration or a renewal of registration.
10. Refuse to register a person, and suspend or revoke a registration.
11. Prohibit persons who lobby public office holders from receiving payment that is in whole or in part contingent on the successful outcome of any lobbying activities. 2006, c. 32, Sched. A, s. 98.

Access to registry

(3) The registry described in subsection (1) shall be available for public inspection in the manner and during the time that the municipality may determine. 2006, c. 32, Sched. A, s. 98.

Prohibition on contingency fees

223.10 Without limiting sections 9, 10 and 11, those sections authorize the municipality to prohibit a person on whose behalf another person undertakes lobbying activities from making payment for the lobbying activities that is in whole or in part contingent on the successful outcome of any lobbying activities. 2006, c. 32, Sched. A, s. 98.

Registrar for lobbying matters

223.11 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint a registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry described in subsection 223.9 (1) and the system of registration and other matters described in subsection 223.9 (2). 2006, c. 32, Sched. A, s. 98.

Powers and duties

(2) Subject to this Part, in carrying out these responsibilities, the registrar may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 98.

Delegation

(3) The registrar may delegate in writing to any person, other than a member of council, any of the registrar's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(4) The registrar may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

(5) The registrar is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Inquiry by registrar

223.12 (1) This section applies if the registrar conducts an inquiry under this Part in respect of a request made by council, a member of council or a member of the public about compliance with the system of registration described in subsection 223.9 (2) or with a code of conduct established under that subsection. 2006, c. 32, Sched. A, s. 98.

Inquiry

(2) The registrar may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry. 2009, c. 33, Sched. 6, s. 72 (2).

Duty of confidentiality

(3) Section 223.5 applies, with necessary modifications, with respect to the registrar and every person acting under the instructions of the registrar in the course of conducting an inquiry. 2006, c. 32, Sched. A, s. 98.

Report

(4) If the registrar makes a report to a municipality in respect of an inquiry, the registrar may disclose in the report such matters as in the registrar's opinion are necessary for the purposes of the report. 2006, c. 32, Sched. A, s. 98.

Publication of reports

(5) The municipality shall ensure that reports received from the registrar are made available to the public. 2006, c. 32, Sched. A, s. 98.

Testimony

(6) Neither the registrar nor any person acting under the instructions of the registrar is a competent or compellable witness in a civil proceeding in connection with anything done when conducting an inquiry. 2006, c. 32, Sched. A, s. 98.

Reference to appropriate authorities

(7) If the registrar, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code* (Canada), the registrar shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. 2006, c. 32, Sched. A, s. 98.

Ombudsman

223.13 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Ombudsman who reports to council and whose function is to investigate in an independent manner any decision or recommendation made or act done or omitted in the course of the administration of the municipality, its local boards and such municipally-controlled corporations as the municipality may specify and affecting any person or body of persons in his, her or its personal capacity. 2006, c. 32, Sched. A, s. 98.

Powers and duties

(2) Subject to this Part, in carrying out the functions under subsection (1), the Ombudsman may exercise the powers and shall perform the duties assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 98.

Matters to which municipality is to have regard

(3) In appointing the Ombudsman and in assigning powers and duties to him or her, the municipality shall have regard to, among other matters, the importance of the matters listed in subsection (5). 2006, c. 32, Sched. A, s. 98.

Same, Ombudsman

(4) In carrying out his or her functions under subsection (1), the Ombudsman shall have regard to, among other matters, the importance of the matters listed in subsection (5). 2006, c. 32, Sched. A, s. 98.

Same

- (5) The matters referred to in subsections (3) and (4) are,
- (a) the Ombudsman's independence and impartiality;
 - (b) confidentiality with respect to the Ombudsman's activities; and
 - (c) the credibility of the Ombudsman's investigative process. 2006, c. 32, Sched. A, s. 98.

Powers paramount

(6) The powers conferred on the Ombudsman under this Part may be exercised despite any provision in any Act to the effect that any such decision, recommendation, act or omission is final, or that no appeal lies in respect of them, or that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question. 2006, c. 32, Sched. A, s. 98.

Decisions not reviewable

- (7) Nothing in this Part empowers the Ombudsman to investigate any decision, recommendation, act or omission,
- (a) in respect of which there is, under any Act, a right of appeal or objection, or a right to apply for a hearing or review, on the merits of the case to any court, or to any tribunal constituted by or under any Act, until that right of appeal or objection or application has been exercised in the particular case, or until after any time for the exercise of that right has expired; or
 - (b) of any person acting as legal adviser to the municipality, a local board or a municipally-controlled corporation or acting as counsel to any of them in relation to any proceedings. 2006, c. 32, Sched. A, s. 98.

Delegation

(8) The Ombudsman may delegate in writing to any person, other than a member of council, any of the Ombudsman's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(9) The Ombudsman may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

- (10) The Ombudsman is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Investigation

223.14 (1) Every investigation by the Ombudsman shall be conducted in private. 2006, c. 32, Sched. A, s. 98.

Opportunity to make representations

(2) The Ombudsman may hear or obtain information from such persons as he or she thinks fit, and may make such inquiries as he or she thinks fit and it is not necessary for the Ombudsman to hold any hearing and no person is entitled as of right to be heard by the Ombudsman, but if at any time during the course of an investigation it appears to the Ombudsman that there may be sufficient grounds for him or her to make any report or recommendation that may adversely affect the municipality, a local board, a municipally-controlled corporation or any other person, the Ombudsman shall give him, her or it an opportunity to make representations respecting the adverse report or recommendation, either personally or by counsel. 2006, c. 32, Sched. A, s. 98.

Application of *Ombudsman Act*

(3) Section 19 of the *Ombudsman Act* applies to the exercise of powers and the performance of duties by the Ombudsman under this Part. 2006, c. 32, Sched. A, s. 98.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed and the following substituted: (See: 2014, c. 13, Sched. 9, ss. 21, 24 (1))

Application of *Ombudsman Act*

(3) Section 19 of the *Ombudsman Act* applies to the exercise of powers and the performance of duties by the Ombudsman under this Part and, for the purpose, references in section 19 of that Act to "any public sector body" are deemed to be references to "the municipality, a local board or a municipally-controlled corporation". 2014, c. 13, Sched. 9, s. 21.

Same

(4) For the purposes of subsection (3), references in section 19 of the *Ombudsman Act* to “any governmental organization”, “the *Freedom of Information and Protection of Privacy Act*” and “the *Public Service of Ontario Act, 2006*” are deemed to be references to “the municipality, a local board or a municipally-controlled corporation”, “the *Municipal Freedom of Information and Protection of Privacy Act*” and “this Act”, respectively. 2006, c. 32, Sched. A, s. 98; 2006, c. 35, Sched. C, s. 134 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (4) is repealed. (See: 2014, c. 13, Sched. 9, ss. 21, 24 (1))

Duty of confidentiality

223.15 (1) Subject to subsection (2), the Ombudsman and every person acting under the instructions of the Ombudsman shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Disclosure

(2) The Ombudsman may disclose in any report made by him or her under this Part such matters as in the Ombudsman’s opinion ought to be disclosed in order to establish grounds for his or her conclusions and recommendations. 2006, c. 32, Sched. A, s. 98.

Section prevails

(3) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 32, Sched. A, s. 98.

No review, etc.

223.16 No proceeding of the Ombudsman under this Part shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman is liable to be challenged, reviewed, quashed or called in question in any court. 2006, c. 32, Sched. A, s. 98.

Testimony

223.17 (1) The Ombudsman and any person acting under the instructions of the Ombudsman shall not be called to give evidence in any court, or in any proceedings of a judicial nature, in respect of anything coming to his or her knowledge in the exercise of his or her functions under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(2) Anything said or any information supplied or any document or thing produced by any person in the course of any investigation by or proceedings before the Ombudsman under this Part is privileged in the same manner as if the inquiry or proceedings were proceedings in a court. 2006, c. 32, Sched. A, s. 98.

Effect on other rights, etc.

223.18 The rights, remedies, powers, duties and procedures established under sections 223.13 to 223.17 are in addition to the provisions of any other Act or rule of law under which any remedy or right of appeal or objection is provided for any person, or any procedure is provided for the inquiry into or investigation of any matter, and nothing in this Part limits or affects any such remedy or right of appeal or objection or procedure. 2006, c. 32, Sched. A, s. 98.

Auditor General

223.19 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Auditor General who reports to council and is responsible for assisting the council in holding itself and its administrators accountable for the quality of stewardship over public funds and for achievement of value for money in municipal operations. 2006, c. 32, Sched. A, s. 98.

Same

(1.1) The Auditor General shall perform his or her responsibilities under this Part in an independent manner. 2009, c. 33, Sched. 21, s. 6 (11).

Exceptions

(2) Despite subsection (1), the responsibilities of the Auditor General shall not include the matters described in clauses 296 (1) (a) and (b) for which the municipal auditor is responsible. 2006, c. 32, Sched. A, s. 98.

Powers and duties

(3) Subject to this Part, in carrying out his or her responsibilities, the Auditor General may exercise the powers and shall perform the duties as may be assigned to him or her by the municipality in respect of the municipality, its local boards and such municipally-controlled corporations and grant recipients as the municipality may specify. 2006, c. 32, Sched. A, s. 98.

Grant recipients

(4) The authority of the Auditor General to exercise powers and perform duties under this Part in relation to a grant recipient applies only in respect of grants received by the grant recipient directly or indirectly from the municipality, a local board or a municipally-controlled corporation after the date on which this section comes into force. 2006, c. 32, Sched. A, s. 98.

Delegation

(5) The Auditor General may delegate in writing to any person, other than a member of council, any of the Auditor General's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(6) The Auditor General may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

(7) The Auditor General is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Duty to furnish information

223.20 (1) The municipality, its local boards and the municipally-controlled corporations and grant recipients referred to in subsection 223.19 (3) shall give the Auditor General such information regarding their powers, duties, activities, organization, financial transactions and methods of business as the Auditor General believes to be necessary to perform his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Access to records

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality, the local board, the municipally-controlled corporation or the grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

No waiver of privilege

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. 2006, c. 32, Sched. A, s. 98.

Powers re examination

223.21 (1) The Auditor General may examine any person on oath on any matter pertinent to an audit or examination under this Part. 2006, c. 32, Sched. A, s. 98.

Application of *Public Inquiries Act, 2009*

(2) Section 33 of the *Public Inquiries Act, 2009* applies to an examination by the Auditor General. 2009, c. 33, Sched. 6, s. 72 (3).

Duty of confidentiality

223.22 (1) The Auditor General and every person acting under the instructions of the Auditor General shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(2) Subject to subsection (3), the persons required to preserve secrecy under subsection (1) shall not communicate information to another person in respect of any matter described in subsection (1) except as may be required,

- (a) in connection with the administration of this Part, including reports made by the Auditor General, or with any proceedings under this Part; or
- (b) under the *Criminal Code* (Canada). 2006, c. 32, Sched. A, s. 98.

Same

(3) A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General under section 223.20 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege. 2006, c. 32, Sched. A, s. 98.

Section prevails

(4) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 32, Sched. A, s. 98.

Testimony

223.23 Neither the Auditor General nor any person acting under the instructions of the Auditor General is a competent or compellable witness in a civil proceeding in connection with anything done under this Part. 2006, c. 32, Sched. A, s. 98.

Regulations

223.24 The Minister may make regulations prescribing local boards for the purposes of the definition of “local board” in section 223.1. 2006, c. 32, Sched. A, s. 98.

**PART VI
PRACTICES AND PROCEDURES**

MUNICIPAL ORGANIZATION AND ADMINISTRATION

Role of council

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. 2001, c. 25, s. 224; 2006, c. 32, Sched. A, s. 99.

Role of head of council

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. 2001, c. 25, s. 225; 2006, c. 32, Sched. A, s. 100.

Substitution

226. A municipality may, with the consent of the head of council, appoint a member of council to act in the place of the head of council on any body, other than on the council of another municipality, of which the head of council is a member by virtue of being head of council. 2001, c. 25, s. 226.

Head of council as chief executive officer

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. 2006, c. 32, Sched. A, s. 101.

Municipal administration

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. 2001, c. 25, s. 227.

Clerk

228. (1) A municipality shall appoint a clerk whose duty it is,

- (a) to record, without note or comment, all resolutions, decisions and other proceedings of the council;
- (b) if required by any member present at a vote, to record the name and vote of every member voting on any matter or question;
- (c) to keep the originals or copies of all by-laws and of all minutes of the proceedings of the council;
- (d) to perform the other duties required under this Act or under any other Act; and
- (e) to perform such other duties as are assigned by the municipality. 2001, c. 25, s. 228 (1).

Deputy clerks

(2) A municipality may appoint deputy clerks who have all the powers and duties of the clerk under this and any other Act. 2001, c. 25, s. 228 (2).

Not required to be an employee

(3) A clerk or deputy clerk is not required to be an employee of the municipality. 2001, c. 25, s. 228 (3).

Delegation

(4) The clerk may delegate in writing to any person, other than a member of council, any of the clerk's powers and duties under this and any other Act. 2001, c. 25, s. 228 (4).

Clerk retains powers and duties

(5) The clerk may continue to exercise the delegated powers and duties, despite the delegation. 2001, c. 25, s. 228 (5).

Chief administrative officer

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. 2001, c. 25, s. 229.

FIRST MEETING

First council meeting

230. The first meeting of a new council of a municipality after a regular election and after a by-election under section 266 shall be held at the time set out in the municipality's procedure by-law but in any case not later than 31 days after its term commences. 2001, c. 25, s. 230.

Deemed organization

231. A new council of a municipality shall be deemed to be organized after a regular election or after a by-election under section 266 when the declarations of office under section 232 have been made by a sufficient number of members to form a quorum. 2001, c. 25, s. 231.

Declaration of office

232. (1) A person shall not take a seat on the council of a municipality, including a person appointed to fill a temporary vacancy on an upper-tier council under section 267 but not including a person appointed to act in place of a head of council under section 242, until the person takes the declaration of office in the English or French version of the form established by the Minister for that purpose. 2001, c. 25, s. 232 (1).

Separate declarations

(2) Subsection (1) applies even if the person has already taken a declaration of office for another office on the same or a different council. 2001, c. 25, s. 232 (2).

Legislation Act, 2006

(2.1) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a form established by the Minister under subsection (1). 2006, c. 21, Sched. F, s. 120 (3).

Membership on both councils

(3) If a person is elected to the councils of both a lower-tier and an upper-tier municipality or is appointed by the council of a lower-tier municipality to the council of an upper-tier municipality, the clerk of the lower-tier municipality shall, immediately after the election or appointment, certify to the clerk of the upper-tier municipality the name of each person so elected or appointed. 2001, c. 25, s. 232 (3).

Restriction

(4) A person elected or appointed under subsection (3) shall not take the seat on the council of the upper-tier municipality until the clerk of the upper-tier municipality has received the certificate under subsection (3) in respect of that person. 2001, c. 25, s. 232 (4).

Condition for conducting business

(5) No business shall be conducted at the first meeting of a council until after the declarations of office have been made by all members who present themselves for that purpose. 2001, c. 25, s. 232 (5).

Deemed resignation

- (6) A person shall be deemed to have resigned from an office on the council of a municipality unless the person,
- (a) in the case of a regular election or a by-election under section 266, takes the declaration of office with respect to that office on or before the day of the first council meeting of the new council; and
 - (b) in the case of a by-election or appointment, other than a by-election under section 266, to fill a vacancy on a council, takes the declaration of office with respect to that office on or before the day of the first council meeting after the person is declared to be elected or is appointed. 2001, c. 25, s. 232 (6).

Extension

(7) Despite subsection (6), the council of a municipality may, before the deadline under subsection (6) has passed, extend the deadline by no more than 30 days. 2001, c. 25, s. 232 (7).

Appointment of head

233. (1) If the term of office of an appointed head of council of an upper-tier municipality is one year, the council of the upper-tier municipality shall, in each year of its term, appoint the head of council at its first meeting. 2001, c. 25, s. 233 (1).

Appointment of head, same term as council

(2) If the term of office of an appointed head of council of an upper-tier municipality is the same as the term of council, the council of the upper-tier municipality shall, in the first year of its term, appoint the head of council at its first meeting. 2001, c. 25, s. 233 (2).

Restriction

(3) No other business shall be conducted at a meeting under subsection (1) or (2) until the head of council is appointed. 2001, c. 25, s. 233 (3).

One vote

(4) Even though a member of council may have more than one vote in other circumstances, the member only has one vote in the appointment of the head of council. 2001, c. 25, s. 233 (4).

Secret ballot

(5) The head of council may be appointed by secret ballot. 2001, c. 25, s. 233 (5).

Timing of appointments

234. (1) If a new council of a local municipality after a regular election is required to appoint a member of the new council of the upper-tier municipality, the local municipality shall do so at its first meeting in the first year of its term. 2001, c. 25, s. 234 (1).

Restriction

(2) No other business shall be conducted at a meeting under subsection (1) until the member is appointed. 2001, c. 25, s. 234 (2).

Term, upper-tier members

235. (1) The term of office of a person who becomes a member of the council of an upper-tier municipality under subsection 233 (2), section 234 or by virtue of holding an office on the council of a lower-tier municipality is four years beginning on December 1 in the year of a regular election. 2001, c. 25, s. 235 (1); 2006, c. 9, Sched. H, s. 5 (2).

Term, head of council

(2) The term of office of a person appointed under subsection 233 (1) to fill the office of head of council of an upper-tier council for the fourth year of the term of office of the upper-tier council continues until the new council is organized following the next regular election. 2001, c. 25, s. 235 (2); 2006, c. 9, Sched. H, s. 5 (3).

LOCATION OF MEETINGS AND PUBLIC OFFICES

Location

236. (1) The council of a municipality shall hold its meetings and keep its public offices within the municipality or an adjacent municipality at a place set out in the municipality's procedure by-law; however, in the case of an emergency, it may hold its meetings and keep its public offices at any convenient location within or outside the municipality. 2001, c. 25, s. 236 (1).

Joint meetings

(2) Despite subsection (1), a meeting of the councils of two or more municipalities for the consideration of matters of common interest may be held within any one of those municipalities or in a municipality adjacent to any of them. 2001, c. 25, s. 236 (2).

QUORUM

Quorum

237. (1) A majority of the members of a municipal council is necessary to form a quorum with the following exceptions:

1. In the upper-tier municipalities of Durham, Niagara and the County of Oxford, a majority of members representing at least one-half of the lower-tier municipalities is necessary to form a quorum.
2. In the upper-tier municipalities of Halton, York and The District Municipality of Muskoka, a majority of members representing a majority of the lower-tier municipalities is necessary to form a quorum.
3. In The Regional Municipality of Peel, a majority of members representing all lower-tier municipalities is necessary to form a quorum. 2001, c. 25, s. 237 (1); 2002, c. 17, Sched. A, s. 44 (1).

Variation

(2) The council of a municipality referred to in paragraphs 1, 2 and 3 of subsection (1) may reduce its quorum requirement but may not reduce it to less than a majority of its members. 2001, c. 25, s. 237 (2).

Waterloo

(3) The council of the upper-tier municipality of Waterloo may adopt a different quorum requirement that requires the attendance of more than a majority of its members. 2002, c. 17, Sched. A, s. 44 (2).

PROCEDURE BY-LAW

Procedure by-law

Definitions

238. (1) In this section and in sections 239 to 239.2,

“committee” means any advisory or other committee, subcommittee or similar entity of which at least 50 per cent of the members are also members of one or more councils or local boards; (“comité”)

“local board” does not include police services boards or public library boards; (“conseil local”)

“meeting” means any regular, special or other meeting of a council, of a local board or of a committee of either of them. (“réunion”) 2001, c. 25, s. 238 (1); 2006, c. 32, Sched. A, s. 102 (1, 2).

Procedure by-laws respecting meetings

(2) Every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings. 2001, c. 25, s. 238 (2).

Notice

(2.1) The procedure by-law shall provide for public notice of meetings. 2006, c. 32, Sched. A, s. 102 (3).

Outside municipality

(3) The procedure by-law may provide that meetings be held and public offices be kept at a place outside the municipality within an adjacent municipality. 2001, c. 25, s. 238 (3).

Presiding officer

(4) The procedure by-law may, with the consent of the head of council, designate a member of council, other than the head of council, to preside at meetings of council. 2006, c. 32, Sched. A, s. 102 (4).

Secret ballot

(5) A presiding officer may be designated by secret ballot. 2006, c. 32, Sched. A, s. 102 (4).

MEETINGS

Meetings open to public

239. (1) Except as provided in this section, all meetings shall be open to the public. 2001, c. 25, s. 239 (1).

Exceptions

- (2) A meeting or part of a meeting may be closed to the public if the subject matter being considered is,
- (a) the security of the property of the municipality or local board;
 - (b) personal matters about an identifiable individual, including municipal or local board employees;
 - (c) a proposed or pending acquisition or disposition of land by the municipality or local board;
 - (d) labour relations or employee negotiations;
 - (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
 - (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
 - (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act. 2001, c. 25, s. 239 (2).

Other criteria

(3) A meeting shall be closed to the public if the subject matter relates to the consideration of 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. 2001, c. 25, s. 239 (3).

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (3) is repealed and the following substituted: (See: 2014, c. 13, Sched. 9, ss. 22, 24 (1))

Other criteria

- (3) A meeting or part of a meeting shall be closed to the public if the subject matter being considered is,
- (a) 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

- (b) an ongoing investigation respecting the municipality, a local board or a municipally-controlled corporation by the Ombudsman appointed under the *Ombudsman Act*, an Ombudsman referred to in subsection 223.13 (1) of this Act, or the investigator referred to in subsection 239.2 (1). 2014, c. 13, Sched. 9, s. 22.

Educational or training sessions

(3.1) 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:

1. The meeting is held for the purpose of educating or training the members.
2. 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. 2006, c. 32, Sched. A, s. 103 (1).

Resolution

(4) Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,

- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
- (b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection. 2001, c. 25, s. 239 (4); 2006, c. 32, Sched. A, s. 103 (2).

Open meeting

(5) Subject to subsection (6), a meeting shall not be closed to the public during the taking of a vote. 2001, c. 25, s. 239 (5).

Exception

- (6) Despite section 244, a meeting may be closed to the public during a vote if,
- (a) subsection (2) or (3) permits or requires the meeting to be closed to the public; and
 - (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board. 2001, c. 25, s. 239 (6).

Record of meeting

(7) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not. 2006, c. 32, Sched. A, s. 103 (3).

Same

- (8) The record required by subsection (7) shall be made by,
- (a) the clerk, in the case of a meeting of council; or
 - (b) the appropriate officer, in the case of a meeting of a local board or committee. 2006, c. 32, Sched. A, s. 103 (3).

Record may be disclosed

(9) Clause 6 (1) (b) of the *Municipal Freedom of Information and Protection of Privacy Act* does not apply to a record of a meeting closed under subsection (3.1). 2006, c. 32, Sched. A, s. 103 (3).

Investigation

239.1 A person may request that an investigation of whether a municipality or local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public be undertaken,

- (a) by an investigator referred to in subsection 239.2 (1); or
- (b) by the Ombudsman appointed under the *Ombudsman Act*, if the municipality has not appointed an investigator referred to in subsection 239.2 (1). 2006, c. 32, Sched. A, s. 104.

Investigator

239.2 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an investigator who has the function to investigate in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation. 2006, c. 32, Sched. A, s. 104.

Powers and duties

(2) Subject to this section, in carrying out his or her functions under subsection (1), the investigator may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 104.

Matters to which municipality is to have regard

(3) In appointing an investigator and in assigning powers and duties to him or her, the municipality shall have regard to, among other matters, the importance of the matters listed in subsection (5). 2006, c. 32, Sched. A, s. 104.

Same, investigator

(4) In carrying out his or her functions under subsection (1), the investigator shall have regard to, among other matters, the importance of the matters listed in subsection (5). 2006, c. 32, Sched. A, s. 104.

Same

(5) The matters referred to in subsections (3) and (4) are,

(a) the investigator's independence and impartiality;

(b) confidentiality with respect to the investigator's activities; and

(c) the credibility of the investigator's investigative process. 2006, c. 32, Sched. A, s. 104.

Delegation

(6) An investigator may delegate in writing to any person, other than a member of council, any of the investigator's powers and duties under this Part. 2006, c. 32, Sched. A, s. 104.

Same

(7) An investigator may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 104.

Status

(8) An investigator is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 104.

Application

(9) Subsection 223.13 (6) and sections 223.14 to 223.18 apply with necessary modifications with respect to the exercise of functions described in this section. 2006, c. 32, Sched. A, s. 104.

Report and recommendations

(10) If, after making an investigation, the investigator is of the opinion that the meeting or part of the meeting that was the subject-matter of the investigation appears to have been closed to the public contrary to section 239 or to a procedure by-law under subsection 238 (2), the investigator shall report his or her 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. 2006, c. 32, Sched. A, s. 104.

Publication of reports

(11) The municipality or local board shall ensure that reports received under subsection (10) by the municipality or local board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 104.

Calling of meetings

240. Subject to the procedure by-law passed under section 238,

(a) the head of council may at any time call a special meeting; and

(b) upon receipt of a petition of the majority of the members of council, the clerk shall call a special meeting for the purpose and at the time mentioned in the petition. 2001, c. 25, s. 240.

Head of council

241. (1) The head of council, except where otherwise provided, shall preside at all meetings of the council. 2001, c. 25, s. 241 (1).

Power to expel

(2) The head of council or other presiding officer may expel any person for improper conduct at a meeting. 2001, c. 25, s. 241 (2).

Absence of head

242. A municipality may, by by-law or resolution, appoint a member of the council to act in the place of the head of council or other member of council designated to preside at meetings in the municipality's procedure by-law when the head of council or designated member is absent or refuses to act or the office is vacant, and while so acting such member has all the powers and duties of the head of council or designated member, as the case may be. 2006, c. 32, Sched. A, s. 105.

Voting

243. Except as otherwise provided, every member of a council shall have one vote. 2001, c. 25, s. 243.

Open voting

244. Except as provided in sections 233 and 238, no vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect. 2001, c. 25, s. 244; 2006, c. 32, Sched. A, s. 106.

Tie votes

245. Any question on which there is a tie vote shall be deemed to be lost, except where otherwise provided by any Act. 2001, c. 25, s. 245.

Recorded vote

246. (1) If a member present at a meeting at the time of a vote requests immediately before or after the taking of the vote that the vote be recorded, each member present, except a member who is disqualified from voting by any Act, shall announce his or her vote openly and the clerk shall record each vote. 2001, c. 25, s. 246 (1).

Failure to vote

(2) A failure to vote under subsection (1) by a member who is present at the meeting at the time of the vote and who is qualified to vote shall be deemed to be a negative vote. 2001, c. 25, s. 246 (2).

BY-LAWS**Language of by-laws**

247. (1) The by-laws and resolutions of a municipality shall be passed in English or in both English and French. 2001, c. 25, s. 247 (1).

Official plan

(2) An official plan adopted by a municipality shall be in English or in both English and French. 2001, c. 25, s. 247 (2).

Proceedings

(3) Every council and every committee of council may conduct its proceedings in English or French or in both English and French. 2001, c. 25, s. 247 (3).

Minutes

(4) Despite subsection (3), the minutes of the proceedings shall be kept in English or in both English and French. 2001, c. 25, s. 247 (4).

Proviso

- (5) Nothing in this section,
- (a) affects an obligation imposed by or under any Act to make, keep, use, file, register or submit any record in the language or languages specified by or under the Act; or
 - (b) affects any requirement at law to give reasonable notice. 2001, c. 25, s. 247 (5).

Translations

(6) If a record is submitted by a municipality to a provincial ministry in French, the municipality shall, at the request of the minister of that ministry, supply an English translation of it. 2001, c. 25, s. 247 (6).

Municipal code

248. If a council passes a comprehensive general by-law that consolidates and includes the provisions of any by-law previously passed by the council,

- (a) the provisions in the comprehensive general by-law shall be deemed to have come into force on the day the original by-law came into force; and
- (b) any condition or approval required by law to the making of the original by-law shall, where such condition was satisfied or approval obtained, be deemed to have been satisfied or obtained in respect of the corresponding provision in the comprehensive general by-law. 2001, c. 25, s. 248.

Seal

249. (1) Every by-law of a municipality,

- (a) shall be under the seal of the corporation; and
- (b) shall be signed by the clerk and by the head of council or presiding officer at the meeting at which the by-law was passed. 2001, c. 25, s. 249 (1).

Failure to seal

(2) If by oversight the seal of the corporation was not affixed to a by-law, it may be affixed at any time afterwards and when so affixed, the by-law is as valid as if it had been originally sealed. 2001, c. 25, s. 249 (2).

By-laws upon application

250. (1) Where by this or any other Act a by-law may be passed by a council upon the application of a prescribed number of electors or inhabitants of the municipality or geographic area, the by-law shall not be finally passed until the clerk has certified that the application was sufficiently signed. 2001, c. 25, s. 250 (1).

Application of *Public Inquiries Act, 2009*

(2) Section 33 of the *Public Inquiries Act, 2009* applies to an inquiry into the sufficiency of the application by the clerk. 2009, c. 33, Sched. 6, s. 72 (4).

Effect of certificate

(3) The certificate of the clerk is conclusive that the application was sufficiently signed. 2001, c. 25, s. 250 (3).

251., 252. REPEALED: 2006, c. 32, Sched. A, s. 107.

RECORDS

Inspection of records

253. (1) Subject to the *Municipal Freedom of Information and Protection of Privacy Act*, any person may, at all reasonable times, inspect any of the records under the control of the clerk, including,

- (a) by-laws and resolutions of the municipality and of its local boards;
- (b) minutes and proceedings of regular, special or committee meetings of the council or local board, whether the minutes and proceedings have been adopted or not;
- (c) records considered at a meeting, except those records considered during that part of a meeting that was closed to the public;
- (d) the records of the council;
- (e) statements of remuneration and expenses prepared under section 284. 2001, c. 25, s. 253 (1).

Certified copies

(2) Upon request, the clerk shall, within a reasonable time, provide a certified copy under seal of the municipality of any record referred to in subsection (1) to any applicant who pays the fee established by council. 2001, c. 25, s. 253 (2).

Retention of records

254. (1) A municipality shall retain and preserve the records of the municipality and its local boards in a secure and accessible manner and, if a local board is a local board of more than one municipality, the affected municipalities are jointly responsible for complying with this subsection. 2001, c. 25, s. 254 (1).

Same, local boards

(2) Despite subsection (1), a local board that has ownership and control of its records shall retain and preserve the records in a secure and accessible manner. 2001, c. 25, s. 254 (2).

Agreement

(3) If a municipality or a local board has a duty to retain and preserve records under this section, the municipality or local board may enter into an agreement for archival services with respect to the records, but a local board shall not enter into such an agreement without the consent of each of the municipalities of which it is a local board and the municipality shall not enter into such an agreement unless the other municipalities, if any, with whom the municipality has joint duty to retain and preserve the records also are party to the agreement. 2006, c. 32, Sched. A, s. 108.

Effect of transfer

(4) Records transferred to a person pursuant to an agreement under subsection (3) remain, for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act*, under the ownership and control of the municipality or of a local board of the municipality if the local board falls within the definition of or is designated as an institution under that Act. 2006, c. 32, Sched. A, s. 108.

Duties

(5) A person to whom records are transferred pursuant to an agreement under subsection (3) shall retain and preserve the records transferred to it in a secure and accessible manner. 2006, c. 32, Sched. A, s. 108.

Role of municipality, local board

(6) A municipality and a local board shall ensure that a person to whom records are transferred pursuant to an agreement under subsection (3) fulfils the obligations under subsection (5). 2006, c. 32, Sched. A, s. 108.

(7), (8) REPEALED: 2006, c. 32, Sched. A, s. 108.

Interpretation

(9) In this section, the requirement to retain and preserve records in an accessible manner means that the records can be retrieved within a reasonable time and that the records are in a format that allows the content of the records to be readily ascertained by a person inspecting the records. 2001, c. 25, s. 254 (9).

Retention periods

255. (1) Except as otherwise provided, a record of a municipality or local board may only be destroyed in accordance with this section. 2001, c. 25, s. 255 (1).

Destruction of records

(2) Despite section 254, a record of a municipality or a local board may be destroyed if a retention period for the record has been established under this section and,

- (a) the retention period has expired; or
- (b) the record is a copy of the original record. 2001, c. 25, s. 255 (2); 2006, c. 32, Sched. A, s. 109 (1).

Retention periods

(3) A municipality may, subject to the approval of the municipal auditor, establish retention periods during which the records of the municipality and local boards of the municipality must be retained and preserved in accordance with section 254. 2001, c. 25, s. 255 (3).

Joint local boards

(4) Despite subsection (3), if a local board is a local board of more than one municipality, a majority of the affected municipalities may, subject to the approval of the auditor of the local board, establish retention periods during which the records of the local board must be retained and preserved in accordance with section 254. 2001, c. 25, s. 255 (4).

Records transferred

(5) Subsections (1) to (4) continue to apply to records transferred to a person under section 254. 2001, c. 25, s. 255 (5); 2006, c. 32, Sched. A, s. 109 (2).

Interpretation

(6) In this section, “record” does not include a record of a police services board that is directly related to any law enforcement activity with respect to a person or body. 2001, c. 25, s. 255 (6).

ELIGIBILITY

Eligibility, local municipality

256. Every person is qualified to be elected or to hold office as a member of a council of a local municipality,

- (a) who is entitled to be an elector in the local municipality under section 17 of the *Municipal Elections Act, 1996*; and
- (b) who is not disqualified by this or any other Act from holding the office. 2001, c. 25, s. 256.

Eligibility, upper-tier municipality

257. Every person is qualified to be elected or to hold office as a member of a council of an upper-tier municipality,

- (a) who is entitled to be an elector in a lower-tier municipality within the upper-tier municipality under section 17 of the *Municipal Elections Act, 1996*; and
- (b) who is not disqualified by this or any other Act from holding the office. 2001, c. 25, s. 257.

Ineligible

258. (1) The following are not eligible to be elected as a member of a council or to hold office as a member of a council:

1. Except in accordance with section 30 of the *Municipal Elections Act, 1996*,
 - i. an employee of the municipality,
 - ii. a person who is not an employee of the municipality but who is the clerk, treasurer, Integrity Commissioner, Auditor General, Ombudsman or registrar referred to in section 223.11 or an investigator referred to in subsection 239.2 (1) of the municipality, or
 - iii. a person who is not an employee of the municipality but who holds any administrative position of the municipality.
2. A judge of any court.
3. A member of the Assembly as provided in the *Legislative Assembly Act* or of the Senate or House of Commons of Canada.
4. Except in accordance with Part V of the *Public Service of Ontario Act, 2006* and any regulations made under that Part, a public servant within the meaning of that Act. 2001, c. 25, s. 258 (1); 2006, c. 32, Sched. A, s. 110; 2006, c. 35, Sched. C, s. 86.

Disqualification

(2) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

- (a) ceases to be a Canadian citizen;
- (b) is not a resident, the owner or tenant of land or the spouse of an owner or tenant of land in the municipality, in the case of a member of council of a local municipality, or in a lower-tier municipality within the upper-tier municipality, in the case of a member of council of an upper-tier municipality; or
- (c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time. 2001, c. 25, s. 258 (2); 2005, c. 5, s. 44 (3).

VACANCIES

Vacant seat

259. (1) The office of a member of council of a municipality becomes vacant if the member,

- (a) becomes disqualified from holding the office of a member of council under section 256, 257 or 258;
- (b) fails to make the declaration of office before the deadline in section 232;
- (c) is absent from the meetings of council for three successive months without being authorized to do so by a resolution of council;
- (d) resigns from his or her office and the resignation is effective under section 260;
- (e) is appointed or elected to fill any vacancy in any other office on the same council;

- (f) has his or her office declared vacant in any judicial proceeding;
- (g) forfeits his or her office under this or any other Act; or
- (h) dies, whether before or after accepting office and making the prescribed declarations. 2001, c. 25, s. 259 (1).

Exception

(2) Clause (1) (e) does not apply to vacate the office of a member of an upper-tier council when the member is appointed head of council if the composition of council requires or permits the member to hold both offices. 2001, c. 25, s. 259 (2).

Dual vacancies

(3) If one of the offices of a person who is a member of council of both a local municipality and its upper-tier municipality becomes vacant under this section, the other office also become vacant. 2001, c. 25, s. 259 (3).

Exception

(4) Subsection (3) does not apply to vacate an office of a member when another office of the member becomes vacant if the composition of the councils does not require the member to hold both offices. 2001, c. 25, s. 259 (4).

Resignation as member

260. (1) A member of council of a municipality may resign from office by notice in writing filed with the clerk of the municipality. 2001, c. 25, s. 260 (1).

Restriction

(2) Despite subsection (1), a resignation is not effective if it would reduce the number of members of the council to less than a quorum and, if the member resigning from office is a member of the councils of both a local municipality and its upper-tier municipality, the resignation is not effective if it would reduce the number of members of either council to less than a quorum. 2001, c. 25, s. 260 (2).

Restriction

261. (1) Except where otherwise provided, no person may hold more than one office governed by the *Municipal Elections Act, 1996* at the same time anywhere in Ontario. 2001, c. 25, s. 261 (1).

Election void

(2) If a person is nominated for and his or her name appears on the ballots for more than one office and he or she is elected to any of those offices, his or her election is void and the office is vacant. 2001, c. 25, s. 261 (2).

Declaration

262. (1) If the office of a member of a council becomes vacant under section 259, the council shall at its next meeting declare the office to be vacant, except if a vacancy occurs as a result of the death of a member, the declaration may be made at either of its next two meetings. 2001, c. 25, s. 262 (1).

Upper-tier declaration

(2) If an upper-tier municipality declares the office of one of its members who also holds office on the council of a local municipality to be vacant, the upper-tier municipality shall immediately forward a copy of its declaration to the council of the local municipality. 2001, c. 25, s. 262 (2).

Lower-tier declaration

(3) If a local municipality declares the office of one of its members who also holds office on the council of the upper-tier municipality to be vacant, the local municipality shall immediately forward a copy of its declaration to the council of the upper-tier municipality. 2001, c. 25, s. 262 (3).

Filling vacancies

263. (1) If a vacancy occurs in the office of a member of council, the municipality shall, subject to this section,

- (a) fill the vacancy by appointing a person who has consented to accept the office if appointed; or
- (b) require a by-election to be held to fill the vacancy in accordance with the *Municipal Elections Act, 1996*. 2001, c. 25, s. 263 (1).

Dual vacancies

(2) If the offices of a person who is a member of council of both a local municipality and its upper-tier municipality become vacant, the local municipality and not the upper-tier municipality shall fill the vacancy in accordance with subsection (1). 2001, c. 25, s. 263 (2).

Court-ordered election

(3) If an order is made in any judicial proceeding requiring a by-election be held to fill a vacancy on a council, the clerk shall hold the by-election in accordance with the *Municipal Elections Act, 1996*. 2001, c. 25, s. 263 (3).

Vacancy, head of council

(4) Despite subsections (1) to (3), if the head of council of an upper-tier municipality is required to be appointed by the members of the upper-tier council, the upper-tier municipality shall fill a vacancy in the office of head of council by appointment in the same manner as the head was originally appointed. 2001, c. 25, s. 263 (4).

Rules applying to filling vacancies

(5) The following rules apply to filling vacancies:

1. Within 60 days after the day a declaration of vacancy is made with respect to the vacancy under section 262, the municipality shall,
 - i. appoint a person to fill the vacancy under subsection (1) or (4), or
 - ii. pass a by-law requiring a by-election be held to fill the vacancy under subsection (1).
2. Despite paragraph 1, if a court declares an office to be vacant, the council shall act under subsection (1) or (4) within 60 days after the day the court makes its declaration.
3. Despite subsections (1) to (4), if a vacancy occurs within 90 days before voting day of a regular election, the municipality is not required to fill the vacancy. 2001, c. 25, s. 263 (5).

Term

264. A person appointed or elected to fill a vacancy under section 263 shall hold office for the remainder of the term of the person he or she replaced. 2001, c. 25, s. 264.

Application to court

265. (1) Any elector entitled to vote at the election of members of a council may apply to the Superior Court of Justice for a declaration that the office of a member of the council has become vacant in accordance with this Act. 2001, c. 25, s. 265 (1).

Judicial finding

(2) If the court finds that the office of a member of the council has become vacant, it may order the member removed from office and declare the office vacant. 2001, c. 25, s. 265 (2).

Application of S.O. 1996, c. 32

(3) Subsection 83 (3) and sections 85, 86 and 87 of the *Municipal Elections Act, 1996* apply to the application as if it were an application under section 83 of that Act. 2001, c. 25, s. 265 (3).

Combined application

(4) The application may be combined with an application under section 83 of the *Municipal Elections Act, 1996*, in which case the applications shall be heard and disposed of together. 2001, c. 25, s. 265 (4).

Minister's order

266. (1) If the council of a municipality is unable to hold a meeting for a period of 60 days because of a failure to obtain a quorum, the Minister may by order declare all the offices of the members of the council to be vacant and a by-election shall be held in accordance with the *Municipal Elections Act, 1996*. 2002, c. 17, Sched. A, s. 45 (1).

Timing

(2) The 60-day period referred to in subsection (1) commences on the day of the first meeting that could not be held because of a failure to obtain a quorum. 2001, c. 25, s. 266 (2).

Interim order

(3) Where the Minister makes an order under subsection (1), or the offices of a majority of the members of a council are for any reason declared vacant, the Minister may by order exercise or appoint one or more persons to exercise the duties and

obligations of the council until such time as a by-election is held in accordance with the *Municipal Elections Act, 1996*, and the members so elected have taken office. 2001, c. 25, s. 266 (3); 2002, c. 17, Sched. A, s. 45 (2).

Not regulation

(4) An order of the Minister under this section is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2006, c. 21, Sched. F, s. 120 (4).

Temporary vacancy

267. (1) If a person who is a member of the councils of a local municipality and its upper-tier municipality is unable to act as a member of those councils for a period exceeding one month, the local council may appoint one of its members as an alternate member of the upper-tier council to act in place of the member until the member is able to resume acting as a member of those councils. 2001, c. 25, s. 267 (1).

Alternate member

(2) If the offices of a person who is a member of council of both a local municipality and its upper-tier municipality become vacant and the vacancies will not be filled for a period exceeding one month, the local council may appoint one of its members as an alternate member of the upper-tier council until the vacancies are filled permanently. 2001, c. 25, s. 267 (2).

Exception

(3) This section does not authorize the appointment of an alternate head of council of the upper-tier municipality. 2001, c. 25, s. 267 (3).

268. REPEALED: 2006, c. 32, Sched. A, s. 111.

POLICIES

Interpretation

269. (1) In section 270,

“local board” means,

- (a) a local board as defined in section 1, excluding a police services board and a hospital board,
- (b) an area services board, a local services board, a local roads board and any other board, commission or local authority exercising any power with respect to municipal affairs or purposes in unorganized territory, excluding a school board, a hospital board and a conservation authority,
- (c) a district social services administration board,
- (d) a local housing corporation as defined in the *Housing Services Act, 2011*, despite clause 26 (b) of that Act, and
- (e) any other prescribed body performing a public function. 2001, c. 25, s. 269 (1); 2006, c. 32, Sched. A, s. 112; 2011, c. 6, Sched. 1, s. 187 (3).

Regulations

(2) The Minister may make regulations prescribing bodies which fall within the definition of “local board” in subsection (1). 2001, c. 25, s. 269 (2).

POLICIES

Adoption of policies

270. (1) A municipality shall adopt and maintain policies with respect to the following matters:

1. Its sale and other disposition of land.
2. Its hiring of employees.
3. Its procurement of goods and services.
4. The circumstances in which the municipality shall provide notice to the public and, if notice is to be provided, the form, manner and times notice shall be given.
5. The manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.
6. The delegation of its powers and duties. 2006, c. 32, Sched. A, s. 113.

Policies of local boards

(2) A local board shall adopt and maintain policies with respect to the following matters:

1. Its sale and other disposition of land.
2. Its hiring of employees.
3. Its procurement of goods and services. 2006, c. 32, Sched. A, s. 113.

271. REPEALED: 2006, c. 32, Sched. A, s. 113.

QUASHING BY-LAWS

Restriction on quashing by-law

272. A by-law passed in good faith under any Act shall not be quashed or open to review in whole or in part by any court because of the unreasonableness or supposed unreasonableness of the by-law. 2001, c. 25, s. 272.

Application to quash by-law

273. (1) Upon the application of any person, the Superior Court of Justice may quash a by-law of a municipality in whole or in part for illegality. 2001, c. 25, s. 273 (1).

Definition

(2) In this section,

“by-law” includes an order or resolution. 2001, c. 25, s. 273 (2).

Inquiry

(3) If an application to quash alleges a contravention of subsection 90 (3) of the *Municipal Elections Act, 1996*, the Superior Court of Justice may direct an inquiry into the alleged contravention to be held before an official examiner or a judge of the court, and the evidence of the witnesses in the inquiry shall be given under oath and shall form part of the evidence in the application to quash. 2001, c. 25, s. 273 (3).

Other cases

(4) The court may direct that nothing shall be done under the by-law until the application is disposed of. 2001, c. 25, s. 273 (4).

Timing

(5) An application to quash a by-law in whole or in part, subject to section 415, shall be made within one year after the passing of the by-law. 2001, c. 25, s. 273 (5).

JUDICIAL INVESTIGATION

Investigation by judge

274. (1) If a municipality so requests by resolution, a judge of the Superior Court of Justice shall,

- (a) investigate any supposed breach of trust or other misconduct of a member of council, an employee of the municipality or a person having a contract with the municipality in relation to the duties or obligations of that person to the municipality;
- (b) inquire into any matter connected with the good government of the municipality; or
- (c) inquire into the conduct of any part of the public business of the municipality, including business conducted by a commission appointed by the council or elected by the electors. 2001, c. 25, s. 274 (1).

Application of *Public Inquiries Act, 2009*

(2) Section 33 of the *Public Inquiries Act, 2009* applies to the investigation or inquiry by the judge. 2009, c. 33, Sched. 6, s. 72 (5).

Report

(3) The judge shall report the results of the investigation or inquiry to the council as soon as practicable. 2001, c. 25, s. 274 (3).

Counsel

(4) The council may hire counsel to represent the municipality and pay fees for witnesses who are summoned to give evidence at the investigation or inquiry. 2001, c. 25, s. 274 (4).

Representation by counsel

(5) Any person whose conduct is called into question in the investigation or inquiry may be represented by counsel. 2001, c. 25, s. 274 (5).

Costs

(6) The judge may engage counsel and other persons to assist in the investigation or inquiry and the costs of engaging those persons and any incidental expenses shall be paid by the municipality. 2001, c. 25, s. 274 (6).

RESTRICTED ACTS AFTER NOMINATION DAY

Restricted acts

275. (1) The council of a local municipality shall not take any action described in subsection (3) after the first day during the election for a new council on which it can be determined that one of the following applies to the new council that will take office following the election:

1. If the new council will have the same number of members as the outgoing council, the new council will include less than three-quarters of the members of the outgoing council.
2. If the new council will have more members than the outgoing council, the new council will include less than three-quarters of the members of the outgoing council or, if the new council will include at least three-quarters of the members of the outgoing council, three-quarters of the members of the outgoing council will not constitute, at a minimum, a majority of the members of the new council.
3. If the new council will have fewer members than the outgoing council, less than three-quarters of the members of the new council will have been members of the outgoing council or, if at least three-quarters of the members of the new council will have been members of the outgoing council, three-quarters of the members of the new council will not constitute, at a minimum, a majority of the members of the outgoing council. 2001, c. 25, s. 275 (1).

Basis for determination

- (2) If a determination under subsection (1) is made,
 - (a) after nomination day but before voting day, the determination shall be based on the nominations to the new council that have been certified and any acclamations made to the new council; or
 - (b) after voting day, the determination shall be based on the declaration of the results of the election including declarations of election by acclamation. 2001, c. 25, s. 275 (2).

Restrictions

- (3) The actions referred to in subsection (1) are,
 - (a) the appointment or removal from office of any officer of the municipality;
 - (b) the hiring or dismissal of any employee of the municipality;
 - (c) the disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
 - (d) making any expenditures or incurring any other liability which exceeds \$50,000. 2001, c. 25, s. 275 (3); 2006, c. 32, Sched. A, s. 114 (1).

Exception

(4) Clauses (3) (c) and (d) do not apply if the disposition or liability was included in the most recent budget adopted by the council before nomination day in the election. 2001, c. 25, s. 275 (4).

Emergencies

(4.1) Nothing in this section prevents a municipality taking any action in the event of an emergency. 2006, c. 32, Sched. A, s. 114 (2).

Upper-tier council

(5) This section applies with necessary modifications to the council of an upper-tier municipality. 2001, c. 25, s. 275 (5).

Delegated authority unaffected

(6) Nothing in this section prevents any person or body exercising any authority of a municipality that is delegated to the person or body prior to nomination day for the election of the new council. 2006, c. 32, Sched. A, s. 114 (3).

276.-277. REPEALED: 2006, c. 32, Sched. A, s. 115.

INSURANCE

Definitions

278. (1) In sections 279, 280 and 282,

“employee” means any salaried officer, or any other person in the employ of the municipality or of a local board and includes,

- (a) a member of the police force of the municipality,
- (b) persons that provide their services on behalf of the municipality without remuneration, exclusive of reimbursement of expenses or honoraria, if council of the municipality has passed a by-law designating such persons or classes of persons as employees for the purposes of this section, and
- (c) any other person or class of person designated as an employee by the Minister; (“employé”)

“former employee” means a person who was formerly an employee of a municipality or local board; (“ancien employé”)

“former member” means a person who was formerly a member of a council of a municipality or local board; (“ancien membre”)

“local board” means a local board as defined in the *Municipal Affairs Act*. (“conseil local”) 2001, c. 25, s. 278.

Not regulation

(2) A designation by the Minister under this section is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2006, c. 21, Sched. F, s. 120 (5).

Insurance

279. (1) Despite the *Insurance Act*, a municipality may be or act as an insurer and may exchange with other municipalities in Ontario reciprocal contracts of indemnity or inter-insurance in accordance with Part XIII of the *Insurance Act* with respect to the following matters:

1. Protection against risks that may involve pecuniary loss or liability on the part of the municipality or any local board of the municipality.
2. The protection of its employees or former employees or those of any local board of the municipality against risks that may involve pecuniary loss or liability on the part of those employees.
3. Subject to section 14 of the *Municipal Conflict of Interest Act*, the protection of the members or former members of the council or of any local board of the municipality or any class of those members against risks that may involve pecuniary loss or liability on the part of the members.
4. Subject to section 14 of the *Municipal Conflict of Interest Act*, the payment of any damages or costs awarded against any of its employees, members, former employees or former members or expenses incurred by them as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as employees or members, including while acting in the performance of any statutory duty.
5. Subject to section 14 of the *Municipal Conflict of Interest Act*, the payment of any sum required in connection with the settlement of an action or other proceeding referred to in paragraph 4 and for assuming the cost of defending the employees or members in the action or proceeding. 2001, c. 25, s. 279 (1).

Limitation

(2) Despite section 387 of the *Insurance Act*, any surplus funds and the reserve fund of a municipal reciprocal exchange may be invested only in accordance with section 418. 2001, c. 25, s. 279 (2).

Reserve funds

(3) The money raised for a reserve fund of a municipal reciprocal exchange may be spent, pledged or applied to a purpose other than that for which the fund was established if two-thirds of the municipalities that are members of the exchange together with two-thirds of the municipalities that previously were members of the exchange and that may be subject to claims arising while they were members of the exchange, agree in writing and if section 386 of the *Insurance Act* is complied with. 2001, c. 25, s. 279 (3).

Insurance Act does not apply

(4) The *Insurance Act* does not apply to a municipality acting as an insurer for the purpose of this section. 2001, c. 25, s. 279 (4).

Powers re: local boards

280. (1) A municipality may contract for insurance for, pay any part of the premiums for or pay for any part of the damages, risks or costs referred to in subsection 279 (1) for any local board of the municipality or for any of the members, former members, employees or former employees of a local board of a municipality. 2001, c. 25, s. 280 (1).

Local board powers

(2) A local board of a municipality has the same powers with respect to itself, its members, former members, employees and former employees to contract for insurance, pay premiums for the insurance, be or act as an insurer, exchange reciprocal contracts of indemnity and to pay damages and costs as are conferred upon a municipality by this Act. 2001, c. 25, s. 280 (2).

HEALTH BENEFITS

Sick leave credit gratuities

281. (1) Under a plan of sick leave credit gratuities established for employees by a municipality, on the termination of employment, no employee is entitled to more than an amount equal to the salary, wages or other remuneration for one-half the number of days standing to his or her credit up to a maximum of one-half year's earnings at the rate received by him or her immediately before termination of employment. 2001, c. 25, s. 281 (1).

Local board

(2) Any local board may establish a plan of sick leave credit gratuities for employees or any class of them and this section applies with necessary modifications to the local board. 2001, c. 25, s. 281 (2).

Definition

(3) In this section,
“employee” means “employee” as defined in section 278. 2001, c. 25, s. 281 (3).

Insurance, health, etc.

282. (1) Subject to the *Health Insurance Act*, a municipality may provide, only through contract either with an insurer licensed under the *Insurance Act* or with an association registered under the *Prepaid Hospital and Medical Services Act*,

- (a) group life insurance for members of council or any local board of the municipality, employees or former employees of the municipality or any local board of the municipality or any class of them and their spouses and children;
- (b) group accident insurance or group sickness insurance for members of council or any local board of the municipality, employees or former employees of the municipality or any local board of the municipality or any class of them and their spouses and children; and
- (c) hospital, medical, surgical, nursing or dental services or payments for those services for members of council or any local board of the municipality, employees or former employees of the municipality or any local board of the municipality or any class of them and their spouses and children. 2001, c. 25, s. 282 (1); 2005, c. 5, s. 44 (4).

Local board

(2) Any local board may provide the insurance, services or payments referred to in subsection (1) and may pay for them in the same manner and for the same classes of persons as the council of a municipality, and subsection (1) applies with necessary modifications to the local board. 2001, c. 25, s. 282 (2).

REMUNERATION AND EXPENSES

Remuneration and expenses

283. (1) A municipality may pay any part of the remuneration and expenses of the members of any local board of the municipality and of the officers and employees of the local board. 2001, c. 25, s. 283 (1).

Limitation

(2) Despite any Act, a municipality may only pay the expenses of the members of its council or of a local board of the municipality and of the officers and employees of the municipality or local board if the expenses are of those persons in their capacity as members, officers or employees and if,

- (a) the expenses are actually incurred; or

- (b) the expenses are, in lieu of the expenses actually incurred, a reasonable estimate, in the opinion of the council or local board, of the actual expenses that would be incurred. 2001, c. 25, s. 283 (2).

Local boards

(3) A local board of a municipality may pay remuneration to and the expenses incurred by its members, officers and employees to the extent that the municipality is able to do so under this Act. 2001, c. 25, s. 283 (3).

Limitation

(4) No part of the remuneration of a member of a council or local board paid under this section is deemed to be for expenses incidental to his or her duties as a member and a municipality or local board shall not provide that any part of the remuneration is for such deemed expenses. 2001, c. 25, s. 283 (4).

Former by-law

(5) Despite subsection (4), if a resolution of a municipality under subsection 255 (2) or (3) of the old Act is not revoked before January 1, 2003, the resolution shall be deemed to be a by-law of the municipality and one-third of the remuneration paid to the elected members of the council and its local boards is deemed as expenses incident to the discharge of their duties as members of the council or local board. 2001, c. 25, s. 283 (5); 2002, c. 17, Sched. A, s. 46 (1).

Repeal

(6) A council may repeal a by-law under subsection (5) and the repealing by-law shall be effective on January 1 of the year after the year in which it is passed. 2001, c. 25, s. 283 (6).

Review

(7) On or after December 1, 2003, a council shall review a by-law under subsection (5) at a public meeting at least once during the four-year period corresponding to the term of office of its members after a regular election. 2001, c. 25, s. 283 (7); 2002, c. 17, Sched. A, s. 46 (2); 2006, c. 9, Sched. H, s. 5 (4).

If by-law passed under subs. 255 (2) of old Act

(8) If the City of Mississauga or the Town of Markham, as the case may be, passes a resolution under subsection 255 (2) of the old Act and, as of January 1, 2003, is deemed to have passed a by-law under subsection (5), then, despite subsection (6), the by-law shall not be repealed by the City of Mississauga or the Town of Markham, as the case may be, unless the municipality proposing to repeal the by-law first ceases to provide any pension benefits under the *City of Mississauga Act, 1988* or the *Town of Markham Act, 1989*, respectively. 2002, c. 17, Sched. A, s. 46 (3); 2006, c. 11, Sched. B, s. 9 (3); 2006, c. 32, Sched. A, s. 116 (1).

If by-law not passed under subs. 255 (2) of old Act

(9) If the City of Mississauga or the Town of Markham, as the case may be, does not pass a resolution under subsection 255 (2) of the old Act,

- (a) despite the *City of Mississauga Act, 1988* or the *Town of Markham Act, 1989*, the City of Mississauga or the Town of Markham, as the case may be, shall not provide a contribution for a pension under those provisions and no calculation of a pension or combination of a pension with another pension shall be made under those provisions in respect of service of a council member after that date; and
- (b) any pension benefit earned or accruing under those provisions with respect to service on or before December 31, 2002 shall continue. 2002, c. 17, Sched. A, s. 46 (3); 2006, c. 11, Sched. B, s. 9 (4); 2006, c. 32, Sched. A, s. 116 (2).

Regulation

(10) The Minister may, by regulation, prescribe transition rules in respect of the matters set out in subsections (8) and (9). 2002, c. 17, Sched. A, s. 46 (3).

Statement

284. (1) The treasurer of a municipality shall in each year on or before March 31 provide to the council of the municipality an itemized statement on remuneration and expenses paid in the previous year to,

- (a) each member of council in respect of his or her services as a member of the council or any other body, including a local board, to which the member has been appointed by council or on which the member holds office by virtue of being a member of council;
- (b) each member of council in respect of his or her services as an officer or employee of the municipality or other body described in clause (a); and

(c) each person, other than a member of council, appointed by the municipality to serve as a member of any body, including a local board, in respect of his or her services as a member of the body. 2001, c. 25, s. 284 (1).

Mandatory item

(2) The statement shall identify the by-law under which the remuneration or expenses were authorized to be paid. 2001, c. 25, s. 284 (2).

Statement to be provided to municipality

(3) If, in any year, any body, including a local board, pays remuneration or expenses to one of its members who was appointed by a municipality, the body shall on or before January 31 in the following year provide to the municipality an itemized statement of the remuneration and expenses paid for the year. 2001, c. 25, s. 284 (3).

Public records

(4) Despite the *Municipal Freedom of Information and Protection of Privacy Act*, statements provided under subsections (1) and (3) are public records. 2001, c. 25, s. 284 (4).

REVIEW OR APPEAL RE DELEGATED AUTHORITY

Power to authorize review or appeal

284.1 (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to provide for a review or appeal of a decision made by a person or body in the exercise or intended exercise of a power or the performance or intended performance of a duty delegated to him, her or it by the municipality under this Act. 2006, c. 32, Sched. A, s. 117.

Scope of power

- (2) Without limiting sections 9, 10 and 11, the power described in subsection (1) includes the power,
- (a) to designate the person or body, including council, that will conduct the review or appeal, but the municipality cannot designate a person or body without his, her or its consent;
 - (b) to provide for the powers the person or body conducting the review or appeal may exercise;
 - (c) to establish procedures with respect to the review or appeal;
 - (d) to provide for rules for authorizing the person or body conducting the review or appeal to determine when decisions subject to review or appeal come into force, including a retroactive date not earlier than the day on which the by-law was passed. 2006, c. 32, Sched. A, s. 117.

Restriction

(3) A municipality shall not provide for a review or appeal of such decisions as may be prescribed. 2006, c. 32, Sched. A, s. 117.

Reconsideration of decisions

(4) Nothing in this section affects the authority of the person or body to reconsider his, her or its own decisions. 2006, c. 32, Sched. A, s. 117.

Regulations re review or appeal

(5) The Minister may make regulations prescribing decisions for the purposes of subsection (3). 2006, c. 32, Sched. A, s. 117.

**PART VII
FINANCIAL ADMINISTRATION**

Fiscal year

285. (1) The fiscal year of a municipality and a local board of a municipality is January 1 to December 31. 2001, c. 25, s. 285 (1).

Public hospitals

(2) Despite subsection (1), the fiscal year of a public hospital which is a local board of a municipality is the fiscal year of a public hospital under the *Public Hospitals Act*. 2001, c. 25, s. 285 (2).

Treasurer

286. (1) A municipality shall appoint a treasurer who is responsible for handling all of the financial affairs of the municipality on behalf of and in the manner directed by the council of the municipality, including,

- (a) collecting money payable to the municipality and issuing receipts for those payments;
- (b) depositing all money received on behalf of the municipality in a financial institution designated by the municipality;
- (c) paying all debts of the municipality and other expenditures authorized by the municipality;
- (d) maintaining accurate records and accounts of the financial affairs of the municipality;
- (e) providing the council with such information with respect to the financial affairs of the municipality as it requires or requests;
- (f) ensuring investments of the municipality are made in compliance with the regulations made under section 418. 2001, c. 25, s. 286 (1).

Deputy treasurers

(2) The municipality may appoint deputy treasurers who shall have all the powers and duties of the treasurer under this and any other Act. 2001, c. 25, s. 286 (2).

Not required to be an employee

(3) A treasurer or deputy treasurer is not required to be an employee of the municipality. 2001, c. 25, s. 286 (3).

Liability limited

(4) The treasurer or deputy treasurer is not liable for money paid in accordance with the directions of the council of the municipality unless the disposition of the money is expressly provided for under any Act. 2001, c. 25, s. 286 (4).

Delegation

(5) The municipality may delegate to any person all or any of the powers and duties of the treasurer under this or any other Act with respect to the collection of taxes. 2002, c. 17, Sched. A, s. 47.

Continuation despite delegation

(6) The treasurer may continue to exercise the delegated powers and duties, despite the delegation. 2002, c. 17, Sched. A, s. 47.

Signatures of cheques

287. A municipality may provide that the signatures on a cheque of the municipality be mechanically or electronically reproduced. 2006, c. 32, Sched. A, s. 118.

288. REPEALED: 2006, c. 32, Sched. A, s. 118.

Yearly budgets, upper-tier

289. (1) For each year, an upper-tier municipality shall, in the year or the immediately preceding year, prepare and adopt a budget including estimates of all sums required during the year for the purposes of the upper-tier municipality, including,

- (a) amounts sufficient to pay all debts of the upper-tier municipality falling due within the year;
- (b) amounts required to be raised for sinking funds or retirement funds;
- (c) amounts in respect of debenture debt of lower-tier municipalities for the payment of which the upper-tier municipality is liable; and
- (d) amounts required by law to be provided by the upper-tier municipality for any of its local boards, excluding school boards. 2001, c. 25, s. 289 (1); 2006, c. 32, Sched. A, s. 119 (1).

Exception

(1.1) Despite subsection (1), a budget for a year immediately following a year in which a regular election is held, may only be adopted in the year to which the budget applies. 2006, c. 32, Sched. A, s. 119 (2).

Detail and form

- (2) The budget shall, in such detail and form as the Minister may require, set out the following amounts:
1. The estimated revenues, including the amount the municipality intends to raise on all the rateable property in the municipality by its general upper-tier levy and the amount it intends to raise on less than all the rateable property in the municipality by a special upper-tier levy under section 311.
 2. The estimated portion of the estimated revenues described in paragraph 1, if any, to be paid into the municipality's reserve, sinking and retirement funds.

3. The estimated expenses, subject to any regulation made under clause 292 (2) (a).
4. The estimated portion of the estimated expenses described in paragraph 3, if any, to be paid out of the municipality's reserve, sinking and retirement funds. 2009, c. 18, Sched. 18, s. 1.

Reserve fund adjustment

- (3) The total calculated under paragraph 1 shall be at least equal to the total calculated under paragraph 2:
 1. The amount described in paragraph 1 of subsection (2), added to the amount described in paragraph 4 of subsection (2).
 2. The amount described in paragraph 2 of subsection (2), added to the amount described in paragraph 3 of subsection (2). 2009, c. 18, Sched. 18, s. 1.

Allowance

- (4) In preparing the budget for a year, the upper-tier municipality,
 - (a) shall not include in the estimated revenues described in paragraph 1 of subsection (2) the estimated proceeds of any borrowing during the year;
 - (b) shall treat as estimated revenues any surplus of any previous year that resulted because,
 - (i) revenues for that year were greater than the amount described in paragraph 1 of subsection (2) for that year, or
 - (ii) expenses for that year were less than the amount described in paragraph 3 of subsection (2) for that year;
 - (c) shall provide for any deficit of any previous year that resulted because,
 - (i) revenues for that year were less than the amount calculated by deducting for that year the amount described in paragraph 2 of subsection (2) from the amount described in paragraph 1 of subsection (2), or
 - (ii) expenses were incurred by the municipality that were not in the budget for that year and were not paid for that year from a reserve, sinking or retirement fund;
 - (d) shall provide for taxes and other revenues that in the opinion of the treasurer are uncollectible and for which provision has not been previously made;
 - (e) may provide for taxes and other revenues that it is estimated will not be collected during the year; and
 - (f) may provide for such reserve funds as the municipality considers necessary. 2009, c. 18, Sched. 18, s. 1.

Exception, 2009

- (5) In preparing the budget for 2009, the upper-tier municipality,
 - (a) shall treat any operating surplus of any previous year as estimated revenues for the purpose of paragraph 1 of subsection (2); and
 - (b) despite clause (4) (c), shall provide for any operating deficit of any previous year. 2009, c. 18, Sched. 18, s. 1.

Application of provisions

(6) Section 34 of the *Assessment Act* and section 353 of this Act apply with necessary modifications to the upper-tier municipality. 2009, c. 18, Sched. 18, s. 1.

Yearly budget from boards, etc.

(7) Despite any other Act, for the purpose of preparing and adopting its budget for a year, the upper-tier municipality may by by-law require that the year's budget of every board, commission or other body, for which the municipality is required by law to provide money, be submitted to the municipality on or before a date specified by the municipality and that the budget shall be in such detail and form as the by-law provides. 2009, c. 18, Sched. 18, s. 1.

Legislation Act, 2006

(8) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement of the Minister under subsection (2). 2009, c. 18, Sched. 18, s. 1.

Definition

- (9) In this section,

“reserve fund” includes a reserve. 2009, c. 18, Sched. 18, s. 1.

Yearly budget, local municipalities

290. (1) For each year, a local municipality shall, in the year or the immediately preceding year, prepare and adopt a budget including estimates of all sums required during the year for the purposes of the municipality, including,

- (a) amounts sufficient to pay all debts of the municipality falling due within the year;
- (b) amounts required to be raised for sinking funds or retirement funds; and
- (c) amounts required for any board, commission or other body. 2001, c. 25, s. 290 (1); 2006, c. 32, Sched. A, s. 120 (1).

Exception

(1.1) Despite subsection (1), a budget for a year immediately following a year in which a regular election is held, may only be adopted in the year to which the budget applies. 2006, c. 32, Sched. A, s. 120 (2).

Detail and form

- (2) The budget shall, in such detail and form as the Minister may require, set out the following amounts:
 1. The estimated revenues, including the amount the municipality intends to raise on all the rateable property in the municipality by its general local municipality levy and the amount it intends to raise on less than all the rateable property in the municipality by a special local municipality levy under section 312.
 2. The estimated portion of the estimated revenues described in paragraph 1, if any, to be paid into the municipality’s reserve, sinking and retirement funds.
 3. The estimated expenses, subject to any regulation made under clause 292 (2) (a).
 4. The estimated portion of the estimated expenses described in paragraph 3, if any, to be paid out of the municipality’s reserve, sinking and retirement funds. 2009, c. 18, Sched. 18, s. 2.

Reserve fund adjustment

- (3) The total calculated under paragraph 1 shall be at least equal to the total calculated under paragraph 2:
 1. The amount described in paragraph 1 of subsection (2), added to the amount described in paragraph 4 of subsection (2).
 2. The amount described in paragraph 2 of subsection (2), added to the amount described in paragraph 3 of subsection (2). 2009, c. 18, Sched. 18, s. 2.

Allowance

- (4) In preparing the budget for a year, the local municipality,
 - (a) shall not include in the estimated revenues described in paragraph 1 of subsection (2) the estimated proceeds of any borrowing during the year;
 - (b) shall treat as estimated revenues any surplus of any previous year that resulted because,
 - (i) revenues for that year were greater than the amount described in paragraph 1 of subsection (2) for that year, or
 - (ii) expenses for that year were less than the amount described in paragraph 3 of subsection (2) for that year;
 - (c) shall provide for any deficit of any previous year that resulted because,
 - (i) revenues for that year were less than the amount calculated by deducting for that year the amount described in paragraph 2 of subsection (2) from the amount described in paragraph 1 of subsection (2), or
 - (ii) expenses were incurred by the municipality that were not in the budget for that year and were not paid for that year from a reserve, sinking or retirement fund;
 - (d) shall provide for the cost of the collection of taxes and any abatement or discount of taxes;
 - (e) shall provide for taxes and other revenues that in the opinion of the treasurer are uncollectible and for which provision has not been previously made;
 - (f) may provide for taxes and other revenues that it is estimated will not be collected during the year; and
 - (g) may provide for such reserve funds as the municipality considers necessary. 2009, c. 18, Sched. 18, s. 2.

Exception, 2009

- (5) In preparing the budget for 2009, the local municipality,
- (a) shall treat any operating surplus of any previous year as estimated revenues for the purpose of paragraph 1 of subsection (2); and
 - (b) despite clause (4) (c), shall provide for any operating deficit of any previous year. 2009, c. 18, Sched. 18, s. 2.

Yearly budget from boards, etc.

(6) Despite any other Act, for the purpose of preparing and adopting its budget for a year, the local municipality may by by-law require that the year's budget of every board, commission or other body, other than an upper-tier municipality or school board, for which the municipality is required by law to levy a tax or provide money, be submitted to the municipality on or before a date specified by the local municipality, and that the budget shall be in such detail and form as the by-law provides. 2009, c. 18, Sched. 18, s. 2.

Legislation Act, 2006

(7) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a requirement of the Minister under subsection (2). 2009, c. 18, Sched. 18, s. 2.

Definition

- (8) In this section,

“reserve fund” includes a reserve. 2009, c. 18, Sched. 18, s. 2.

Multi-year budget

291. (1) Despite sections 289 and 290, a municipality may prepare and adopt a budget covering a period of two to five years in the first year to which the budget applies or in the year immediately preceding the first year to which the budget applies. 2006, c. 32, Sched. A, s. 121.

Restriction

(2) Despite subsection (1), if the first year of a multi-year budget immediately follows a year in which a regular election is held, the budget may only be adopted in the first year to which the budget applies. 2006, c. 32, Sched. A, s. 121.

First year

(3) Except as provided in subsection (1), the provisions of the budget for the first year to which the multi-year budget applies shall comply with the requirements of section 289 or 290, as the case may be. 2006, c. 32, Sched. A, s. 121.

Other years, mandatory review of annual budget

(4) For the second and each subsequent year to which a multi-year budget applies, the municipality shall, in the year or the immediately preceding year,

- (a) review the budget for that year;
- (b) make such changes as are required for the purpose of making the provisions of the budget for that year comply with the requirements of section 289, except clause 289 (4) (b), or section 290, except clause 290 (4) (b), as the case may be; and
- (c) readopt the budget for that year and for subsequent years to which the budget applies. 2006, c. 32, Sched. A, s. 121; 2009, c. 18, Sched. 18, s. 3.

Exception

(5) Despite subsection (4), if a year for which a budget is being reviewed and changed is a year immediately following a year in which a regular election is held, the budget may only be readopted in the year for which the budget is being reviewed and changed. 2006, c. 32, Sched. A, s. 121.

Power and duty not affected

- (6) Nothing in this section,
- (a) limits the power of a municipality to amend or revoke a budget adopted or readopted under this section; or
 - (b) removes the obligation of a municipality to levy taxes in each year. 2006, c. 32, Sched. A, s. 121.

Deemed adoption

(7) The budget for the first year of a multi-year budget adopted under subsection (1) and the budget for the first year of the remaining years in a multi-year budget readopted under subsection (4) is deemed, for the purposes of this and every other Act, to be the budget or estimates adopted for the year under section 289 or 290, as the case may be, and, before a budget is adopted or readopted for the year under this section, the municipality is deemed, for the purposes of this and every other Act, not to have adopted a budget or estimates for that year under this Part. 2006, c. 32, Sched. A, s. 121.

Submission of budgets of boards, etc.

(8) Despite any other Act, for the purpose of adopting a multi-year budget for two or more years or readopting a multi-year budget for one or more remaining years, a municipality may by by-law require that a budget for the year or years of every board, commission or other body, other than a school board, for which the municipality is required by law to levy a tax or provide money, be submitted to the municipality on or before a date specified by the municipality and that the budget shall be in such detail and form as the by-law provides. 2006, c. 32, Sched. A, s. 121.

Regulations, changes in financial reporting requirements

292. (1) If changes in the financial reporting requirements of a municipality or local board affect the surplus or deficit of the municipality or local board, the Minister may make regulations,

- (a) phasing in or authorizing the municipality or local board to phase in the changes to its budgets over a period of years;
- (b) governing the phase-in. 2009, c. 18, Sched. 18, s. 4.

Regulations, budgets

- (2) The Minister may make regulations,
 - (a) prescribing types of expenses that a municipality or local board may exclude from the estimated expenses described in paragraph 3 of subsection 289 (2) and in paragraph 3 of subsection 290 (2);
 - (b) prescribing conditions that must be met before a municipality or local board may exclude from the estimated expenses the types of expenses prescribed under clause (a);
 - (c) prescribing a date for the purposes of subsection (4). 2009, c. 18, Sched. 18, s. 4.

Retroactive

(3) A regulation made under this section may be retroactive to January 1 of the year in which the regulation is made. 2009, c. 18, Sched. 18, s. 4.

Review

(4) The Ministry of Municipal Affairs and Housing shall, on or before a prescribed date, initiate a review of any regulation made under clause (2) (a) or (b). 2009, c. 18, Sched. 18, s. 4.

Regulations, reserve fund

293. The Minister may make regulations,

- (a) requiring a municipality to establish a reserve fund designated for prescribed liabilities of the municipality which are incurred but not payable until later years;
- (b) defining “liabilities” of the municipality which are incurred for the purpose of clause (a);
- (c) requiring a municipality to make payments into the reserve fund to fund all or part of a prescribed liability at the prescribed times and in the prescribed manner;
- (d) prohibiting the municipality from changing the purpose for which the reserve fund is designated;
- (e) prescribing the conditions under which and the purposes for which the municipality may,
 - (i) change the designation of all or any part of the reserve fund, and
 - (ii) borrow from the reserve fund. 2001, c. 25, s. 293.

Annual return

294. (1) The treasurer of a municipality shall in each year provide the Minister with a return containing information designated by the Minister with respect to the financial affairs of the municipality, at the times and in the manner and form designated by the Minister. 2001, c. 25, s. 294 (1).

- (2), (3) REPEALED: 2006, c. 32, Sched. A, s. 122.

Not regulation

(4) A designation by the Minister under subsection (1) is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2006, c. 21, Sched. F, s. 120 (8).

Annual financial statements

294.1 A municipality shall, for each fiscal year, prepare annual financial statements for the municipality in accordance with generally accepted accounting principles for local governments as recommended, from time to time, by the Public Sector Accounting Board of the Canadian Institute of Chartered Accountants. 2006, c. 32, Sched. A, s. 123.

Publication of financial statements, etc.

295. (1) Within 60 days after receiving the audited financial statements of the municipality for the previous year, the treasurer of the municipality,

- (a) shall publish in a newspaper having general circulation in the municipality,
 - (i) a copy of the audited financial statements, the notes to the financial statements, the auditor's report and the tax rate information for the current and previous year as contained in the financial review, or
 - (ii) a notice that the information described in subclause (i) will be made available at no cost to any taxpayer or resident of the municipality upon request; and
- (b) may provide the information described in subclause (a) (i) or (ii) to such persons and in such other manner as the treasurer considers appropriate. 2001, c. 25, s. 295 (1).

Copy to be provided at no cost

(2) If a request is made under subsection (1), the treasurer shall provide a copy of the information to the taxpayer or resident at no cost. 2001, c. 25, s. 295 (2).

Auditor

296. (1) A municipality shall appoint an auditor licensed under the *Public Accounting Act, 2004* who is responsible for,

- (a) annually auditing the accounts and transactions of the municipality and its local boards and expressing an opinion on the financial statements of these bodies based on the audit; and
- (b) performing duties required by the municipality or local board.
- (c) REPEALED: 2006, c. 32, Sched. A, s. 124 (1).

2001, c. 25, s. 296 (1); 2004, c. 8, s. 46; 2006, c. 32, Sched. A, s. 124 (1).

Scope

(2) A duty designated by the Minister under this section may be general or specific in its application and may be restricted to the municipalities, local boards or auditors designated. 2001, c. 25, s. 296 (2).

Not regulation

(2.1) A designation by the Minister under this section is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2006, c. 21, Sched. F, s. 120 (9).

Term

(3) An auditor of a municipality shall not be appointed for a term exceeding five years. 2001, c. 25, s. 296 (3).

Non-employee

(4) Despite any Act, the auditor of a municipality shall not be an employee of the municipality or of a local board of the municipality. 2001, c. 25, s. 296 (4).

Reporting relationship

(5) The auditor of a municipality shall report to the council of the municipality. 2001, c. 25, s. 296 (5).

Inspection

(6) The reports of the auditor provided to council under clause (1) (a) are public records and may be inspected by any person at the clerk's office during normal office hours. 2001, c. 25, s. 296 (6); 2006, c. 32, Sched. A, s. 124 (2).

Copies

(7) A person may make copies of the reports upon payment of the fee established by the clerk which shall not exceed the lowest rate the clerk charges for copies of other records. 2001, c. 25, s. 296 (7).

Separate opinion not required

(8) An auditor is not required in any report to council to provide a separate opinion with respect to each reserve fund except as otherwise provided in any Act. 2001, c. 25, s. 296 (8).

Payment of fees

(9) Where an auditor of a municipality audits a local board, the municipality shall pay the fees of the auditor and may collect the fees as a debt of the local board payable to the municipality. 2001, c. 25, s. 296 (9).

Joint boards

(10) If a local board is a local board of more than one municipality, only the auditor of the municipality that is responsible for the largest share of the expenses of the local board in the year is required to audit the local board in that year. 2009, c. 18, Sched. 18, s. 5.

Consolidated statements

(11) Where the financial statements of a municipality and a local board are consolidated, the municipality may require the local board to be audited as if it were part of the municipality, in which case, the auditor of the municipality is not required to provide a separate opinion with respect to the statements of the local board. 2001, c. 25, s. 296 (11).

Separate auditor not required

(12) Despite any Act, other than Part IX of the *Education Act*, a local board is not required to have its own auditor. 2001, c. 25, s. 296 (12).

Unorganized territory

(13) A board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any Act in unorganized territory shall appoint an auditor and the provisions of this Act with respect to audits apply with necessary modifications to that board, commission, body or local authority. 2001, c. 25, s. 296 (13).

Right of access

297. (1) The auditor of a municipality has right of access at all reasonable hours to all records of the municipality or any of its local boards. 2001, c. 25, s. 297 (1).

Information

(2) The auditor may require from the current and former members of council and local boards and from the current and former officers and employees of the municipality and its local boards such information and explanation as in his or her opinion is necessary to carry out the duties of the auditor. 2006, c. 32, Sched. A, s. 125.

Evidence on oath

(3) The auditor may require any person to give evidence on oath respecting any of the information and explanation under subsection (2) and section 33 of the *Public Inquiries Act, 2009* applies to the taking of that evidence. 2009, c. 33, Sched. 6, s. 72 (6).

Auditor may attend meetings

- (4) The auditor may attend any meeting of members of council or any local board of the municipality and is entitled,
- (a) to receive all notices relating to the meeting that any member is entitled to receive; and
 - (b) to make representations at that meeting on any matter that concerns him or her as auditor. 2001, c. 25, s. 297 (4).

Default in providing information

298. The Minister of Finance may retain any money payable to a municipality if the municipality or any officer of the municipality has not provided the Minister of Municipal Affairs and Housing with any information that the municipality or officer is required to provide under this Part. 2001, c. 25, s. 298.

Information re: municipal operations

- 299.** (1) In this section,
- “municipality” includes,
- (a) a local board,

- (b) a conservation authority,
 - (c) any board, commission or local authority exercising any power with respect to municipal purposes, excluding school purposes, in unorganized territory, and
 - (d) any other body performing a public function designated by the Minister. 2001, c. 25, s. 299 (1).
- (2) REPEALED: 2006, c. 32, Sched. A, s. 126 (1).

Information to be provided

(3) A municipality shall provide the Minister with information designated by the Minister which, in the Minister's opinion, relate to the efficiency and effectiveness of the municipality's operations, at the times and in the manner and form designated by the Minister. 2001, c. 25, s. 299 (3).

Publication

(4) A municipality shall publish all or such portion of the information as may be designated by the Minister at the times designated by the Minister but in the manner and form determined by the municipality. 2006, c. 32, Sched. A, s. 126 (2).

(5) REPEALED: 2006, c. 32, Sched. A, s. 126 (2).

Scope

(6) A designation by the Minister under this section may be general or specific in its application. 2001, c. 25, s. 299 (6).

Not regulation

(7) A designation by the Minister under this section is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2006, c. 21, Sched. F, s. 120 (10).

300. REPEALED: 2006, c. 32, Sched. A, s. 127.

Financial information

301. The Minister of Finance may by regulation require municipalities to provide to the Minister of Finance, at the times and in the manner and form prescribed, copies of by-laws made under Parts VIII and IX and any other information specified in the regulation. 2001, c. 25, s. 301.

Financial assistance

302. (1) In this section,

“municipality” includes,

- (a) a local board, including a school board and a conservation authority,
- (b) a First Nation,
- (c) a board, commission or other local authority exercising any power with respect to municipal affairs or purposes, including school purposes, in unorganized territory, and
- (d) any other body performing a public function prescribed by the Minister. 2001, c. 25, s. 302 (1); 2006, c. 32, Sched. A, s. 128.

Grants and loans

(2) The Minister may, upon such conditions as may be considered advisable, make grants and loans and provide other financial assistance to a municipality. 2001, c. 25, s. 302 (2).

Regulations

(3) The Minister may make regulations providing that other bodies performing a public function are municipalities for the purpose of this section. 2001, c. 25, s. 302 (3).

303. REPEALED: 2006, c. 32, Sched. A, s. 129.

Use of collection agency

304. If a municipality uses a registered collection agency in good standing under the *Collection and Debt Settlement Services Act* to recover a debt, including taxes, payable to the municipality, the collection agency may also recover its reasonable costs of collecting the debt but those costs shall not exceed an amount approved by the municipality. 2001, c. 25, s. 304; 2013, c. 13, Sched. 1, s. 16.

Sale of debt

305. (1) A municipality may sell any prescribed debt payable to the municipality to any other person in accordance with the prescribed rules and conditions. 2001, c. 25, s. 305 (1); 2002, c. 17, Sched. A, s. 48 (1).

Priority passed

(2) A person who acquires the debt has the priority of the municipality with respect to the debt. 2001, c. 25, s. 305 (2).

Regulations

(3) The Minister may make regulations,

(a) prescribing debt for the purpose of this section;

(b) prescribing rules and conditions for the purpose of subsection (1). 2002, c. 17, Sched. A, s. 48 (2).

**PART VIII
MUNICIPAL TAXATION**

Definitions

306. In this Part,

“assessment” means the assessment for real property made under the *Assessment Act* according to the last returned assessment roll; (“évaluation”)

“commercial property class” means the commercial property class prescribed under the *Assessment Act*; (“catégorie des biens commerciaux”)

“general reassessment” means the updating of assessments in a year in respect of which a new valuation date, as specified under subsection 19.2 (1) of the *Assessment Act*, applies; (“réévaluation générale”)

“payment in lieu of taxes” means an amount referred to in subparagraph 24 ii of subsection 3 (1) of the *Assessment Act*, taxes for municipal and school purposes payable by a designated electricity utility within the meaning of section 19.0.1 of the *Assessment Act* or by a corporation referred to in clause (d) of the definition of “municipal electricity utility” in section 88 of the *Electricity Act, 1998* or an amount that a local municipality receives under,

(a) subsection 27 (3), section 27.1 or 27.2 of the *Assessment Act*,

(b) section 323 and subsection 324 (4) of this Act,

(c) section 4 of the *Municipal Tax Assistance Act*,

(d) section 71 of the *Ontario Water Resources Act*,

(e) section 84 of the *Electricity Act, 1998*,

(f) REPEALED: 2006, c. 32, Sched. A, s. 130.

(g) the *Payments in Lieu of Taxes Act* (Canada), or

(h) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property, but not including a payment referred to in section 366; (“paiement tenant lieu d’impôts”)

“property class” means a class of real property prescribed under the *Assessment Act*; (“catégorie de biens”)

“residential property class” means the residential property class prescribed under the *Assessment Act*; (“catégorie des biens résidentiels”)

“school board” means a board as defined in subsection 1 (1) of the *Education Act*; (“conseil scolaire”)

“tax rate” means the tax rate to be levied against property expressed as a percentage, to six decimal places, of the assessment of the property. (“taux d’imposition”, “taux de l’impôt”) 2001, c. 25, s. 306; 2002, c. 22, s. 151; 2006, c. 32, Sched. A, s. 130.

Taxes to be levied equally

307. (1) All taxes shall, unless expressly provided otherwise, be levied upon the whole of the assessment for real property or other assessments made under the *Assessment Act* according to the amounts assessed and not upon one or more kinds of property or assessment or in different proportions. 2001, c. 25, s. 307 (1).

Tax ratios

(2) If, in this or any other Act or any by-law passed under any Act, taxes, fees or charges are expressly or in effect directed or authorized to be levied upon rateable property of a municipality for municipal purposes, unless expressly provided otherwise,

- (a) such taxes, fees or charges shall be calculated as percentages of the assessment for real property in each property class; and
- (b) the tax rates and the rates to raise the fees or charges shall be in the same proportion to each other as the tax ratios established under section 308 for the property classes are to each other. 2001, c. 25, s. 307 (2).

Deemed imposition

(3) Taxes imposed for a year shall be deemed to have been imposed and to be due on January 1 of the year unless the by-law imposing the tax provides otherwise. 2001, c. 25, s. 307 (3).

Establishment of tax ratios

Definitions

308. (1) In this section,

“commercial classes” means the commercial property class prescribed under the *Assessment Act* and optional property classes that contain property that, if the council of the municipality did not opt to have the optional property class apply, would be in the commercial property class; (“catégories commerciales”)

“industrial classes” means the industrial property class prescribed under the *Assessment Act* and optional property classes that contain property that, if the council of the municipality did not opt to have the optional property class apply, would be in the industrial property class; (“catégories industrielles”)

“optional property class” means a property class that the council of a municipality may opt to have apply within the municipality under regulations made under the *Assessment Act*. (“catégorie de biens facultative”) 2001, c. 25, s. 308 (1).

Tax ratios

(2) A set of tax ratios for every municipality shall be established in accordance with this section. 2001, c. 25, s. 308 (2).

What tax ratios are

(3) The tax ratios are the ratios that the tax rate for each property class must be to the tax rate for the residential property class where the residential property class tax ratio is 1. 2002, c. 22, s. 152 (1).

Single-tier municipalities

(4) A single-tier municipality shall pass a by-law in each year to establish the tax ratios for that year for the municipality. 2009, c. 33, Sched. 21, s. 6 (12).

Tiered municipalities

(5) An upper-tier municipality shall pass a by-law in each year to establish the tax ratios for that year for the upper-tier municipality and its lower-tier municipalities. 2009, c. 33, Sched. 21, s. 6 (12).

Limitation

(6) A municipality shall not pass a by-law under subsection (4) or (5) until transition ratios are established for the property classes that apply within the municipality, other than the residential property class, the farm property class and the managed forests property class prescribed under the *Assessment Act*. 2001, c. 25, s. 308 (6); 2002, c. 22, s. 152 (2).

Tiered municipalities, uniform ratios

(7) A by-law under subsection (5) must establish, for each property class, a single tax ratio for the upper-tier municipality and its lower-tier municipalities. 2001, c. 25, s. 308 (7).

Ratios within prescribed ranges

(8) The tax ratio for a property class must be within the allowable range prescribed for the property class. 2001, c. 25, s. 308 (8).

Exception

(9) Despite subsection (8), the tax ratio for a property class for a municipality may be outside the allowable range in the following circumstances:

1. For the first year for which the property class applies with respect to a municipality, the tax ratio may be,

- i. above the range if it is less than or equal to the prescribed transition ratio for the property class for the municipality, or
 - ii. below the range if it is greater than or equal to the prescribed transition ratio for the property class for the municipality.
2. For a subsequent year the tax ratio may be,
- i. above the range if it is less than or equal to the tax ratio for the property class for the previous year, or
 - ii. below the range if it is greater than or equal to the tax ratio for the property class for the previous year. 2001, c. 25, s. 308 (9).

Exception, subsequent reassessment

(10) Despite subsections (8) and (9), the Minister of Finance may prescribe a new transition ratio, including the average transition ratio, for a taxation year or any previous taxation year for a property class for a municipality and,

- (a) for the first year in respect of which the transition ratio is prescribed, the tax ratio may be,
 - (i) above the allowable range if it is less than or equal to the prescribed transition ratio for the property class for the municipality, or
 - (ii) below the allowable range if it is greater than or equal to the prescribed transition ratio for the property class for the municipality; and
- (b) for a subsequent year, the tax ratio may be,
 - (i) above the allowable range if it is less than or equal to the tax ratio for the property class for the previous year, or
 - (ii) below the allowable range if it is greater than or equal to the tax ratio for the property class for the previous year. 2001, c. 25, s. 308 (10).

Average transition ratios

(11) For each municipality, the council of which is required to pass a by-law under this section to establish tax ratios, there shall be an average transition ratio for the commercial classes and an average transition ratio for the industrial classes, determined in accordance with the following:

- 1. For the first year that an optional property class applies or, subject to subsection (17) or (18), ceases to apply in the municipality, the average transition ratio shall be the prescribed average transition ratio.
- 2. For a subsequent year, the average transition ratio shall be the weighted average, for the previous year, of the tax ratios for the property classes to which the average transition ratio relates. 2001, c. 25, s. 308 (11).

If transition ratio is in allowable range for property class

(11.1) If the Minister of Finance prescribes a transition ratio for the purposes of this section that is within the allowable range prescribed for a property class, the tax ratio for the property class must be within the allowable range prescribed for the property class. 2006, c. 33, Sched. V, s. 1.

Special rule, commercial classes

(12) The tax ratio for a property class that is one of the commercial classes may be greater than what would be allowed under subsection (8), (9) or (10) if the following are satisfied:

- 1. The tax ratio is less than or equal to the average transition ratio for the commercial classes for the year.
- 2. The weighted average, for the year, of the tax ratios for the commercial classes does not exceed the average transition ratio for the commercial classes for the year. 2001, c. 25, s. 308 (12).

Special rule, industrial classes

(13) The tax ratio for a property class that is one of the industrial classes may be greater than what would be allowed under subsection (8), (9) or (10) if the following are satisfied:

- 1. The tax ratio is less than or equal to the average transition ratio for the industrial classes for the year.
- 2. The weighted average, for the year, of the tax ratios for the industrial classes does not exceed the average transition ratio for the industrial classes for the year. 2001, c. 25, s. 308 (13).

Weighted average

(14) For the purposes of subsections (11) to (13), the weighted average, for a year, of the tax ratios for property classes shall be determined as follows:

1. For each property class, multiply the tax ratio for the property class for the year by the total assessment of the properties in the property class for the year.
2. Add the amounts determined under paragraph 1 for each property class together.
3. Add the total assessments of the properties in the property classes for the year, used in the calculation under paragraph 1, together.
4. The weighted average is the amount determined under paragraph 2 divided by the amount determined under paragraph 3. 2001, c. 25, s. 308 (14).

Optional classes, regulations

- (15) The Minister of Finance may make regulations prescribing transition ratios for a year,
- (a) for the commercial classes if a municipality opts to have a property class that is one of the commercial classes apply for the year and the property class did not apply within the municipality for the previous year; and
 - (b) for the industrial classes if a municipality opts to have a property class that is one of the industrial classes apply for the year and the property class did not apply within the municipality for the previous year. 2001, c. 25, s. 308 (15).

Effect of new transition ratios

(16) If new transition ratios are prescribed under subsection (15), paragraph 1 of subsection (9) applies, with necessary modifications, for the year with respect to which they apply. 2001, c. 25, s. 308 (16).

Opting out, commercial classes

(17) If all optional property classes that contain property that would otherwise be in the commercial property class cease to apply for a year in a municipality, the transition ratio for the commercial property class for the year shall be equal to the average transition ratio for the commercial classes for the previous year under subsection (11), and subsection (9) or (10) applies, with necessary modifications, for the year. 2001, c. 25, s. 308 (17).

Opting out, industrial classes

(18) If all optional property classes that contain property that would otherwise be in the industrial property class cease to apply for a year in a municipality, the transition ratio for the industrial property class for the year shall be equal to the average transition ratio for the industrial classes for the previous year under subsection (11), and subsection (9) or (10) applies, with necessary modifications, for the year. 2001, c. 25, s. 308 (18).

Regulations, Minister of Finance

- (19) The Minister of Finance may make regulations,
- (a) REPEALED: 2009, c. 33, Sched. 21, s. 6 (13).
 - (b) governing the determination of the tax ratios by municipalities for a taxation year;
 - (c) prescribing, for the purposes of subsection (8), the allowable ranges for the tax ratios for the property classes;
 - (d) prescribing transition ratios for the property classes for the purposes of subsections (9) and (10) or prescribing a method for determining such ratios;
 - (e) prescribing average transition ratios for the purposes of subsection (11);
 - (f) designating a group of municipalities specified in the regulations, each one of which is a municipality whose council is required under subsection (4) or (5) to pass a by-law establishing tax ratios for a year, and requiring each such municipality, despite subsections (8), (9) and (10), to establish, as the tax ratio for the year for each property class specified in the regulations, the ratio specified in the regulations for the property class. 2001, c. 25, s. 308 (19); 2009, c. 33, Sched. 21, s. 6 (13).

Regulations can be retroactive

(20) A regulation under clauses (19) (c) to (f) may be retroactive to a date not earlier than January 1 of the year in which the regulation was made. 2001, c. 25, s. 308 (20).

Regulation upon request of municipality

(21) A regulation under clause (19) (f) may not be made unless, before the regulation is made, the council of each municipality to be specified in the regulation passes a resolution requesting that the regulation be made, specifying the property classes to which the regulation is to apply and specifying what the tax ratio for each such class shall be. 2001, c. 25, s. 308 (21).

Regulations

(22) The Minister may make regulations,

- (a) requiring municipalities to provide the Minister with the information prescribed at the times and in the manner prescribed;
- (b) requiring municipalities that establish tax ratios to give notice of the tax ratios to such persons and in such manner as prescribed. 2001, c. 25, s. 308 (22).

Restrictions, tax ratios for certain property classes

308.1 (1) This section applies despite subsections 308 (4), (5), (8), (9) and (10). 2002, c. 22, s. 153.

Managed forests property class

(2) The tax ratio for the managed forests property class prescribed under the *Assessment Act* is 0.25. 2002, c. 22, s. 153.

Farm property class

(3) The tax ratio for the farm property class prescribed under the *Assessment Act* is 0.25 or such lower tax ratio as the upper-tier municipality or single-tier municipality may establish. 2002, c. 22, s. 153.

Same, single-tier municipality

(4) A single-tier municipality that intends to apply a tax ratio of less than 0.25 to the farm property class for a tax year shall pass a by-law in the year to establish the tax ratio for the farm property class for that year for the municipality. 2002, c. 22, s. 153; 2009, c. 33, Sched. 21, s. 6 (14).

Same, upper-tier municipality

(5) An upper-tier municipality that intends to apply a tax ratio of less than 0.25 to the farm property class for a tax year shall pass a by-law in the year to establish the tax ratio for that year for the farm property class for the upper-tier municipality and its lower-tier municipalities. 2002, c. 22, s. 153; 2009, c. 33, Sched. 21, s. 6 (15).

(6) REPEALED: 2009, c. 33, Sched. 21, s. 6 (16).

Separated municipalities

309. (1) In this section,

“separated area” means all or part of a separated municipality which becomes part of an upper-tier municipality for municipal purposes; (“secteur séparé”)

“separated municipality” means a local municipality that is situated within a geographic county but does not form part of the county for municipal purposes. (“municipalité séparée”) 2001, c. 25, s. 309 (1).

Regulations

(2) If, as a result of an order under section 173 or 175, all or part of a separated municipality becomes part of an upper-tier municipality for municipal purposes on or after January 1, 2001, the Minister may make regulations establishing, or delegating to a municipality the authority to establish, tax ratios for the separated area that may be different from the tax ratios established by the upper-tier municipality for the rest of the upper-tier municipality. 2001, c. 25, s. 309 (2).

Content

(3) A regulation under subsection (2) may impose conditions on the delegation to the municipality of the authority to establish tax ratios for separated areas which may include,

- (a) the length of time the authority is delegated;
- (b) the dates by which the tax ratios must be set;
- (c) requiring the tax ratio differences between the separated area and the rest of the upper-tier municipality to be eliminated in a specified manner over a specified period;
- (d) the purposes for which the tax ratios for the separated area shall be used;

- (e) apportioning or determining the method of apportioning the general upper-tier levy and any special upper-tier levy that will be raised in the separated area between the separated area and the rest of the upper-tier municipality;
- (f) varying the manner in which any tax-related authority of the upper-tier municipality under this Act and subsection 2 (3.1) of the *Assessment Act* applies in the separated area. 2001, c. 25, s. 309 (3).

Retroactive

(4) A regulation under this section may be retroactive to a date not earlier than January 1 of the year in which the regulation was made. 2001, c. 25, s. 309 (4).

Delegation to lower-tiers

310. (1) An upper-tier municipality may, by by-law passed before February 28 of a year, delegate to each of its lower-tier municipalities the authority to pass a by-law establishing the tax ratios for the year within the lower-tier municipality for both lower-tier and upper-tier purposes. 2001, c. 25, s. 310 (1).

By-law must apportion upper-tier levies

(2) A by-law under subsection (1) must set out the portion of the general upper-tier levy and any special upper-tier levy that will be raised in each lower-tier municipality or a method by which the portion can be determined. 2001, c. 25, s. 310 (2).

Conflict

(2.1) In the event of a conflict between a by-law under subsection (1) and this Act, other than this section, the by-law prevails. 2009, c. 33, Sched. 21, s. 6 (17).

Lower-tiers must consent

(3) A by-law under subsection (1) establishing tax ratios for a year is not in force unless, before February 28 of the year, every lower-tier municipality that is part of the upper-tier municipality passes a resolution consenting to the by-law. 2001, c. 25, s. 310 (3).

Notice of by-law

(3.1) An upper-tier municipality that passes a by-law for a year under subsection (1) shall give a copy of the by-law and a copy of the resolutions under subsection (3) consenting to the by-law to the Minister by March 15 of the year. 2009, c. 33, Sched. 21, s. 6 (18).

Designation by regulation

(4) A by-law under subsection (1) establishing tax ratios for a year does not come into force unless, as of April 1 of the year, a regulation is in force designating the upper-tier municipality for the purposes of this section. 2009, c. 33, Sched. 21, s. 6 (19).

Limitation on amendment, revocation

(5) A by-law under subsection (1) establishing tax ratios for a year may not be amended or repealed on or after February 28 of the year. 2001, c. 25, s. 310 (5).

Delegated authority is exclusive

(6) A lower-tier municipality that has been delegated authority to pass a by-law establishing the tax ratios for a year within the municipality has the exclusive authority to pass such a by-law for the year. 2001, c. 25, s. 310 (6).

When tax ratios must be established

(7) If a lower-tier municipality has been delegated the authority to pass a by-law establishing the tax ratios for a year, the lower-tier municipality shall pass a by-law to do so in the year. 2009, c. 33, Sched. 21, s. 6 (20).

Application

(8) Subsections 308 (8) to (10) and (19) to (22) apply with necessary modifications with respect to a by-law made under a delegation under subsection (1). 2001, c. 25, s. 310 (8).

Single set of tax ratios

(9) The tax ratios established by a municipality must be the same for both upper-tier and lower-tier purposes. 2001, c. 25, s. 310 (9).

Regulations

(10) The Minister may make regulations,

- (a) designating an upper-tier municipality for the purposes of this section;
- (b) prescribing conditions that must be satisfied before an upper-tier municipality may make a delegation under subsection (1);
- (c) governing the requisitions or levies that may be made by an upper-tier municipality that has made a delegation under subsection (1) or that may be made by any other body;
- (d) if, in the opinion of the Minister, it is necessary or desirable as a result of a delegation being made under subsection (1) or as a result of a delegation under subsection (1) not being made in the year following a year in which such a delegation was made,
 - (i) varying the application of this or any other Act,
 - (ii) prescribing provisions to operate in place of any part of this or any other Act,
 - (iii) prescribing provisions to operate in addition to this or any other Act. 2001, c. 25, s. 310 (10).

Extension of time

(11) The Minister of Finance may make regulations extending the time limit in subsections (1), (3), (4) and (5) and the regulations may be made even if the time limit has expired. 2001, c. 25, s. 310 (11); 2009, c. 33, Sched. 21, s. 6 (21).

Retroactive

(12) A regulation under this section may be retroactive to a date not earlier than January 1 of the year in which the regulation is made. 2001, c. 25, s. 310 (12).

Upper-tier levies

Definitions

311. (1) In this section,

“commercial classes” has the meaning given to that expression by subsection 308 (1); (“catégories commerciales”)

“general upper-tier levy” means the amount the upper-tier municipality decided to raise in its budget for the year under section 289 on all rateable property in the upper-tier municipality; (“impôt général de palier supérieur”)

“industrial classes” has the meaning given to that expression by subsection 308 (1); (“catégories industrielles”)

“optional property class” has the meaning given to that expression by subsection 308 (1); (“catégorie de biens facultative”)

“special upper-tier levy” means, where an upper-tier municipality is authorized under a provision of any Act, other than this section, or under a regulation under section 326 or any other Act, to raise an amount for any purpose on less than all the rateable property in the upper-tier municipality, the amount the upper-tier municipality decided to raise in its budget for the year under section 289 for that purpose on less than all the rateable property. (“impôt extraordinaire de palier supérieur”) 2001, c. 25, s. 311 (1); 2002, c. 17, Sched. A, s. 49 (1).

General rating by-law

(2) For purposes of raising the general upper-tier levy, an upper-tier municipality, in each year, shall pass a by-law directing each lower-tier municipality to levy a separate tax rate, as specified in the by-law, on the assessment in each property class in the lower-tier municipality rateable for upper-tier purposes. 2001, c. 25, s. 311 (2); 2009, c. 33, Sched. 21, s. 6 (22).

Assessment for general upper-tier levy purposes

(3) For the purposes of subsection (2), the assessment in each property class includes any adjustments made under section 32, 33, 34, 39.1 or 40 of the *Assessment Act* to the assessments on the assessment roll as returned for the taxation year if the adjustments are made on the tax roll before the by-law mentioned in subsection (2) is passed for the taxation year. 2001, c. 25, s. 311 (3).

Special levies

(4) For purposes of raising a special upper-tier levy, an upper-tier municipality shall, in each year, pass a by-law directing each applicable lower-tier municipality to levy a separate tax rate, as specified in the by-law, on all or part of the assessment, as specified in the by-law, in each property class in the lower-tier municipality rateable for upper-tier purposes. 2001, c. 25, s. 311 (4); 2009, c. 33, Sched. 21, s. 6 (23).

Assessment for special upper-tier levy purposes

(5) For the purposes of subsection (4), the assessment in each property class includes any adjustments made under section 32, 33, 34, 39.1 or 40 of the *Assessment Act* to the assessments on the assessment roll as returned for the taxation year if the adjustments are made on the tax roll before the by-law mentioned in subsection (4) is passed for the taxation year. 2001, c. 25, s. 311 (5).

Restrictions on rates

(6) The tax rates that an upper-tier municipality shall direct to be levied in an upper-tier rating by-law are subject to the following restrictions:

1. The rates must be set so that, when they are levied on the applicable assessment rateable for upper-tier purposes, an amount equal to the general upper-tier levy or special upper-tier levy, as the case may be, is raised.
2. The rates on the different classes of property must be in the same proportion to each other as the tax ratios established under section 308 for the property classes are to each other.
3. The rate for each class of property must be the same for each lower-tier municipality. 2001, c. 25, s. 311 (6).

Exception, tax increases

(7) Despite subsection (6), if the tax ratio or average tax ratio for the property class for a taxation year is above the tax ratio for the property class, as prescribed under clause (9) (a), tax rates to be levied on property in the property class shall be determined in the manner provided under clause (9) (b). 2001, c. 25, s. 311 (7).

Average tax ratio

(8) For the purpose of subsection (7), the average tax ratio shall be equal to the average transition ratio for the municipality determined under subsection 308 (11) for the commercial classes or for the industrial classes. 2001, c. 25, s. 311 (8).

Exception

(8.1) Despite subsection (8), if a municipality opts to have an optional property class apply within a taxation year, the municipality may establish an average tax ratio for the commercial classes or for the industrial classes for that year, whichever includes the optional property class, using the assessment as determined under subsection (3), and the average tax ratio must not exceed the tax ratio prescribed under clause (9) (a). 2002, c. 17, Sched. A, s. 49 (2).

Regulations

(9) The Minister of Finance may make regulations,

- (a) prescribing a tax ratio for a property class for the purpose of subsection (7), including a single tax ratio for the commercial classes or industrial classes;
- (b) providing the manner in which the tax rates on property in a property class are to be determined under subsection (7);
- (c) providing for the determination of changes in taxes for municipal purposes for a property class. 2001, c. 25, s. 311 (9).

Rates adopted

(10) In each year, each lower-tier municipality shall levy, in accordance with the upper-tier rating by-law passed for that year, the tax rates specified in the by-law. 2001, c. 25, s. 311 (10).

Estimate of amount to be raised

(11) An upper-tier rating by-law shall estimate the amount to be raised in a lower-tier municipality as a result of a levy being made in that municipality in accordance with the by-law. 2001, c. 25, s. 311 (11).

Instalments, other than counties

(12) An upper-tier rating by-law passed by the council of an upper-tier municipality, other than a county, may require specified portions of the estimate to be paid to the treasurer of the upper-tier municipality on or before specified dates. 2001, c. 25, s. 311 (12).

Instalments, counties

(13) In each year, a lower-tier municipality in a county shall pay amounts to the upper-tier municipality in the following instalments:

1. 25 per cent of the amount required to be raised by the lower-tier municipality for upper-tier purposes in the previous year, on or before March 31.

2. 50 per cent of the amount required to be raised by the lower-tier municipality for upper-tier purposes in the current year, less the amount of the instalment paid under paragraph 1, on or before June 30.
3. 25 per cent of such current amount, on or before September 30.
4. The balance of the entitlement for the year, on or before December 15. 2001, c. 25, s. 311 (13).

Adjustment

(14) The instalment under paragraph 2 of subsection (13) shall be adjusted in accordance with the following:

1. The instalment shall be decreased by 50 per cent of the upper-tier's share of the costs, for the prior year, of deferrals, cancellations or other relief under a by-law under section 319, 361, 362 or 364.
2. The instalment shall be increased by 50 per cent of the upper-tier's share of any taxes, deferred under a by-law under subsection 319 (1), that were due in the prior year. 2001, c. 25, s. 311 (14).

Variation by agreement

(15) Despite subsection (13), a county may, by agreement with a majority of its lower-tier municipalities representing at least two-thirds of the total weighted assessment of all its lower-tier municipalities, provide by by-law for any number of instalments and their due dates other than those provided in subsection (13) and those alternative instalments and due dates shall be applicable to all its lower-tier municipalities. 2001, c. 25, s. 311 (15).

Definition

(16) For the purposes of subsection (15),

“weighted assessment” means the assessment for a property multiplied by the tax ratio, established under section 308, for the property class the property is in. 2001, c. 25, s. 311 (16).

Interest on advance payments

(17) The upper-tier municipality may pay interest at a rate to be determined by the council of the upper-tier municipality on any payment, or portion of such a payment, made in advance by a lower-tier municipality. 2001, c. 25, s. 311 (17).

Payment

(18) The amount levied by a lower-tier municipality pursuant to an upper-tier rating by-law shall be deemed to be taxes and is a debt of the lower-tier municipality to the upper-tier municipality and the treasurer of the lower-tier municipality shall pay the amount owing by the lower-tier municipality to the treasurer of the upper-tier municipality on or before the dates and in the portions as determined in accordance with subsections (12) to (15). 2001, c. 25, s. 311 (18).

Default

(19) If a lower-tier municipality fails to make any payment, or portion of it, in accordance with subsections (12) to (15), the lower-tier municipality shall pay to the upper-tier municipality interest on the amount in default at the rate of 15 per cent per year, or such lower rate as the upper-tier municipality may by by-law determine, from the date payment is due until it is made. 2001, c. 25, s. 311 (19).

Amount payable, adjustments if estimate incorrect

(20) If the amount levied by a lower-tier municipality pursuant to an upper-tier rating by-law is different from the amount estimated in the by-law, the lower-tier municipality is required to pay only the amount levied and the appropriate adjustments shall be made in respect of any amounts already paid. 2001, c. 25, s. 311 (20).

(21) REPEALED: 2009, c. 33, Sched. 21, s. 6 (24).

Regulations, funding of rebates

(22) The Minister of Finance may make regulations allowing, subject to conditions prescribed in the regulations, the tax rate for a property class to be greater than would be allowed under paragraph 2 of subsection (6) for the purpose of allowing additional taxes to be levied on property in the property class to fund rebates under section 361 on the following property:

1. Property in the property class.
2. If the property class is one of the commercial classes within the meaning of subsection 308 (1), property in those classes.
3. If the property class is one of the industrial classes within the meaning of subsection 308 (1), property in those classes. 2001, c. 25, s. 311 (22).

Funding of rebates, commercial

(23) The tax rates for the commercial classes, within the meaning of subsection 308 (1), shall be set as allowed under the regulations under subsection (22) so that the tax rates are higher than would be allowed under paragraph 2 of subsection (6) to the extent necessary to raise additional taxes to fund the upper-tier municipality's share of the cost of rebates under section 361 on property in the commercial classes. 2001, c. 25, s. 311 (23).

Funding of rebates, industrial

(24) The tax rates for the industrial classes, within the meaning of subsection 308 (1), shall be set as allowed under the regulations under subsection (22) so that the tax rates are higher than would be allowed under paragraph 2 of subsection (6) to the extent necessary to raise additional taxes to fund the upper-tier municipality's share of the cost of rebates under section 361 on property in the industrial classes. 2001, c. 25, s. 311 (24).

Special reductions

(25) An upper-tier municipality may, with the written approval of the Minister of Finance, set a tax rate for a property class that is lower than would otherwise be allowed under this section. 2001, c. 25, s. 311 (25).

Regulations

(26) The Minister may make regulations varying the application of subsections (13) and (14). 2001, c. 25, s. 311 (26).

Local municipality levies

Definitions

312. (1) In this section,

“commercial classes” has the meaning given to that expression by subsection 308 (1); (“catégories commerciales”)

“general local municipality levy” means the amount the local municipality decided to raise in its budget for the year under section 290 on all rateable property in the local municipality; (“impôt général local”)

“industrial classes” has the meaning given to that expression by subsection 308 (1); (“catégories industrielles”)

“optional property class” has the meaning given to that expression by subsection 308 (1); (“catégorie de biens facultative”)

“special local municipality levy” means, where a local municipality is authorized under a provision of any Act, other than this section, or under a regulation under section 326 or any other Act to raise an amount for any purpose on less than all the rateable property in the local municipality, the amount the local municipality decided to raise in its budget for the year under section 290 for that purpose on less than all the rateable property. (“impôt extraordinaire local”) 2001, c. 25, s. 312 (1); 2002, c. 17, Sched. A, s. 50 (1).

General local municipality levies

(2) For purposes of raising the general local municipality levy, a local municipality shall, each year, pass a by-law levying a separate tax rate, as specified in the by-law, on the assessment in each property class in the local municipality rateable for local municipality purposes. 2001, c. 25, s. 312 (2).

Assessment for general local municipality levy purposes

(3) For the purposes of subsection (2), the assessment in each property class includes any adjustments made under section 32, 33, 34, 39.1 or 40 of the *Assessment Act* to the assessments on the assessment roll as returned for the taxation year if the adjustments are made on the tax roll before,

(a) the by-law mentioned in subsection (2) is passed for the taxation year, if the local municipality is a single-tier municipality; or

(b) the by-law mentioned in subsection 311 (2) is passed for the taxation year, if the local municipality is a lower-tier municipality. 2001, c. 25, s. 312 (3).

Later date

(3.1) Despite subsection (3), an upper-tier municipality may, by agreement with a majority of its lower-tier municipalities representing at least two-thirds of the total weighted assessment of all its lower-tier municipalities, provide by by-law for a later date than that provided in clause (3) (b) and that later date shall be applicable to all its lower-tier municipalities. 2002, c. 17, Sched. A, s. 50 (2).

Definition

(3.2) In subsection (3.1),

“weighted assessment” means the assessment for a property multiplied by the tax ratio established under section 308 for the property class the property is in. 2002, c. 17, Sched. A, s. 50 (2).

Limitation

(3.3) An agreement under subsection (3.1) for a taxation year shall not be entered into after the day the by-law mentioned in subsection 311 (2) is passed for the taxation year. 2002, c. 17, Sched. A, s. 50 (2).

Special local municipality levies

(4) For purposes of raising a special local municipality levy, a local municipality shall, each year, pass a by-law levying a separate tax rate, as specified in the by-law, on all or part of the assessment, as specified in the by-law, in each property class in the local municipality rateable for local municipality purposes. 2001, c. 25, s. 312 (4).

Assessment for special local municipality levy purposes

(5) For the purposes of subsection (4), the assessment in each property class includes any adjustments made under section 32, 33, 34, 39.1 or 40 of the *Assessment Act* to the assessments on the assessment roll as returned for the taxation year if the adjustments are made on the tax roll before,

- (a) the by-law mentioned in subsection (4) is passed for the taxation year; or
- (b) the by-law mentioned in subsection 311 (4) is passed for the taxation year, if the local municipality is a lower-tier municipality. 2001, c. 25, s. 312 (5).

Restrictions on rates

- (6) The tax rates to be levied under subsection (2) or (4) are subject to the following restrictions:
- 1. The rates must be set so that, when they are levied on the applicable assessment rateable for local municipality purposes, an amount equal to the general local municipality levy or special local municipality levy, as the case may be, is raised.
 - 2. The rates on the different classes of property must be in the same proportion to each other as the tax ratios established under section 308 for the property classes are to each other. 2001, c. 25, s. 312 (6).

Exception, tax increases

(7) Despite subsection (6), if the tax ratio or average tax ratio for the property class for the 2001 taxation year or a subsequent taxation year is above the tax ratio for the property class as prescribed under clause (9) (a), tax rates to be levied on property in the property class shall be determined in the manner provided under clause (9) (b). 2001, c. 25, s. 312 (7).

Average tax ratio

(8) For the purpose of subsection (7), the average tax ratio shall be equal to the average transition ratio for the municipality determined under subsection 308 (11) for the commercial classes or for the industrial classes. 2001, c. 25, s. 312 (8).

Exception

(8.1) Despite subsection (8), if a municipality opts to have an optional property class apply within a taxation year, the municipality may establish an average tax ratio for the commercial classes or for the industrial classes for that year, whichever includes the optional property class, using the assessment as determined under subsection (3), and the average tax ratio must not exceed the tax ratio prescribed under clause (9) (a). 2002, c. 17, Sched. A, s. 50 (2).

Regulations

- (9) The Minister of Finance may make regulations,
- (a) prescribing a tax ratio for a property class for the purpose of subsection (7), including a single tax ratio for the commercial classes or industrial classes;
 - (b) providing the manner in which the tax rates on property in a property class are to be determined under subsection (7);
 - (c) providing for the determination of changes in taxes for municipal purposes for a property class. 2001, c. 25, s. 312 (9).

Regulations, funding of rebates

(10) The Minister of Finance may make regulations allowing, subject to conditions prescribed in the regulations, the tax rate for a property class to be greater than would be allowed under paragraph 2 of subsection (6) for the purpose of allowing additional taxes to be levied on property in the property class to fund rebates under section 361 on the following property:

- 1. Property in the property class.

2. If the property class is one of the commercial classes within the meaning of subsection 308 (1), property in those classes.
3. If the property class is one of the industrial classes within the meaning of subsection 308 (1), property in those classes. 2001, c. 25, s. 312 (10).

Funding of rebates, commercial

(11) The tax rates for the commercial classes, within the meaning of subsection 308 (1), shall be set as allowed under the regulations under subsection (10) so that the tax rates are higher than would be allowed under paragraph 2 of subsection (6) to the extent necessary to raise additional taxes to fund the local municipality's share of the cost of rebates under section 361 on property in the commercial classes. 2001, c. 25, s. 312 (11).

Funding of rebates, industrial

(12) The tax rates for the industrial classes, within the meaning of subsection 308 (1), shall be set as allowed under the regulations under subsection (10) so that the tax rates are higher than would be allowed under paragraph 2 of subsection (6) to the extent necessary to raise additional taxes to fund the local municipality's share of the cost of rebates under section 361 on property in the industrial classes. 2001, c. 25, s. 312 (12).

Special reductions

(13) A local municipality may, with the written approval of the Minister of Finance, set a tax rate for a property class that is lower than would otherwise be allowed under this section. 2001, c. 25, s. 312 (13).

Prescribed subclass tax reductions

313. (1) The tax rates that would otherwise be levied for municipal purposes for the subclasses prescribed under subsection 8 (1) of the *Assessment Act* shall be reduced in accordance with the following rules:

1. The tax rates that would otherwise be levied for municipal purposes for the subclasses prescribed under paragraph 1 of subsection 8 (1) of the *Assessment Act* shall be reduced by the prescribed percentages.
2. The tax rates that would otherwise be levied for municipal purposes for the subclasses prescribed under subparagraph 2 i of subsection 8 (1) of the *Assessment Act* shall be reduced by 30 per cent or by the percentage, if any, under subsection (4).
3. The tax rates that would otherwise be levied for municipal purposes for the subclasses prescribed under subparagraph 2 ii of subsection 8 (1) of the *Assessment Act* shall be reduced by 35 per cent or by the percentage, if any, under subsection (4).
4. The tax rates that would otherwise be levied for municipal purposes for the subclasses prescribed under subparagraph 3 i of subsection 8 (1) of the *Assessment Act* shall be reduced by 30 per cent or by the percentage, if any, under subsection (4).
5. The tax rates that would otherwise be levied for municipal purposes for the subclasses prescribed under subparagraph 3 ii of subsection 8 (1) of the *Assessment Act* shall be reduced by 35 per cent or by the percentage, if any, under subsection (4). 2001, c. 25, s. 313 (1).

Regulations

- (2) The Minister of Finance may make regulations,
 - (a) prescribing percentages for the purposes of paragraph 1 of subsection (1);
 - (b) requiring percentage reductions of the tax rates for municipal purposes for any subclasses prescribed under subsection 8 (2) of the *Assessment Act*. 2001, c. 25, s. 313 (2).

Choice of percentage within range

- (3) If the regulations made under subsection (2) require tax rates to be reduced by a percentage within a range described in the regulations,
 - (a) the percentage shall be specified, by by-law, by the local municipality or, if the local municipality is a lower-tier municipality, by the upper-tier municipality; and
 - (b) if no percentage is specified under clause (a), the percentage shall be the highest percentage in the range. 2001, c. 25, s. 313 (3).

Municipal option for certain paragraphs

(4) A municipality, other than a lower-tier municipality, may pass a by-law providing for a single percentage that is not less than 30 per cent and not more than 35 per cent to apply instead of the percentages set out in paragraphs 2 to 5 of subsection (1). 2001, c. 25, s. 313 (4).

Overlap with graduated tax rates

(5) The Minister of Finance may make regulations governing the application of this section and section 314 and regulations or by-laws made under those sections in situations in which both of those sections, or the regulations or by-laws made under them, apply. 2001, c. 25, s. 313 (5).

Graduated tax rates

314. (1) A municipality other than a lower-tier municipality may, by by-law passed in the year to which it relates,

- (a) establish two or three bands of assessment of property for the purposes of facilitating graduated tax rates for any one or more of the property classes included in the commercial classes or the industrial classes; and
 - (b) set the ratios that the tax rates for each band must bear to each other. 2001, c. 25, s. 314 (1); 2004, c. 31, Sched. 26, s. 1 (1); 2009, c. 33, Sched. 21, s. 6 (25).
- (2) REPEALED: 2004, c. 31, Sched. 26, s. 1 (2).

Restrictions on bands

(3) The bands for each property class are subject to the following:

1. The lowest band must be the portion of the assessment of a property that is less than or equal to an amount set out in the by-law.
2. The highest band must be the portion of the assessment of a property that is greater than an amount set out in the by-law.
3. If there is a third band it must cover the portion of the assessment between the lowest and highest bands.
4. The bands must be established so that they cover all of the assessment of a property and do not overlap.
5. The bands must be the same for all properties in the property class. 2001, c. 25, s. 314 (3).

Setting of rates for bands

(4) Instead of setting a single tax rate under section 311 or 312 for a property class for which bands are established, a municipality shall set a separate tax rate for each band in accordance with the ratios set under clause (1) (b). 2001, c. 25, s. 314 (4).

Regulations

- (5) The Minister of Finance may make regulations,
- (a) governing the ratios set under clause (1) (b);
 - (b) governing the setting of tax rates in accordance with the ratios set under clause (1) (b);
 - (c) varying the application of subsection (6) with respect to a unit or proposed unit within the meaning of the *Condominium Act, 1998*. 2001, c. 25, s. 314 (5).

Determination of taxes

(6) The taxes for municipal purposes on a property shall be determined by applying the tax rate for each band to the portion of the assessment of the property within that band. 2001, c. 25, s. 314 (6).

(7) REPEALED: 2009, c. 33, Sched. 21, s. 6 (26).

Definitions

(8) In this section,

“commercial classes” has the meaning given to that expression by subsection 308 (1); (“catégories commerciales”)

“industrial classes” has the meaning given to that expression by subsection 308 (1). (“catégories industrielles”) 2004, c. 31, Sched. 26, s. 1 (3).

Taxation of certain railway, power utility lands

315. (1) Every local municipality shall impose taxes, in accordance with the regulations, on the following land:

1. The roadway or right-of-way of a railway company, other than the structures, substructures and superstructures, rails, ties, poles and other property on the roadway or right-of-way, not including land leased by the railway company to another person for rent or other valuable consideration.
2. Land owned by a power utility prescribed by the Minister of Finance, other than a public utility defined in subsection 27 (1) of the *Assessment Act*, and used as a transmission or distribution corridor, not including land leased by the power utility to another person for rent or other valuable consideration. 2001, c. 25, s. 315 (1).

Distribution of the tax

(2) Part of the taxes imposed by a local municipality on land described in subsection (1) shall be distributed to the upper-tier municipality, if any. 2001, c. 25, s. 315 (2).

Amount of share

(3) The upper-tier municipality's share of tax under this section shall be determined in accordance with the following:

$$\text{Share of Tax} = \text{Tax under this section} \times \frac{\text{Upper - tier commercial tax}}{\text{Total commercial tax}}$$

where,

“Total commercial tax” means the total tax levied on land in the commercial property class and other property classes prescribed for the purposes of this definition, for upper-tier and lower-tier purposes, in the local municipality;

“Upper-tier commercial tax” means that portion of the Total commercial tax levied in the local municipality for upper-tier purposes.

2001, c. 25, s. 315 (3); 2004, c. 31, Sched. 26, s. 2 (1).

Regulations

- (4) The Minister of Finance may make regulations,
 - (a) prescribing, for each geographic area described in subsection (6), the rate of tax to be imposed by a local municipality on the land described in subsection (1);
 - (a.1) prescribing the rate of tax to be imposed for 2005 or a subsequent year by a local municipality on certain land described in subsection (1) instead of the rate of tax prescribed under clause (a) for that year for the geographic area in which the land is located;
 - (b) prescribing power utilities for the purposes of paragraph 2 of subsection (1);
 - (c) governing when the distribution under subsection (2) shall be made;
 - (d) prescribing property classes for the purposes of the definition of “Total commercial tax” in subsection (3). 2001, c. 25, s. 315 (4); 2004, c. 31, Sched. 26, s. 2 (2).

Scope

(5) A regulation under subsection (4) may provide for land described in paragraph 1 of subsection (1) to be taxed differently from land described in paragraph 2 of subsection (1). 2001, c. 25, s. 315 (5).

Geographic areas

- (6) For the purposes of this section, the following geographic areas are established:
 1. The upper-tier municipalities of Durham, Halton, Peel and York.
 2. The City of Ottawa and the upper-tier municipalities of Lanark, Leeds and Grenville, Prescott and Russell, Renfrew and Stormont, Dundas and Glengarry, including the municipalities separated from the upper-tier municipalities for municipal purposes.
 3. The City of Kawartha Lakes and the County of Prince Edward and the upper-tier municipalities of Frontenac, Haliburton, Hastings, Lennox and Addington, Northumberland and Peterborough, including the municipalities separated from the upper-tier municipalities for municipal purposes.
 4. The upper-tier municipalities of Niagara and Waterloo and the City of Hamilton.
 5. Haldimand County, Norfolk County, the City of Brantford, the County of Brant, the Municipality of Chatham-Kent and the upper-tier municipalities of Elgin, Essex, Lambton, Middlesex and Oxford, including the municipalities separated from the upper-tier municipalities for municipal purposes.

6. The upper-tier municipalities of Bruce, Dufferin, Grey, Huron, Perth, Simcoe and Wellington, including the municipalities separated from the upper-tier municipalities for municipal purposes.
7. The City of Greater Sudbury and the districts of Algoma, Manitoulin and Sudbury.
8. The District Municipality of Muskoka and the districts of Cochrane, Nipissing, Parry Sound and Temiskaming.
9. The districts of Kenora, Rainy River and Thunder Bay. 2001, c. 25, s. 315 (6); 2006, c. 11, Sched. B, s. 9 (5, 6); 2006, c. 32, Sched. A, s. 131.

References to municipalities and districts

(7) In the description of a geographic area in subsection (6), a reference to a municipality or district is a reference to the municipality or district as it was on December 31, 2001. 2001, c. 25, s. 315 (7).

Tax roll

(8) The treasurer of a municipality shall, for land described in subsection (1), enter on the tax roll the number of acres or other measure showing the extent of the land and the amounts of the taxes under this section. 2001, c. 25, s. 315 (8).

Amount to be distributed is a debt

(9) An amount that a local municipality is required to distribute to an upper-tier municipality is a debt of the local municipality to the upper-tier municipality. 2001, c. 25, s. 315 (9).

Default

(10) If a lower-tier municipality fails to make any payment, or portion of it, to an upper-tier municipality as required under this section, the lower-tier municipality shall pay to the upper-tier municipality interest on the amount in default at the rate of 15 per cent per year, or such lower rate as the upper-tier municipality may by by-law determine, from the date payment is due until it is made. 2001, c. 25, s. 315 (10).

Interest on advance payments

(11) An upper-tier municipality may, by by-law, provide that the upper-tier municipality shall pay interest at a rate to be determined by the council of the upper-tier municipality on any payment under this section, or portion of such a payment, made in advance by a local municipality. 2001, c. 25, s. 315 (11).

Transitional taxation

(12) The Minister of Finance may make regulations providing for the taxation under this section for the taxation years 1998 to 2005, both inclusive, of land that the owner owned on December 31, 1997, for the purposes of providing for the transition from the taxation of such land as it was taxed in 1997 and the regulations may provide,

- (a) for land described in paragraph 1 of subsection (1) to be taxed differently from land described in paragraph 2 of subsection (1); and
- (b) for different taxation of particular parcels of land or of parcels of land owned by particular owners. 2001, c. 25, s. 315 (12).

Retroactive

(13) Regulations under subsection (12) are, if they so provide, effective with reference to periods before they are filed. 2002, c. 17, Sched. A, s. 51.

Interim financing, upper-tier

316. (1) The council of an upper-tier municipality, other than a county, before the adoption of the estimates for a year under section 289, may by by-law requisition a sum from each lower-tier municipality not exceeding an amount determined by,

- (a) adding the prescribed percentage, or 50 per cent if no percentage is prescribed, of the amount that, in the upper-tier rating by-law for the previous year, was estimated to be raised in the particular lower-tier municipality;
- (b) subtracting the prescribed percentage, or 50 per cent if no percentage is prescribed, of the upper-tier municipality's share of the costs, for the previous year, of deferrals, cancellations or other relief under a by-law under section 319, 361, 362 or 364; and
- (c) adding the prescribed percentage, or 50 per cent if no percentage is prescribed, of the upper-tier municipality's share of any taxes deferred under a by-law under subsection 319 (1) that were due in the previous year. 2001, c. 25, s. 316 (1).

Instalments

(2) A by-law passed under subsection (1) may require specified portions of the sum to be paid to the treasurer of the upper-tier municipality on or before specified dates. 2001, c. 25, s. 316 (2).

Interest on advance payments

(3) A by-law passed under subsection (1) may provide that the upper-tier municipality shall pay interest at a rate to be determined by the council of the upper-tier municipality on any payment, or portion of such a payment, made in advance by a lower-tier municipality. 2001, c. 25, s. 316 (3).

Amount to be paid is a debt

(4) An amount that a lower-tier municipality is required to pay under a by-law passed under subsection (1) is a debt of the lower-tier municipality to the upper-tier municipality. 2001, c. 25, s. 316 (4).

Default

(5) If a lower-tier municipality fails to make any payment, or portion of it, to an upper-tier municipality as required under a by-law passed under subsection (1), the lower-tier municipality shall pay to the upper-tier municipality interest on the amount in default at the rate of 15 per cent per year, or such lower rate as the upper-tier municipality may by by-law determine, from the date payment is due until it is made. 2001, c. 25, s. 316 (5).

Yearly amount reduced

(6) The amount of any requisition made under subsection (1) in a year upon a lower-tier municipality shall be deducted from the amounts to be paid by the lower-tier municipality to the upper-tier municipality under the upper-tier rating by-law for the year. 2001, c. 25, s. 316 (6).

Regulations

(7) The Minister may make regulations with respect to a taxation year for which there is a general reassessment prescribing a percentage for the purpose of subsection (1). 2001, c. 25, s. 316 (7).

Interim levy, local municipality

317. (1) A local municipality, before the adoption of the estimates for the year under section 290, may pass a by-law levying amounts on the assessment of property in the local municipality rateable for local municipality purposes. 2001, c. 25, s. 317 (1).

By-law

(2) A by-law under subsection (1) shall be passed in the year that the amounts are to be levied or may be passed in November or December of the previous year if it provides that it does not come into force until a specified day in the following year. 2001, c. 25, s. 317 (2); 2006, c. 32, Sched. A, s. 132.

Rules

- (3) The amounts to be levied are subject to the following rules:
1. The amount levied on a property shall not exceed the prescribed percentage, or 50 per cent if no percentage is prescribed, of the total amount of taxes for municipal and school purposes levied on the property for the previous year.
 2. The percentage under paragraph 1 may be different for different property classes but shall be the same for all properties in a property class.
 3. For the purposes of calculating the total amount of taxes for the previous year under paragraph 1, if any taxes for municipal and school purposes were levied on a property for only part of the previous year because assessment was added to the tax roll during the year, an amount shall be added equal to the additional taxes that would have been levied on the property if the taxes for municipal and school purposes had been levied for the entire year. 2001, c. 25, s. 317 (3).

By-law passed before assessment roll returned

(4) If a by-law is passed under subsection (1) before the assessment roll for taxation in the current year is returned, the amounts under subsection (1) shall be levied on the assessment according to,

- (a) the tax roll for taxation in the previous year as most recently revised before the by-law is passed; or
- (b) a preliminary assessment roll provided by the assessment corporation for that purpose. 2001, c. 25, s. 317 (4).

Added assessment

(5) A by-law under subsection (1) may provide for the levying of amounts on assessment added, after the by-law is passed, to the tax roll for the current year that was not on the assessment roll upon which the amounts are levied. 2001, c. 25, s. 317 (5).

Deduction

(6) An amount levied under subsection (1) on a property in a year shall be deducted from other amounts levied on the property for the year that are payable to the local municipality. 2001, c. 25, s. 317 (6).

Refund

(7) If the amount levied under subsection (1) on a property exceeds the other amounts levied on the property that are payable to the local municipality, the treasurer of the local municipality shall refund that excess amount not later than 21 days after giving a notice of demand of taxes payable for the year. 2001, c. 25, s. 317 (7).

Application after municipal restructuring

(8) If, as a result of a municipal restructuring, parts of a local municipality as it exists on January 1 of a year were, at any time in the preceding year, in different local municipalities or were, at any time in the preceding year, territory without municipal organization, this section applies for the purposes of the current year with respect to each such area as though it were a separate municipality. 2001, c. 25, s. 317 (8).

Adjustments to interim levy

(9) If the council of a municipality is of the opinion that the taxes levied under subsection (1) on a property are too high or too low in relation to its estimate of the total taxes that will be levied on the property, the council may adjust the taxes on the property under subsection (1) to the extent it considers appropriate. 2001, c. 25, s. 317 (9).

Regulations to vary interim powers

(10) The Minister may make regulations with respect to a taxation year for which there is a general reassessment prescribing a percentage for the purpose of paragraph 1 of subsection (3). 2001, c. 25, s. 317 (10).

Retroactive

(11) A regulation under this section may be retroactive to a date not earlier than December 1 of the year before the year in which the regulation is made. 2001, c. 25, s. 317 (11).

Phase-in of tax changes resulting from reassessments

318. (1) On or before December 31 of the taxation year, a municipality, other than a lower-tier municipality, may pass a by-law to phase in tax increases or decreases for eligible properties for a taxation year in respect of which there is a general reassessment. 2001, c. 25, s. 318 (1).

Definitions

(2) In this section,

“eligible property” means property classified in any property class prescribed under the *Assessment Act*; (“bien admissible”)

“first taxation year” means a taxation year in respect of which there is a general reassessment; (“première année d’imposition”)

“preceding year” means the taxation year immediately preceding the first taxation year. (“année précédente”) 2001, c. 25, s. 318 (2).

Tax increase to be phased in

(3) If the total taxes for municipal and school purposes for the first taxation year for an eligible property, but for the application of this section, exceed its total taxes for municipal and school purposes for the preceding year, the maximum amount of the tax increase to be phased in is the amount of the difference. 2001, c. 25, s. 318 (3).

Tax decrease to be phased in

(4) If the total taxes for municipal and school purposes for the preceding year for an eligible property exceed its total taxes for municipal and school purposes for the first taxation year, but for the application of this section, the maximum amount of the tax decrease to be phased in is the amount of the difference. 2001, c. 25, s. 318 (4).

Amounts to be phased in

(5) For properties subject to Part IX and for the purposes of subsections (3) and (4), the taxes for municipal and school purposes for that year shall be determined under subsection 329 (2). 2001, c. 25, s. 318 (5).

Same

(6) For properties that are not subject to Part IX and for the purposes of subsections (3) and (4), the taxes for municipal and school purposes for the preceding year shall be determined as follows:

1. Determine the taxes for municipal and school purposes that were levied on the property in the year.
2. If a supplementary assessment or change in classification was made under section 34 of the *Assessment Act* during that year or if an assessment or change in classification could have been made under section 34 of that Act and the appropriate change is made to the assessment roll for taxation in the first taxation year, recalculate the taxes determined under paragraph 1 as if the increase in the assessment or change in classification, as the case may be, had applied to the property for all of the year.
3. If the council of a municipality cancels, reduces or refunds taxes under section 357 for the year on an application under clause 357 (1) (a), (c), (d) or (f) or under section 358 for the year, recalculate the taxes determined under paragraph 1 as if the event that caused the cancellation, reduction or refund had occurred on January 1 of that year. 2001, c. 25, s. 318 (6).

Application to lower-tiers

(7) A by-law under subsection (1) of an upper-tier municipality also applies with respect to the taxes of its lower-tier municipalities. 2001, c. 25, s. 318 (7).

Copy

(8) An upper-tier municipality shall provide a copy of the by-law under subsection (1) to each lower-tier municipality as soon as is practicable. 2001, c. 25, s. 318 (8).

By-law requirements

(9) A by-law under subsection (1) is subject to the following:

1. The by-law may apply to the first taxation year and up to the next seven taxation years.
2. The by-law may replace a by-law made under section 372.2 of the old Act or this section so long as the first-mentioned by-law applies for at least the same number of years as remains outstanding under the by-law made under section 372.2 or this section.
3. The by-law may modify the phase-in on individual properties subject to a phase-in under a by-law made under section 372.2 of the old Act or this section in order to reflect tax increases or decreases determined under subsection (3) or (4).
4. The amount to be phased in in a year, other than in the first taxation year, must be the same or less than the amount phased in in the previous year.
5. The amount phased in in the last year in which a tax increase or decrease is phased in plus the total amounts phased in in the previous years must equal the tax increase or decrease for each property as determined under subsection (3) or (4).
6. The by-law may treat different property classes differently and it may provide for no phase-ins for some classes but, if the by-law applies to property in a property class, it must apply to all properties in the property class.
7. For the purposes of paragraph 6, the residential property class, the farm property class and the managed forests property class shall be treated as a single property class.
8. In the first taxation year, the amounts recovered from all properties in the property class whose tax decreases are being phased in shall not exceed the revenues foregone from all properties in the property class whose tax increases are being phased-in for the municipality referred to in subsection (1).
9. The by-law may provide for a threshold amount in each taxation year, determined in dollars or as a percentage.
10. For the purposes of paragraph 9, the threshold amount for eligible properties in a property class in the municipality to which subsection (3) applies may be different from the threshold amount for eligible properties in the property class in the municipality to which subsection (4) applies.
11. If an assessment is made for a property under subsection 32 (2) or 33 (1) of the *Assessment Act* in or after the first taxation year but the assessment applies to a year prior to the first taxation year,
 - i. the by-law made under subsection (1) shall apply to the property, and

- ii. the taxes for municipal and school purposes on the property shall be recalculated for the first taxation year and for any subsequent taxation year that is subject to the by-law under subsection (1). 2001, c. 25, s. 318 (9); 2002, c. 22, s. 154.

If change in use, character, classification of property

(10) If there has been a change in the use or character of any eligible property or in its classification under the *Assessment Act* that, in the opinion of the council of the municipality, makes a phase-in or the continuation of a phase-in in respect of the property inappropriate, the council may, in the by-law under subsection (1) or in another by-law, exclude such property from the application of the phase-in. 2001, c. 25, s. 318 (10).

Improvements replaced after scheme begins

(11) If an improvement to an eligible property is substantially destroyed before a by-law under subsection (1) is passed and, before the end of the last year in which a tax increase or decrease is phased in, the improvement is replaced, the council of the municipality may amend the by-law under subsection (1) so that the by-law applies to the property as though the improvement had not been substantially destroyed. 2001, c. 25, s. 318 (11).

Exception

(12) Subsection (11) does not apply with respect to an improvement if the destruction of the improvement is by the owner, is permitted by the owner or is done by a person who had a right to destroy the improvement. 2001, c. 25, s. 318 (12).

No lower-tier surplus or shortfall

(13) The council of an upper-tier municipality shall, in a by-law under subsection (1), provide that adjustments shall be made between the upper-tier municipality and lower-tier municipalities so that no lower-tier municipality has a surplus or shortfall as a result of the phase-in of the tax increases or decreases. 2001, c. 25, s. 318 (13).

Upper-tier shortfall

(14) If the upper-tier municipality experiences a shortfall as a result of the application of subsection (13), the by-law made under subsection (1) shall provide that any shortfall shall be shared by the upper-tier municipality and lower-tier municipalities in the same proportion as those municipalities share in the taxes levied on the property class for municipal purposes. 2001, c. 25, s. 318 (14).

Information on notice of demand

(15) A notice of demand of taxes payable in respect of which there is a phase-in shall indicate the amount of taxes that would have been payable without the phase-in, the amount of taxes that are payable and the difference. 2001, c. 25, s. 318 (15).

List to be kept

(16) The treasurer of the local municipality shall maintain a list of the tax increases or decreases for each eligible property to which the by-law under subsection (1) applies. 2001, c. 25, s. 318 (16).

Application to payments in lieu of taxes

(17) This section applies to payments in lieu of taxes, other than an amount referred to in subparagraph 24 ii of subsection 3 (1) of the *Assessment Act* or an amount received under section 323 or subsection 324 (4) of this Act, as though they were taxes but a by-law under subsection (1) may provide that it does not apply to payments in lieu of taxes. 2001, c. 25, s. 318 (17).

Taxes for school purposes

(18) No phase-in of a tax increase or decrease under this section shall affect the amount a local municipality is required to pay a school board. 2001, c. 25, s. 318 (18).

Certain changes in first taxation year assessments

(19) The following apply if the assessment of an eligible property for the first taxation year changes as a result of a request under section 39.1 of the *Assessment Act*, an appeal under section 40 of that Act or an application under section 46 of that Act:

1. The tax increase or decrease for the property shall be redetermined under subsection (3) or (4) using the new assessment for the property.
2. The taxes on the property shall be recalculated using the amount determined under paragraph 1 for each year in which there is a tax increase or decrease.

3. The tax roll shall be amended to reflect the recalculated taxes. 2001, c. 25, s. 318 (19); 2008, c. 7, Sched. O, s. 1.

Certain changes in assessment in preceding year

(20) The following apply if the assessment of an eligible property for the preceding year changes as a result of a request under section 39.1 of the *Assessment Act*, an appeal under section 40 of that Act or an application under section 46 of that Act:

1. The tax increase or decrease for the property shall be redetermined under subsection (3) or (4) using the new assessment for the property to determine the taxes for the preceding year.
2. The taxes on the property shall be recalculated using the amount determined under paragraph 1 for each year in which there is a tax increase or decrease.
3. The tax roll shall be amended to reflect the recalculated taxes. 2001, c. 25, s. 318 (20); 2008, c. 7, Sched. O, s. 1.

Mixed use

(21) If portions of an eligible property are classified in different property classes on the assessment roll for the first taxation year, each portion shall be deemed to be a separate property for the purposes of this section. 2001, c. 25, s. 318 (21).

Regulations

(22) The Minister of Finance may make regulations,

- (a) prescribing a later deadline for the purposes of subsection (1), either before or after the deadline has passed;
- (b) governing by-laws under this section and the calculation of tax increases and decreases to be phased in under such by-laws. 2001, c. 25, s. 318 (22).

Restructuring orders

(23) Despite section 151 of the *City of Toronto Act, 2006* and section 186 of this Act, a by-law under this section may be made instead of any phase-in authority or requirement set out in an order under section 173 or 175 of this Act or section 149 of the *City of Toronto Act, 2006*, but the by-law under this section must apply for at least the same number of years as remains outstanding under the phase-in authority or requirement. 2006, c. 32, Sched. A, s. 133.

Tax deferrals, relief of financial hardship

319. (1) For the purposes of relieving financial hardship, a municipality, other than a lower-tier municipality, may pass a by-law providing for deferrals or cancellation of, or other relief in respect of, all or part of a tax increase for 1998 and subsequent years on property in the residential property class for persons assessed as owners who are, or whose spouses are,

- (a) low-income seniors as defined in the by-law; or
- (b) low-income persons with disabilities as defined in the by-law. 2001, c. 25, s. 319 (1); 2002, c. 17, Sched. A, s. 52; 2002, c. 22, s. 155; 2005, c. 5, s. 44 (5).

Tax relief must be given

(2) A municipality, other than a lower-tier municipality, shall pass a by-law under subsection (1). 2001, c. 25, s. 319 (2).

(2.1) REPEALED: 2003, c. 7, s. 14 (1).

(2.2) REPEALED: 2003, c. 7, s. 14 (1).

Tax increases

(3) For a tax increase beginning in a taxation year in which a general reassessment occurs, the tax increase is the tax increase determined under subsection 318 (3) reduced, if the tax increase is being phased in under a by-law made under subsection 318 (1), by the amount not yet phased in. 2001, c. 25, s. 319 (3).

(3.1) REPEALED: 2003, c. 7, s. 14 (1).

Subsequent years

(4) The Minister of Finance may make regulations determining the amount of tax increases beginning in a year subsequent to the taxation year referred to in subsection (3). 2001, c. 25, s. 319 (4).

Application to lower-tiers

(5) A by-law of an upper-tier municipality providing for a deferral or cancellation of tax increases or other relief in respect of tax increases also applies with respect to the tax increases for lower-tier and school purposes. 2001, c. 25, s. 319 (5); 2003, c. 4, s. 12 (2); 2003, c. 7, s. 14 (2).

Amounts transferred by local municipalities adjusted

(6) If a local municipality levies a tax rate for upper-tier or school purposes in respect of which there is a deferral or cancellation of tax increases or other relief in respect of tax increases, the amount of taxes the local municipality shall pay the upper-tier municipality or school boards shall be reduced accordingly. 2001, c. 25, s. 319 (6).

Deferred taxes, payments to upper-tier, school boards

(7) If a local municipality levies a tax rate for upper-tier or school purposes in respect of which there is a deferral of tax increases, the local municipality shall pay the upper-tier municipality or school boards their share of any deferred taxes and interest when they are paid. 2001, c. 25, s. 319 (7).

Deferred taxes, etc., shown on tax certificates

(8) The treasurer of a municipality who issues a tax certificate in respect of a property for which taxes have been deferred shall show the amount of the deferred taxes and any accrued interest on the certificate. 2001, c. 25, s. 319 (8).

Interest

(9) Interest may be charged on taxes for taxation years before 2001 that are deferred under a by-law of a municipality at a rate not exceeding the market rate as determined by the municipality but no such interest may be charged for the 2001 or subsequent taxation years. 2001, c. 25, s. 319 (9).

Part payments credited to interest first

(10) An amount received in part payment of deferred taxes and interest shall be credited towards the interest before being credited towards the taxes. 2001, c. 25, s. 319 (10).

By-law may apply to taxes already paid

(11) A by-law may provide for the cancellation or deferral of, or other relief in respect of, taxes that have already been paid. 2001, c. 25, s. 319 (11).

Interest and penalties

(12) The municipality that passed the by-law under subsection (1) or, if the municipality is an upper-tier municipality, the lower-tier municipality,

- (a) may waive interest and penalties on amounts that were not paid when they were due and that, as a result of the deferral, cancellation or other relief, are no longer owed; and
- (b) may pay interest on amounts paid on account of taxes that, as a result of the deferral, cancellation or other relief, exceed the taxes. 2001, c. 25, s. 319 (12).

Different due dates

(13) For the purposes of clause (12) (a), if different parts of the taxes were due at different times, the amounts that are no longer owed shall be deemed to have been the latest taxes due. 2001, c. 25, s. 319 (13).

Special lien

(14) Subsection 349 (3) applies with necessary modifications with respect to deferred taxes and interest on such taxes. 2001, c. 25, s. 319 (14).

Taxes on international bridges and tunnels

320. (1) The owner of a bridge or tunnel that crosses a river forming the boundary between Ontario and the United States shall pay a tax on the bridge or tunnel structure to the local municipality in which the Ontario end of the bridge or tunnel is located. 2001, c. 25, s. 320 (1).

Amount of tax

(2) The amount of the tax for a taxation year is the prescribed amount plus the amount under subsection (3) for the taxation year, if applicable. 2001, c. 25, s. 320 (2).

Additional amount

(3) For prescribed bridges or tunnels, the amount of the tax shall be increased by any amount by which the American municipal and school taxes for the year on the bridge or tunnel exceed the Ontario municipal taxes for the year on the bridge or tunnel, determined in accordance with the following:

1. The American municipal and school taxes on the bridge or tunnel are the taxes for municipal or school purposes on the bridge or tunnel structure and on land used for the purposes of the bridge or tunnel, converted to Canadian dollars in accordance with the prescribed method.
2. The Ontario municipal taxes on the bridge or tunnel are the taxes for municipal purposes on the bridge or tunnel structure and on land used for the purposes of the bridge or tunnel. 2001, c. 25, s. 320 (3).

Distribution of the tax

(4) The local municipality shall pay a share of the tax to the upper-tier municipality of which it forms part for municipal purposes, if any. 2001, c. 25, s. 320 (4).

Amount of share

(5) The upper-tier municipality's share of tax under this section shall be determined in accordance with the following:

$$\text{Share of Tax} = \text{Tax under this section} \times \frac{\text{Upper - tier commercial tax}}{\text{Total commercial tax}}$$

where,

“Total commercial tax” means the total tax levied on land in the commercial property class and other property classes prescribed for the purposes of this definition, for upper-tier and lower-tier purposes, in the local municipality;

“Upper-tier commercial tax” means the amount of the Total commercial tax levied for upper-tier purposes.

2001, c. 25, s. 320 (5).

When share paid

(6) The local municipality shall pay the upper-tier municipality its share of the tax under this section for a taxation year in accordance with the following:

1. The upper-tier municipality's share of the prescribed amount referred to in subsection (2) shall be paid,
 - i. if the upper-tier municipality is a county, on or before December 15 of the taxation year, or
 - ii. if the upper-tier municipality is not a county, on or before the day the local municipality's last instalment of taxes for the taxation year is due under the upper-tier rating by-law.
2. The upper-tier municipality's share of the amount under subsection (3) shall be paid on or before January 31 of the year after the taxation year. 2001, c. 25, s. 320 (6).

Information from owners

(7) The municipality to which the tax must be paid may, by by-law, require owners of bridges and tunnels to provide information for the purposes of verifying the amount of the tax and the by-law may specify the information to be provided and the date by which it must be provided. 2001, c. 25, s. 320 (7).

Regulations

(8) The Minister may make regulations prescribing anything that under this section is to be prescribed. 2001, c. 25, s. 320 (8).

Taxes are taxes on land

(9) Taxes under this section shall be deemed to be taxes on the land used for the purposes of the bridge or tunnel. 2001, c. 25, s. 320 (9).

Exception, railway bridges

(10) This section does not apply with respect to a bridge or tunnel used exclusively for railway purposes. 2001, c. 25, s. 320 (10).

Definition

(11) In this section,

“land used for the purposes of the bridge or tunnel” includes land at the end of the bridge or tunnel used in connection with the bridge or tunnel, including duty-free stores. 2001, c. 25, s. 320 (11).

321. REPEALED: 2006, c. 32, Sched. A, s. 134.

Payments in lieu of taxes, distribution

322. (1) The Minister of Finance may make regulations governing the distribution of payments in lieu of taxes received by local municipalities. 2001, c. 25, s. 322 (1).

Same

- (2) Regulations under this section may,
- (a) govern which municipalities or school boards payments in lieu of taxes shall be distributed to;
 - (b) govern how much shall be distributed to each municipality or school board;
 - (c) govern when the distribution shall be made. 2001, c. 25, s. 322 (2).

Different rules for different payments

- (3) Regulations under this section may treat different payments in lieu of taxes differently. 2001, c. 25, s. 322 (3).

Variation of time of distribution

(4) Regulations under clause (2) (c) may provide for the time the distribution shall be made to be varied by all or some of the interested municipalities and school boards. 2001, c. 25, s. 322 (4).

Amount to be distributed is a debt

(5) An amount that a local municipality is required to pay under this section is a debt of the local municipality to the municipality or school board to which the amount is required to be paid. 2001, c. 25, s. 322 (5).

Overpayments by local municipalities

(6) A local municipality that distributes more than is required under this section shall notify the municipality or school board to which the overpayment was distributed of the amount of the overpayment and that municipality or school board shall promptly pay that amount to the local municipality. 2001, c. 25, s. 322 (6).

Default

(7) If a local municipality fails to make any payment, or portion of it, as required under this section, the local municipality shall pay to the municipality or school board to which the amount is required to be paid, interest on the amount in default at the rate of 15 per cent per year, or such lower rate as the municipality or school board to which the amount is required to be paid may by by-law determine, from the date payment is due until it is made. 2001, c. 25, s. 322 (7).

Payments credited to general funds

(8) The portion of payments in lieu of taxes received and not distributed by a local municipality shall be credited to its general fund. 2001, c. 25, s. 322 (8).

Payments credited to other municipality

(9) The portion of payments in lieu of taxes received by a local municipality that are distributed to another municipality shall be credited to the general fund of that municipality. 2001, c. 25, s. 322 (9).

End of year statement

(10) On or before December 31 in each year, the treasurer of a local municipality shall give each municipality or school board to which the local municipality is required to distribute payments in lieu of taxes a statement setting out sufficient information to enable the municipality or school board to which the statement is given to determine the amount that the local municipality is required to distribute to the municipality or school board under this section. 2001, c. 25, s. 322 (10).

Conflict

(11) In the event of a conflict between a regulation under this section and a provision of this or of any other Act or regulation, the regulation under this section prevails. 2001, c. 25, s. 322 (11).

Universities, etc., liable to tax

323. (1) Despite any Act, a local municipality in which there is situate a university designated by the Minister of Training, Colleges and Universities or a college of applied arts and technology may by by-law levy an annual tax payable on or after July 1 upon the university or college, not exceeding the prescribed amount for each full-time student enrolled in the university or college in the year preceding the year of levy, as determined by the Minister of Training, Colleges and Universities. 2001, c. 25, s. 323 (1).

Annual levy on correctional institutions, etc.

(2) Despite any Act, if there is situate in a municipality a correctional institution that is designated by the Minister of Community Safety and Correctional Services or a training school or a youth custody facility (designated under subsection 85

(2) of the *Youth Criminal Justice Act* (Canada)) that is designated by the Minister of Community and Social Services, the municipality may by by-law levy an annual amount payable on or after July 1 upon such institution, school or facility, not exceeding the prescribed amount for each resident placed in such institution, school or facility as determined by the Minister of Community Safety and Correctional Services or the Minister of Community and Social Services, as the case may be. 2006, c. 32, Sched. A, s. 135.

Annual levy on public hospitals, etc.

(3) Despite any Act, a local municipality, in which there is situate a public hospital or provincial mental health facility designated by the Minister of Health and Long-Term Care, may by by-law levy an annual amount payable on or after July 1 upon such institution, not exceeding the prescribed amount for each provincially rated bed in the public hospital or provincial mental health facility as determined by the Minister of Health and Long-Term Care. 2001, c. 25, s. 323 (3).

Annual levy on residences for the developmentally disabled

(4) Despite any Act, a local municipality in which are situate one or more residences that are supported group living residences or intensive support residences under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008* and that are designated by the Minister of Community and Social Services may by by-law levy an annual amount payable on or after July 1 upon those residences, not exceeding the prescribed amount for each provincially rated bed in the residences as determined by the Minister of Community and Social Services. 2009, c. 33, Sched. 8, s. 14 (1).

(4.1) REPEALED: 2008, c. 14, s. 56 (2).

Annual levy on provincial education institutions

(5) Despite any Act, a local municipality, in which there is situate a provincial education institution designated by the Minister under whose jurisdiction that institution falls, may by by-law levy an annual amount payable on or after July 1 upon such institution, not exceeding the prescribed amount for each place in the institution as determined by that Minister. 2001, c. 25, s. 323 (5).

Agreement for municipal services authorized

(6) A municipality in which an institution designated under subsection (2), (3), (4) or (5) is situate may enter into an agreement with one or more municipalities for providing municipal service or services to that institution. 2001, c. 25, s. 323 (6).

Minister may direct agreement be entered into

(7) The Minister may direct a municipality in which an institution designated under subsection (2), (3), (4) or (5) is situate to enter into an agreement with another municipality to provide any municipal service or services to that institution on such terms as the Minister may stipulate. 2001, c. 25, s. 323 (7).

Application to O.M.B.

(8) If the Minister has directed that an agreement be entered into under subsection (7) and the municipalities fail to reach agreement within 60 days after the Minister's direction, either of the municipalities or the Minister may apply to the Ontario Municipal Board and the Board shall settle the terms of the agreement. 2001, c. 25, s. 323 (8).

Termination of existing agreements

(9) If a municipality has entered into an agreement under subsection (6) or (7), the Province may terminate any agreement between the Province and that municipality to provide any service or services to institutions designated under subsection (2), (3), (4) or (5). 2001, c. 25, s. 323 (9).

Not regulation

(9.1) A direction by the Minister under subsection (7) is not a regulation within the meaning of Part III (Regulations) of the *Legislation Act, 2006*. 2006, c. 21, Sched. F, s. 120 (13).

Regulations

(10) The Minister of Finance may make regulations prescribing amounts for the purposes of this section. 2001, c. 25, s. 323 (10).

Non-profit hospital service corporation

Definition

324. (1) In this section,

“non-profit hospital service corporation” means a corporation without share capital that provides laundry or food services to one or more public hospitals, as defined in the *Public Hospitals Act*. 2001, c. 25, s. 324 (1).

Tax exemption

(2) Real property occupied by a non-profit hospital service corporation and used chiefly by the corporation for providing laundry or food services, or both, is exempt from taxation for municipal and school purposes but, subject to subsection (3), is not exempt from a fee or charge under Part XII in relation to sewage or water. 2001, c. 25, s. 324 (2).

Exemption from sewer, water fees and charges

(3) The municipality that imposed the fee or charge may by by-law exempt the property exempted from taxation for municipal and school purposes under subsection (2) from all or part of the fee or charge based on the amount of service received or the amount of benefit derived or derivable from the construction of the sewage works or water works. 2001, c. 25, s. 324 (3).

Payment in lieu of taxes

(4) In each year, the Minister may pay to a local municipality, in which there is real property exempt from taxation under subsection (2), an amount equal to the taxes for municipal purposes that would have been payable in respect of that real property in that year if the real property had been subject to municipal taxation. 2001, c. 25, s. 324 (4).

325. REPEALED: 2006, c. 33, Sched. V, s. 2.

By-laws re special services

326. (1) A municipality may by by-law,

- (a) identify a special service;
- (b) determine which of the costs, including capital costs, debenture charges, charges for depreciation or a reserve fund, of the municipality are related to that special service;
- (c) designate the area of the municipality in which the residents and property owners receive or will receive an additional benefit from the special service that is not received or will not be received in other areas of the municipality;
- (d) determine the portion and set out the method of determining the portion of the costs determined in clause (b) which represent the additional costs to the municipality of providing the additional benefit in the area designated in clause (c);
- (e) determine whether all or a specified portion of the additional costs determined in clause (d) shall be raised under subsection (4). 2001, c. 25, s. 326 (1); 2006, c. 32, Sched. A, s. 136 (1).

Definitions

(2) In this section,

“benefit” means a direct or indirect benefit that is currently available or will be available in the future; (“avantage”)

“special service” means a service or activity of a municipality or a local board of the municipality that is,

- (a) not being provided or undertaken generally throughout the municipality, or
- (b) being provided or undertaken at different levels or in a different manner in different parts of the municipality. (“service spécial”) 2001, c. 25, s. 326 (2).

Limitation

(3) An area designated by a municipality for a year under clause (1) (c) cannot include an area in which the residents and property owners do not currently receive an additional benefit but will receive it in the future unless the expenditures necessary to make the additional benefit available appear in the budget of the municipality for the year adopted under section 289 or 290 or the municipality has established a reserve fund to finance the expenditures over a period of years. 2001, c. 25, s. 326 (3).

Levies

(4) For each year a by-law of a municipality under this section remains in force, the municipality shall, except as otherwise authorized by regulation,

- (a) in the case of a local municipality, levy a special local municipality levy under section 312 on the rateable property in the area designated in clause (1) (c) to raise the costs determined in clause (1) (e);

- (b) in the case of an upper-tier municipality, direct each lower-tier municipality which includes any part of the area designated in clause (1) (c) to levy a special upper-tier levy under section 311 on the rateable property in that part of the municipality to raise its share of the costs determined in clause (1) (e). 2001, c. 25, s. 326 (4).

Regulations

(5) The Minister may make regulations providing for any matters which, in the opinion of the Minister, are necessary or desirable for the purposes of this section, including,

- (a) prescribing services that cannot be identified as a special service under clause (1) (a);
- (b) establishing conditions and limits on the exercise of the powers of a municipality under this section, including making the exercise of the powers subject to the approval of any person or body;
- (c) prescribing the amount of the costs or the classes of costs for the purpose of clause (1) (b);
- (d) prescribing the area or rules for determining the area for the purpose of clause (1) (c);
- (e) prescribing the amount of the additional costs or the rules for determining the additional costs for the purpose of clause (1) (d);
- (f) providing for a process of appealing a by-law under this section and the powers the person or body hearing the appeal may exercise;
- (g) providing that an appeal under clause (f) may apply to all or any aspect of the by-law;
- (h) providing for rules or authorizing the person or body hearing an appeal under clause (f) to determine when by-laws subject to appeal come into force, including a retroactive date not earlier than the day on which the by-law was passed;
- (i) for the purpose of subsection (4), exempting or delegating to a municipality the power to exempt specified rateable property from all or part of a special local municipality levy or a special upper-tier levy for a specified special service. 2001, c. 25, s. 326 (5); 2006, c. 32, Sched. A, s. 136 (2).

Retroactive

(6) A regulation under this section may be retroactive to a date not earlier than January 1 of the year in which the regulation is made. 2001, c. 25, s. 326 (6).

Deemed services

(7) If a municipality or a local board of a municipality pays for a service or activity provided or undertaken by another municipality or a local board of another municipality, the service or activity shall be deemed to be a service or activity of the first municipality or local board. 2001, c. 25, s. 326 (7).

PART IX LIMITATION ON TAXES FOR CERTAIN PROPERTY CLASSES

Interpretation

327. (1) In this Part,

“commercial classes” means the commercial property class prescribed under the *Assessment Act* and optional property classes that contain property that, if the council of the municipality did not opt to have the optional property class apply, would be in the commercial property class; (“catégories commerciales”)

“industrial classes” means the industrial property class prescribed under the *Assessment Act* and optional property classes that contain property that, if the council of the municipality did not opt to have the optional property class apply, would be in the industrial property class; (“catégories industrielles”)

“optional property class” means a property class that the council of a municipality may opt to have apply within the municipality under regulations made under the *Assessment Act*; (“catégorie de biens facultative”)

“payment in lieu of taxes” and “property class” have the same meaning as in section 306. (“paiement tenant lieu d’impôts”, “catégorie de biens”) 2001, c. 25, s. 327 (1).

Reference to property class

(2) A reference to a specific property class, other than a reference to the commercial classes or industrial classes, is a reference to the property class prescribed under section 7 of the *Assessment Act*. 2001, c. 25, s. 327 (2).

Portions of a property

(3) If portions of a property are classified in different property classes on the assessment roll, each portion shall be deemed to be a separate property for the purposes of this Part. 2001, c. 25, s. 327 (3).

Property that Part applies to

(4) This Part applies with respect to property in the commercial classes, the industrial classes and the multi-residential property class. 2001, c. 25, s. 327 (4).

Non-application

(5) This Part does not apply to,

- (a) property in unorganized territory;
- (b) property in the subclasses prescribed under paragraph 1 of subsection 8 (1) of the *Assessment Act*;
- (c) property or a portion of the property to which a payment in lieu of taxes relates, except the property of a designated electricity utility within the meaning of subsection 19.0.1 (5) of the *Assessment Act* or a corporation referred to in clause (d) of the definition of “municipal electricity utility” in section 88 of the *Electricity Act, 1998*;
- (d) a bridge or tunnel that crosses a river forming the boundary between Ontario and the United States and the land used for the purposes of the bridge or tunnel;
- (e) an eligible convention centre that is exempt from taxes for school purposes under subsection 257.6 (6) of the *Education Act*;
- (f) despite clause (c), land, buildings and structures to which subsection 19.0.1 (1) of the *Assessment Act* applies; and
- (g) property classified in the residential property class, the farm property class, the managed forests property class or the pipe line property class. 2001, c. 25, s. 327 (5); 2002, c. 22, s. 156.

Exception

(6) Despite clause (5) (c), this Part applies to a property or portion of a property in the commercial classes or the industrial classes to which subsection 4 (3) of the *Municipal Tax Assistance Act* applies but the portion of a property to which that subsection applies shall be deemed to be a separate property for the purposes of this Part. 2001, c. 25, s. 327 (6).

Regulations, payments in lieu of taxes

(7) Despite clause (5) (c), the Minister of Finance may make regulations prescribing circumstances or municipalities with respect to which clause (5) (c) does not apply, varying the application of this Part with respect to payments in lieu of taxes and varying the amounts of payments in lieu of taxes with respect to which this Part applies. 2001, c. 25, s. 327 (7).

Payments in lieu of taxes required

(8) If an Act of Ontario or Canada or an agreement provides for, but does not require, a payment in lieu of taxes to be paid by the Government of Ontario or Canada, a government agency of Ontario or Canada or any other person, the government, government agency or person is required, despite that Act or agreement, to pay the payment in lieu of taxes. 2001, c. 25, s. 327 (8).

Same

(9) Subsection (8) applies with respect to payments in lieu of taxes with respect to which this Part, but for clause (5) (c), would have applied. 2001, c. 25, s. 327 (9).

Regulations, exemptions

(10) The Minister of Finance may by regulation exempt property from the application of this Part. 2001, c. 25, s. 327 (10).

Exempt property deemed not in classes

(11) The commercial classes, the industrial classes and the multi-residential property class shall be deemed, for the purposes of this Part, not to include property exempted from the application of this Part under this section. 2001, c. 25, s. 327 (11).

Determination of taxes

328. (1) Except as otherwise provided in this Part, the taxes for municipal and school purposes for a year for a property to which this Part applies shall be determined in accordance with Part VIII of this Act and Division B of Part IX of the *Education Act*. 2001, c. 25, s. 328 (1).

Annexations

(2) In respect of a property that is, on the last day of the taxation year immediately preceding the taxation year, in unorganized territory but, on the first day of a taxation year becomes part of a municipality, the taxes for municipal purposes for that taxation year shall be limited to one-third and for the year immediately following the taxation year to two-thirds of the taxes for municipal purposes that would be levied on the property but for this subsection. 2001, c. 25, s. 328 (2).

Determination of maximum taxes

329. (1) Except as otherwise provided in this section and under sections 330 and 331, the taxes for municipal and school purposes for a taxation year to be levied on a property shall be the amount determined in accordance with the following:

1. Determine the taxes for the previous year in accordance with subsection (2).
2. Add 5 per cent of the amount determined under paragraph 1 to the amount determined under paragraph 1.
3. The amount determined under paragraph 2 shall be adjusted, in accordance with the regulations, in respect of changes in taxes for municipal purposes.
4. The taxes for the property for the taxation year shall be equal to the amount determined under paragraph 2 and adjusted under paragraph 3, if applicable. 2001, c. 25, s. 329 (1); 2002, c. 17, Sched. A, s. 54 (1).

Previous year

(2) The taxes for the previous year for a property shall be determined as follows:

1. Determine the taxes for municipal and school purposes that were levied on the property for the year.
2. If a supplementary assessment or change in classification is made under section 34 of the *Assessment Act* during the year or if an assessment or change in classification could have been made under section 34 of that Act and the appropriate change is made on the assessment roll for taxation in the taxation year, recalculate the taxes determined under paragraph 1 as if the increase in the assessment or change in classification, as the case may be, had applied to the property for all of the year.
3. If section 331 applied to the property for a part of the year, recalculate the taxes determined under paragraph 1 as if section 331 had applied to the property for all of the year.
4. If the assessment of a property whose classification is in the subclass for vacant land on the assessment roll for taxation in the taxation year increases as a result of an improvement to that property during the year and if no portion of any building on the property begins to be used for any purpose during the year, recalculate the taxes determined under paragraph 1 as if the increase in the assessment had applied to the property for all of the year.
5. If the council of a municipality cancels, reduces or refunds taxes under section 357 for the year on an application under clause 357 (1) (a), (b), (c), (d) or (f) or under section 358 for the year, recalculate the taxes determined under paragraph 1 as if the event that caused the cancellation, reduction or refund had occurred on January 1 of the year.
6. In respect of a property referred to in subsection 328 (2), the taxes for municipal and school purposes shall, for the purposes of paragraph 1, be the taxes that would have been levied on the property for the taxation year under that subsection.
7. For the purposes of paragraph 1, the taxes for municipal purposes in respect of a property that is referred to in subsection 328 (2) and for which the taxes were limited during the preceding year to two-thirds of the taxes for municipal purposes that would otherwise have been levied on the property but for that subsection, shall be the taxes for municipal purposes that will be levied on the property in the taxation year. 2001, c. 25, s. 329 (2); 2002, c. 17, Sched. A, s. 54 (2, 3).

Regulations

(3) The Minister of Finance may make regulations providing for adjustments under paragraph 3 of subsection (1) in respect of changes in taxes for municipal purposes. 2006, c. 32, Sched. A, s. 137.

Adjustment

(4) If the taxes for municipal and school purposes for a property for the previous year are recalculated as a result of one of the following, the amount under paragraph 1 of subsection (2) shall be adjusted accordingly:

1. A request under section 39.1 of the *Assessment Act*.
2. An appeal under section 40 of the *Assessment Act*.
3. An application under section 46 of the *Assessment Act*.

4. An application under section 334 of this Act or 447.26 of the old Act.
5. A determination under section 447.26.1 of the old Act. 2004, c. 31, Sched. 26, s. 3; 2008, c. 7, Sched. O, s. 2.

Omitted assessments

(5) If, as a result of an assessment under subsection 32 (2) or section 33 of the *Assessment Act*, the total taxes for municipal and school purposes for a property for the previous year are altered, the amount under paragraph 1 of subsection (2) shall be adjusted accordingly. 2001, c. 25, s. 329 (5).

Cancellation, reduction or refund of tax under s. 357

(5.1) If a municipality cancels, reduces or refunds taxes for a taxation year on an application made under clause 357 (1) (d) or under such other provision of this Act as the Minister of Finance may prescribe, the amount of the cancellation, reduction or refund is calculated using the formula,

$$B/C \times D$$

in which,

“B” is the amount of the cancellation, reduction or refund of taxes for the year but for the application of this Part,

“C” is the amount of taxes for the year (without deducting the amount of the cancellation, reduction or refund of taxes) that would have been payable but for the application of this Part, and

“D” is the amount of taxes for the year that would be payable under this Part if no application were made.

2002, c. 17, Sched. A, s. 54 (4).

Prescribed provision

(5.2) The Minister of Finance may prescribe by regulation one or more provisions of this Act for the purposes of subsection (5.1). 2002, c. 17, Sched. A, s. 54 (4).

Omitted and supplementary assessments in the taxation year

(6) If an assessment is made in respect of property, other than property described in subsection 330 (2), under section 33 or 34 of the *Assessment Act* increasing the assessment of the property in the taxation year,

- (a) subsection (1) does not apply to the additional taxes for municipal and school purposes attributable to the increase in the assessment; and
- (b) the additional taxes for municipal and school purposes shall be determined in accordance with the following formula:

$$T = \frac{CT}{NT} \times CVAT$$

where,

T is the additional taxes for municipal and school purposes,

CT is the amount determined under subsection (1),

NT is the uncapped taxes, but does not include CVAT,

CVAT is the supplementary taxes for municipal and school purposes that would be payable but for the application of this subsection.

2001, c. 25, s. 329 (6).

Same

(7) Despite subsection (6), the taxes for municipal and school purposes for the property for the taxation year or portion of the taxation year shall be recalculated under section 331 if,

- (a) there was an additional assessment that relates to a new building or structure erected on the property that was, prior to the assessment, assessed for the taxation year as being in the subclass for vacant land under paragraph 2 of subsection 8 (1) of the *Assessment Act*; or
- (b) as a result of an additional assessment for the taxation year or for the previous year and the taxation year or any portion thereof, the assessment of the property is increased by an amount equal to or greater than 50 per cent of the assessment on the assessment roll before the additional assessment was made. 2001, c. 25, s. 329 (7).

Additional assessment

(8) If an additional assessment is made for the previous year and for the taxation year, the percentage for the purposes of clause (7) (b) shall be determined as follows:

1. Determine the additional assessment for the previous year.
2. Determine the assessment on the assessment roll for taxation in the previous year before the additional assessment referred to in paragraph 1 was made.
3. Divide the amount in paragraph 1 by the amount in paragraph 2.
4. Multiply the quotient in paragraph 3 by 100.
5. Add the amounts in paragraphs 1 and 2.
6. Divide the amount in paragraph 2 by the amount in paragraph 5.
7. Multiply the quotient determined in paragraph 6 by the assessment on the assessment roll for taxation in the taxation year.
8. Determine the additional assessment for the taxation year.
9. Divide the amount in paragraph 8 by the amount in paragraph 7.
10. Multiply the quotient in paragraph 9 by 100.
11. Add the percentages in paragraphs 4 and 10. 2001, c. 25, s. 329 (8).

Same

(9) If the percentage in paragraph 11 of subsection (8) is equal to or greater than 50, subsection (7) applies for the taxation year. 2001, c. 25, s. 329 (9).

If s. 331 applied in previous year

(10) If section 331 applied to the property for the previous year or a part of the previous year, subsection (7) does not apply for the taxation year. 2001, c. 25, s. 329 (10).

Limitation

(11) Despite subsection (1) but subject to section 330, if the amount determined under subsection (1) exceeds the uncapped taxes, the taxes for municipal and school purposes under this Part shall be equal to the uncapped taxes. 2001, c. 25, s. 329 (11).

Annexations

- (12) For the purposes of subsection (2),
- (a) if a property is, on the last day of the previous year, in unorganized territory but, on the first day of the taxation year, becomes part of a municipality, the taxes for municipal purposes for the previous year shall be one-third of the taxes for municipal purposes that would have been levied on the property in the taxation year, but for the application of this Part; or
 - (b) if a property was, on the last day of the year prior to the previous year, in unorganized territory but, on the first day of the previous year, became part of a municipality, the taxes for municipal purposes for the previous year shall be two-thirds of the taxes for municipal purposes that would have been levied on the property in the previous year, but for the application of this Part. 2001, c. 25, s. 329 (12).

Definitions

(13) In this section,

“additional assessment” means one or more assessments made under section 33 or 34 of the *Assessment Act*; (“évaluation additionnelle”)

“previous year” means the year immediately preceding the taxation year; (“année précédente”)

“taxation year” means the year in respect of which taxes are determined under subsection (1); (“année d’imposition”)

“uncapped taxes” means the taxes for municipal and school purposes that would have been imposed for the taxation year but for the application of this Part. (“impôts non plafonnés”) 2001, c. 25, s. 329 (13).

Municipal option: application of certain provisions of the Act

329.1 (1) A municipality, other than a lower-tier municipality, may pass a by-law to have one or more of the following paragraphs apply in the calculation of the amount of taxes for municipal and school purposes payable in respect of property in the commercial classes, industrial classes or multi-residential property class for 2005 or a subsequent taxation year:

1. In determining the amount of taxes for municipal and school purposes for the year under subsection 329 (1) and the amount of the tenant's cap under subsection 332 (5),
 - i. 10 per cent or a percentage specified in the by-law for the purposes of this paragraph that exceeds 5 per cent, whichever is lower, shall be used, instead of 5 per cent, in determining the amount to be added under paragraph 2 of subsection 329 (1), and
 - ii. the same percentage used under subparagraph i, instead of 5 per cent, shall be used in increasing under paragraph 2 of subsection 332 (5) the amount calculated under paragraph 1 of that subsection.
2. In determining the amount of taxes for municipal and school purposes for the year under subsection 329 (1) and the amount of the tenant's cap under subsection 332 (5),
 - i. the amount to be added under paragraph 2 of subsection 329 (1) shall be the greatest of,
 - A. the amount of the taxes for municipal and school purposes that would have been levied in respect of the property for the previous year but for the application of this Part, subject to such adjustments as may be prescribed, multiplied by 5 per cent or a percentage specified in the by-law for the purposes of this subparagraph that is less than 5 per cent,
 - B. the amount that would be added under paragraph 2 of subsection 329 (1) for the year using the percentage used under subparagraph 1 i, if the municipality passes a by-law to have paragraph 1 apply for the year to property in the class in which the property is included, and
 - C. 5 per cent of the amount determined under paragraph 1 of subsection 329 (1) for the property for the year, and
 - ii. the amount determined under paragraph 1 of subsection 332 (5) shall be increased under paragraph 2 of that subsection by the amount determined under the following, instead of the amount specified in paragraph 2 of that subsection:
 - A. the amount on account of taxes levied for municipal and school purposes that the tenant would have been required to pay under the tenant's lease in the previous year but for the application of section 332 multiplied by the percentage used in determining the amount under sub-subparagraph i A, if the amount determined under sub-subparagraph i A is the greatest of the amounts determined under subparagraph i,
 - B. the amount calculated under paragraph 1 of subsection 332 (5) multiplied by the percentage used in determining the amount under sub-subparagraph i B, if the amount determined under sub-subparagraph i B is the greatest of the amounts determined under subparagraph i, or
 - C. the amount calculated under paragraph 1 of subsection 332 (5) multiplied by the percentage used under sub-subparagraph i C, if the amount determined under sub-subparagraph i C is the greatest of the amounts determined under subparagraph i.
3. The amount of the taxes for municipal and school purposes for a property for a taxation year shall be the amount of the uncapped taxes for the property for the year if the amount of the uncapped taxes exceeds the amount of the taxes for municipal and school purposes for the property for the taxation year as determined under section 329 by the lesser of,
 - i. \$250, and
 - ii. the amount, if any, specified in the by-law for the purposes of this paragraph.
4. The amount of the taxes for municipal and school purposes for a property for a taxation year shall be the amount of the uncapped taxes for the property for the year if the amount of the taxes for municipal and school purposes for the property for the taxation year as determined under section 330 exceeds the amount of the uncapped taxes by the lesser of,
 - i. \$250, and
 - ii. the amount, if any, specified in the by-law for the purposes of this paragraph.
5. If, for all or part of 2005, a property becomes an eligible property within the meaning of subsection 331 (20), the taxes for municipal and school purposes for the year or portion of the year shall be the greater of,

- i. the amount of the taxes determined for the property for 2005 under subsection 331 (2), and
 - ii. the amount of the uncapped taxes for the property for 2005 multiplied by 70 per cent or the percentage specified in the by-law for the purposes of this subparagraph, whichever is lower.
6. If, for all or part of 2006, a property becomes an eligible property within the meaning of subsection 331 (20), the taxes for municipal and school purposes for the year or portion of the year shall be the greater of,
- i. the amount of the taxes determined for the property for 2006 under subsection 331 (2), and
 - ii. the amount of the uncapped taxes for the property for 2006 multiplied by 80 per cent or the percentage specified in the by-law for the purposes of this subparagraph, whichever is lower.
7. If, for all or part of 2007, a property becomes an eligible property within the meaning of subsection 331 (20), the taxes for municipal and school purposes for the year or portion of the year shall be the greater of,
- i. the amount of the taxes determined for the property for 2007 under subsection 331 (2), and
 - ii. the amount of the uncapped taxes for the property for 2007 multiplied by 90 per cent or the percentage specified in the by-law for the purposes of this subparagraph, whichever is lower.
8. If, for all or part of 2008 or a subsequent taxation year, a property becomes an eligible property within the meaning of subsection 331 (20), the taxes for municipal and school purposes for the year or portion of the year shall be the greater of,
- i. the amount of the taxes determined for the property for the taxation year under subsection 331 (2), and
 - ii. the amount of the uncapped taxes for the property for the taxation year multiplied by 100 per cent or the percentage specified in the by-law for the purposes of this subparagraph, whichever is lower. 2004, c. 7, s. 11.

Time limit for passing by-law

(2) A by-law under subsection (1) must be passed in the year to which the by-law applies. 2009, c. 33, Sched. 21, s. 6 (27).

Application of ss. 329 and 332 as modified

- (3) If a municipality passes a by-law under subsection (1),
- (a) a reference to section 329 in any section of this Part other than section 329 and this section shall be deemed to be a reference to section 329 as modified by the application of the paragraph or paragraphs specified in the by-law, if applicable; and
 - (b) the reference to subsection 332 (5) in subsection 367 (13) shall be deemed to be a reference to subsection 332 (5) as modified by the application of the paragraph or paragraphs specified in the by-law, if applicable. 2004, c. 7, s. 11.

Regulations

(4) The Minister of Finance may make regulations prescribing, for the purposes of sub-subparagraph 2 i A of subsection (1), adjustments to be made in determining the amount of taxes for municipal and school purposes that would have been levied in the previous year on a property but for the application of this Part and prescribing the circumstances in which those adjustments are to be made. 2009, c. 33, Sched. 21, s. 6 (28).

(5) REPEALED: 2009, c. 33, Sched. 21, s. 6 (29).

Definition

(6) In this section,

“uncapped taxes” means, in respect of a taxation year, the taxes for municipal and school purposes that would be levied for the taxation year but for the application of this Part. 2004, c. 7, s. 11.

By-law to provide for recoveries

330. (1) A municipality, other than a lower-tier municipality, may pass a by-law to establish a percentage by which tax decreases are limited for a taxation year in respect of properties in any property class subject to this Part in order to recover all or part of the revenues foregone as a result of the application of section 329 to other properties in the property class. 2001, c. 25, s. 330 (1).

Application

(2) A by-law under subsection (1) shall apply to all properties in the property class whose taxes for municipal and school purposes for the previous year, as determined under subsection 329 (2), exceed their taxes for municipal and school purposes

for the taxation year as adjusted in accordance with the regulations in respect of changes in taxes for municipal purposes and changes in taxes for school purposes. 2001, c. 25, s. 330 (2).

Single percentage

(3) A by-law under subsection (1) shall establish the same percentage for all properties in a property class, but different percentages may be established for different property classes. 2001, c. 25, s. 330 (3).

Limitation

(4) The percentage established by a by-law under subsection (1) shall be limited as follows:

1. Calculate the total revenues foregone as a result of the application of section 329 to properties in the property class.
2. Calculate the total difference between the taxes for municipal and school purposes for all properties in the property class referred to in subsection (2) for the previous year, as determined under subsection 329 (2), and the taxes for municipal and school purposes for properties in the same property class for the taxation year as adjusted in accordance with the regulations in respect of changes in taxes for municipal purposes and changes in taxes for school purposes.
3. Calculate the percentage of the amount determined under paragraph 2 that would yield sufficient revenues to recover all of the foregone revenues calculated under paragraph 1.
4. The percentage established under the by-law shall not exceed the percentage determined under paragraph 3 or 100 per cent, whichever is the lesser percentage, unless otherwise prescribed by the Minister of Finance. 2001, c. 25, s. 330 (4); 2004, c. 31, Sched. 26, s. 4.

Single property class

(5) For the purposes of this section, the commercial classes shall be deemed to be a single property class and the industrial classes shall be deemed to be a single property class. 2001, c. 25, s. 330 (5).

No lower-tier surplus or shortfall

(6) An upper-tier municipality shall, in a by-law under subsection (1), provide that adjustments shall be made between the upper-tier municipality and lower-tier municipalities so that no lower-tier municipality has a surplus or shortfall as a result of the application of the by-law. 2001, c. 25, s. 330 (6).

Upper-tier shortfall

(7) If the upper-tier municipality experiences a shortfall as a result of the application of subsection (6), the by-law made under subsection (1) shall provide that any shortfall shall be shared by the upper-tier municipality and lower-tier municipalities in the same proportion as those municipalities share in the taxes levied on the property class for municipal purposes. 2001, c. 25, s. 330 (7).

Taxes for the taxation year

(8) The taxes for municipal and school purposes for the taxation year on a property to which a by-law made under this section applies shall be determined as follows:

1. Determine the taxes for municipal and school purposes for the property for the previous year under subsection 329 (2).
2. Determine the amount of the difference between the taxes for municipal and school purposes for the property for the previous year, as determined under subsection 329 (2) and the taxes for municipal and school purposes for the property for the taxation year, as adjusted in accordance with the regulations, in respect of changes in the taxes for municipal purposes and for school purposes.
3. Multiply the percentage established for the property class the property is in under subsection (1) by the amount determined under paragraph 2.
4. Deduct the amount determined under paragraph 3 from the amount determined under paragraph 2.
5. Deduct the amount determined under paragraph 4 from the amount determined under paragraph 1.
6. The amount determined under paragraph 5 shall be adjusted, in accordance with the regulations, in respect of changes in taxes for municipal purposes and for school purposes.
7. The taxes for municipal and school purposes for the taxation year shall be equal to the amount determined under paragraph 5 and adjusted under paragraph 6, if applicable. 2001, c. 25, s. 330 (8).

Regulations

(9) The Minister of Finance may make regulations,

- (a) providing for adjustments under subsection (2), (4) or (8) in respect of changes in taxes for municipal purposes or for school purposes;
- (b) governing the determination of the percentage under subsection (1) and the limitation on such percentage under subsection (4). 2001, c. 25, s. 330 (9).

Taxes for school purposes

(10) No by-law made under this section shall affect the amount that a local municipality is required to pay to a school board. 2001, c. 25, s. 330 (10).

Supplementary and omitted assessments in the taxation year

(11) If an assessment is made under section 33 or 34 of the *Assessment Act* to a property subject to a by-law under this section that increases the assessment of that property for the taxation year, subsection (8) does not apply to the additional taxes for municipal and school purposes for the year attributable to the assessment. 2001, c. 25, s. 330 (11).

Taxes on eligible properties

331. (1) The purpose of this section is to ensure that eligible properties are taxed at the same level as comparable properties. 2001, c. 25, s. 331 (1).

Determination of taxes

(2) Despite any other provision in this Part, each local municipality shall determine the taxes for municipal and school purposes for each eligible property for the year or portion of the year as follows:

1. Determine the level of taxation for each property identified by the assessment corporation under subsection (6) as a comparable property by dividing the taxes for municipal and school purposes levied for the year by the taxes for municipal and school purposes that would have been imposed but for the application of this Part.
2. Determine the average of the levels of taxation for all comparable properties determined under paragraph 1.
3. Determine the taxes for municipal and school purposes for the eligible property for the year by multiplying the average level of taxation determined under paragraph 2 by the taxes for municipal and school purposes that would have been imposed on the eligible property but for the application of this Part.
4. The taxes for municipal and school purposes for an eligible property for the year shall be the lesser of the amount determined for the year or portion of the year but for the application of this Part and the amount determined under paragraph 3. 2001, c. 25, s. 331 (2); 2002, c. 17, Sched. A, s. 55 (1).

Adjustments

(3) The local municipality shall make the necessary adjustments on the tax roll for the year or portion of the year in accordance with the determination under subsection (2). 2001, c. 25, s. 331 (3).

Limits to apply

(4) The taxes for municipal and school purposes on a property to which this section applies for a taxation year shall be calculated under section 329 for subsequent years. 2001, c. 25, s. 331 (4).

Determination of taxes for the subsequent year

(5) For the purposes of paragraph 2 of subsection 329 (2), taxes are to be recalculated as if the amount determined under paragraph 4 of subsection (2) of this section had been determined on a full year basis. 2001, c. 25, s. 331 (5).

Comparable properties identified

(6) The assessment corporation shall identify six comparable properties with respect to an eligible property for the purposes of this section or, if there are fewer than six comparable properties, as many comparable properties as there are. 2001, c. 25, s. 331 (6).

Mixed use properties

- (7) For the purposes of this section,
- (a) if an eligible property or a comparable property is classified in more than one class of real property under section 7 of the *Assessment Act*, each portion shall be treated as a separate property; and
 - (b) up to six comparable properties, or if there are fewer than six comparable properties, as many as there are, shall be identified for each portion of an eligible property under clause (a). 2001, c. 25, s. 331 (7).

List provided to municipality

(8) The assessment corporation shall provide a list of the comparable properties under subsection (6) or (7) with respect to an eligible property to the local municipality as soon as is practicable,

- (a) after the return of the assessment roll for eligible properties that are on the assessment roll; or
- (b) after the mailing of the notice of the assessment of the eligible property under section 33 or 34 of the *Assessment Act*, 2001, c. 25, s. 331 (8).

List to be mailed to the owner

(9) The local municipality shall mail to the owner of each eligible property the list of the comparable properties and the determination made under subsection (2) with respect to that eligible property within 60 days after the date the list is received by the local municipality. 2001, c. 25, s. 331 (9).

If no comparable property

- (10) If the assessment corporation determines that there are no comparable properties with respect to an eligible property,
- (a) the assessment corporation shall give notice to the local municipality of its determination; and
 - (b) the local municipality shall, within 60 days of receiving the notice under clause (a), give notice to the owner of the property of the assessment corporation's determination and of the amount determined for the year or portion of the year under this Part. 2001, c. 25, s. 331 (10).

Complaint

(11) The owner of an eligible property or the local municipality may, within 90 days of the mailing of information under subsection (9), complain to the Assessment Review Board in writing concerning the properties on the list and request that up to six alternative properties be used as comparable properties for the purposes of this section. 2001, c. 25, s. 331 (11); 2002, c. 22, s. 157 (1).

Same

(12) If the assessment corporation has determined that there are no comparable properties with respect to an eligible property, the owner of the eligible property or the local municipality may, within 90 days after the owner is given a notice of determination under subsection (10), complain to the Assessment Review Board in writing concerning the determination and request that up to six properties be used as comparable properties for the purpose of this section. 2001, c. 25, s. 331 (12); 2002, c. 22, s. 157 (2).

Deemed appeal under s. 40 of *Assessment Act*

(13) Section 40 of the *Assessment Act* applies to a complaint under subsection (11) or (12) as if it were an appeal under subsection 40 (1) of that Act. 2008, c. 7, Sched. O, s. 3.

Appeal

(14) Section 43.1 of the *Assessment Act* applies to a decision of the Assessment Review Board. 2001, c. 25, s. 331 (14).

Authority of the Assessment Review Board

- (15) In a complaint under this section, the Assessment Review Board shall,
- (a) identify up to six comparable properties from among the comparable properties proposed by the complainant or by the assessment corporation; or
 - (b) determine that there are no comparable properties. 2001, c. 25, s. 331 (15).

Application to court

(16) The municipality or the owner of the eligible property may apply to the Superior Court of Justice for a determination of any matter relating to the application of this section, except a matter that could be the subject of a complaint under this section. 2001, c. 25, s. 331 (16); 2002, c. 17, Sched. A, s. 55 (2).

Same

(17) Section 46 of the *Assessment Act* applies with necessary modifications to an application under subsection (16). 2001, c. 25, s. 331 (17).

Determination by local municipality

(18) The local municipality shall determine the taxes for municipal and school purposes for the year or portion of the year in accordance with a decision of the Assessment Review Board or court under this section. 2001, c. 25, s. 331 (18).

Omitted assessment in later taxation year

(19) If an assessment is made under subsection 33 (1) of the *Assessment Act* that relates to a taxation year prior to the year in which the assessment is made, this section applies if the first taxation year to which the assessment applies is 2001 or a subsequent year. 2001, c. 25, s. 331 (19).

Definitions

(20) In this section,

“comparable properties” means properties identified by the assessment corporation to be similar lands in the vicinity of the eligible property; (“biens comparables”)

“eligible property” means a property,

- (a) to which subsection 329 (7) applies,
- (b) that ceases to be exempt from taxation for 2001 or thereafter,
- (c) that was subdivided or was subject to a severance,
- (d) whose classification changes for 2001 or a later year, or
- (e) that is prescribed by the Minister of Finance; (“bien admissible”)

“vicinity” has the same meaning as under subsection 44 (2) of the *Assessment Act*, except that the vicinity shall not exceed the boundaries of the single-tier or upper-tier municipality, as the case may be, in which the eligible property is located. (“à proximité”) 2001, c. 25, s. 331 (20); 2002, c. 17, Sched. A, s. 55 (3); 2004, c. 31, Sched. 26, s. 5.

Regulations

(21) The Minister of Finance may make regulations,

- (a) prescribing properties and classes of properties that are deemed to be “eligible property” for the purposes of this section;
- (b) prescribing properties and classes of properties that are deemed not to be “eligible property” for the purposes of this section. 2002, c. 17, Sched. A, s. 55 (4).

Retroactivity

(22) A regulation under subsection (21) is, if it so provides, effective with reference to a period before it is filed. 2002, c. 17, Sched. A, s. 55 (4).

Tenants of leased premises

332. (1) This section applies with respect to a tenant of leased premises that form all or part of a property if,

- (a) Part XXII.1 or XXII.2 of the old Act applied and this Part applies to the leased premises; and
- (b) the tenant’s tenancy commenced on or before December 31, 1997 and has been continuous since that date. 2001, c. 25, s. 332 (1).

Exception

(2) This section does not apply if the leased premises are classified in the multi-residential property class. 2001, c. 25, s. 332 (2).

New leases of property

(3) This section applies with respect to a tenant described in subsection (1) even if the tenant enters into a new lease for the leased premises after December 31, 1997. 2001, c. 25, s. 332 (3).

Limitation on requirement to pay taxes

(4) No tenant referred to in subsection (1) is required under any lease, despite any provision in the lease, to pay an amount on account of taxes levied for municipal and school purposes that is greater than the tenant’s cap determined under subsection (5). 2001, c. 25, s. 332 (4).

Tenant’s cap

(5) For a taxation year after 2001, the tenant’s cap referred to in subsection (4) shall be determined in accordance with the following:

1. Calculate the amount the tenant was required to pay on account of taxes for the immediately preceding year.

2. Increase the amount calculated under paragraph 1 by 5 per cent.
3. Adjust the amount determined under paragraph 2 in respect of any changes in taxes for municipal purposes applicable to the property as provided for in regulations referred to in paragraph 3 of subsection 329 (1).
4. The tenant's cap is the amount determined under paragraph 2 and adjusted under paragraph 3. 2001, c. 25, s. 332 (5).

Recouping of landlord's shortfall

(6) A landlord may require a tenant to pay an amount on account of taxes levied for municipal and school purposes that is more than the tenant would otherwise be required to pay under the tenant's lease subject to the following:

1. The landlord may not require the tenant to pay an amount that would result in the tenant paying more on account of taxes levied for municipal and school purposes than is allowed under subsection (4).
2. The landlord may require a tenant to pay an amount under this subsection only to the extent necessary for the landlord to recoup any shortfall, within the meaning of paragraph 3, in respect of other leased premises that form part of the property.
3. The shortfall referred to in paragraph 2 shall be calculated by,
 - i. determining, for each of the other leased premises to which this section applies that form part of the property, the amount, if any, by which the amount that the landlord could have required the tenant to pay under the tenant's lease in the absence of subsection (4) exceeds the amount that the landlord may require the tenant to pay under the tenant's lease under subsection (4), and
 - ii. adding together the amounts determined under subparagraph i. 2001, c. 25, s. 332 (6).

Same

(7) The following apply with respect to the amount a tenant is required to pay under subsection (6):

1. The amount shall be deemed to be additional rent.
2. The amount is payable in the proportions and at the times that amounts in respect of taxes are payable under the lease.
3. If the lease does not provide for the payment of amounts in respect of taxes, the amount the tenant is required to pay under subsection (6) is due on the last day of the year. 2001, c. 25, s. 332 (7).

Amounts under gross lease flow-through

(8) The following apply with respect to amounts a tenant is required to pay under section 367 or 368:

1. For the purposes of subsections (4), (5) and (6), an amount the tenant is required to pay under section 367 shall be deemed to be an amount the tenant is required to pay under the lease on account of taxes levied for municipal and school purposes.
2. For the purposes of subsections (4), (5) and (6), an amount the tenant is required to pay under section 368 shall be deemed not to be an amount the tenant is required to pay under the lease on account of taxes levied for municipal and school purposes. 2001, c. 25, s. 332 (8).

Partial year

(9) If this section applies with respect to taxes attributable to part of a year, the tenant's cap determined under subsection (5) for the year shall be reduced proportionally. 2001, c. 25, s. 332 (9).

When section ceases to apply

(10) If the tenant ceases to lease any part of the leased premises, this section does not apply with respect to the taxes attributable to the part of the year after the tenant ceases to lease that part of the leased premises and this section does not apply with respect to taxes for subsequent years. 2001, c. 25, s. 332 (10).

Clarification of application

(11) Subsection (10) applies with respect to all the taxes for the leased premises and not just the taxes attributable to the part of the leased premises the tenant ceases to lease. 2001, c. 25, s. 332 (11).

Exception

(12) This section does not apply to any part of the leased premises that was not a part of the tenant's leased premises on December 31, 1997. 2001, c. 25, s. 332 (12).

Recouping of landlord's shortfall

333. (1) A landlord may require a tenant to pay an amount on account of taxes levied for municipal and school purposes that is more than the tenant would otherwise be required to pay under the tenant's lease to the extent necessary for the landlord to recoup any shortfall, within the meaning of paragraph 3 of subsection 332 (6), in respect of other leased premises that form part of the property. 2001, c. 25, s. 333 (1).

Same

(2) Subsection 332 (7) applies, with necessary modifications, with respect to an amount a tenant is required to pay under subsection (1). 2001, c. 25, s. 333 (2).

Application

- (3) This section applies with respect to a tenant only if,
- (a) section 332 does not apply with respect to the tenant; and
 - (b) the tenant's lease was entered into before June 11, 1998 if Part XXII.1 of the old Act applied to the property or before December 18, 1998 if Part XXII.2 of the old Act applied to the property and the tenant's tenancy has been continuous since that date. 2001, c. 25, s. 333 (3).

Application for cancellation, etc.

334. (1) An application to the treasurer of a local municipality for the cancellation, reduction or refund of taxes levied in the year in respect of which the application is made may be made by a person who was overcharged by reason of a gross or manifest error that is a clerical error, the transposition of figures, a typographical error or similar type of error in the calculation of taxes under this Part. 2001, c. 25, s. 334 (1); 2002, c. 17, Sched. A, s. 56.

Procedures

- (2) Section 357 applies to an application made under subsection (1). 2001, c. 25, s. 334 (2).

Part prevails

335. Despite section 186, this Part prevails over an order of the Minister under section 173 or a commission under section 175. 2001, c. 25, s. 335.

Conflicts

336. This Part prevails over an order made under section 14 of the *Municipal Boundary Negotiations Act*, as that section read immediately before its repeal under this Act. 2001, c. 25, s. 336.

Where person undercharged

- 337.** Section 359 applies to taxes to which this Part applies. 2001, c. 25, s. 337.

Adjustments

- 337.1** (1) A local municipality that is required to make payments to a body under section 353 shall,
- (a) in the case of a deficiency of taxes for the body caused by the cancellation, reduction, refund or writing off of taxes, charge back to every such body its share of the deficiency in the same proportions as the bodies share in the revenues from taxes;
 - (b) in the case of a surplus of taxes for the body caused by the application of this Part, credit every such body with its share of the surplus in the same proportions as the bodies share in the revenues from taxes. 2002, c. 17, Sched. A, s. 57.

Interpretation

(2) For the purpose of this section, any deficiency or surplus shall be determined by reference to the taxes determined under this Part and not to the taxes that would have been imposed but for the application of this Part. 2002, c. 17, Sched. A, s. 57.

Retroactive commencement

(3) This section shall be deemed to have come into force on January 1, 2001 but, for 2001 and 2002, the references to "Part" and "section 353" in this section shall be deemed to be references to "Part XXII.3" and "section 421" of the old Act, respectively. 2002, c. 17, Sched. A, s. 57.

Regulations

- 338.** (1) The Minister of Finance may make regulations,
- (a) governing and clarifying the application of this Part;

- (b) prescribing anything that, under this Part, may or must be prescribed;
- (c) varying the application of this Part if, in the opinion of the Minister of Finance, it is necessary or desirable to do so in order to further the purposes of this Part, including varying the application of this Part in connection with a municipal restructuring or a general reassessment. 2001, c. 25, s. 338 (1).

Definitions

(2) In this section,

“general reassessment” has the same meaning as in section 306; (“réévaluation générale”)

“municipal restructuring” means,

- (a) the incorporation of a new municipality,
- (b) the amalgamation of municipalities,
- (c) the alteration of the boundaries of a municipality,
- (d) the dissolution of a municipality, or
- (e) the establishment of an area services board under Part II of the *Northern Services Boards Act*. (“restructuration municipale”) 2001, c. 25, s. 338 (2).

**PART X
TAX COLLECTION**

Definitions

339. In this Part,

“property class” means a class of real property prescribed under the *Assessment Act*; (“catégorie de biens”)

“taxpayer” means a person whose name is shown on the tax roll. (“contribuable”) 2001, c. 25, s. 339.

Tax roll

340. (1) The treasurer of a local municipality shall prepare a tax roll for each year based on the last returned assessment roll for the year. 2001, c. 25, s. 340 (1).

Contents

- (2) The tax roll shall show for each separately assessed property in the municipality,
 - (a) the assessment roll number of the property;
 - (b) a description of the property sufficient to identify it;
 - (c) the name of every person against whom land is assessed, including a tenant assessed under section 18 of the *Assessment Act*;
 - (d) the assessed value of the property;
 - (e) the total amount of taxes payable;
 - (f) the amounts of taxes payable for,
 - (i) the general local municipality levy,
 - (ii) each special local municipality levy,
 - (iii) the general upper-tier levy,
 - (iv) each special upper-tier levy,
 - (v) each school board,
 - (vi) all other purposes; and
 - (g) if parts of the property are in two or more property classes, the matters set out in clauses (d), (e) and (f) for each part. 2001, c. 25, s. 340 (2); 2002, c. 17, Sched. A, s. 58.

Certification

(3) The treasurer shall certify the tax roll for a year in the manner determined by the treasurer. 2006, c. 32, Sched. A, s. 138.

Collection

(4) The treasurer shall collect the taxes once the tax roll has been prepared. 2001, c. 25, s. 340 (4).

Adjustments to roll

341. (1) The treasurer shall adjust the tax roll for a year to reflect changes to the assessment roll for that year made under the *Assessment Act* after the tax roll is prepared. 2001, c. 25, s. 341 (1).

Consequences of adjustments

(2) Taxes for the year shall be collected in accordance with the adjusted tax roll as if the adjustments had formed part of the original tax roll and the local municipality,

- (a) shall refund any overpayment to the owner of the land as shown on the tax roll on the date the adjustment is made; or
- (b) shall send another tax bill to raise the amount of any underpayment. 2001, c. 25, s. 341 (2); 2006, c. 32, Sched. A, s. 139.

By-laws re: instalments

342. (1) A local municipality may pass by-laws providing for,

- (a) the payment of taxes in one amount or by instalments and the date or dates in the year for which the taxes are imposed on which the taxes or instalments are due;
- (b) alternative instalments and due dates in the year for which the taxes are imposed other than those established under clause (a) to allow taxpayers to spread the payment of taxes more evenly over the year;
- (c) the division of the municipality into parts and for each part establishing a different due date for the payment of any instalment;
- (d) an extension of the due dates for any instalments if earlier instalments are paid on time;
- (e) the immediate payment of any instalments if earlier instalments are not paid on time; and
- (f) if the use of the alternative instalments and due dates under clause (b) ceases other than at the end of a year, the recalculation of late payment charges and discounts for advance payments as if the instalments and due dates under clause (c) had applied for the full year. 2001, c. 25, s. 342 (1).

Differing instalment, due dates

(2) A by-law under clause (1) (a) may establish different instalments and due dates for taxes on property,

- (a) for municipal purposes and for school purposes;
- (b) in different property classes; and
- (c) in a property class to which section 331 applies and to which that section does not apply. 2001, c. 25, s. 342 (2).

Payment

(3) A taxpayer shall pay taxes in accordance with the instalments and due dates established under clause (1) (a) unless the municipality has established alternative instalments and due dates under clause (1) (b) and the treasurer receives and approves the taxpayer's request to use the alternative instalments and due dates. 2001, c. 25, s. 342 (3).

Alternative method

(4) If a request is approved under subsection (3), the taxes of the taxpayer are payable in accordance with the alternative instalments and due dates established under clause (1) (b). 2001, c. 25, s. 342 (4).

Cessation

(5) The use by a taxpayer of the alternative instalments and due dates under clause (1) (b) ceases if,

- (a) the taxpayer requests the cessation in writing;
- (b) the taxes of the taxpayer are unpaid after the due date and the treasurer gives written notice to the taxpayer that the alternative instalments and due dates may no longer be used; or
- (c) the municipality, for any year, does not establish such alternative instalments and due dates. 2001, c. 25, s. 342 (5).

Tax bill

343. (1) The treasurer shall send a tax bill to every taxpayer at least 21 days before any taxes shown on the tax bill are due. 2001, c. 25, s. 343 (1).

Contents of tax bill

- (2) A tax bill shall contain,
- (a) the name of the taxpayer;
 - (b) the assessment roll number of the property;
 - (c) a description of the property sufficient to identify it;
 - (d) the assessed value of the property;
 - (e) the total amount of taxes payable;
 - (f) the amounts of the new taxes required to be shown separately on the tax roll unless the bill is for an interim tax;
 - (g) the amount of any taxes previously billed for the year, including any accrued late payment charges;
 - (h) the date or dates on which the taxes are due and any alternative schedule of due dates;
 - (i) the place or places where the taxes may be paid;
 - (j) the late payment charges which will be imposed on overdue taxes;
 - (k) the discount which will be given for taxes paid in advance; and
 - (l) if portions of the property are in two or more property classes, the matters set out in clauses (d), (e), (f) and (g) for each portion. 2001, c. 25, s. 343 (2).

Separate tax bills

(3) A local municipality may pass a by-law providing for separate tax bills for municipal purposes and for school purposes. 2001, c. 25, s. 343 (3).

By-law re: separate billing

(4) A local municipality may pass a by-law providing for the billing of a property class separately from the other property classes. 2001, c. 25, s. 343 (4).

Separate tax bills may be issued

(5) If a by-law has been passed under subsection (4), the collector for the local municipality may issue separate tax bills for separate property classes and may issue a tax bill for a property to which section 331 applies at a different time than that for other property in the same property class. 2001, c. 25, s. 343 (5).

Address for delivery

(6) The treasurer shall send a tax bill to the taxpayer's residence or place of business or to the premises in respect of which the taxes are payable unless the taxpayer directs the treasurer in writing to send the bill to another address, in which case it shall be sent to that address. 2001, c. 25, s. 343 (6).

Registered mail

(7) Where a taxpayer directs the treasurer in writing to send the taxpayer's tax bill by registered mail, the treasurer shall comply with the direction and shall add the cost of the registration to the tax roll and the amount shall be deemed to be part of the taxes for which the tax bill was sent. 2001, c. 25, s. 343 (7).

Direction continues

(8) A direction given under subsection (6) or (7) continues until revoked by the taxpayer in writing. 2001, c. 25, s. 343 (8).

Proof of delivery

(9) Immediately after sending a tax bill, the treasurer shall create a record of the date on which it was sent and this record is, in the absence of evidence to the contrary, proof that the tax bill was sent on that date. 2001, c. 25, s. 343 (9).

Errors

(10) No defect, error or omission in the form or substance of a tax bill invalidates any proceedings for the recovery of the taxes. 2001, c. 25, s. 343 (10).

Form of tax bills

344. (1) The Minister of Finance may require that tax bills under section 343 be in a form approved by the Minister of Finance. 2001, c. 25, s. 344 (1).

No variation

(2) A municipality shall not vary the form unless the variation is expressly authorized by the Minister of Finance. 2001, c. 25, s. 344 (2).

Contents of tax bill

(3) The Minister of Finance may make regulations,

- (a) prescribing information that must or that may be included on or with tax bills under section 343 and prohibiting other information from being included on the tax bill without the express authorization of the Minister of Finance;
- (b) respecting the manner in which tax bills under section 343 are provided to the taxpayer;
- (c) prescribing the form of the tax bill that must or that may be used under section 343. 2001, c. 25, s. 344 (3); 2008, c. 7, Sched. O, s. 4.

Late payment charges

345. (1) A local municipality may, in accordance with this section, pass by-laws to impose late payment charges for the non-payment of taxes or any instalment by the due date. 2001, c. 25, s. 345 (1).

Penalty

(2) A percentage charge, not to exceed 1 1/4 per cent of the amount of taxes due and unpaid, may be imposed as a penalty for the non-payment of taxes on the first day of default or such later date as the by-law specifies. 2001, c. 25, s. 345 (2).

Interest

(3) Interest charges, not to exceed 1 1/4 per cent each month of the amount of taxes due and unpaid, may be imposed for the non-payment of taxes in the manner specified in the by-law but interest may not start to accrue before the first day of default. 2001, c. 25, s. 345 (3).

Deemed taxes

(4) Charges imposed under subsections (2) and (3) are deemed to be part of the taxes on which the charges have been imposed. 2001, c. 25, s. 345 (4).

No interest

(5) No interest shall be imposed on the charges that are deemed to be taxes under subsection (4). 2001, c. 25, s. 345 (5).

Other interest

(6) A local municipality shall pay interest at the same rate and in the same manner as interest is paid under subsection 257.11 (4) of the *Education Act* on overpayments arising as a result of,

- (a) an error of a municipality, local board or other body for which the tax was being raised; and
- (b) a change under the *Assessment Act*,
 - (i) in an assessment on a property,
 - (ii) in the property class in which a property is placed, or
 - (iii) if parts of a property are placed in different property classes, in the allocation of the assessment on the property between the parts. 2001, c. 25, s. 345 (6).

Cancellation

(7) A local municipality shall cancel or refund late payment charges imposed under subsections (2) and (3) on overcharges of taxes arising as a result of errors or changes set out in clause (6) (a) or (b) if the overcharges were not paid when they were due and are no longer owed. 2001, c. 25, s. 345 (7).

Special case

(8) For the purpose of subsection (7), if different parts of the taxes were due at different times, the overcharges of taxes shall be deemed to be the latest taxes due. 2001, c. 25, s. 345 (8).

Not retroactive

- (9) Interest under subsection (6) begins to accrue after the later of,
- (a) in the case of overpayments described in clause (6) (a), the day the error is corrected and, in the case of overpayments described in clause (6) (b), 120 days after the day the municipality is notified of the change by the assessment corporation, the Assessment Review Board or a court; and
 - (b) January 1, 2003. 2002, c. 17, Sched. A, s. 59; 2006, c. 32, Sched. A, s. 140.

Late payment charges

(9.1) Late payment charges shall be cancelled or refunded under subsection (7) if they were imposed with respect to a period after the later of,

- (a) the day the error is corrected or the change is made; and
- (b) January 1, 2003. 2002, c. 17, Sched. A, s. 59.

Interest payments to be apportioned

(9.2) The costs of interest payments with respect to overpayments of taxes for a year on a property under subsection (6) shall be shared by the municipalities and other bodies that share in the revenue from the taxes on the property in the same proportion as the municipalities and bodies share in those revenues for that year. 2002, c. 17, Sched. A, s. 59.

Advance payments

(10) A local municipality may pass a by-law to authorize the treasurer to receive in any year payments on account of tax for that year in advance of the due date and to give a discount for advance payments at the rate and in the manner specified in the by-law even though the taxes have not been levied or the assessment roll has not been returned when the advance payment is made. 2001, c. 25, s. 345 (10).

Payment

346. (1) Subject to subsection (2), all taxes shall be paid to the treasurer and, upon request of the person paying the taxes, the treasurer shall issue a receipt for the amount paid. 2001, c. 25, s. 346 (1).

Payment to financial institution

(2) A local municipality may pass a by-law to provide for the payment of taxes by any person into a financial institution to the credit of the treasurer of the municipality and, in that case, the person making the payment shall be entitled to be issued a receipt by the institution for the amount paid. 2001, c. 25, s. 346 (2).

Definition

(3) In this section,
“financial institution” means,

- (a) a bank listed in Schedule I or II of the *Bank Act* (Canada),
- (b) a trust corporation registered under the *Loan and Trust Corporations Act*, and
- (c) subject to the *Credit Unions and Caisses Populaires Act, 1994*, a credit union as defined in that Act.
- (d) REPEALED: 2002, c. 8, Sched. I, s. 17.

2001, c. 25, s. 346 (3); 2002, c. 8, Sched. I, s. 17.

Allocation of payment

- 347.** (1) Subject to subsections (2) and (3), where any payment is received on account of taxes, the following apply:
- 1. The payment shall first be applied against late payment charges owing in respect of those taxes according to the length of time the charges have been owing, with the charges imposed earlier being discharged before charges imposed later.
 - 2. The payment shall then be applied against the taxes owing according to the length of time they have been owing, with the taxes imposed earlier being discharged before taxes imposed later. 2001, c. 25, s. 347 (1); 2002, c. 17, Sched. A, s. 60.

Part payment

(2) Subject to the approval of the treasurer, a part payment on account of taxes may be applied in a manner different than that set out in subsection (1) at the request of the person making the payment. 2001, c. 25, s. 347 (2).

Effect of certificate

(3) No part payment shall be accepted on account of taxes in respect of which a tax arrears certificate is registered under this Act except under an extension agreement entered into under section 378. 2001, c. 25, s. 347 (3).

Determination of tax status

348. (1) The treasurer shall by February 28 in each year determine the position of every tax account as of December 31 of the preceding year. 2001, c. 25, s. 348 (1).

Notice

(2) On making the determination required by subsection (1), the treasurer shall send to every taxpayer who owes taxes from a preceding year a notice of those taxes and of the related late payment charges. 2001, c. 25, s. 348 (2).

Same

(3) A notice required to be sent under subsection (2) may be sent with a tax bill. 2001, c. 25, s. 348 (3).

Recovery of taxes

349. (1) Taxes may be recovered with costs as a debt due to the municipality from the taxpayer originally assessed for them and from any subsequent owner of the assessed land or any part of it. 2001, c. 25, s. 349 (1).

Interpretation

(2) Subsection (1) does not affect the taxpayer's or owner's recourse against any other person. 2001, c. 25, s. 349 (2).

Special lien

(3) Taxes are a special lien on the land in priority to every claim, privilege, lien or encumbrance of every person except the Crown, and the lien and its priority are not lost or impaired by any neglect, omission or error of the municipality or its agents or through taking no action to register a tax arrears certificate. 2001, c. 25, s. 349 (3).

Proof of debt

(4) In any action to recover taxes, the production of the relevant part of the tax roll purporting to be certified by the treasurer as a true copy is, in the absence of evidence to the contrary, proof of the debt. 2001, c. 25, s. 349 (4).

Separate action

(5) The municipality may treat each year's taxes as a separate amount owing to the municipality and may bring separate actions for the purposes of recovering each amount. 2001, c. 25, s. 349 (5).

Obligations of tenant

350. (1) Where taxes are owed in respect of any land occupied by a tenant, the treasurer may give the tenant notice in writing requiring the tenant to pay the rent in respect of the land to the treasurer as it becomes due up to the amount of the taxes due and unpaid plus costs, and the tenant shall comply with the notice. 2001, c. 25, s. 350 (1).

Remedies of the municipality

(2) The treasurer has the same authority as the landlord of the premises to collect the rent by seizure or otherwise to the amount of the taxes due and unpaid and costs, but collecting the rent does not impose upon the treasurer or the municipality the responsibilities of a landlord. 2001, c. 25, s. 350 (2).

Deduction from rent

(3) Any amounts paid by a tenant under subsection (1) or (2) that, as between the tenant and the landlord, the latter ought to have paid may be deducted by the tenant from the rent. 2001, c. 25, s. 350 (3).

Seizure

351. (1) If taxes on land remain unpaid after the due date, the treasurer or the treasurer's agent may seize the following to recover the taxes and costs of the seizure:

1. The personal property belonging to or in the possession of the taxpayer.
2. The interest of the taxpayer in personal property including the taxpayer's right to possession of any personal property under a contract for purchase or a contract by which the taxpayer becomes the owner of the property upon performance of any condition.

3. The personal property on the land and any interest therein as described in paragraph 2 of the owner of the land, even if the owner's name does not appear on the tax roll.
4. Any personal property on the land, title to which is claimed under any assignment or transfer made for the purpose of defeating the seizure. 2001, c. 25, s. 351 (1).

Exception

(2) Despite subsection (1), the treasurer or treasurer's agent may seize personal property under this section after a tax bill has been sent but before the due date if,

- (a) the treasurer or treasurer's agent has good reason to believe that personal property subject to seizure is about to be removed from the local municipality before the due date;
- (b) the treasurer or treasurer's agent makes an affidavit to that effect before a justice of the peace or the head of council of the local municipality; and
- (c) the justice of the peace or the head of council issues a warrant authorizing the treasurer or the treasurer's agent to seize in accordance with this section. 2001, c. 25, s. 351 (2).

Exemption from seizure

(3) Despite subsection (1), no seizure shall be made of the personal property of any tenant for taxes not originally assessed against the tenant as tenant of the land. 2001, c. 25, s. 351 (3).

Same

(4) Despite subsection (1), no seizure shall be made of personal property that is in the possession of the taxpayer for the purpose only of repairing, servicing, storing or warehousing the personal property or of selling the personal property upon commission or as agent. 2001, c. 25, s. 351 (4).

Property of assignee, liquidator

(5) Despite subsection (1), personal property in the hands of an assignee for the benefit of creditors or in the hands of a liquidator under a winding-up order may only be seized for,

- (a) the taxes of the assignor or of the company that is being wound up; and
- (b) the taxes on the land on which the personal property was located at the time of the assignment or winding-up order for so long as the assignee or liquidator occupies the land or the personal property remains on the land. 2001, c. 25, s. 351 (5).

Other exemptions

(6) Personal property exempt from seizure under the *Execution Act* shall not be seized under this section and the person claiming the exemption shall select and point out the personal property for which an exemption is claimed. 2001, c. 25, s. 351 (6).

Sale

(7) The treasurer or the treasurer's agent may sell all or part of seized personal property at a public auction to recover the taxes and costs of seizure. 2001, c. 25, s. 351 (7).

Notice

(8) The treasurer or the treasurer's agent shall give the public notice of the time and place of the public auction and of the name of the person whose personal property is to be sold. 2001, c. 25, s. 351 (8).

Surplus

(9) If the seized personal property is sold for more than the amount of taxes and costs of seizure, the surplus shall be retained by the treasurer for 10 days after the auction and then returned to the person who had possession of the personal property when the seizure was made; however, if another person claims the surplus before it is returned, the surplus shall be retained by the treasurer until the respective rights of the parties have been determined by action or otherwise. 2001, c. 25, s. 351 (9).

Costs

(10) The costs chargeable on any seizure under this section are those payable under the *Costs of Distress Act*. 2001, c. 25, s. 351 (10).

Limitation

(11) No person shall make a charge for anything in connection with a seizure under this section unless the thing has been actually done. 2001, c. 25, s. 351 (11).

Remedy

(12) If any person charges more costs than is allowed by subsection (10) or makes any charge prohibited by subsection (11), the person aggrieved has the same remedies as does a person aggrieved in the cases provided for by sections 2, 4 and 5 of the *Costs of Distress Act*. 2001, c. 25, s. 351 (12).

Seizure by municipal employees

(13) Where the person making any seizure under this section is an employee of the municipality, the costs of the seizure belong to the municipality. 2001, c. 25, s. 351 (13).

Priority after notice

(14) A sheriff, bailiff, assignee, liquidator, trustee or licensed trustee in bankruptcy, as appropriate, shall, upon receiving notice from the treasurer of the amount due for taxes, pay the amount to the treasurer in preference and priority to all other fees, charges, liens and claims in respect of personal property liable to seizure for taxes under this section that,

- (a) is under seizure or attachment or has been seized by the sheriff or by the bailiff of any court;
- (b) is claimed by or in the possession of the assignee for the benefit of creditors or the liquidator or the trustee or licensed trustee in bankruptcy; or
- (c) has been converted into cash and is undistributed by the sheriff, bailiff, assignee, liquidator, trustee or licensed trustee in bankruptcy. 2001, c. 25, s. 351 (14).

Statement

352. (1) The treasurer shall, upon the written request of any person, give to that person an itemized statement of all amounts owing for taxes in respect of any separately assessed rateable property as of the day the statement is issued. 2001, c. 25, s. 352 (1); 2006, c. 32, Sched. A, s. 141.

Effect

(2) A statement given under subsection (1) is binding on the municipality. 2001, c. 25, s. 352 (2).

Taxes collected on behalf of other bodies

353. (1) A local municipality that is required by law to impose a tax for a body shall pay the body,

- (a) the amount of the taxes collected; and
- (b) except where otherwise provided, any amount imposed for the body but not collected due to the non-payment of taxes. 2001, c. 25, s. 353 (1).

Exception

(2) Despite clause (1) (b), a local municipality is not required to pay the body any amount uncollected due to the non-payment of taxes if the taxes have been cancelled, reduced, refunded or written off. 2001, c. 25, s. 353 (2).

Prorated chargebacks

(3) If a local municipality has paid the body any part of the amount described in clause (1) (b), the municipality shall charge back to every such body its proportionate share of the unpaid taxes that are subsequently cancelled, reduced, refunded or written off. 2001, c. 25, s. 353 (3).

Chargebacks

(4) If a local municipality charges back an amount described in clause (1) (b) to any body in relation to land in respect of which a notice of vesting is registered under subsection 379 (5) and the municipality subsequently sells the land, the municipality shall pay to the body the proceeds of the sale based on the body's proportionate share of the unpaid taxes. 2001, c. 25, s. 353 (4); 2006, c. 32, Sched. A, s. 142 (1).

Liens in favour of the Crown

(4.1) Despite subsection (4), if on the day before the date of registration of a notice of vesting there are liens or other encumbrances registered against the title to the land in favour of the Crown in right of Ontario or any execution or warrant in favour of the Crown respecting the land appearing in the index of executions maintained by the sheriff for the area in which the land is situate and the local municipality subsequently sells the land, the proceeds of the sale shall be distributed among the municipality, a body charged back under subsection (3) and the Crown in accordance with the following:

1. Subject to paragraph 2, calculate the total of,
 - i. the amount of unpaid taxes owing to the municipality,
 - ii. the amounts charged back under subsection (3), and
 - iii. the total amount outstanding under any liens or other encumbrances in favour of the Crown registered on the day before the notice of vesting is registered and any amount outstanding under any execution or warrant in favour of the Crown appearing in the index of executions maintained by the sheriff for the area in which the land is situated on the day before the notice of vesting is registered.
2. The amount under each of subparagraph 1 i, ii or iii is the lesser of,
 - i. the actual amount, and
 - ii. the assessed value of the land as shown on the last assessment roll returned for the year in which the sale of the land occurred.
3. Subject to paragraph 2, the percentage of the proceeds of the sale that the municipality is entitled to is determined by dividing the amount of unpaid taxes owing to the municipality as determined under subparagraph 1 i by the total calculated under paragraph 1.
4. Subject to paragraph 2, the percentage of the proceeds of the sale that a body charged back under subsection (3) is entitled to is determined by dividing the amount charged back under subsection (3) to that body as determined under subparagraph 1 ii by the total calculated under paragraph 1.
5. Subject to paragraph 2, the percentage of the proceeds of the sale that the Crown is entitled to is determined by dividing the amount determined under subparagraph 1 iii by the total calculated under paragraph 1. 2006, c. 32, Sched. A, s. 142 (2).

Manner in which payment to be made

(4.2) The proceeds of the sale payable to the Crown under subsection (4.1) shall be paid by the local municipality to the Crown in the manner or in accordance with the process designated by the Minister. 2006, c. 32, Sched. A, s. 142 (2).

Deduction

(5) A local municipality may deduct from the proceeds the costs of any improvements made by the municipality on the land and its reasonable administrative costs with respect to that land. 2001, c. 25, s. 353 (5).

Exception

(6) Subsections (4), (4.1), (4.2) and (5) do not apply to land in respect of which a notice of vesting is registered under subsection 379 (5) if the cancellation price, as defined in section 371, was less than \$10,000 or if the sale occurs seven years or more after registration of the notice of vesting. 2006, c. 32, Sched. A, s. 142 (3).

Write-off of taxes

354. (1) Taxes shall not be written off except in accordance with this section. 2001, c. 25, s. 354 (1).

Conditions

- (2) The treasurer of a local municipality shall remove unpaid taxes from the tax roll if,
 - (a) the council of the local municipality, on the recommendation of the treasurer, writes off the taxes as uncollectible;
 - (b) the taxes are no longer payable as a result of tax relief under section 319, 345, 357, 358, 362, 364, 365, 365.1 or 365.2 or a decision of any court; or
 - (c) the taxes are no longer payable because the tax liability arose as result of the assessment of land under subsection 33 (1) of the *Assessment Act* for a period during which a regulation made under subsection 33 (1.1) of that Act provides that subsection 33 (1) of that Act does not apply to the land. 2001, c. 25, s. 354 (2); 2002, c. 17, Sched. A, s. 61; 2004, c. 7, s. 12.

Same

(3) A local municipality may only write off taxes under clause (2) (a) after an unsuccessful tax sale under Part XI and may at that point write off the taxes whether or not the property vests in the municipality under that Part. 2001, c. 25, s. 354 (3).

Exception

(4) Despite subsection (3), the local municipality may write off taxes under clause (2) (a) without conducting a tax sale under Part XI,

- (a) if the property is owned by Canada, a province or territory or a Crown agency of any of them or by a municipality;
- (b) if the recommendation of the treasurer under clause (2) (a) includes a written explanation of why conducting a tax sale would be ineffective or inappropriate; or
- (c) in any of the prescribed circumstances. 2006, c. 32, Sched. A, s. 143.

Regulations

(5) The Minister may make regulations prescribing circumstances for the purpose of clause (4) (c). 2006, c. 32, Sched. A, s. 143.

Refund on cancelled assessment

354.1 If a regulation is made under subsection 33 (1.1) of the *Assessment Act* providing that subsection 33 (1) of that Act does not apply with respect to certain land, the municipality shall repay to the owner of the land any overpayment that arises because the land was assessed under that subsection for a period during which the regulation provides that the subsection does not apply to the land. 2004, c. 7, s. 13.

Taxes less than minimum tax amount

355. (1) A local municipality may pass a by-law providing that where, in any year, the total amount of taxes to be imposed on a property would be less than the tax amount specified by the municipality in the by-law, the amount of actual taxes payable shall be zero or an amount not exceeding the specified amount. 2006, c. 32, Sched. A, s. 144.

Same

- (2) In a by-law under subsection (1), the municipality may specify two tax amounts and provide that,
 - (a) where the total amount of taxes would be less than the lower specified amount, the amount of actual taxes payable shall be zero; and
 - (b) where the total amount of taxes would be greater than or equal to the lower specified amount and less than the higher specified amount, the amount of the actual taxes payable shall not exceed the higher specified amount. 2006, c. 32, Sched. A, s. 144.

Division into parcels

356. (1) Upon application by the treasurer of a local municipality or to the treasurer by an owner of land, the local municipality may,

- (a) divide, for the purposes of this section, land which is assessed in one block into two or more parcels if each parcel is one that can be legally conveyed under the *Planning Act*;
- (b) apportion the unpaid taxes on the land among the parcels,
 - (i) in proportion to their relative value at the time the assessment roll for the year in which the application is made was returned, or
 - (ii) if council is of the opinion that an apportionment under subclause (i) is not appropriate due to special circumstances, any other manner; and
- (c) direct what proportion of any part payment of taxes on the land is to be applied to each of the parcels. 2001, c. 25, s. 356 (1); 2006, c. 19, Sched. O, s. 3 (8).

Statement

(2) Upon the request of the local municipality, the assessment corporation shall provide a statement of the relative value of the parcels and the statement is conclusive. 2001, c. 25, s. 356 (2).

- (3) REPEALED: 2006, c. 19, Sched. O, s. 3 (9).

Meeting

- (4) On or before September 30 of the year following the year in which the application is made, council shall,
 - (a) hold a meeting at which the applicants and owners of any part of the land may make representations to council;
 - (b) notify the applicants and owners of the meeting by mail sent at least 14 days before the meeting; and

(c) make its decision. 2001, c. 25, s. 356 (4).

Notice

(5) Within 14 days after making its decision, council shall notify the applicants and owners of the decision and specify the last day for appealing the decision. 2001, c. 25, s. 356 (5).

Appeal

(6) Within 35 days after council makes its decision, an applicant or owner may appeal the decision of council under clause (1) (b) to the Assessment Review Board by filing a notice of appeal with the registrar of the board. 2001, c. 25, s. 356 (6).

Decision

(7) The Assessment Review Board shall, after giving notice to the appellants, the owners and the treasurer of the local municipality, hear the appeal and may make any decision council could have made under clause (1) (b). 2001, c. 25, s. 356 (7).

Delegation of power

(8) A local municipality may pass a by-law authorizing the Assessment Review Board to exercise the powers and functions of the council under clause (1) (b) and subsection (4) with respect to applications made under subsection (1) and subsections (5), (6) and (7) do not apply to these applications. 2001, c. 25, s. 356 (8).

Copy to be provided

(9) The council shall forward to the registrar of the Assessment Review Board and to the assessment corporation a certified copy of any by-law passed under subsection (8) and a copy of every application received to which the by-law applies. 2001, c. 25, s. 356 (9).

Decision final

(10) A decision of the Assessment Review Board is final and a decision of the council under clauses (1) (a) and (c) is final. 2001, c. 25, s. 356 (10).

Notice of decision

(11) A council and the Assessment Review Board shall forward a copy of their decisions under this section to the treasurer of the local municipality and to the assessment corporation. 2001, c. 25, s. 356 (11).

Adjustment of tax roll

(12) Immediately after a decision of council or the Assessment Review Board, the treasurer of the local municipality shall adjust the tax roll to reflect any division into parcels and apportionment of taxes on the land among the parcels made by the decision. 2006, c. 32, Sched. A, s. 145.

Effect

(13) Once the tax roll is adjusted, the taxes shall be deemed to have been always levied in accordance with the adjusted tax roll. 2001, c. 25, s. 356 (13).

Cancellation, reduction, refund of taxes

357. (1) Upon application to the treasurer of a local municipality made in accordance with this section, the local municipality may cancel, reduce or refund all or part of taxes levied on land in the year in respect of which the application is made if,

- (a) as a result of a change event, as defined in clause (a) of the definition of “change event” in subsection 34 (2.2) of the *Assessment Act*, during the taxation year, the property or portion of the property is eligible to be reclassified in a different class of real property, as defined in regulations made under that Act, and that class has a lower tax ratio for the taxation year than the class the property or portion of the property is in before the change event, and no supplementary assessment is made in respect of the change event under subsection 34 (2) of the *Assessment Act*;
- (b) the land has become vacant land or excess land during the year or during the preceding year after the return of the assessment roll for the preceding year;
- (c) the land has become exempt from taxation during the year or during the preceding year after the return of the assessment roll for the preceding year;
- (d) during the year or during the preceding year after the return of the assessment roll, a building on the land,
 - (i) was razed by fire, demolition or otherwise, or

- (ii) was damaged by fire, demolition or otherwise so as to render it substantially unusable for the purposes for which it was used immediately prior to the damage;
- (d.1) the applicant is unable to pay taxes because of sickness or extreme poverty;
- (e) a mobile unit on the land was removed during the year or during the preceding year after the return of the assessment roll for the preceding year;
- (f) a person was overcharged due to a gross or manifest error that is clerical or factual in nature, including the transposition of figures, a typographical error or similar error but not an error in judgment in assessing the property; or
- (g) repairs or renovations to the land prevented the normal use of the land for a period of at least three months during the year. 2001, c. 25, s. 357 (1); 2002, c. 17, Sched. A, s. 62; 2002, c. 22, s. 158; 2004, c. 31, Sched. 26, s. 6.

Exception, vacant unit rebate

(1.1) For 2007 and subsequent taxation years, no cancellation, reduction or refund of taxes is permitted under clause (1) (g) in respect of land that is eligible property under section 364. 2007, c. 7, Sched. 26, s. 1.

Application

- (2) An application may only be made by the owner of the land or by another person who,
 - (a) has an interest in the land as shown on the records of the appropriate land registry office and the sheriff's office;
 - (b) is a tenant, occupant or other person in possession of the land; or
 - (c) is the spouse of the owner or other person described in clause (a) or (b). 2001, c. 25, s. 357 (2); 2005, c. 5, s. 44 (6).

Timing

(3) An application under this section must be filed with the treasurer on or before February 28 of the year following the year in respect of which the application is made. 2001, c. 25, s. 357 (3).

Application by treasurer

(4) Despite subsections (2) and (3), an application under clause (1) (f) or (g) may be made by the treasurer of the local municipality on or before April 30 of the year following the year in respect of which the application is made if no application is made by a person described in subsection (2) within the deadline set out in subsection (3). 2001, c. 25, s. 357 (4).

Meeting

- (5) On or before September 30 of the year following the year in respect of which the application is made, council shall,
 - (a) hold a meeting at which the applicants may make representations to council;
 - (b) notify the applicants of the meeting by mail sent at least 14 days before the meeting; and
 - (c) make its decision. 2001, c. 25, s. 357 (5).

Notice

(6) Within 14 days after making its decision, council shall notify the applicants of the decision and specify the last day for appealing the decision. 2001, c. 25, s. 357 (6).

Appeal

(7) Within 35 days after council makes its decision, an applicant may appeal the decision of council to the Assessment Review Board by filing a notice of appeal with the registrar of the board. 2001, c. 25, s. 357 (7).

Where no decision

(8) If council fails to make its decision by September 30 of the year following the year in respect of which the application is made, an applicant may appeal to the Assessment Review Board by October 21 of the year by filing a notice of appeal with the registrar of the board and the appeal shall be a new hearing. 2001, c. 25, s. 357 (8).

Notice

(9) The Assessment Review Board shall notify the appellants and the treasurer of the municipality of the hearing by mail sent at least 14 days before the hearing. 2001, c. 25, s. 357 (9).

Decision

(10) The Assessment Review Board shall hear the appeal and may make any decision that council could have made. 2001, c. 25, s. 357 (10).

Delegation of power

(11) The council may pass a by-law authorizing the Assessment Review Board to exercise the powers and functions of the council under subsections (1) and (5) with respect to applications made under subsection (1) and subsections (6), (7), (8), (9) and (10) do not apply to these applications. 2001, c. 25, s. 357 (11).

Copy to be provided

(12) The council shall forward to the registrar of the Assessment Review Board and to the assessment corporation a certified copy of any by-law passed under subsection (11) and a copy of every application received to which the by-law applies. 2001, c. 25, s. 357 (12).

Taxes restored

(13) The council or the Assessment Review Board may restore to the tax roll all or any part of the taxes for a year that it reduced, cancelled or refunded as a result of an application in respect of a building under clause (1) (d) if it is satisfied that during the year the building has been reconstructed or repaired and is capable of being used for the purposes for which it was used immediately before it was destroyed or damaged. 2001, c. 25, s. 357 (13).

Restriction

(14) A decision cannot be made under subsection (13) unless,

- (a) it is made on or before February 28 in the year following the year in respect of which the application is made; and
- (b) every person who, according to the tax roll, would be liable for the restored taxes, is given an opportunity to make representations to the council or board, as the case may be. 2001, c. 25, s. 357 (14).

Appeal

(15) A decision of council under subsection (13) may be appealed to the Assessment Review Board and subsections (6), (7), (9) and (10) apply with necessary modifications to the appeal. 2001, c. 25, s. 357 (15).

Restored taxes payable

(16) Taxes restored to the tax roll for a year, after a tax bill is sent to the person liable for the taxes, are payable,

- (a) as part of the next instalment of taxes payable in that year; or
- (b) if no instalment remains payable in that year or the tax bill is not sent until the following year, on the 22nd day after the tax bill is sent. 2001, c. 25, s. 357 (16).

Decision final

(17) A decision of the Assessment Review Board is final. 2001, c. 25, s. 357 (17).

Notice of decision

(18) The council and the Assessment Review Board shall forward a copy of their decisions under this section to the assessment corporation but failure to comply with this requirement does not invalidate the proceedings taken under this section. 2001, c. 25, s. 357 (18).

357.1 REPEALED: 2006, c. 34, Sched. D, s. 96.

Overcharges

358. (1) Upon application to the treasurer of a local municipality made in accordance with this section, the local municipality may cancel, reduce or refund all or part of the taxes levied on land in one or both of the two years preceding the year in which the application is made for any overcharge caused by a gross or manifest error in the preparation of the assessment roll that is clerical or factual in nature, including the transposition of figures, a typographical error or similar errors, but not an error in judgment in assessing the property. 2001, c. 25, s. 358 (1).

Application

(2) An application may only be made by the owner of the land or by another person described in subsection 357 (2). 2001, c. 25, s. 358 (2).

Timing

(3) An application must be filed with the treasurer between March 1 and December 31 of a year and may apply to taxes levied for one or both of the two years preceding the year in which the application is made and the application shall indicate to which year or years it applies. 2001, c. 25, s. 358 (3).

Exception

(4) Despite subsection (3), if the assessment corporation extends the time for the return of the assessment roll under subsection 36 (2) of the *Assessment Act*, an application shall not be made until at least 61 days after the return. 2001, c. 25, s. 358 (4).

Restriction

(5) Despite subsection (3), an application shall not be made for taxes levied in a year if the assessment on the land for that year was subject to an appeal or application under section 40 or 46 of the *Assessment Act* unless,

- (a) the error is made subsequent to the commencement of all appeals or applications;
- (b) the appeal or application,
 - (i) is made by a person other than the taxpayer,
 - (ii) is withdrawn before the appeal or application is actually heard,
 - (iii) is made in respect of a change to or the addition of the school support of the taxpayer on or to the assessment roll,
or
 - (iv) is made in respect of a change to the name or mailing address of the taxpayer on the assessment roll; or
- (c) the appeal or application is in a class of appeals or applications prescribed by the Minister. 2008, c. 7, Sched. O, s. 5 (1).

Copy to be provided

(6) The treasurer shall send a copy of the application to the assessment corporation and the registrar of the Assessment Review Board. 2001, c. 25, s. 358 (6).

Confirmation

(7) An application shall not be heard by council under subsection (9) unless the assessment corporation confirms an error in the assessment referred to in the application. 2001, c. 25, s. 358 (7).

Notice

(8) If an application is not valid under subsection (5), the treasurer shall notify the applicant in writing of the reasons it is not valid. 2001, c. 25, s. 358 (8).

Meeting

- (9) On or before September 30 of the year following the year in which the application is made, council shall,
- (a) hold a meeting at which the applicant may make representations to council;
 - (b) notify the applicant of the meeting by mail sent at least 14 days before the meeting; and
 - (c) make its decision. 2001, c. 25, s. 358 (9).

Notice

- (10) Within 14 days after making its decision, council shall notify the applicant of the decision. 2001, c. 25, s. 358 (10).
- (11) REPEALED: 2006, c. 32, Sched. A, s. 146.

Delegation of power

(12) A council may pass a by-law authorizing the Assessment Review Board to exercise the powers and functions of the council under subsections (1) and (9) with respect to applications made under subsection (1) and subsections (7) and (8) do not apply to these applications. 2001, c. 25, s. 358 (12).

Copy to be provided

(13) The council shall forward to the registrar of the Assessment Review Board and to the assessment corporation a certified copy of any by-law passed under subsection (12). 2001, c. 25, s. 358 (13).

Regulations

(14) The Minister may make regulations prescribing classes of appeals or applications for the purpose of clause (5) (c). 2008, c. 7, Sched. O, s. 5 (2).

Copy of decision

(15) The council and the Assessment Review Board shall forward a copy of their decisions under this section to the assessment corporation, but failure to comply with this requirement does not invalidate the proceedings taken under this section. 2001, c. 25, s. 358 (15).

Increase of taxes

359. (1) Upon application made by the treasurer of the local municipality, a local municipality may increase the taxes levied on land in the year in respect of which the application is made to the extent of any undercharge caused by a gross or manifest error that is a clerical or factual error, including the transposition of figures, a typographical error or similar error, but not an error in judgement in assessing the land. 2001, c. 25, s. 359 (1); 2002, c. 17, Sched. A, s. 63 (1).

Exception

(2) An application cannot be made under subsection (1) if the treasurer has issued a tax statement under section 352 with respect to the taxes before notice is given under clause (3) (b). 2001, c. 25, s. 359 (2).

Deadline

(2.1) An application under this section must be made on or before December 31 of the year following the year in respect of which the application is made. 2002, c. 17, Sched. A, s. 63 (2).

Meeting

(3) Council shall,

- (a) hold a meeting at which the treasurer and the person in respect of whom the application is made may make representations to council;
- (b) notify the treasurer and the person in respect of whom the application is made of the meeting by mail sent at least 14 days before the meeting; and
- (c) make its decision. 2001, c. 25, s. 359 (3).

Notice

(4) Within 14 days after making its decision, council shall notify the treasurer and the person in respect of whom the application is made of the decision and specify the last day for appealing the decision. 2001, c. 25, s. 359 (4).

Appeal

(5) Within 35 days after council makes its decision, the person in respect of whom the application is made may appeal the decision of council to the Assessment Review Board by filing a notice of appeal with the registrar of the board. 2001, c. 25, s. 359 (5).

Notice

(6) The Assessment Review Board shall notify the appellant and the treasurer of the municipality of the hearing by mail sent at least 14 days before the hearing. 2001, c. 25, s. 359 (6).

Decision

(7) The Assessment Review Board shall hear the appeal and may make any decision that council could have made. 2001, c. 25, s. 359 (7).

Delegation of power

(8) The council may pass a by-law authorizing the Assessment Review Board to exercise the powers and functions of the council under subsections (1) and (3) with respect to applications made under subsection (1). 2001, c. 25, s. 359 (8).

Non-application

(9) Subsections (4), (5), (6) and (7) do not apply to applications made under subsection (1) if a delegation by-law under subsection (8) is in force on the day the application is made. 2001, c. 25, s. 359 (9).

Copy to be provided

(10) The council shall forward to the registrar of the Assessment Review Board and to the assessment corporation a certified copy of any by-law passed under subsection (8) and a copy of every application received to which the by-law applies. 2001, c. 25, s. 359 (10).

Decision final

(11) A decision of the Assessment Review Board under this section is final. 2001, c. 25, s. 359 (11).

Adjustment of tax roll

(12) Immediately after a decision of council or the Assessment Review Board, the treasurer shall adjust the tax roll to reflect any increase of taxes on the land made by the decision. 2006, c. 32, Sched. A, s. 147.

When tax payable

(12.1) Once the tax roll is adjusted, the amount of the increase of taxes is deemed to have been always levied in accordance with the adjusted tax roll except the amount is not payable until 21 days after the day the treasurer sends a tax bill to the taxpayer with respect to the amount. 2006, c. 32, Sched. A, s. 147.

Overcharges

(12.2) If a decision of council under this section is appealed and the Assessment Review Board determines there is an overcharge of taxes on the land,

- (a) the municipality shall refund the overpayment, if any; and
- (b) subsections 345 (6) to (9.2) apply with necessary modifications to the overcharges. 2006, c. 32, Sched. A, s. 147.

Notice

(13) The council and the Assessment Review Board shall forward a copy of their decisions under this section to the assessment corporation but failure to comply with this requirement does not invalidate the proceedings taken under this section. 2001, c. 25, s. 359 (13).

Error in calculating taxes

359.1 (1) Despite paragraph 1 of subsection 329 (2), upon application made by the treasurer of a local municipality, the local municipality may, if it is satisfied that there was an error in the calculation of taxes on land under Part IX or under Part XXII.1, XXII.2 or XXII.3 of the old Act, authorize the use of an amount of taxes referred to in paragraph 1 of subsection 329 (2) for the year in which the application is made which reflects what the taxes would have been on the land for the previous year if the error had not been made. 2004, c. 31, Sched. 26, s. 7.

Meeting

- (2) Before making a decision under subsection (1), council shall,
 - (a) hold a meeting at which the treasurer and the person in respect of whom the application is made may make representations to council; and
 - (b) notify the treasurer and the person in respect of whom the application is made of the meeting by mail sent at least 14 days before the meeting. 2004, c. 31, Sched. 26, s. 7.

Notice

(3) Within 14 days after making its decision, the council shall notify the treasurer and the person in respect of whom the application is made of the decision. 2004, c. 31, Sched. 26, s. 7.

Appeal

(4) The provisions of subsections 359 (5), (6) and (7) apply to a decision of a council under this section, with necessary modifications. 2004, c. 31, Sched. 26, s. 7.

No authority to change previous year's taxes

(5) Nothing in this section authorizes a municipality to change the taxes levied on land for a previous year. 2004, c. 31, Sched. 26, s. 7.

Regulation

360. For the purpose of sections 357, 358 and 359, the Minister may by regulation define "gross or manifest error". 2001, c. 25, s. 360.

Rebates for charities

361. (1) Every municipality, other than a lower-tier municipality, shall have a tax rebate program for eligible charities for the purposes of giving them relief from taxes or amounts paid on account of taxes on eligible property they occupy. 2002, c. 22, s. 159 (1).

Eligible charities, property

- (2) For the purposes of this section,

- (a) a charity is eligible if it is a registered charity as defined in subsection 248 (1) of the *Income Tax Act* (Canada) that has a registration number issued by the Canada Revenue Agency;
- (b) a property is eligible if it is in one of the commercial classes or industrial classes, within the meaning of subsection 308 (1). 2001, c. 25, s. 361 (2).

Program requirements

- (3) A tax rebate program under this section is subject to the following requirements:
 1. The program must provide for a rebate for an eligible charity that pays taxes or amounts on account of taxes on eligible property it occupies.
 2. The amount of a rebate required under paragraph 1 must be at least 40 per cent, or such other percentage as the Minister of Finance may prescribe, of the taxes or amounts on account of taxes paid by the eligible charity on the property it occupies. If the eligible charity is required to pay an amount under section 367 or 368, the amount of the rebate shall be the total of the amounts paid by the eligible charity under those sections.
 3. The program must provide that payment of one-half of the rebate must be made within 60 days after the receipt by the municipality of the application of the eligible charity for the rebate for the taxation year and the balance of the rebate must be paid within 120 days of the receipt of the application.
 4. The program must permit the eligible charity to make an application for a rebate for a taxation year based on an estimate of the taxes or amounts on account of taxes payable by the eligible charity on the property it occupies.
 5. The program must provide for final adjustments, to be made after the taxes or amounts on account of taxes paid by the charity can be determined, in respect of differences between the estimated rebate paid by the municipality and the rebate to which the charity is entitled.
 6. The program must require, as a condition of receiving a rebate for a year, that a charity repay any other municipality amounts by which the rebates the charity received for the year from that other municipality exceed the rebates from that other municipality to which the charity is entitled for the year.
 7. An application for a taxation year must be made after January 1 of the year and no later than the last day of February of the following year. However, the municipality may accept applications after that deadline if, in the opinion of the municipality, extenuating circumstances justify the applicant being unable to make the application by the deadline. 2001, c. 25, s. 361 (3); 2002, c. 22, s. 159 (2-5); 2009, c. 33, Sched. 21, s. 6 (30).

Program options

- (4) The following apply with respect to what a tax rebate program under this section may provide but is not required to provide:
 1. The program may provide for rebates to organizations that are similar to eligible charities or a class of such organizations defined by the municipality.
 2. The program may provide for rebates to eligible charities or similar organizations for taxes or amounts on account of taxes on property that is in any class of real property prescribed under the *Assessment Act*.
 3. The program may provide for rebates that are greater than those required under subsection (3) and may provide for different rebate amounts for different eligible charities or similar organizations up to 100 per cent of the taxes paid by the eligible charity or similar organization.
 4. The program may provide for adjustments in respect of the rebates for a year to be deducted from amounts payable in the next year for the next year's rebates. 2001, c. 25, s. 361 (4); 2002, c. 22, s. 159 (6).

Procedural requirements

- (5) The program may include procedural requirements that must be satisfied for an eligible charity to be entitled to a rebate required under subsection (3). 2001, c. 25, s. 361 (5).

Who gives rebates

- (6) Rebates under a program of a municipality under this section shall be given by the municipality unless the municipality is an upper-tier municipality, in which case the rebates shall be given by the lower-tier municipalities. 2001, c. 25, s. 361 (6).

Sharing amounts of rebates

(7) The amount of a rebate paid under this section on a property shall be shared by the municipalities and school boards that share in the revenue from the taxes on the property in the same proportion as the municipalities and school boards share in those revenues. 2002, c. 22, s. 159 (7).

Statement of costs shared by school boards

(8) The municipality that gives a rebate to a charity or similar organization shall also give the charity or similar organization a written statement of the proportion of the costs of the rebate that is shared by school boards. 2001, c. 25, s. 361 (8).

Interest

(9) The municipality shall pay interest, at the same rate of interest that applies under subsection 257.11 (4) of the *Education Act*, on the amount of any rebate to which the eligible charity is entitled under this section if the municipality fails to rebate or credit the amount within the time specified in paragraph 3 of subsection (3) or within such other time as the Minister of Finance may prescribe. 2001, c. 25, s. 361 (9).

No fee

(10) Despite this Act, no fee may be charged by the municipality to process an application under this section. 2001, c. 25, s. 361 (10).

Change of assessment

(10.1) The following apply if the assessment of an eligible property for a year changes as a result of a request under section 39.1 of the *Assessment Act*, an appeal under section 40 of that Act or an application under section 46 of that Act:

1. A rebate under subsection (3) with respect to the year shall be redetermined using the new taxes on property for the year based on the new assessment.
2. If, as a result of a redetermination under paragraph 1, the amount of the rebate is increased, the increased amount shall be paid to the eligible charity in accordance with this section.
3. If, as a result of a redetermination under paragraph 1, the amount of the rebate is decreased and amounts paid on account of the rebate exceed the redetermined amount of the rebate, the excess payments are a debt due to the municipality which gave the rebate but the municipality shall not take any action to collect the debt, including the imposition of interest, until 120 days after providing the eligible charity with notice of the debt. 2002, c. 17, Sched. A, s. 64; 2008, c. 7, Sched. O, s. 6.

Regulations

(11) The Minister of Finance may make regulations,

- (a) governing programs under this section including prescribing additional requirements for the programs;
- (b) governing procedural requirements the programs must include;
- (c) prescribing a percentage for the purpose of paragraph 2 of subsection (3);
- (d) prescribing a time period for the purpose of subsection (9). 2001, c. 25, s. 361 (11).

Definition

(12) In this section,

“tax” includes,

- (a) charges that are imposed under section 208, and
- (b) fees and charges, other than charges described in clause (a), that are imposed under this Act and satisfy the conditions set out in paragraphs 1, 2 and 3 of subsection (13). 2006, c. 32, Sched. A, s. 148.

Same

(13) The conditions referred to in clause (b) of the definition of “tax” in subsection (12) are:

1. The fees and charges are imposed to raise an amount for at least one of the following purposes:
 - i. Promotion of an area as a business or shopping area.
 - ii. Improvement, beautification and maintenance of land, buildings and structures of the municipality in the area, beyond that provided at the expense of the municipality generally.

- iii. Interest payable by the municipality on money it borrows for the purposes of subparagraph i or ii.
2. The fees and charges are imposed on owners of land that is included in the commercial or industrial classes within the meaning of subsection 308 (1).
3. The fees and charges have priority lien status and are added to the tax roll. 2006, c. 32, Sched. A, s. 148.

Tax reductions

362. (1) The council of a municipality, other than a lower-tier municipality, may by by-law passed in the year to which it relates, provide for tax reductions for owners of all or part of the eligible amount on properties in the property classes described in subsection (2) that are designated in the by-law. 2001, c. 25, s. 362 (1); 2009, c. 33, Sched. 21, s. 6 (31).

Property classes

(2) The property classes referred to in subsection (1) are the property classes that are subject to Part IX and the by-law may treat different property classes differently. 2001, c. 25, s. 362 (2).

Reductions on the tax roll

(3) Tax reductions under a by-law under subsection (1) shall be given through adjustments made to the tax roll for the property for the taxation year. 2001, c. 25, s. 362 (3).

Sharing costs of tax reductions

(4) The amount of a tax reduction for a property shall be shared by the municipalities that share in the revenues from the taxes on the property in the same proportion as the municipalities share in those revenues. 2001, c. 25, s. 362 (4); 2002, c. 17, Sched. A, s. 65.

Reductions not limited by s. 106

(5) Section 106 does not apply with respect to tax reductions under a by-law under subsection (1). 2001, c. 25, s. 362 (5).

Regulations

(6) The Minister of Finance may make regulations governing by-laws under subsection (1) and the reductions provided under those by-laws. 2009, c. 33, Sched. 21, s. 6 (32).

Definition

(7) In this section,

“eligible amount” means, in relation to a property, the amount by which the taxes for the year, but for the application of Part IX, exceed the taxes determined under section 329. 2001, c. 25, s. 362 (7).

363. REPEALED: 2002, c. 17, Sched. A, s. 66.

Vacant unit rebate

364. (1) Every local municipality shall have a program to provide tax rebates to owners of property that has vacant portions if that property is in any of the commercial classes or industrial classes, as defined in subsection 308 (1). 2001, c. 25, s. 364 (1).

Requirements of program

(2) A tax rebate program under this section must meet the following requirements:

1. The program shall apply to eligible property as prescribed by the Minister of Finance for the purposes of this section.
2. If the property is in any of the commercial classes, the rebate shall be equal to 30 per cent of the taxes applicable to the eligible property, as determined under clause (12) (b).
3. If the property is in any of the industrial classes, the rebate shall be equal to 35 per cent of the taxes applicable to the eligible property, as determined under clause (12) (b).
4. An application may be made by or on behalf of the owner.
5. The application shall be made to the local municipality by the last day of February of the year following the taxation year in respect of which the application is made or such later date as the Minister of Finance may prescribe, either before or after the expiry of the time limit.
6. Unless otherwise prescribed by the Minister of Finance, an owner or a person on behalf of the owner shall submit one application for a taxation year, except that an interim application may be made for the first six months of the taxation year. 2001, c. 25, s. 364 (2).

Mixed use

(3) If a portion of a property is classified on the assessment roll in any of the commercial classes and another portion of the property is classified in any of the industrial classes, the portion classified in the commercial classes shall be deemed to be one property and the portion classified in the industrial classes shall be deemed to be another property for the purposes of this section. 2002, c. 22, s. 160.

If single percentage established

(4) If the council of a municipality, other than a lower-tier municipality, has established a single percentage for a year under subsection 313 (4), that percentage applies for the year rather than the percentage set out in paragraph 2 or 3 of subsection (2), as the case may be. 2001, c. 25, s. 364 (4).

Evidentiary requirements

(5) The program may include evidentiary requirements that must be satisfied for the owner to be entitled to a rebate under this section. 2001, c. 25, s. 364 (5).

Right of access

(6) For the purposes of verifying an application made under this section, an employee of a municipality or a person designated by the municipality, upon producing proper identification, shall at all reasonable times and upon reasonable request be given free access to all property referred to in the application made under this section. 2001, c. 25, s. 364 (6).

Information

(7) Every adult person present on the property when the person referred to in subsection (6) visits the property in the performance of his or her duties shall give the person all the information within his or her knowledge that will assist the person to determine the proper amount of the rebate payable under this section. 2001, c. 25, s. 364 (7).

Request for information

(8) For the purposes of determining the proper amount of any rebate payable under this section, the municipality may, by letter sent by mail, served personally or delivered by courier, require the owner or manager of a property referred to in an application under this section to provide any relevant information or produce any relevant records within such reasonable time as is set out in the letter. 2001, c. 25, s. 364 (8).

Return of information

(9) A person who receives a letter under subsection (8) shall, within the time set out in the letter, provide to the municipality all the information that is within the person's knowledge and produce all of the records required that are within the person's possession or control. 2001, c. 25, s. 364 (9).

Offence

(10) Every person who is required to provide information under this section and who defaults in doing so is guilty of an offence and on conviction is liable to a fine of \$100 for each day during which the default continues. 2001, c. 25, s. 364 (10).

Sharing costs of rebates

(11) The amount of a tax rebate with respect to a property shall be shared by the municipalities and the school boards that share in the revenue from the taxes on the property in the same proportion as the municipalities and school boards share in those revenues. 2001, c. 25, s. 364 (11); 2002, c. 17, Sched. A, s. 67 (1).

Regulations

(12) The Minister of Finance may make regulations,

- (a) prescribing the requirements for a property or portion of a property to be eligible property;
- (b) respecting how to determine the amount of tax to which the percentages specified in paragraphs 2 and 3 of subsection (2) are to be applied;
- (c) respecting the determination of the value of eligible property by the assessment corporation;
- (d) prescribing the number or frequency of applications under paragraph 6 of subsection (2);
- (e) governing programs under this section, including prescribing additional requirements for those programs, and governing the procedural requirements that those programs must include;
- (f) prescribing a date for the purposes of subsections (2), (15) and (20). 2001, c. 25, s. 364 (12).

Rebate to include credit

(13) A municipality may credit all or part of the amount of the tax rebate owing to an outstanding tax liability of the owner. 2001, c. 25, s. 364 (13).

Complaint

(14) A person who has made an application under this section may, within 120 days after the municipality mails the determination of the amount of the rebate, complain to the Assessment Review Board in writing that the amount is too low. 2001, c. 25, s. 364 (14).

Same, if no determination of rebate

(15) If the municipality fails to mail the determination of the amount of the rebate to the applicant within 120 days of the receipt of the application or such later date as the Minister of Finance may prescribe, the applicant may complain in writing to the Assessment Review Board. 2001, c. 25, s. 364 (15).

Determination by the Board

(16) In a complaint under subsection (14) or (15), the Assessment Review Board shall determine the amount of any rebate owing to the applicant. 2001, c. 25, s. 364 (16).

Same

(17) Section 40 of the *Assessment Act* applies to a complaint under subsection (14), (15) or (24) as if it were an appeal under subsection 40 (1) of that Act, except the assessment corporation shall not be a party for purposes of subsection 40 (11) of that Act. 2008, c. 7, Sched. O, s. 7.

Appeal to Divisional Court

(18) Section 43.1 of the *Assessment Act* applies to a decision of the Assessment Review Board. 2001, c. 25, s. 364 (18).

Offence

(19) Any person who knowingly makes a false or deceptive statement in an application made to a municipality or in any other document submitted to a municipality under this section is guilty of an offence and is liable on conviction to a fine of not more than an amount that is twice the amount of the rebate obtained or sought to be obtained by the false or deceptive statement except that the fine shall not be less than \$500. 2001, c. 25, s. 364 (19).

Interest

(20) The municipality shall pay interest, at the same rate of interest that applies under subsection 257.11 (4) of the *Education Act*, on the amount of any rebate to which the applicant is entitled under this section if the municipality fails to rebate or credit such amount within 120 days, or such later date as the Minister of Finance may prescribe, of the receipt of the application or interim application. 2001, c. 25, s. 364 (20).

No fee

(21) Despite this Act, no fee may be imposed by a municipality to process an application made under this section. 2001, c. 25, s. 364 (21).

Recovery

(22) If a rebate is paid under this section and the municipality determines that the rebate or any portion of the rebate has been paid in error, the municipality may notify the owner of the property in respect of which the rebate was made of the amount of the overpayment and upon so doing the amount shall have priority lien status and shall be added to the tax roll. 2001, c. 25, s. 364 (22); 2002, c. 17, Sched. A, s. 67 (2).

Time limitation

(23) Subsection (22) does not apply unless the municipality notifies the owner within two years after the application with respect to which the overpayment relates was made. 2001, c. 25, s. 364 (23).

Complaint

(24) The owner of the property to whom the municipality sends a notification under subsection (22) may, within 90 days of its receipt, complain to the Assessment Review Board in writing that the amount claimed or any part of it was properly payable as a rebate under this section. 2001, c. 25, s. 364 (24).

Interpretation

(25) In this section, "tax" has the same meaning as in subsection 361 (12). 2006, c. 32, Sched. A, s. 149.

Cancellation, reduction or refund of taxes

365. (1) The council of a local municipality may, in any year, pass a by-law to provide for the cancellation, reduction or refund of taxes levied for local municipal and school purposes in the year by the council in respect of an eligible property of any person who makes an application in that year to the municipality for that relief and whose taxes are considered by the council to be unduly burdensome, as defined in the by-law. 2001, c. 25, s. 365 (1).

Notice to upper-tier municipality, etc.

(2) If a lower-tier municipality has passed a by-law under subsection (1), it shall give notice of that fact to the upper-tier municipality and the upper-tier municipality may pass a by-law to provide a similar cancellation, reduction or refund of taxes levied for upper-tier purposes. 2001, c. 25, s. 365 (2).

Sharing costs

(3) If an upper-tier municipality has passed a by-law under subsection (2), the amount of the taxes cancelled, reduced or refunded shall be shared by the municipalities and school boards that share the revenue from the taxes on the property affected by the by-law in the same proportion that those municipalities and school boards share in those revenues. 2001, c. 25, s. 365 (3).

Lower-tier municipality to pay upper-tier share

(4) If an upper-tier municipality has not passed a by-law under subsection (2), the amount of the taxes cancelled, reduced or refunded shall be shared by the lower-tier municipality and school boards in the same proportion as under subsection (3) but the amount of the upper-tier municipality's share shall be the responsibility of the lower-tier municipality. 2001, c. 25, s. 365 (4).

Single-tier municipality

(5) If the local municipality is a single-tier municipality, the amount of the taxes cancelled, reduced or refunded shall be shared by the municipality and school boards that share the revenues from the taxes on the property affected by the by-law in the same proportion that the municipality and school boards share in those revenues. 2001, c. 25, s. 365 (5).

Definition

(6) In this section,

“eligible property” means a property classified in the residential property class, the farm property class or the managed forests property class. 2001, c. 25, s. 365 (6); 2002, c. 22, s. 161.

Cancellation of taxes, rehabilitation and development period

Definitions

365.1 (1) In this section,

“community improvement plan” and “community improvement project area” have the same meanings as in subsection 28 (1) of the *Planning Act*; (“plan d’améliorations communautaires”, “zone d’améliorations communautaires”)

“development period” means, with respect to an eligible property, the period of time starting on the date the rehabilitation period ends and ending on the earlier of,

- (a) the date specified in the by-law made under subsection (2), or
- (b) the date that the tax assistance provided for the property equals the sum of,
 - (i) the cost of any action taken to reduce the concentration of contaminants on, in or under the property to permit a record of site condition to be filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
 - (ii) the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*; (“période d’aménagement”)

“eligible property” means property for which a phase two environmental site assessment has been conducted,

- (a) that is included under section 28 of the *Planning Act* in a community improvement project area for which a community improvement plan is in effect containing provisions in respect of tax assistance under this section, and
- (b) that, as of the date the phase two environmental site assessment was completed, did not meet the standards that must be met under subparagraph 4 i of subsection 168.4 (1) of the *Environmental Protection Act* to permit a record of site condition to be filed under that subsection in the Environmental Site Registry; (“bien admissible”)

“phase two environmental site assessment” has the same meaning as in Part XV.1 of the *Environmental Protection Act*; (“évaluation environnementale de site de phase II”)

“rehabilitation period” means, with respect to an eligible property, the period of time starting on the date on which the by-law under subsection (2) providing tax assistance for the property is passed and ending on the earliest of,

- (a) the date that is 18 months after the date that the tax assistance begins to be provided,
- (b) the date that a record of site condition for the property is filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
- (c) the date that the tax assistance provided for the property equals the sum of,
 - (i) the cost of any action taken to reduce the concentration of contaminants on, in or under the property to permit a record of site condition to be filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, and
 - (ii) the cost of complying with any certificate of property use issued under section 168.6 of the *Environmental Protection Act*; (“période de réhabilitation”)

“tax assistance” means, with respect to an eligible property, the cancellation or deferral of taxes pursuant to a by-law passed under subsection (2). (“aide fiscale”) 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (1-3).

By-law to cancel taxes

(2) Subject to subsection (6), a local municipality may pass by-laws providing for the cancellation of all or a portion of the taxes for municipal and school purposes levied on one or more specified eligible properties, on such conditions as the municipality may determine, and a by-law may apply in respect of the rehabilitation period for a specified property, the development period for a specified property, or both. 2005, c. 31, Sched. 17, s. 1 (4).

(3) REPEALED: 2005, c. 31, Sched. 17, s. 1 (4).

Payment of tax if conditions not met

(3.1) If a municipality passes a by-law under subsection (2) and the by-law contains conditions which must be met before tax assistance is provided, the by-law may also provide,

- (a) that all or some of the taxes that are the subject of the tax assistance may be levied but not collected during the period before the municipality determines whether the conditions have been met; and
- (b) that the taxes shall become payable only upon notice in writing by the municipality to the owner of the property that the conditions have not been met as required under the by-law. 2004, c. 31, Sched. 26, s. 8 (1); 2005, c. 31, Sched. 17, s. 1 (5).

Same

(3.2) A by-law providing that taxes become payable in the circumstances described in subsection (3.1) may also provide that the interest provisions of a by-law passed under section 345 apply, if the taxes become payable, as if the payment of the taxes had not been deferred. 2004, c. 31, Sched. 26, s. 8 (1).

Notice to upper-tier municipality

(4) If a lower-tier municipality intends to pass a by-law under subsection (2), it shall give a copy of the proposed by-law to the upper-tier municipality. 2005, c. 31, Sched. 17, s. 1 (6).

Cancellation of taxes, upper-tier municipality

(4.1) Upon receiving a copy of the proposed by-law from the lower-tier municipality, the upper-tier municipality may, by resolution, agree that the by-law may also provide for the cancellation of all or a portion of the taxes levied for upper-tier purposes, and the by-law so agreed to by the upper-tier municipality and passed by the lower-tier municipality is binding on the upper-tier municipality. 2005, c. 31, Sched. 17, s. 1 (6).

Same

(4.2) An upper-tier municipality may pass a resolution under subsection (4.1) even if it has no upper-tier community improvement plan that is in effect, and the by-law so agreed to is binding on the upper-tier municipality despite section 106. 2006, c. 23, s. 36 (3).

Notice to Minister of Finance

(5) If a local municipality intends to pass a by-law under subsection (2), it shall give the Minister of Finance the following information:

1. A copy of the proposed by-law.
2. A copy of the resolution, if any, passed by the upper-tier municipality under subsection (4.1).
3. An estimate of how much the tax assistance to be provided under the by-law will cost the local municipality.
4. The tax rates currently applicable to the eligible property and its assessment and property class.
5. The taxes currently levied on the eligible property for municipal purposes and for school purposes.
6. Such other information as may be prescribed by the Minister of Finance. 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (7-9).

Agreement of Minister of Finance

(6) A by-law under subsection (2) does not apply to taxes for school purposes unless, before the by-law is passed, it is approved in writing by the Minister of Finance and, in giving approval, the Minister of Finance may require that the by-law contain such conditions or restrictions with respect to taxes for school purposes as he or she considers appropriate. 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (10).

Copy of by-law to be given

(7) If a local municipality passes a by-law under subsection (2), it shall, within 30 days, give a copy of the by-law to the Minister and to the Minister of Finance. 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (11).

Application by owner of an eligible property

(8) The owner of an eligible property may apply to the local municipality to receive tax assistance and shall provide to the municipality such information as the municipality may require. 2002, c. 17, Sched. A, s. 68.

Approval by municipality

(9) Upon approval of an application made under subsection (8), the local municipality shall advise the owner of the eligible property of the commencement date of the tax assistance and provide the owner with an estimate of the maximum amount of the tax assistance. 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (12).

(10), (11) REPEALED: 2005, c. 31, Sched. 17, s. 1 (13).

Tax cancellation for portion of a year

(12) If the tax assistance provided with respect to a property under this section is for a portion of a taxation year, the amount of the tax assistance shall apply only to that portion of the year, and the taxes otherwise payable shall apply to the other portion of the year. 2002, c. 17, Sched. A, s. 68.

Sharing costs, single-tier

(13) If a by-law is passed under subsection (2) by a single-tier municipality, the amount of the tax assistance shall be shared by the municipality and the school boards that share in the revenues from the taxes on the property affected by the by-law in the same proportion that tax assistance is provided under the by-law. 2002, c. 17, Sched. A, s. 68.

Sharing costs, lower-tier

(14) If a by-law is passed under subsection (2) by a lower-tier municipality and the by-law applies to the upper-tier municipality, the amount of the tax assistance shall be shared by the municipalities and the school boards that share in the revenue from the taxes on the property affected by the by-law in the same proportion that tax assistance is provided under the by-law. 2002, c. 17, Sched. A, s. 68.

Where by-law does not apply to upper-tier

(15) If a by-law is passed under subsection (2) by a lower-tier municipality and the by-law does not apply to the upper-tier municipality, the amount of the tax assistance shall be shared by the lower-tier municipality and the school boards that share in the revenue from the taxes on the property affected by the by-law in the same proportion that the tax assistance is provided under the by-law, but the taxes for upper-tier purposes shall not be affected. 2002, c. 17, Sched. A, s. 68.

Where by-law does not apply to taxes for school purposes

(16) Despite subsections (13), (14) and (15), if a by-law made under subsection (2) does not apply to taxes for school purposes, the amount of the tax assistance does not affect the amount of taxes for school purposes to be paid to the school boards. 2002, c. 17, Sched. A, s. 68.

(17)-(20) REPEALED: 2005, c. 31, Sched. 17, s. 1 (14).

Refund or credit

- (21) In providing tax assistance for an eligible property, the local municipality may,
- (a) refund the taxes to the extent required to provide the tax assistance, if the taxes have been paid; or
 - (b) credit the amount to be refunded to an outstanding tax liability of the owner of the eligible property with respect to the property, if the taxes have not been paid. 2004, c. 31, Sched. 26, s. 8 (2); 2005, c. 31, Sched. 17, s. 1 (15).

Tax roll

(22) The treasurer of the local municipality shall alter the tax roll to reflect the tax assistance provided for an eligible property. 2005, c. 31, Sched. 17, s. 1 (16).

Notice to municipality

(23) If the owner of an eligible property files a record of site condition with respect to the property in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act*, the owner shall, within 30 days, notify the local municipality of the filing and, within 30 days after receiving the notice, the municipality shall advise the Minister of Finance of the filing. 2002, c. 17, Sched. A, s. 68.

Note: On a day to be named by proclamation of the Lieutenant Governor, subsection (23) is repealed by the Statutes of Ontario, 2007, chapter 7, Schedule 26, section 2 and the following substituted:

Notice to municipality

(23) The owner of an eligible property in respect of which a record of site condition has been filed in the Environmental Site Registry under section 168.4 of the *Environmental Protection Act* shall, within 30 days after the record of site condition is filed, notify the local municipality of the filing and the municipality shall, within 30 days after receiving the notice, advise the Minister of Finance of the filing. 2007, c. 7, Sched. 26, s. 2.

See: 2007, c. 7, Sched. 26, ss. 2, 3 (2).

Effect of repeal or amendment of by-law

(24) The local municipality may repeal or amend a by-law passed under subsection (2) with respect to a particular eligible property, but the repeal or amendment does not extinguish a right to tax assistance under the by-law unless the owner of the property consents in writing to the repeal or amendment. 2005, c. 31, Sched. 17, s. 1 (17).

Application of provisions

(25) Subsections (4), (5), (6) and (7) apply, with necessary modifications, to the amendment of a by-law passed under subsection (2), and subsections (4) and (7) apply, with necessary modifications, to the repeal of a by-law passed under subsection (2). 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (18).

Regulations

(26) The Minister may make regulations governing by-laws under subsection (2). 2002, c. 17, Sched. A, s. 68; 2005, c. 31, Sched. 17, s. 1 (19).

Regulations by Minister of Finance

(27) The Minister of Finance may make regulations prescribing information for the purposes of paragraph 6 of subsection (5). 2005, c. 31, Sched. 17, s. 1 (20).

Application

(28) This section applies to the portion of the taxation year remaining in the taxation year in which this section comes into force and to subsequent taxation years. 2002, c. 17, Sched. A, s. 68.

Tax reduction for heritage property

365.2 (1) Despite section 106, a local municipality may establish a program to provide tax reductions or refunds in respect of eligible heritage property. 2002, c. 17, Sched. A, s. 69.

Definition

(2) In this section,

“eligible heritage property” means a property or portion of a property,

- (a) that is designated under Part IV of the *Ontario Heritage Act* or is part of a heritage conservation district under Part V of the *Ontario Heritage Act*,
- (b) that is subject to,

- (i) an easement agreement with the local municipality in which it is located, under section 37 of the *Ontario Heritage Act*,
 - (ii) an easement agreement with the Ontario Heritage Foundation, under section 22 of the *Ontario Heritage Act*, or
 - (iii) an agreement with the local municipality in which it is located respecting the preservation and maintenance of the property, and
- (c) that complies with any additional eligibility criteria set out in the by-law passed under this section by the local municipality in which it is located. 2002, c. 17, Sched. A, s. 69.

Amount of tax reduction

(3) The amount of the tax reduction or refund provided by a local municipality in respect of an eligible heritage property must be between 10 and 40 per cent of the taxes for municipal and school purposes levied on the property that are attributable to,

- (a) the building or structure or portion of the building or structure that is the eligible heritage property; and
- (b) the land used in connection with the eligible heritage property, as determined by the local municipality. 2002, c. 17, Sched. A, s. 69.

By-law requirements

- (4) In a by-law under this section, the local municipality,
- (a) must specify a percentage that satisfies the requirements of subsection (3) that will be used in calculating the amount of the tax reduction or refund to be provided in respect of eligible heritage properties;
 - (b) may specify different percentages of tax that satisfy the requirements of subsection (3) for different property classes or different types of properties within a property class;
 - (c) may specify a minimum or maximum amount of taxes for a year to be reduced or refunded under the by-law;
 - (d) may specify additional criteria that must be satisfied in order for a property to qualify as an eligible heritage property and may specify different criteria for properties in different property classes;
 - (e) may establish procedures for applying for a tax reduction or refund for one or more years. 2002, c. 17, Sched. A, s. 69.

Notice to Minister of Finance

(5) A local municipality shall deliver a copy of a by-law under this section to the Minister of Finance within 30 days after the by-law is passed. 2002, c. 17, Sched. A, s. 69.

Notice to upper-tier municipality

(6) A lower-tier municipality that passes a by-law under this section shall notify the upper-tier municipality of the amount of taxes to be reduced or refunded for lower-tier purposes under the by-law. 2002, c. 17, Sched. A, s. 69.

Tax reduction or refund by upper-tier municipality

(7) An upper-tier municipality that receives a notice under subsection (6) may pass a by-law to authorize a similar reduction or refund of taxes levied for upper-tier purposes. 2002, c. 17, Sched. A, s. 69.

Sharing of tax reduction or refund

- (8) The following rules apply if a local municipality passes a by-law under this section:
1. If the local municipality is a single-tier municipality, the amount of the tax reduction or refund must be shared by the municipality and the school boards in the same proportion that they share in the revenue from taxes from the properties to which the tax reduction or refund relates.
 2. If the local municipality is a lower-tier municipality and the upper-tier municipality passes a by-law described in subsection (7), the tax reduction or refund must be shared by both municipalities and the school boards in the same proportion that they share in the revenue from taxes from the properties to which the tax reduction or refund relates.
 3. If the local municipality is a lower-tier municipality and the upper-tier municipality does not pass a by-law described in subsection (7), the tax reduction or refund must be shared,
 - i. without affecting the taxes levied for upper-tier purposes, by the lower-tier municipality and the school boards in the same proportion that they share in the revenue from taxes from the properties to which the tax reduction or refund relates, or

- ii. by the school boards in the same proportion that they share in the revenue from taxes from the properties to which the tax reduction or refund relates and by the lower-tier municipality in respect of the taxes levied for both lower-tier and upper-tier purposes. 2002, c. 17, Sched. A, s. 69.

Application

(9) The following rules apply if a local municipality passes a by-law under this section:

1. An owner of an eligible heritage property in the municipality may obtain the tax reduction or refund for a year if the owner applies to the local municipality not later than the last day of February in the year following the first year for which the owner is seeking to obtain the tax reduction or refund.
2. The local municipality may, in the by-law, require owners of eligible heritage properties to submit applications for the tax reduction or refund in one or more years following the year of initial application. 2002, c. 17, Sched. A, s. 69.

Apportionment by assessment corporation

(10) A local municipality may request information from the assessment corporation concerning the portion of a property's total assessment that is attributable to the building or structure or portion of the building or structure that is eligible heritage property and the land used in connection with it. 2002, c. 17, Sched. A, s. 69.

Same

(11) The assessment corporation shall provide the information requested by a local municipality under subsection (10) within 90 days after receiving the request. 2002, c. 17, Sched. A, s. 69.

Application against outstanding tax liability

(12) A local municipality may apply all or part of the amount of a tax reduction or refund in respect of an eligible heritage property against any outstanding tax liability in respect of the property. 2002, c. 17, Sched. A, s. 69.

Owner may retain benefit

(13) An owner of an eligible heritage property may retain the benefit of any tax reduction or refund obtained under this section, despite the provisions of any lease or other agreement relating to the property. 2002, c. 17, Sched. A, s. 69.

Penalty

(14) If the owner of an eligible heritage property demolishes the property or breaches the terms of an agreement described in clause (b) of the definition of "eligible heritage property" in subsection (2), the local municipality may require the owner to repay part or all of any tax reductions or refunds provided to the owner for one or more years under a by-law under this section. 2002, c. 17, Sched. A, s. 69.

Interest

(15) A local municipality may require the owner to pay interest on the amount of any repayment required under subsection (14), at a rate not exceeding the lowest prime rate reported to the Bank of Canada by any of the banks listed in Schedule I to the *Bank Act* (Canada), calculated from the date or dates the tax reductions or refunds were provided. 2002, c. 17, Sched. A, s. 69.

Sharing of repayment

(16) Any amount paid under subsection (14) or (15) to a local municipality in respect of a property must be shared by the municipalities and school boards that share in the revenue from taxes on the property, in the same proportion that they shared in the cost of the tax reduction or refund on the property under this section. 2002, c. 17, Sched. A, s. 69.

Collection remedies

(17) Sections 349 and 350 apply in respect of an amount owing under subsection (14) or (15). 2002, c. 17, Sched. A, s. 69.

Regulations

(18) The Minister of Finance may make regulations,

- (a) governing by-laws under this section, including procedures for a tax reduction or refund;
- (b) governing the provision of tax reductions or refunds under by-laws passed under this section, including the establishment of deadlines for payments of refunds by municipalities. 2002, c. 17, Sched. A, s. 69.

Change of assessment

365.3 If the assessment of a property for a year changes as a result of a request under section 39.1 of the *Assessment Act*, an appeal under section 40 of that Act or an application under section 46 of that Act, tax relief provided under sections 319, 345, 356, 357, 358, 362, 364, 365, 365.1 and 365.2 and tax increases provided under section 359 shall be redetermined using the new taxes on property for the year based on the new assessment and the tax roll for the year shall be amended to reflect the determination. 2002, c. 17, Sched. A, s. 69; 2006, c. 32, Sched. A, s. 150; 2008, c. 7, Sched. O, s. 8.

Federal Crown land

366. (1) If the Crown in right of Canada owns or has an interest in land, the Crown may, with the consent of the municipality, pay to the municipality an amount in lieu of taxes or charges for specific municipal services which a tenant or user of the land would otherwise be required to pay. 2001, c. 25, s. 366 (1).

Interpretation

(2) Specific municipal services in subsection (1) do not include the right to attend a school. 2001, c. 25, s. 366 (2).

Where payment accepted

- (3) If a municipality accepts a payment under this section,
- (a) the taxes or charges in respect of which the payment was made are deemed to be paid in full;
 - (b) the amount paid in lieu of taxes shall be distributed to any body for which the municipality is required by law to levy taxes or raise money as if the taxes had been levied and collected in the usual way; and
 - (c) subject to clause (b), the payment shall be credited to the general funds of the municipality. 2001, c. 25, s. 366 (3).

Gross leases (property taxes)

- 367.** (1) This section applies with respect to a lease of all or part of a property if all the following are satisfied:
- 1. The lease was entered into on or before June 11, 1998. A lease entered into on or before June 11, 1998 that is renewed or extended after that day continues to satisfy this paragraph only if, at the time of the renewal or extension, the landlord did not have the right to renegotiate the rent under the lease.
 - 2. The tenant is not required under the lease to pay any part of the property taxes on the property.
 - 3. The property, or a portion of it, is in a property class that is one of the commercial classes or industrial classes within the meaning of subsection 308 (1).
 - 4. For a lease entered into after January 16, 1997 and on or before June 11, 1998, the parties to the lease did not take into account, in determining the rent and other consideration paid to the landlord, that business taxes imposed on persons carrying on business on properties would be eliminated in 1998. 2001, c. 25, s. 367 (1).

Requirement to pay an amount

(2) The landlord may require the tenant to pay an amount, not exceeding the maximum amount under subsection (3), in respect of the property taxes on the property for a year. 2001, c. 25, s. 367 (2).

Maximum amount

(3) The maximum amount the tenant may be required to pay shall be determined in accordance with the following:

$$\text{Maximum amount} = \text{Property taxes} \times \frac{\text{1997 Assessment (tenant)}}{\text{1997 Assessment (landlord)}} \times \text{Business rate factor}$$

where,

“Property taxes” means,

- (a) except as provided in clause (b), the property taxes for the year on the property or, if only a portion of the property is in one of the commercial classes or industrial classes within the meaning of subsection 308 (1), the property taxes for the year on that portion,
- (b) in the case of a landlord who is not the owner of the property but who has acquired an interest in the property under a lease,

- (i) the property taxes for the year described in clause (a) that the landlord is required to pay under the landlord's lease, on the leased premises and any other part of the property in which the landlord acquired an interest under the landlord's lease, or
- (ii) the amount the landlord, as the tenant of another person, is required to pay under this section for the year in respect of the leased premises and any other part of the property in which the landlord acquired an interest under the landlord's lease;

“1997 Assessment (tenant)” means the portion of the 1997 Assessment (landlord) apportioned to the leased premises in the assessment roll for 1997, as most recently revised;

“1997 Assessment (landlord)” means,

- (a) except as provided in clause (b), the total of the following assessments for the property,
 - (i) the assessment, as set out in the assessment roll for 1997, as most recently revised, used to determine business assessment,
 - (ii) the vacant commercial assessment or vacant industrial assessment, as the case may be, as set out in the assessment roll for 1997, as most recently revised, and
 - (iii) the assessment other than residential assessment, as set out in the assessment roll for 1997, as most recently revised, for a portion of the property occupied by persons not liable to business assessment under the *Assessment Act*,
- (b) in the case of a landlord who is not the owner of the property but who has acquired an interest in the property under a lease, the amount determined under clause (a) but only for assessment in respect of the leased premises and any other part of the property in which the landlord acquired an interest under the landlord's lease;

“Business rate factor” means the business rate factor determined under subsection (9).

2001, c. 25, s. 367 (3).

Reduction if lease for part of the year

(4) If the tenant leases the premises for only part of the year, the maximum amount that the tenant may be required to pay shall be reduced by multiplying the maximum amount by the fraction of the year the tenant leases the premises. 2001, c. 25, s. 367 (4).

Notice

(5) The tenant is not required to pay the landlord an amount unless the landlord gives the tenant a notice in accordance with subsection (7) that the landlord requires the tenant to pay an amount under this section. 2001, c. 25, s. 367 (5).

Amount is additional rent

(6) The amount that a tenant is required to pay shall be deemed to be additional rent due on the date set out in the notice referred to in subsection (5). 2001, c. 25, s. 367 (6).

Notice requiring payment

- (7) The following apply to the notice referred to in subsection (5):
 1. The notice must set out,
 - i. the amount the tenant is required to pay and the date it is due,
 - ii. the landlord's calculation of the maximum amount the tenant may be required to pay, and
 - iii. the amount of the property taxes for the property for the year or an estimate of the amount of the property taxes for the property for the year if not yet determined.
 2. The notice must be given at least 30 days before the day the amount or the first instalment of the amount the tenant is required to pay is due.
 3. The landlord shall provide the tenant with a notice of adjustments, if any, to be made after the taxes for the taxation year have been determined.
 4. The notice must be given by September 30 of the taxation year or 30 days after the day the final tax notice for the taxation year is received by the landlord, whichever is later. 2001, c. 25, s. 367 (7).

If notice requires more than the maximum

(8) If the amount that the tenant is required to pay, as set out in the notice referred to in subsection (5), is more than the maximum amount the tenant may be required to pay under this section, the tenant is required to pay that maximum amount, not the amount set out in the notice. 2001, c. 25, s. 367 (8).

Business rate factor

(9) The business rate factor referred to in subsection (3) shall be determined in accordance with the following:

$$\text{Business rate factor} = \frac{\text{Total business assessment (class)}}{\text{Total commercial assessment (class)} + \text{Total business assessment (class)}}$$

where,

“Total business assessment (class)” means the total business assessment in the municipality, according to the assessment roll for 1997 as most recently revised, for property that, for 1998, is in the same property class the property is in;

“Total commercial assessment (class)” means the total commercial assessment and industrial assessment in the municipality, according to the assessment roll for 1997 as most recently revised, for property that, for 1998, is in the same property class the property is in.

2001, c. 25, s. 367 (9).

Property classes

(10) For the purposes of subsection (9), the commercial classes, within the meaning of subsection 308 (1), shall be deemed to be a single property class and the industrial classes, within the meaning of subsection 308 (1), shall be deemed to be a single property class. 2001, c. 25, s. 367 (10).

Interpretation

(11) In subsection (9), “municipality” does not include a lower-tier municipality. 2001, c. 25, s. 367 (11).

Local municipality to provide factors

(12) A local municipality shall, on request, provide a person with the business rate factors, determined under subsection (9), for the local municipality. 2001, c. 25, s. 367 (12).

Where s. 332 applies

(13) If section 332 applies to a tenant of leased premises, the maximum amount that the tenant may be required to pay for a taxation year in respect of the leased premises is the tenant’s cap determined under subsection 332 (5) or (6), as the case may be, and not the amount determined under subsection (3). 2001, c. 25, s. 367 (13).

Notices under this section

(14) The following apply with respect to a notice under this section:

1. The notice must be given by personal service or by mail.
2. If the notice is given by mail, it shall be deemed to have been given on the day it is mailed. 2001, c. 25, s. 367 (14).

Sub-leases

(15) If the landlord is not the owner of the property but has acquired an interest in the property under a lease and has further sublet the property or a portion of the property, the notice referred to in subsection (5) may be given to the person holding the sublease on or before the day that is 15 days after the landlord is given a valid notice referred to in subsection (5). 2001, c. 25, s. 367 (15).

Definitions

(16) In this section,

“landlord’s lease” means the lease under which the landlord acquired the landlord’s interest in the leased premises; (“propre bail”)

“property class” means a class of real property prescribed under the *Assessment Act*; (“catégorie de biens”)

“property taxes” means taxes under sections 311 and 312 and taxes for school purposes under the *Education Act*. (“impôts fonciers”) 2001, c. 25, s. 367 (16).

Gross leases (business improvement area charges)

368. (1) This section applies with respect to a lease of all or part of a property if,

- (a) all the requirements in paragraphs 1 to 3 of subsection 367 (1) are satisfied; and
- (b) the tenant is not required under the lease to pay any part of the business improvement area charges on the property. 2001, c. 25, s. 368 (1).

Requirement to pay an amount

(2) The landlord may require the tenant to pay an amount, not exceeding the maximum amount under subsection (3), in respect of the business improvement area charges on the property for a year. 2001, c. 25, s. 368 (2).

Maximum amount

(3) The maximum amount the tenant may be required to pay shall be determined in accordance with the following:

$$\text{Maximum amount} = \frac{\text{Business improvement area charges}}{\text{Business improvement area charges}} \times \frac{\text{1997 Assessment (tenant)}}{\text{1997 Assessment (landlord)}}$$

where,

“Business improvement area charges” means,

- (a) except as provided in clause (b), the business improvement area charges on the property for the year,
- (b) in the case of a landlord who is not the owner of the property but who has acquired an interest in the property under a lease,
 - (i) the business improvement area charges for the year that the landlord is required to pay under the landlord’s lease, on the leased premises and any other part of the property in which the landlord acquired an interest under the landlord’s lease, or
 - (ii) the amount the landlord, as the tenant of another person, is required to pay under this section for the year in respect of the leased premises and any other part of the property in which the landlord acquired an interest under the landlord’s lease;

“1997 Assessment (tenant)” means the portion of the 1997 Assessment (landlord) apportioned to the leased premises in the assessment roll for 1997, as most recently revised;

“1997 Assessment (landlord)” means,

- (a) except as provided in clause (b), the total of the following assessments for the property,
 - (i) the assessment, as set out in the assessment roll for 1997, as most recently revised, used to determine business assessment,
 - (ii) the vacant commercial assessment or vacant industrial assessment, as the case may be, as set out in the assessment roll for 1997, as most recently revised, and
 - (iii) the assessment other than residential assessment, as set out in the assessment roll for 1997, as most recently revised, for a portion of the property occupied by persons not liable to business assessment under the *Assessment Act*;
- (b) in the case of a landlord who is not the owner of the property but who has acquired an interest in the property under a lease, the amount determined under clause (a) but only for assessment in respect of the leased premises and any other part of the property in which the landlord acquired an interest under the landlord’s lease.

2001, c. 25, s. 368 (3).

Reduction if lease for part of the year

(4) If the tenant leases the premises for only part of the year, the maximum amount that the tenant may be required to pay shall be reduced by multiplying the maximum amount by the fraction of the year the tenant leases the premises. 2001, c. 25, s. 368 (4).

Notice

(5) The tenant is not required to pay the landlord an amount unless the landlord gives the tenant a notice in accordance with subsection (7) that the landlord requires the tenant to pay an amount under this section. 2001, c. 25, s. 368 (5).

Amount is additional rent

(6) The amount that a tenant is required to pay shall be deemed to be additional rent due on the date set out in the notice referred to in subsection (5). 2001, c. 25, s. 368 (6).

Notice requiring payment

(7) The following apply to the notice referred to in subsection (5):

1. The notice must set out,
 - i. the amount the tenant is required to pay and the date it is due,
 - ii. the landlord's calculation of the maximum amount the tenant may be required to pay, and
 - iii. the amount of the business improvement area charges for the property for the year or an estimate of the amount of the charges for the property for the year if not yet determined.
2. The notice must be given at least 30 days before the day the amount or the first instalment of the amount the tenant is required to pay is due.
3. The landlord shall provide the tenant with a notice of the adjustments, if any, to be made after the business improvement area charges for the taxation year are determined.
4. The notice must be given by September 30 of the taxation year or 30 days after the day the final tax notice for the taxation year is received by the landlord, whichever is later. 2001, c. 25, s. 368 (7); 2002, c. 17, Sched. A, s. 70.

If notice requires more than the maximum

(8) If the amount that the tenant is required to pay, set out in the notice referred to in subsection (5), is more than the maximum amount the tenant may be required to pay under this section, the tenant is required to pay that maximum amount, not the amount set out in the notice. 2001, c. 25, s. 368 (8).

Notices under this section

(9) The following apply with respect to a notice under this section:

1. The notice must be given by personal service or by mail.
2. If the notice is given by mail, it shall be deemed to have been given on the day it is mailed. 2001, c. 25, s. 368 (9).

Subleases

(10) If the landlord is not the owner of the property but has acquired an interest in the property under a lease and has further sublet the property or a portion of the property, the notice referred to in subsection (5) may be given to the person holding the sublease on or before the day that is 15 days after the landlord is given a valid notice referred to in subsection (5). 2001, c. 25, s. 368 (10).

Definitions

(11) In this section,

“business improvement area charges” means the fees and charges included in the definition of “tax” in subsection 361 (12); (“redevances d'aménagement commercial”)

“landlord's lease” means the lease under which the landlord acquired the landlord's interest in the leased premises. (“propre bail”) 2001, c. 25, s. 368 (11); 2006, c. 32, Sched. A, s. 151.

Offence

369. A treasurer, clerk or other officer of a municipality who refuses or neglects to perform any duty under this Part is guilty of an offence. 2001, c. 25, s. 369.

Holidays

370. If the time for any proceeding or for the doing of anything in the offices of a municipality under this Part expires or falls upon a holiday, a Saturday or on any other day when the offices are closed but would ordinarily be open, the time shall be extended to and the thing may be done on the next day when the offices are open which is not a holiday or Saturday. 2001, c. 25, s. 370.

Urban service areas

370.1 (1) Despite the repeal of sections 14 and 15 of the *Municipal Act*, any order made under those sections continues to apply to the municipalities to which the order relates and the Ontario Municipal Board may continue to exercise its powers

under these sections with respect to urban service areas and other areas existing on December 31, 2002. 2002, c. 17, Sched. A, s. 71.

Special case, dissolution

(2) Despite subsection (1), a municipality may dissolve an area to which subsection (1) applies without the approval or order of the Ontario Municipal Board and without holding a public hearing. 2002, c. 17, Sched. A, s. 71.

**PART XI
SALE OF LAND FOR TAX ARREARS**

Interpretation

371. (1) In this Part,

“cancellation price” means an amount equal to all the tax arrears owing at any time in respect of land together with all current real property taxes owing, interest and penalties thereon and all reasonable costs incurred by the municipality after the treasurer becomes entitled to register a tax arrears certificate under section 373 in proceeding under this Part or in contemplation of proceeding under this Part and may include,

- (a) legal fees and disbursements,
- (b) the costs of preparing an extension agreement under section 378,
- (c) the costs of preparing any survey required to register a document under this Part, and
- (d) a reasonable allowance for costs that may be incurred subsequent to advertising under section 379; (“coût d’annulation”)

“environmental site assessment” means an investigation in relation to land to determine the environmental condition of the land, and includes a phase one environmental site assessment or phase two environmental site assessment, both within the meaning of Part XV.1 of the *Environmental Protection Act*; (“évaluation environnementale de site”)

“mobile home” means a dwelling that is designed to be made mobile and that is assessed under the *Assessment Act* as part of the land on which it is situate; (“maison mobile”)

“municipality” means a local municipality; (“municipalité”)

“notice of vesting” means a notice of vesting prepared under section 379 and includes the title conferred by the registration of the notice of vesting; (“avis de dévolution”)

“public sale” means a sale by public auction or public tender conducted in accordance with this Part and the prescribed rules; (“vente publique”)

“real property taxes” means the amount of taxes levied on real property under this Act and the *Education Act* and any amounts owed under the *Drainage Act*, the *Tile Drainage Act* and the *Shoreline Property Assistance Act* with respect to the real property and includes any amounts deemed to be taxes by or under any other Act and any amounts given priority lien status by or under any Act; (“impôts fonciers”)

“spouse” means spouse as defined in subsection 1 (1) of the *Family Law Act*; (“conjoint”)

“tax arrears” means any real property taxes placed on or added to a tax roll that remain unpaid on January 1 in the year following that in which they were placed on or added to the roll; (“arriérés d’impôts”)

“tax deed” means a tax deed prepared under section 379 and includes the title conferred by the registration of the tax deed. (“acte d’adjudication”) 2001, c. 25, s. 371 (1); 2002, c. 17, Sched. A, ss. 72 (1), 73; 2006, c. 33, Sched. Z.3, s. 17.

Application to tax sales under Education Act

(2) Where, under the *Education Act*, an officer or collector has the powers and duties of a treasurer and the board has the powers and duties of the council of a municipality, this Part and the regulations made under it apply to tax arrears and to every sale of land for tax arrears owed to the board. 2001, c. 25, s. 371 (2).

Interpretation

372. For the purposes of this Part,

“abstract index” and “parcel register” include an instrument received for registration on the day the tax arrears certificate was registered even if the instrument has not been abstracted or entered in the index or register on that day; (“répertoire par lot”, “registre des parcelles”)

“index of executions” means the electronic database that the sheriff maintains for writs of execution. (“répertoire des brefs d’exécution”) 2006, c. 32, Sched. A, s. 152.

Registration of tax arrears certificate

373. (1) Where any part of tax arrears is owing with respect to land in a municipality on January 1 in the third year following that in which the real property taxes become owing, the treasurer of the municipality, unless otherwise directed by the municipality, may prepare and register a tax arrears certificate against the title to that land. 2001, c. 25, s. 373 (1).

Form

(2) A tax arrears certificate shall indicate that the land described in the certificate will be sold by public sale if the cancellation price is not paid within one year following the date of the registration of the tax arrears certificate. 2001, c. 25, s. 373 (2).

Escheated land

(3) This section applies to land that is vested in the Crown because of an escheat or forfeiture under the *Business Corporations Act* or the *Corporations Act* before or after the registration of a tax arrears certificate and that land may be sold under this Act for tax arrears. 2001, c. 25, s. 373 (3).

Scope of certificate

(4) A tax arrears certificate shall not include more than one separately assessed parcel of land. 2001, c. 25, s. 373 (4).

Notice of registration

374. (1) Within 60 days after the registration of a tax arrears certificate, the treasurer shall send a notice of the registration of the certificate to the following persons:

1. The assessed owner of the land.
2. Where the land is registered under the *Land Titles Act*, every person appearing by the parcel register and by the index of executions for the area in which the land is situate to have an interest in the land on the day the tax arrears certificate was registered, other than a person who has an interest referred to in clause 379 (7.1) (a) or (b).
3. Where the *Registry Act* applies to the land, every person appearing by the abstract index and by the index of executions for the area in which the land is situate to have an interest in the land on the day the tax arrears certificate was registered, other than a person who has an interest referred to in clause 379 (7.1) (a) or (b). 2001, c. 25, s. 374 (1); 2006, c. 32, Sched. A, s. 153.

Spouse of owner

(2) If a notice is sent under this section to a person appearing by the records of the land registry office to be the owner of the land, a notice shall also be sent to the spouse of that person and, where this subsection is complied with, section 22 of the *Family Law Act* shall be deemed to have been complied with. 2001, c. 25, s. 374 (2); 2009, c. 33, Sched. 21, s. 6 (33).

Statutory declaration

(3) The treasurer shall, immediately after complying with subsections (1) and (2), make a statutory declaration in the prescribed form stating the names and addresses of the persons to whom notice was sent. 2001, c. 25, s. 374 (3).

Inspection

(4) The treasurer shall permit any person, upon request, to inspect a copy of the statutory declaration made under subsection (3) and shall provide copies of it at the same rate as is charged under section 253. 2001, c. 25, s. 374 (4).

Limitation

- (5) A person is not entitled to notice under this section if,
- (a) after a reasonable search of the records mentioned in subsection 381 (1), the treasurer is unable to find the person’s address and the treasurer is not otherwise aware of the address; or
 - (b) the person has expressly waived the right to notice, either before or after the notice should have been sent. 2001, c. 25, s. 374 (5).

Cancellation of tax arrears certificate

375. (1) Before the expiry of the one-year period mentioned in subsection 379 (1), any person may have the tax arrears certificate cancelled by paying to the municipality the cancellation price as of the date the payment is tendered and, after the

expiry of the one-year period, a public sale shall be conducted by the treasurer in accordance with section 379. 2001, c. 25, s. 375 (1).

Cancellation certificate

(2) If payment has been made under subsection (1), the treasurer shall immediately register a tax arrears cancellation certificate. 2001, c. 25, s. 375 (2).

Effect of cancellation certificate

(2.1) Unless otherwise shown in the tax arrears cancellation certificate, the certificate, when registered, is conclusive proof of the payment of the cancellation price as of the date set out in it. 2006, c. 32, Sched. A, s. 154.

Lien

(3) If the cancellation price is paid by a person entitled to receive notice under subsection 374 (1) or an assignee of that person, other than the owner of the land or the spouse of the owner, the person has a lien on the land concerned for the amount paid. 2001, c. 25, s. 375 (3).

Priority of lien

(4) A lien under subsection (3) has priority over the interest in the land of any person to whom notice was sent under section 374. 2001, c. 25, s. 375 (4).

Contents of certificate

(5) Where there is a lien under subsection (3), the tax arrears cancellation certificate shall state that the person named therein has a lien on the land. 2001, c. 25, s. 375 (5).

Accounting for cancellation price

376. (1) Except where the cancellation price has been determined in accordance with a by-law passed under section 385, a person who pays the cancellation price before the expiry of the one-year period mentioned in subsection 379 (1), by a written request made within 30 days after making the payment, may require the treasurer to provide an itemized breakdown of the calculation of the cancellation price that has been paid. 2001, c. 25, s. 376 (1).

Application to court

(2) If the treasurer fails to provide the itemized breakdown of the calculation within 30 days of the request or if the person who made the request is of the opinion that the cancellation price has not been calculated properly or that the costs included in the cancellation price by the municipality as costs incurred in proceeding under this Part are unreasonable, the person who made the request may apply to the Superior Court of Justice for an accounting of the cancellation price. 2001, c. 25, s. 376 (2).

Determination by court

(3) The court shall determine the matter and, if the court determines that the cancellation price was not calculated properly or the costs included in the cancellation price are unreasonable, it may make an order setting a cancellation price which is proper and reasonable but no such order shall relieve a taxpayer of any liability to pay any validly imposed real property taxes. 2001, c. 25, s. 376 (3).

377. REPEALED: 2006, c. 32, Sched. A, s. 155.

Extension agreements

378. (1) A municipality, by a by-law passed after the registration of the tax arrears certificate and before the expiry of the one-year period mentioned in subsection 379 (1), may authorize an extension agreement with the owner of the land, the spouse of the owner, a mortgagee or a tenant in occupation of the land extending the period of time in which the cancellation price is to be paid. 2001, c. 25, s. 378 (1).

Conditions

- (2) The agreement may be subject to such conditions relating to payment as are set out in it but shall not,
 - (a) reduce the amount of the cancellation price; or
 - (b) prohibit any person from paying the cancellation price at any time. 2001, c. 25, s. 378 (2).

Mandatory contents

- (3) Every extension agreement shall state,
 - (a) when and under what conditions it shall cease to be considered a subsisting agreement;

- (b) that any person may pay the cancellation price at any time; and
- (c) that it terminates upon payment of the cancellation price by any person. 2001, c. 25, s. 378 (3).

Calculation of time

(4) The period during which there is a subsisting extension agreement shall not be counted by the treasurer in calculating the periods mentioned in subsection 379 (1). 2001, c. 25, s. 378 (4).

Inspection of extension agreement

(5) The treasurer, on the request of any person, shall permit the person to inspect a copy of an extension agreement and shall provide copies of it at the same rate as is charged under section 253. 2001, c. 25, s. 378 (5).

Cancellation certificate

(6) When the terms of an extension agreement have been fulfilled, the treasurer shall immediately register a tax arrears cancellation certificate. 2001, c. 25, s. 378 (6).

Public sale

379. (1) If the cancellation price remains unpaid 280 days after the day the tax arrears certificate is registered, the treasurer, within 30 days after the expiry of the 280-day period, shall send to the persons entitled to receive notice under section 374 a final notice that the land will be advertised for public sale unless the cancellation price is paid before the end of the one-year period following the date of the registration of the tax arrears certificate. 2001, c. 25, s. 379 (1).

Advertisement

(2) If, at the end of the one-year period following the date of the registration of the tax arrears certificate, the cancellation price remains unpaid and there is no subsisting extension agreement, the land shall be offered for public sale by public auction or public tender, as the treasurer shall decide, and the treasurer shall immediately,

- (a) make a statutory declaration stating the names and addresses of the persons to whom notice was sent under subsection (1); and
- (b) advertise the land for sale once in *The Ontario Gazette* and once a week for four weeks in a newspaper that, in the opinion of the treasurer, has such circulation within the municipality as to provide reasonable notice of the sale or, if there is no such newspaper, post a notice in the municipal office and one other prominent place in the municipality. 2001, c. 25, s. 379 (2).

Public auction or public tender

(2.1) If the land is offered for public sale, the minimum bid or minimum tender amount, as the case may be, shall be the cancellation price. 2006, c. 32, Sched. A, s. 156 (1).

Exclusion of all mobile homes

(3) The municipality may by by-law determine that all mobile homes situate on the land offered for sale shall not be included in the sale. 2001, c. 25, s. 379 (3).

Advertisement

(4) If a by-law is passed under subsection (3), the advertisement of the sale shall state that the land to be sold does not include the mobile homes on the land. 2001, c. 25, s. 379 (4).

Conduct of sale

(5) The treasurer, in accordance with the prescribed rules, shall conduct a public sale and determine whether there is a successful purchaser and,

- (a) if there is a successful purchaser, shall prepare and register a tax deed in the name of the successful purchaser or in such name as the successful purchaser may direct; or
- (b) if there is no successful purchaser, may prepare and register, in the name of the municipality, a notice of vesting. 2001, c. 25, s. 379 (5).

Statement

(6) At the time of registering a tax deed or notice of vesting, the treasurer shall make and register a statement in accordance with the prescribed rules. 2009, c. 33, Sched. 21, s. 6 (34).

Effect of conveyance

(7) A tax deed, when registered, vests in the person named in it an estate in fee simple in the land, together with all rights, privileges and appurtenances and free from all estates and interests, except,

- (a) easements and restrictive covenants that run with the land;
- (b) any estates and interests of the Crown in right of Canada or in right of Ontario other than an estate or interest acquired by the Crown in right of Ontario because of an escheat or forfeiture under the *Business Corporations Act* or the *Corporations Act*;
- (c) any interest or title acquired by adverse possession by abutting landowners before the registration of the tax deed. 2001, c. 25, s. 379 (7); 2006, c. 32, Sched. A, s. 156 (3).

Effect of registration of notice of vesting

(7.1) Despite subsection 3.6.1 (2) of the *Fuel Tax Act*, subsection 18 (2) of the *Gasoline Tax Act*, subsection 22 (2) of the *Retail Sales Tax Act* and subsection 24.1 (2) of the *Tobacco Tax Act*, a notice of vesting, when registered, vests in the municipality an estate in fee simple in the land, together with all rights, privileges and appurtenances and free from all estates and interests, including all estates and interests of the Crown in right of Ontario, except,

- (a) easements and restrictive covenants that run with the land, including those for the benefit of the Crown in right of Ontario;
- (b) any estates and interests of the Crown in right of Canada; and
- (c) any interest or title acquired by adverse possession by abutting landowners, including the Crown in right of Ontario, before registration of the notice of vesting. 2006, c. 32, Sched. A, s. 156 (4).

Restriction

(8) If the municipality passes a by-law under subsection (3), a tax deed or notice of vesting does not vest in the person named in the tax deed or the municipality, as the case may be, any interest in the mobile homes situate on the land. 2001, c. 25, s. 379 (8).

Adverse possession

(9) A tax deed or notice of vesting, when registered, vests in the person named in it or in the municipality, as the case may be, any interest in or title to adjoining land acquired by adverse possession before the registration of the tax deed or notice of vesting if the person originally acquiring the interest or title by adverse possession did so as a consequence of possession of the land described in the tax deed or notice of vesting. 2001, c. 25, s. 379 (9).

No warranty

- (10) A tax deed does not,
 - (a) impose an obligation on the municipality to provide vacant possession; or
 - (b) invalidate or affect the collection of a rate that has been assessed, imposed or charged on the land under any Act by the municipality before the registration of the tax deed and that accrues or becomes due after the registration of the tax deed. 2001, c. 25, s. 379 (10).

Municipal bid or tender

(11) The municipality to which the tax arrears are owed may by resolution authorize the municipality to bid at or submit a tender in a public sale conducted under this section if the municipality requires the land for a municipal purpose. 2001, c. 25, s. 379 (11).

Inspection of statutory declaration

(12) The treasurer, on the request of any person, shall permit the person to inspect a copy of the statutory declaration made under clause (2) (a) and shall provide copies of it at the same rate as is charged under section 253. 2001, c. 25, s. 379 (12).

Power of treasurer

(13) Despite anything in the prescribed rules, except the rules relating to the determination of the successful purchaser, the treasurer, in conducting a sale under this Part, may do all things that, in his or her opinion, are necessary to ensure a fair and orderly sale. 2001, c. 25, s. 379 (13).

Value of land

(14) The treasurer is not bound to inquire into or form any opinion of the value of the land before conducting a sale under this Part and the treasurer is not under any duty to obtain the highest or best price for the land. 2001, c. 25, s. 379 (14).

No registration

(15) If a notice of vesting is not registered within two years after a public sale is conducted at which there is no successful purchaser, the tax arrears certificate with respect to the land shall be deemed to be cancelled. 2001, c. 25, s. 379 (15); 2006, c. 32, Sched. A, s. 156 (5).

Effect

(16) Subsection (15) does not,

- (a) prevent the treasurer from registering a new tax arrears certificate with respect to the land and proceeding under this Part; or
- (b) relieve the taxpayer of any liability to pay any real property taxes imposed before the sale. 2001, c. 25, s. 379 (16).

Application of proceeds

380. (1) The proceeds of a sale under section 379 shall,

- (a) firstly, be applied to pay the cancellation price;
- (b) secondly, be paid to all persons, other than the owner, having an interest in the land according to their priority at law; and
- (c) thirdly, be paid to the person who immediately before the registration of the tax deed was the owner of the land. 2001, c. 25, s. 380 (1).

Payment into court

(2) The treasurer shall pay the proceeds of sale, minus the cancellation price, into the Superior Court of Justice together with a statement in the prescribed form outlining the facts under which the payment into court is made. 2009, c. 33, Sched. 21, s. 6 (35).

Notice

(3) Within 60 days after making a payment into court under subsection (2), the treasurer shall send a copy of the statement to the Public Guardian and Trustee and to the persons to whom the treasurer sent notice under subsection 379 (1). 2001, c. 25, s. 380 (3).

Payment out of court

(4) Any person claiming entitlement under clause (1) (b) or (c) may apply to the Superior Court of Justice within one year of the payment into court under subsection (2) for payment out of court of the amount to which the person is entitled. 2001, c. 25, s. 380 (4).

Same

(5) The court shall, after one year has passed from the day the payment was made into court, determine all of the entitlements to receive payments out of the proceeds of sale. 2001, c. 25, s. 380 (5).

Forfeiture

(6) If no person makes an application under subsection (4) within the one-year period referred to in that subsection, the amount paid into court under subsection (2) shall be deemed to be forfeited,

- (a) to the Public Guardian and Trustee if, at the time of the registration of the tax arrears certificate, the land was vested in the Crown because of an escheat or forfeiture under the *Business Corporations Act* or the *Corporations Act*; or
- (b) in any other case, to the municipality. 2001, c. 25, s. 380 (6).

Same

(6.1) If, after the entitlements of all applicants under subsection (4) to receive payment out of court have been determined, there remains any amount paid into court from the proceeds of sale, the remaining amount is deemed to be forfeited,

- (a) to the Public Guardian and Trustee in the circumstances described in clause (6) (a);
- (b) to the municipality in any other case. 2009, c. 33, Sched. 21, s. 6 (36).

Payment out

(7) The Public Guardian and Trustee or the municipality, as the case may be, may apply to the Superior Court of Justice for payment out of court of the amount that was paid in. 2001, c. 25, s. 380 (7).

Statement to be relied on

(8) In the absence of evidence to the contrary, the Superior Court of Justice may rely on the statement of the treasurer under subsection (2) in determining whether the amount paid into court under that subsection is forfeited to the Public Guardian and Trustee or the municipality under subsection (6). 2001, c. 25, s. 380 (8).

Payment into general funds

(9) Money received by a municipality under subsection (6) shall be paid into the general funds of the municipality. 2001, c. 25, s. 380 (9).

Automatic forfeiture

380.0.1 Despite section 380, if the proceeds of a sale under section 379, minus the cancellation price, are \$250 or less, the proceeds are deemed to be forfeited to the municipality. 2009, c. 33, Sched. 21, s. 6 (37).

No successful purchaser

380.1 (1) If the treasurer conducts a public sale and there is no successful purchaser, the treasurer may, within two years after the date of the public sale, offer the land for public sale by public auction or public tender, as the treasurer decides, a second time in accordance with the prescribed rules. 2006, c. 32, Sched. A, s. 157.

Notice

(2) At least 30 days before the land is readvertised for public sale, the treasurer shall send to the persons entitled to receive notice under subsection 379 (1) a notice that the land will be readvertised for public sale. 2006, c. 32, Sched. A, s. 157.

Application of provisions

(3) Subsection 379 (2) and sections 380 to 387 apply with necessary modifications to the sale as if it were the first public sale. 2006, c. 32, Sched. A, s. 157.

Non-application

(4) This section does not apply to land if a notice of vesting was registered in respect of the land following the first public sale. 2006, c. 32, Sched. A, s. 157.

Methods of giving notice

381. (1) Any notice required to be sent to any person under this Part may be given by personal delivery or be sent by certified or registered mail,

- (a) in the case of the assessed owner, to the address of the person as shown on the last returned assessment roll of the municipality;
- (b) in the case of any person whose interest is registered against the title of the land, to the address for service of the person furnished under the *Land Registration Reform Act*, or if none, to the address of the solicitor whose name appears on the registered instrument;
- (c) in the case of a person appearing to have an interest in the land by the index of executions for the area in which the land is situate, to the address of the person or person's solicitor as shown in the index of executions or in the records of the sheriff for the area in which the land is situate;
- (d) in the case of a spouse of the person appearing by the records of the land registry office to be the owner of the land, addressed to the spouse of (name of person) at the usual or last known address of such spouse or, if unknown, at the address of the land; and
- (e) in the case of the Public Guardian and Trustee, addressed to the Public Guardian and Trustee. 2001, c. 25, s. 381 (1); 2006, c. 32, Sched. A, s. 158.

Statutory declaration, effect

(2) A statutory declaration made under subsection 374 (3) or made under clause 379 (2) (a) is proof in the absence of evidence to the contrary that the notices required to be sent were sent to the persons named in the statutory declaration and received by them. 2001, c. 25, s. 381 (2).

Statement, effect

(3) A statement registered under subsection 379 (6) is conclusive proof of the matters referred to in clauses 379 (6) (a) to (d). 2001, c. 25, s. 381 (3).

Receipt of notice

(4) Nothing in this Part requires the treasurer to ensure that a notice that is properly sent under this Part is received by the person to whom it was sent. 2001, c. 25, s. 381 (4).

Voidable proceedings

382. (1) No proceedings for the sale of land under this Part are void by reason of any neglect, omission or error but, subject to this section and to section 383, any such neglect, omission or error may render the proceedings voidable. 2001, c. 25, s. 382 (1).

Same

- (2) Subject to subsection (4) and to section 383, the proceedings under this Part are voidable if there is,
- (a) a failure on the part of the treasurer to substantially comply with section 374 or subsection 379 (1); or
 - (b) an error or omission in the registration or sale of the land, other than an error or omission mentioned in subsection (5). 2001, c. 25, s. 382 (2).

Duty of treasurer

(3) If, before the registration of a tax deed or notice of vesting, the treasurer becomes aware of a failure, error or omission referred to in subsection (2), the treasurer shall immediately register a tax arrears cancellation certificate but this subsection does not apply so as to prevent the treasurer from registering a new tax arrears certificate and proceeding under this Part. 2001, c. 25, s. 382 (3).

Actual prejudice

(4) Proceedings for the sale of land under this Part are not voidable unless the person complaining of any neglect, error or omission establishes that he or she suffered actual prejudice as a result of the neglect, error or omission. 2001, c. 25, s. 382 (4).

Proceeding not voidable

- (5) No proceedings under this Part are rendered voidable by reason of,
- (a) a failure on the part of the treasurer to distrain for any reason or take any other action for the collection of taxes;
 - (b) an error in the cancellation price other than a substantial error;
 - (c) any error in the notices sent or delivered under this Part if the error has not substantially misled the person complaining of the error;
 - (d) any error in the publishing or posting of advertisements if the error has not substantially misled the person complaining of the error; or
 - (e) any error in the description of the land in the tax arrears certificate if the error has not substantially misled the person complaining of the error. 2001, c. 25, s. 382 (5).

Treasurer may halt proceedings

- (6) The treasurer may register a cancellation certificate if, in his or her opinion,
- (a) it is not in the financial interests of the municipality to continue with proceedings under this Part; or
 - (b) because of some neglect, error or omission, it is not practical or desirable to continue proceedings under this Part. 2001, c. 25, s. 382 (6).

Effect

(7) Subsection (6) does not apply so as to prevent the treasurer from registering a new tax arrears certificate and proceeding under this Part. 2001, c. 25, s. 382 (7).

Effect of registration

383. (1) Subject to proof of fraud, every tax deed and notice of vesting, when registered, is final, binding and conclusive and not subject to challenge for any reason including,

- (a) the invalidity of any assessment upon which the tax arrears were based; and
- (b) the breach of any requirements, including notice requirements, imposed by this or any other Act or otherwise by law. 2001, c. 25, s. 383 (1).

No action

(2) No action may be brought for the recovery of the land after the registration of the tax deed or notice of vesting if the statement required by subsection 379 (6) has been registered. 2001, c. 25, s. 383 (2).

Exception

(3) Subsection (1) does not apply so as to prevent a person from bringing an action for damages against the municipality. 2001, c. 25, s. 383 (3).

Mining rights

384. (1) Despite sections 373, 379 and 383, if mining rights in land are liable for taxes under the *Mining Act* and the land is sold for taxes or is vested in a municipality under this Act on or after April 1, 1954, the sale or vesting severs the surface rights from the mining rights and only the surface rights pass to the tax sale purchaser or vest in the municipality and the sale or registration does not affect the mining rights. 2001, c. 25, s. 384 (1).

Same, earlier vesting

(2) Despite this or any other Act but subject to any forfeiture to the Crown legally effected under the *Mining Tax Act*, if mining rights in land were liable for area tax under the *Mining Tax Act* and the land was sold for taxes under this Act or was vested in a municipality upon registration of a tax arrears certificate under the *Municipal Affairs Act* before April 1, 1954 and, before the sale or registration the surface rights were not severed from the mining rights and the sale or certificate purported to vest all rights in the land in the tax sale purchaser or in the municipality, that sale or certificate shall be deemed to have vested in the tax sale purchaser or in the municipality, without severance, both the surface and mining rights. 2001, c. 25, s. 384 (2).

Scale of costs

385. A municipality, instead of charging the municipality's actual costs in determining any cancellation price, may fix a scale of costs to be charged as the reasonable costs of proceedings under this Part, which scale shall be designed to meet only the anticipated costs of the municipality. 2001, c. 25, s. 385.

Collection of tax arrears by upper-tier municipality

385.1 (1) An upper-tier municipality may by by-law enter into an agreement with any local municipality within the upper-tier municipality authorizing the treasurer of the upper-tier municipality to perform the duties of a treasurer under this Part in respect of land within the local municipality and providing for,

- (a) the payment to the upper-tier municipality of that portion of the cancellation price that reflects the reasonable costs incurred by the upper-tier municipality;
- (b) the method of cancelling any such agreement; and
- (c) such other matters as are necessary to carry out the agreement. 2002, c. 17, Sched. A, s. 74.

Upper-tier treasurer, etc.

(2) Where an agreement is in force under this section, the treasurer of the upper-tier municipality has all of the powers of the treasurer of the local municipality in relation to the collection of tax arrears, including the power to sell land under this Part, and the treasurer of the upper-tier municipality shall perform all of the duties of the treasurer of the local municipality in relation thereto and only the upper-tier municipality may pass by-laws under sections 378 and 385. 2002, c. 17, Sched. A, s. 74.

Treasurer of local municipality

(3) Where an agreement under this section is in force, the treasurer of the local municipality shall provide the treasurer of the upper-tier municipality with such information and assistance as is needed by the treasurer of the upper-tier municipality to exercise the powers and duties of a treasurer under this Part. 2002, c. 17, Sched. A, s. 74.

Cancellation of agreement

(4) Subject to the terms of the agreement, the upper-tier municipality may by by-law cancel at any time an agreement entered into under this section. 2002, c. 17, Sched. A, s. 74.

Notice of cancellation

(5) Where a by-law is passed under subsection (4), the clerk of the municipality passing the by-law shall forthwith send a certified copy of the by-law by registered mail to the treasurer of the other municipality. 2002, c. 17, Sched. A, s. 74.

Effect of repeals

(6) Where an agreement under this section is cancelled, the treasurer of the local municipality shall assume the duties of a treasurer under this Part in respect of all land within the municipality except the land referred to in subsection (7). 2002, c. 17, Sched. A, s. 74.

Same

(7) Where an agreement under this section is cancelled, any proceedings under this Part started by the treasurer of the upper-tier municipality in respect of land within the local municipality affected by the repeal or cancellation shall be continued and concluded by the treasurer of the upper-tier municipality. 2002, c. 17, Sched. A, s. 74.

Immunity from civil actions

386. (1) No action or other proceeding for damages shall be brought against the treasurer or any officer or employee of the municipality acting under the treasurer's authority as a result of any act done in good faith in the performance or intended performance of any duty or in the exercise or intended exercise of any power under this Part or the regulations made under this Part or any neglect or default in the performance or exercise in good faith of such duty or power but any such action or proceeding may be brought against the municipality. 2001, c. 25, s. 386.

Delegation

(2) The treasurer may, in writing, delegate any power or duty granted to or vested in the treasurer under this Part to any officer or employee of the municipality. 2002, c. 17, Sched. A, s. 75.

Power of entry

386.1 (1) For the purpose of assisting a municipality to determine whether it is desirable to acquire land that has been offered for public sale under subsection 379 (2) but for which there is no successful purchaser, the municipality may, during the 24 months following the public sale referred to in subsection 379 (5), enter on and inspect the land. 2002, c. 17, Sched. A, s. 76 (1); 2006, c. 32, Sched. A, s. 159 (1).

Inspections

(2) In carrying out an inspection, a municipality may do anything reasonably necessary to carry out an environmental site assessment of the land, including,

- (a) conduct surveys, examinations, investigations and tests of the land, including the excavation of test pits, and for those purposes, place equipment on the land for such period as the municipality considers necessary;
- (b) take and remove samples or extracts;
- (c) make inquiries of any person; and
- (d) record or copy information by any method. 2002, c. 17, Sched. A, s. 76 (1).

Entry to dwellings

(3) A person who is carrying out an inspection on behalf of a municipality under this Part shall not enter or remain in any room or place actually being used as a dwelling unless,

- (a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, entry made only under the authority of a warrant issued under section 386.3; or
- (b) a warrant issued under section 386.3 is obtained. 2002, c. 17, Sched. A, s. 76 (1).

(4), (5) REPEALED: 2006, c. 32, Sched. A, s. 159 (2).

Inspection without warrant

386.2 (1) The following apply to an inspection under this Part carried out without a warrant:

- 1. At least seven days before entering to carry out an inspection, the municipality shall, by personal service or by prepaid mail, serve a written notice of the inspection on the owners and occupants of the land as shown by the records of the land registry office and by the last returned assessment roll of the municipality in which the land is located.
- 2. The notice shall specify the date on which the municipality intends to enter on the land to commence the inspection.
- 3. If the municipality intends to enter on the land more than once during a period of time, the notice shall specify that period.
- 4. If the municipality intends to leave equipment on the land for a period of time, the notice shall set out a description of the equipment and the period of time during which the municipality intends to leave it on the land.

5. A notice served under this section by prepaid mail shall be deemed to have been received on the fifth day after the date of mailing of the notice.
6. A municipality shall not use force against any individual in carrying out the inspection.
7. A municipality shall only enter on land to carry out an inspection between the hours of 6 a.m. and 9 p.m. unless, after or concurrent with serving the notice under paragraph 1, the municipality has given at least 24 hours written notice of the intent to inspect the land at other hours to the occupants by personal service, prepaid mail or by posting the notice on the land in a conspicuous place. 2002, c. 17, Sched. A, s. 76 (1).

Waiver of requirements

(2) The owners and occupants may waive any requirements relating to the notice described in paragraph 1 of subsection (1). 2002, c. 17, Sched. A, s. 76 (1).

Same

(3) The occupants may waive any requirements relating to entries described in paragraph 7 of subsection (1). 2002, c. 17, Sched. A, s. 76 (1).

Inspection warrant

Definition

386.3 (0.1) In this section,

“representative” means, in respect of a proceeding under this section, a person authorized under the *Law Society Act* to represent an owner or occupant in that proceeding. 2006, c. 21, Sched. C, s. 118 (1).

Inspection warrant

(1) The municipality may apply to a provincial judge or a justice of the peace for a warrant authorizing a person named in the warrant to inspect land. 2002, c. 17, Sched. A, s. 76 (1).

Notice of application for warrant

(2) The municipality shall give the owners and occupiers of the land seven days written notice of,

- (a) the time when and the place where the application for the issuance or extension of a warrant is to be considered;
- (b) the purpose of the application and the effect of the application being granted;
- (c) the length of time the municipality is asking for a warrant to be issued or extended;
- (d) the right of an owner or occupant or a representative of an owner or occupant to appear and make representations; and
- (e) the fact that if the owner, occupant or representative fails to appear, the judge or justice of the peace may issue or extend the warrant in their absence. 2002, c. 17, Sched. A, s. 76 (1); 2006, c. 21, Sched. C, s. 118 (2).

Right to be heard

(3) A person who is served with a notice under subsection (2) or that person’s representative has the right to appear and make representations when the application is being considered. 2002, c. 17, Sched. A, s. 76 (1); 2006, c. 21, Sched. C, s. 118 (3).

Issue of warrant

(4) The judge or justice of the peace may issue a warrant authorizing a person to inspect land if the judge or justice of the peace is satisfied by evidence under oath that,

- (a) inspection of the land is reasonably necessary for the purposes set out in subsection 386.1 (1);
- (b) a notice has been served upon the owners and occupants of the land in accordance with paragraphs 1, 2, 3, 4 and 5 of subsection 386.2 (1); and
- (c) the municipality has been prevented or is likely to be prevented from entering on the land or exercising any of its other powers or the entrance to the land is locked or the land is otherwise inaccessible. 2002, c. 17, Sched. A, s. 76 (1).

Execution

(5) A warrant shall specify the hours and days during which it may be executed and name a date on which it expires and may specify a period of time during which equipment may be left on the land. 2002, c. 17, Sched. A, s. 76 (1).

Inspection with warrant

386.4 The following apply to an inspection carried out by a person with a warrant:

1. The warrant shall be executed between the hours of 6 a.m. and 9 p.m. unless it provides otherwise.
2. The person may use such force as is reasonably necessary to execute the warrant and call on police officers to assist in the execution of the warrant. 2002, c. 17, Sched. A, s. 76 (1).

Obstruction

386.5 (1) Where a person is carrying out an inspection under section 386.1 without a warrant, a refusal by the owner or occupant of land to allow the person to enter or remain on the land is not obstruction within the meaning of subsection 426 (1). 2002, c. 17, Sched. A, s. 76 (1).

Refusal to answer

(2) A refusal to answer the inquiries of a person carrying out an inspection under section 386.1 is not obstruction within the meaning of subsection 426 (1). 2002, c. 17, Sched. A, s. 76 (1).

Regulations

387. (1) The Minister may make regulations prescribing rules for the sale of land under this Part by public sale and the rules,

- (a) shall set out the method of determining a successful purchaser; and
- (b) may require the submission of deposits, in such amount and in such form as may be set out in the rules, and for the forfeiture and disposition thereof. 2001, c. 25, s. 387 (1).

Forms

- (2) The Minister may make regulations,
 - (a) requiring that any certificate, notice, statutory declaration, advertisement, tender, tax deed or statement referred to in this Part contain the provisions prescribed, be in a prescribed form or be in a form approved by the Minister, including an electronic form;
 - (b) providing for the use of the forms described in clause (a), which may vary for different land registration systems and areas. 2001, c. 25, s. 387 (2).

Transition, prior registrations

388. (1) This section applies to land in respect of which a tax arrears certificate was registered under the *Municipal Affairs Act*, being chapter 303 of the Revised Statutes of Ontario, 1980, before January 1, 1985 or a certificate was given under section 433 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, before January 1, 1985. 2001, c. 25, s. 388 (1).

Notice of forfeiture registered

(2) If, before January 1, 2004, a notice of forfeiture was registered with respect to any land under section 23 of the *Municipal Tax Sales Act, 1984*, the land is vested in the municipality upon registration of the notice in accordance with that section as it read on December 31, 2002. 2001, c. 25, s. 388 (2); 2006, c. 32, Sched. A, s. 160 (1).

Certificate registered

(3) If, before January 1, 1985, a tax arrears certificate was registered under the *Municipal Affairs Act* in respect of any land and a tax arrears cancellation certificate was registered with respect to the land between January 1, 2003 and January 1, 2004, the tax arrears certificate is cancelled. 2006, c. 32, Sched. A, s. 160 (2).

Effect of registration

- (4) Registration of a tax arrears cancellation certificate under subsection (3) does not,
 - (a) prevent the treasurer from registering a new tax arrears certificate and proceeding under this Part; or
 - (b) relieve the taxpayer of any liability to pay real property taxes imposed under this Act or a predecessor of this Act before registration of the certificate. 2001, c. 25, s. 388 (4); 2006, c. 32, Sched. A, s. 160 (3).

No registration

(5) If, before January 1, 2004, no notice of forfeiture or tax arrears cancellation certificate was registered in accordance with subsection (2) or (3), the land is deemed to vest in the municipality in fee simple, together with all rights, privileges and appurtenances, free from all estates and interest except,

- (a) easements and restrictive covenants that run with the land;
- (b) any estates and interests of the Crown in right of Canada or in right of Ontario; and
- (c) any interest or title acquired by adverse possession by abutting landowners before the day of the deemed vesting. 2001, c. 25, s. 388 (5); 2006, c. 32, Sched. A, s. 160 (4).

Restriction

389. Despite the order of any court, after January 1, 2003, no person may apply to the Ministry to make a direction to a treasurer under section 46 of the *Municipal Affairs Act*, being chapter 303 of the Revised Statutes of Ontario, 1980. 2001, c. 25, s. 389; 2006, c. 32, Sched. A, s. 161.

**PART XII
FEES AND CHARGES**

Definitions

390. In this Part,

“by-law” includes a resolution for the purpose of a local board; (“règlement municipal”)

“fee or charge” means, in relation to a municipality, a fee or charge imposed by the municipality under sections 9, 10 and 11 and, in relation to a local board, a fee or charge imposed by the local board under subsection 391 (1.1); (“droits ou redevances”)

“local board” includes any prescribed body performing a public function and a school board but, for the purpose of passing by-laws imposing fees or charges under this Part, does not include a school board or hospital board; (“conseil local”)

“person” includes a municipality and a local board and the Crown. (“personne”) 2001, c. 25, s. 390; 2006, c. 32, Sched. A, s. 162.

By-laws re: fees and charges

391. (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to impose fees or charges on persons,

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board; and
- (c) for the use of its property including property under its control. 2006, c. 32, Sched. A, s. 163 (1).

Local board

(1.1) A local board may impose fees or charges on persons,

- (a) for services or activities provided or done by or on behalf of it;
- (b) for costs payable by it for services or activities provided or done by or on behalf of any municipality or other local board; and
- (c) for the use of its property including property under its control. 2006, c. 32, Sched. A, s. 163 (1).

Deferred benefit

(2) A fee or charge imposed for capital costs related to services or activities may be imposed on persons not receiving an immediate benefit from the services or activities but who will receive a benefit at some later point in time. 2006, c. 32, Sched. A, s. 163 (2).

Costs related to administration, etc.

(3) The costs included in a fee or charge may include costs incurred by the municipality or local board related to administration, enforcement and the establishment, acquisition and replacement of capital assets. 2006, c. 32, Sched. A, s. 163 (3).

Fees for mandatory services, etc.

(4) A fee or charge may be imposed whether or not it is mandatory for the municipality or local board imposing the fee or charge to provide or do the service or activity, pay the costs or allow the use of its property. 2006, c. 32, Sched. A, s. 163 (3).

Conflict

(5) In the event of a conflict between a fee or charge by-law and this Act, other than this Part, or any other Act or regulation made under any other Act, the by-law prevails. 2006, c. 32, Sched. A, s. 163 (3).

392. REPEALED: 2006, c. 32, Sched. A, s. 164.

Restriction, poll tax

393. No fee or charge by-law shall impose a poll tax or similar fee or charge, including a fee or charge which is imposed on an individual by reason only of his or her presence or residence in the municipality or part of it. 2001, c. 25, s. 393; 2006, c. 32, Sched. A, s. 165.

Restriction, fees and charges

394. (1) No fee or charge by-law shall impose a fee or charge that is based on, is in respect of or is computed by reference to,

- (a) the income of a person, however it is earned or received, except that a municipality or local board may exempt, in whole or in part, any class of persons from all or part of a fee or charge on the basis of inability to pay;
- (b) the use, purchase or consumption by a person of property other than property belonging to or under the control of the municipality or local board that passes the by-law;
- (c) the use, consumption or purchase by a person of a service other than a service provided or performed by or on behalf of or paid for by the municipality or local board that passes the by-law;
- (d) the benefit received by a person from a service other than a service provided or performed by or on behalf of or paid for by the municipality or local board that passes the by-law; or
- (e) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources. 2001, c. 25, s. 394 (1); 2006, c. 32, Sched. A, s. 166.

Basis of fee not limited

(2) Nothing in clause (1) (b) prevents the imposition of a fee or charge that is based on, is in respect of or is computed by reference to the location of the property, the physical characteristics of property, including buildings and structures on the property, or the zoning of property or other land use classification. 2001, c. 25, s. 394 (2).

Restriction, charges for gas

395. Nothing in this Act authorizes a municipality or local board to impose a fee or charge for supplying natural and artificial gas which exceeds the amount for the supply permitted by the Ontario Energy Board. 2001, c. 25, s. 395; 2006, c. 32, Sched. A, s. 167.

396. REPEALED: 2006, c. 32, Sched. A, s. 168.

Approval of local board by-law

397. (1) A municipality may pass a by-law providing that a by-law of a local board of the municipality, which is not a local board of any other municipality, imposing fees or charges shall not come into force until the municipality passes a resolution approving the by-law of the local board. 2006, c. 32, Sched. A, s. 169.

Exception

(2) A by-law of a municipality under subsection (1) does not apply to fees or charges subject to approval under any federal Act or under a regulation under section 400. 2006, c. 32, Sched. A, s. 169.

Debt

398. (1) Fees and charges imposed by a municipality or local board on a person constitute a debt of the person to the municipality or local board, respectively. 2001, c. 25, s. 398 (1); 2006, c. 32, Sched. A, s. 170 (1).

Amount owing added to tax roll

(2) The treasurer of a local municipality may, and upon the request of its upper-tier municipality, if any, or of a local board whose area of jurisdiction includes any part of the municipality shall, add fees and charges imposed by the municipality, upper-tier municipality or local board, respectively, to the tax roll for the following property in the local municipality and collect them in the same manner as municipal taxes:

- 1. In the case of fees and charges for the supply of a public utility, the property to which the public utility was supplied.
- 2. In all other cases, any property for which all of the owners are responsible for paying the fees and charges. 2001, c. 25, s. 398 (2); 2006, c. 32, Sched. A, s. 170 (2).

No application to O.M.B.

399. If a municipality or local board has imposed fees or charges under any Act, no application shall be made to the Ontario Municipal Board under clause 71 (c) of the *Ontario Municipal Board Act* on the grounds the fees or charges are unfair or unjust. 2001, c. 25, s. 399.

Regulations

400. The Minister may make regulations providing for any matters which, in the opinion of the Minister, are necessary or desirable for the purposes of this Part, including,

- (a) providing that a municipality or local board does not have the power to impose fees or charges for services or activities, for costs payable for services or activities, for use of municipal property or on the persons prescribed in the regulation;
- (b) imposing conditions and limitations on the powers of a municipality or local board to impose fees or charges;
- (c) providing that a body is a local board for the purpose of this Part;
- (d) providing that fees or charges in a prescribed class of fees or charges which are added to the tax roll under subsection 398 (2) have priority lien status and designating all or any of those fees or charges to be fees or charges relating to a local improvement;
- (e) providing that fees or charges that have priority lien status under clause (d) are payable with respect to property that is exempt from taxation under section 3 of the *Assessment Act*;
- (f) requiring a municipality or local board to give the prescribed notice of its intention to pass a by-law imposing the fees and charges which have priority lien status under clause (d) to the prescribed persons in the manner and form and at the times prescribed;
- (g) providing for a process of appealing a by-law to the extent that it imposes the fees or charges that have priority lien status under clause (d) and providing that the appeal may apply to all or any aspect of the by-law specified in the regulations;
- (h) providing for the powers the person or body hearing the appeal under clause (g) may exercise;
- (i) providing for rules or authorizing the person or body hearing the appeal under clause (g) to determine when by-laws subject to appeal come into force, including a retroactive date not earlier than the day on which the by-law was passed;
- (j) without limiting any of clauses (a) to (i), providing for any matter provided for in the *Local Improvement Act*, as it read immediately before its repeal on January 1, 2003, including delegations of authority. 2001, c. 25, s. 400; 2002, c. 17, Sched. A, s. 78; 2006, c. 32, Sched. A, s. 171.

**PART XIII
DEBT AND INVESTMENT**

Debt

401. (1) Subject to this or any other Act, a municipality may incur a debt for municipal purposes, whether by borrowing money or in any other way, and may issue debentures and prescribed financial instruments and enter prescribed financial agreements for or in relation to the debt. 2001, c. 25, s. 401 (1).

Municipal purposes

- (2) The municipal purposes referred to in subsection (1) include,
 - (a) in the case of an upper-tier municipality, the purposes or joint purposes of one or more of its lower-tier municipalities;
 - (b) the purposes of a school board if the school board exercises jurisdiction in all or part of the municipality and requires permanent improvements as defined in subsection 1 (1) of the *Education Act*;
 - (c) the purposes of one or more other municipalities if any Act authorizes or requires the municipalities to provide money for any purpose jointly. 2001, c. 25, s. 401 (2).

Limitation

(3) A lower-tier municipality in a regional municipality does not have the power to issue debentures. 2001, c. 25, s. 401 (3).

Joint and several obligations

(3.1) All debentures issued under a by-law passed by a regional municipality for its own purposes are direct, joint and several obligations of the regional municipality and its lower-tier municipalities. 2006, c. 32, Sched. A, s. 172.

Regulations

(4) The Lieutenant Governor in Council may make regulations prescribing debt and financial obligation limits for municipalities, including,

- (a) defining the types of debt, financial obligation or liability to which the limit applies and prescribing the matters to be taken into account in calculating the limit;
- (b) prescribing the amount to which the debts, financial obligations and liabilities under clause (a) shall be limited;
- (c) requiring a municipality to apply for the approval of the Ontario Municipal Board for each specific work or class of work, the amount of debt, financial obligation or liability for which, when added to the total amount of any outstanding debt, financial obligation or liability under clause (a), causes the limit under clause (b) to be exceeded;
- (d) prescribing rules, procedures and fees for the determination of the debt, financial obligation and liability limit of a municipality;
- (e) establishing conditions that must be met by any municipality before undertaking a debt, financial obligation or liability;
- (f) prescribing and defining financial instruments and agreements, other than debentures, that municipalities may issue or enter for or in relation to debt;
- (g) deeming prescribed financial instruments and agreements to be debentures for the purposes of specified provisions of this Part;
- (h) prescribing rules and procedures applying to prescribed financial instruments and agreements. 2001, c. 25, s. 401 (4).

Definition

(5) In this Part,

“work” includes any undertaking, project, scheme, act, matter or thing. 2001, c. 25, s. 401 (5).

Notice

402. (1) Upon receipt of an application of a municipality to incur a debt, the Ontario Municipal Board may direct the municipality to give notice of the application to such persons and in such manner as the Board determines. 2001, c. 25, s. 402 (1).

Objections

(2) The notice shall state that objections to the application may be made to the clerk of the municipality within the time period specified by the Board. 2001, c. 25, s. 402 (2).

Copy of objections to O.M.B.

(3) The municipality shall forward a copy of the objections to the secretary of the Board. 2001, c. 25, s. 402 (3).

Payments by lower-tier municipalities not located in counties

403. (1) A by-law of an upper-tier municipality authorizing the issuing of debentures for the purposes or joint purposes of one or more of its lower-tier municipalities may require those lower-tier municipalities to make payments in each year to the upper-tier municipality in the amounts and on the dates specified in the by-law. 2001, c. 25, s. 403 (1).

Counties excluded

(2) This section does not apply to counties. 2001, c. 25, s. 403 (2).

Conditions

(3) The amounts required to be paid to the upper-tier municipality under subsection (1) shall, when combined with any amount payable by the upper-tier municipality in the year for repayment of the debt for which the debentures were issued, be sufficient to meet the total amount of principal and interest payable in the year by the upper-tier municipality to the lender under the by-law. 2001, c. 25, s. 403 (3).

Exception

(4) The total amount of principal and interest payable in a year under subsection (3) does not include any outstanding amount of principal that is specified as payable on the maturity date of an upper-tier debenture, if one or more refinancing

debentures are issued by the upper-tier municipality on or before the maturity date in respect of the outstanding principal. 2001, c. 25, s. 403 (4).

Debt of lower-tier municipality

(5) All amounts required to be paid to an upper-tier municipality by a lower-tier municipality under this section are a debt of the lower-tier municipality to the upper-tier municipality. 2001, c. 25, s. 403 (5).

Failure to pay

(6) A lower-tier municipality that fails to make any payment or portion of it as provided in the by-law under this section shall pay interest to the upper-tier municipality on the amount in default at the rate of 15 per cent per year, or such lower rate as the upper-tier municipality may by by-law determine, from the date the payment is due until it is made. 2001, c. 25, s. 403 (6).

Joint obligations

(7) All debentures issued under a by-law passed by an upper-tier municipality under this section are direct, joint and several obligations of the upper-tier municipality and its lower-tier municipalities. 2001, c. 25, s. 403 (7).

Levies

(8) A by-law under subsection (1) shall provide for raising in each year as part of the general upper-tier levy the amounts required to be paid to the upper-tier municipality in any previous year by a lower-tier municipality to the extent that the amounts have not been paid to the upper-tier municipality in accordance with the by-law. 2001, c. 25, s. 403 (8).

Borrowing for school boards, other municipalities

404. (1) A municipality may incur debt and issue debentures for another municipality or for a school board under clause 401 (2) (a), (b) or (c) only if the other municipality or school board applies to the municipality and the municipality agrees. 2001, c. 25, s. 404 (1).

Limitation

- (2) This section does not authorize an application by a lower-tier municipality in a regional municipality unless,
- (a) the lower-tier municipality is authorized or required by any Act to provide money for a purpose jointly with the borrowing municipality; and
 - (b) the debt referred to in the application is to be incurred for a joint purpose described in clause (a). 2001, c. 25, s. 404 (2).

Application

(3) An application under subsection (1) shall state the nature and purpose of the proposed borrowing and the estimated costs related to it, including interest costs. 2001, c. 25, s. 404 (3).

Joint application

(4) If the application is for a joint municipal purpose, the municipalities may make a joint application. 2001, c. 25, s. 404 (4).

Duties of council

(5) The council of the municipality, at its first meeting after receiving the application or as soon as possible afterwards, shall approve or refuse the application and may approve the borrowing of all or part of the money needed. 2001, c. 25, s. 404 (5).

Debenture by-law

(6) If the application is approved, council shall pass a by-law authorizing the borrowing. 2001, c. 25, s. 404 (6).

Debenture payments

(7) The by-law shall require the applicant municipality or school board to make payments in each year to the municipality in the amounts and on the dates specified in the by-law. 2001, c. 25, s. 404 (7).

Conditions

(8) The amounts required to be paid under subsection (7), when combined with any amount payable by the municipality in the year for repayment of the debt incurred for a joint purpose under clause 401 (2) (c), shall be sufficient to meet the total amount of principal and interest payable in the year by the municipality to the lender under the by-law. 2001, c. 25, s. 404 (8).

Exception

(9) The total amount of principal and interest payable in a year under subsection (8) does not include any outstanding amount of principal that is specified as payable on the maturity date of a debenture if one or more refinancing debentures are issued by the municipality on or before the maturity date in respect of the outstanding principal. 2001, c. 25, s. 404 (9).

Fees

(10) A municipality may require the payment to it of interest on any amount in default, penalties for late payment and fees by an applicant municipality or school board in an amount at least sufficient to reimburse it for the costs related to the approval or administration of a borrowing under this section. 2001, c. 25, s. 404 (10).

Interest

(11) The interest payable under subsection (10) shall be at the rate of 15 per cent per year, or such lower rate as the municipality may by by-law determine, from the date the payment is due until it is made. 2001, c. 25, s. 404 (11).

Debt of entity

(12) All amounts required to be paid under this section are a debt of the applicant municipality or school board to the municipality. 2001, c. 25, s. 404 (12).

Default

(13) A by-law under subsection (6) shall provide for raising in each year as part of the general upper-tier levy or general local municipal levy, as applicable, the amounts payable under the by-law in any previous year to the extent that the amounts have not been paid over to the upper-tier municipality or local municipality, respectively, in accordance with the by-law. 2001, c. 25, s. 404 (13).

Joint and several obligations

(14) All debentures issued under this section are direct, joint and several obligations of the municipality and any applicant municipality or school board for which it borrows money. 2001, c. 25, s. 404 (14).

Temporary borrowing for works

405. (1) A municipality may authorize temporary borrowing to meet expenditures made in connection with a work to be financed in whole or in part by the issue of debentures if,

- (a) the municipality is an upper-tier municipality, a lower-tier municipality in a county or a single-tier municipality and it has approved the issue of debentures for the work;
- (b) the municipality is a lower-tier municipality in a regional municipality and it has approved the work and the upper-tier municipality has approved the issue of debentures for the work; or
- (c) the municipality has approved the issue of debentures for another municipality or a school board under section 404. 2001, c. 25, s. 405 (1).

Use of proceeds

(2) The proceeds obtained under subsection (1) shall be applied to the approved work but the lender is not responsible for ensuring the proceeds are used in this manner. 2001, c. 25, s. 405 (2).

Security

(3) For the purposes of this section, a municipality that has approved the issue of debentures but not sold them may authorize another municipality or school board to use the debentures as security for temporary borrowing. 2001, c. 25, s. 405 (3).

(4) REPEALED: 2006, c. 32, Sched. A, s. 173.

Temporary borrowing, other entity

406. (1) A municipality shall authorize temporary borrowing for another municipality or a school board if,

- (a) the municipality has authorized the issue of debentures for the purposes of the other municipality or school board;
- (b) the other municipality or school board requests temporary borrowing for the purposes for which the debentures were authorized; and
- (c) the council of the municipality considers the terms of the agreement with the lender to be reasonable. 2001, c. 25, s. 406 (1).

Transfer

(2) The municipality shall transfer the proceeds obtained under this section to the other municipality or school board. 2001, c. 25, s. 406 (2).

Proceeds

(3) The proceeds obtained under this section shall be applied to the purposes for which the debentures were authorized but the lender is not responsible for ensuring the proceeds are used in this manner. 2001, c. 25, s. 406 (3).

(4) REPEALED: 2006, c. 32, Sched. A, s. 174.

Borrowing for expenses

407. (1) At any time during a fiscal year, a municipality may authorize temporary borrowing, until the taxes are collected and other revenues are received, of the amounts that the municipality considers necessary to meet the expenses of the municipality for the year and of the amounts, whether or not they are expenses for the year, that the municipality requires in the year for,

- (a) reserve, sinking and retirement funds;
- (b) principal and interest due on any debt of the municipality;
- (c) school purposes;
- (d) other purposes the municipality is required by law to provide for; and
- (e) the amount of principal and interest payable by a person or municipality primarily liable for a debt, if the municipality has guaranteed the debt and the debt is in default. 2001, c. 25, s. 407 (1); 2009, c. 18, Sched. 18, s. 6 (1).

Limit

(2) Except with the approval of the Ontario Municipal Board, the total amount borrowed at any one time plus any outstanding amounts of principal borrowed and accrued interest shall not exceed,

- (a) from January 1 to September 30 in the year, 50 per cent of the total estimated revenues of the municipality as set out in the budget adopted for the year; and
- (b) from October 1 to December 31 in the year, 25 per cent of the total estimated revenues of the municipality as set out in the budget adopted for the year. 2001, c. 25, s. 407 (2).

Pending adoption of budget

(3) Until the budget is adopted in a year, the limits upon borrowing under subsection (2) shall temporarily be calculated using the estimated revenues of the municipality set out in the budget adopted for the previous year. 2001, c. 25, s. 407 (3).

Exclusion

- (4) In subsections (2) and (3), estimated revenues do not include revenues derivable or derived from,
 - (a) arrears of taxes, fees or charges; or
 - (b) a payment from a reserve fund of the municipality, whether or not the payment is for a capital purpose. 2009, c. 18, Sched. 18, s. 6 (2).

Lender not responsible

(5) The lender is not responsible for establishing the necessity of temporary borrowing under this section or the manner in which the borrowing is used. 2001, c. 25, s. 407 (5).

Definition

(6) In this section,

“reserve fund” includes a reserve. 2009, c. 18, Sched. 18, s. 6 (3).

By-laws re: debentures

408. (1) A municipality shall authorize long term borrowing by the issue of debentures or through another municipality under section 403 or 404. 2001, c. 25, s. 408 (1).

Content of by-law

(2) Subject to this Act and the regulations, a municipality may pass by-laws authorizing, with respect to its debentures or any class of them,

- (a) the due dates, amounts of and methods for payment of principal and interest, including electronic transfer of payments;

- (b) the maturity dates;
- (c) the form of execution and use of the municipal seal;
- (d) a registry;
- (e) tenders and a process for tendering;
- (f) redemption;
- (g) refinancing;
- (h) cancellation, substitution, exchange and transfer of ownership;
- (i) the form of instrument;
- (j) notices or other communications to persons with an interest;
- (k) the use of electronic, magnetic or other media for records of or related to the debentures or for copies of them. 2001, c. 25, s. 408 (2).

Restriction

(2.1) A municipality may issue a debenture or other financial instrument for long-term borrowing only to provide financing for a capital work. 2009, c. 18, Sched. 18, s. 7 (1).

Term restriction

(3) The term of a debt of a municipality or any debenture or other financial instrument for long-term borrowing issued for it shall not extend beyond the lifetime of the capital work for which the debt was incurred and shall not exceed 40 years. 2006, c. 32, Sched. A, s. 176; 2009, c. 18, Sched. 18, s. 7 (2).

Principal and interest payments

- (4) A debenture by-law,
 - (a) shall provide for raising in each year as part of the general upper-tier levy or the general local municipality levy, as applicable, the amounts of principal and interest payable in each year under the by-law to the extent that the amounts have not been provided for by other taxes or by fees or charges imposed on persons or property by a by-law of any municipality;
 - (b) shall provide for repayment of the principal in annual instalments and payment of the interest on the unpaid balance in one or more instalments in each year;
 - (c) may provide for instalments of combined principal and interest; and
 - (d) despite clause (b), may provide that instalments of principal, interest or both are not payable during the period of construction of an undertaking for which the debt was incurred, as estimated by council, but not to exceed five years. 2001, c. 25, s. 408 (4).

Exception

(5) The total amount of principal and interest that must be raised in a year under clause (4) (a) does not include any outstanding amount of principal specified as payable on the maturity date of a debenture if one or more refinancing debentures are issued by the municipality on or before the maturity date in respect of the outstanding principal. 2001, c. 25, s. 408 (5).

Dates of debentures

(6) Debentures may be dated as specified in the issuing by-law, including a date before the by-law is passed if the by-law provides for the first amount for repayment being raised in the year in which the debentures are dated or in the next year. 2001, c. 25, s. 408 (6).

All debentures rank equally

(7) Despite any Act or any differences in date of issue or maturity, every debenture issued by a municipality shall rank concurrently and equally in respect of payment of principal and interest with all other debentures of the municipality. 2001, c. 25, s. 408 (7).

Exception

(8) Subsection (7) does not apply to money in a sinking or retirement fund for a particular issue of debentures. 2001, c. 25, s. 408 (8).

Consolidating debenture by-laws

(9) Despite any Act, if a municipality intends to incur debt for two or more purposes, or if it has passed separate debenture by-laws authorizing borrowing for two or more purposes but has not sold any of the debentures, the municipality may by by-law provide for the issue of one series of debentures for the debt. 2001, c. 25, s. 408 (9).

Same

- (10) A by-law under subsection (9),
- (a) shall recite or otherwise refer to the separate by-laws it consolidates; and
 - (b) may authorize the issue of debentures in one series even if the principal and interest of some of the debentures is payable on different dates than the payment dates for other debentures in the series. 2001, c. 25, s. 408 (10).

Admissibility

(11) If there is no original written record of or related to a debenture, any writing produced from an electronic or magnetic medium that is in a readily understandable form is admissible in evidence to the same extent as if it were an original written record. 2001, c. 25, s. 408 (11).

Regulations

(12) The Lieutenant Governor in Council may make regulations governing municipal debentures, including but not limited to, prescribing rules relating to matters referred to in subsection (2) and clause (4) (d). 2001, c. 25, s. 408 (12).

Sinking and retirement fund debentures

- 409.** (1) A municipality may provide in a debenture by-law,
- (a) that all or a portion of the debentures are sinking fund debentures which have the principal payable on a fixed date;
 - (b) that a portion of the debentures are term debentures which have,
 - (i) the principal payable on a fixed date, and
 - (ii) a retirement fund for the repayment of the principal which does not require payment into it to begin until after the principal of the other debentures issued under the by-law becomes payable; or
 - (c) that a retirement fund be established for the repayment of the principal amount of a class or classes of its debentures other than sinking fund or term debentures. 2006, c. 32, Sched. A, s. 177.

Amount to be raised annually

- (2) A by-law passed under this section shall provide for the following amounts:
- 1. In respect of a sinking fund by-law, an estimated amount in each year for the sinking fund which, with interest compounded annually, will be sufficient to pay the principal of the debentures at maturity.
 - 2. In respect of a term debenture by-law, in each year that a payment is made into the retirement fund, an estimated amount in each year for the retirement fund which, with interest compounded annually, will be sufficient to pay the principal of the debentures at maturity.
 - 3. In respect of a retirement fund by-law for a class of debentures other than a sinking fund or term debenture, in each year an amount equal to or greater than the amount that would have been required for the repayment of the principal of the debentures in that year if the principal had been payable in equal annual instalments and the debentures had been issued for the maximum period authorized by the municipality for the repayment of the debt for which the debentures were issued. 2006, c. 32, Sched. A, s. 177.

Principal payable

(3) An amount required to be provided in a year under subsection (2) shall be deemed to be an amount of principal payable to the lender in the year for the purposes of subsections 403 (3) and 404 (8) and clause 408 (4) (a). 2002, c. 17, Sched. A, s. 79 (2).

Exception

(4) Despite clause 408 (4) (b), a municipality that passes a by-law under subsection (1) is not required to pay an annual instalment of an amount of principal to the holder of a debenture issued under the by-law. 2001, c. 25, s. 409 (4).

Limitation

(5) Except as provided in this section, a municipality shall apply an amount raised for a sinking or retirement fund, including earnings or proceeds derived from the investments of those funds, only towards repayment of the principal of the fund at maturity. 2009, c. 18, Sched. 18, s. 8 (1).

Duty to annually certify balance

(6) On or before December 31 in each year, the municipal auditor shall certify the balance in each sinking and retirement fund of a municipality for the year. 2001, c. 25, s. 409 (6).

Deficiency

(7) If the balance certified is less than the amount required in the year for the repayment of the sinking or retirement fund debentures for which the fund was established, the municipality shall pay an amount sufficient to make up the deficiency into the sinking or retirement fund. 2001, c. 25, s. 409 (7).

Excess balance

(8) The certified balance may exceed the amount required in the year for the repayment of the sinking or retirement fund debentures for which the fund was established. 2001, c. 25, s. 409 (8).

Reduction of levy, etc.

(9) Despite this Act, a municipality may amend a debenture by-law to reduce an amount to be raised with respect to a sinking or retirement fund to the extent that the certified balance of the fund, including any estimated revenue, is or will be sufficient to repay the principal of the debt for which the fund was established on the date or dates the principal becomes due. 2001, c. 25, s. 409 (9).

Repayment of principal

(10) Despite this Act, if the certified balance of a sinking fund or retirement fund, including any estimated revenue, is or will be sufficient to entirely repay the principal of the debt for which the fund was established on the date or dates the principal becomes due, the municipality may amend its debenture by-law to eliminate the provision for the raising of any amount for the sinking or retirement fund. 2001, c. 25, s. 409 (10).

Remaining balance

(11) If there is a portion of a certified balance remaining after a municipality eliminates a provision for an amount to be raised in accordance with subsection (10), the municipality may apply the portion,

- (a) to the payment of interest on the principal of the sinking or retirement fund debenture; or
- (b) to each remaining sinking fund or retirement fund of the municipality proportionately as the amount of that sinking fund or retirement fund bears to the total of all the remaining sinking or retirement funds. 2001, c. 25, s. 409 (11).

Further amounts

(12) If there is any amount remaining after applying the funds in accordance with subsection (11), the municipality may use the amount for any purpose of the municipality. 2009, c. 18, Sched. 18, s. 8 (2).

Upper-tier municipality

(13) If a sinking or retirement fund is established by an upper-tier municipality for the purposes or joint purposes of one or more of its lower-tier municipalities, the upper-tier municipality,

- (a) shall, if it reduces or eliminates any amount to be raised under subsection (9) or (10) with respect to the fund, reduce or eliminate them for lower-tier purposes proportionate to the contributions to that fund by its lower-tier municipalities;
- (b) shall, despite subsection (11), apply any portion under that subsection proportionate to the contributions to the fund or to all sinking or retirement funds of the municipality, as the case may be, by its lower-tier municipalities;
- (c) shall, despite subsection (12), if there is any amount remaining after applying the funds in accordance with clause (b), transfer to its lower-tier municipalities their proportionate share of the amount based on their contributions to the fund; and
- (d) shall, if it is required to pay an amount under subsection (7) to make up a deficiency, require one or more of its lower-tier municipalities to make payment to the upper-tier municipality for the deficiency, proportionate to the amount of their contributions to the fund, and may amend its debentures by-law accordingly. 2001, c. 25, s. 409 (13); 2002, c. 17, Sched. A, s. 79 (3).

Sinking fund committee

410. If a municipality establishes a sinking fund committee, the committee,

- (a) shall manage the sinking fund and retirement funds established by the municipality under section 409;
- (b) shall invest money in those funds in any securities that the municipality that established the committee is permitted to invest in, including approving or not approving any investment or disposition of that investment; and
- (c) may apply balances or other amounts in accordance with section 409. 2006, c. 32, Sched. A, s. 178.

Debentures in foreign currency

411. (1) Subject to this Act, a prescribed municipality may issue debentures or prescribed classes of them expressed and payable in one or more prescribed foreign currencies, subject to the prescribed rules. 2001, c. 25, s. 411 (1).

Same

(2) A debenture issued under subsection (1) may provide for payment of interest, premium and principal in one or more prescribed foreign currencies, in Canadian dollars, or a combination of any of them. 2001, c. 25, s. 411 (2).

Estimated amounts

(3) A by-law passed under this section may provide for raising or paying an estimated amount in a year, despite other provisions in this Act requiring that a specific amount be raised or paid. 2001, c. 25, s. 411 (3).

Variation

(4) The estimated amount may vary from year to year. 2001, c. 25, s. 411 (4).

Regulations

- (5) The Lieutenant Governor in Council may make regulations,
 - (a) prescribing the foreign currencies in which debentures may be issued;
 - (b) prescribing municipalities or classes of them that may issue debentures under this section;
 - (c) prescribing other requirements that municipalities must meet to issue debentures under this section;
 - (d) prescribing rules for the purposes of subsection (1);
 - (e) requiring a municipality to enter into financial agreements in the manner and with the persons prescribed;
 - (f) prescribing additional powers that a municipality may exercise in issuing debentures expressed and payable in foreign currency. 2001, c. 25, s. 411 (5).

Classes

(6) A regulation under subsection (5) may apply to one or more classes of municipalities and may treat different classes of municipalities differently. 2001, c. 25, s. 411 (6).

Fixed rate of interest

412. (1) A by-law for the issue of debentures shall specify a fixed rate of interest unless otherwise permitted by this Act. 2001, c. 25, s. 412 (1).

Amending issuing by-law

- (2) A municipality may amend a debenture by-law to provide for,
 - (a) a different rate of interest;
 - (b) a change in the amount to be raised annually because of the different interest rate; and
 - (c) other changes in any by-law necessary to give effect to the amending by-law. 2001, c. 25, s. 412 (2).

Use as security not a sale

(3) For the purposes of subsection (2), the use of debentures as security for temporary borrowing does not prevent a council from passing by-laws under subsection (2) with respect to those debentures. 2001, c. 25, s. 412 (3).

Special levies

- (4) A by-law passed under subsection (2) does not affect,
 - (a) the validity of any by-law under which amounts are raised for the repayment of debentures; or
 - (b) the power of the council to continue to levy or collect any instalments. 2001, c. 25, s. 412 (4).

Variable rate

(5) Despite this or any other Act, a prescribed municipality may pass a by-law for the issue of debentures providing for variations in the rate of interest or classes of rates of interest and for the payment of other amounts in accordance with the prescribed rules. 2001, c. 25, s. 412 (5).

Estimate of amount to be raised

(6) A by-law passed under subsection (5) may provide for raising or paying an estimated amount in a year, despite provisions in this or any other Act requiring that a specific amount be raised or paid. 2001, c. 25, s. 412 (6).

Variation

(7) The estimated amount may vary from year to year. 2001, c. 25, s. 412 (7).

Regulations

(8) The Lieutenant Governor in Council may make regulations,

(a) prescribing municipalities or classes of municipalities for the purpose of subsection (5);

(b) prescribing rules for the purpose of subsection (5). 2001, c. 25, s. 412 (8).

Use of money received

413. (1) Except as provided in section 409 and this section, money received by a municipality from the sale of debentures, including any premium, and any earnings derived from the investment of that money, shall be applied only for the purposes for which the debentures were issued or for repayment of outstanding temporary borrowing under section 405 or 406 with respect to those debentures. 2009, c. 18, Sched. 18, s. 9.

Money not required

(2) If the money described in subsection (1) is in excess of or is not required for the purposes for which the debentures were issued, it shall be applied,

(a) to repay the principal or interest of the debentures; or

(b) to repay any other capital expenditure of the municipality if the debt charges for the other expenditure are or will be raised from the same class of ratepayers from which the amounts required for the repayment of the debentures are raised. 2001, c. 25, s. 413 (2).

Reduction of levies, etc.

(3) A municipality may reduce an amount to be raised for the repayment of debentures to the extent that an amount applied in accordance with subsection (2) is sufficient to repay the principal and interest of the debentures on the date or dates they are payable. 2001, c. 25, s. 413 (3).

Full amount recoverable

(4) The full amount of a debenture is recoverable even if it was negotiated at a discount by a municipality. 2001, c. 25, s. 413 (4).

Special case

(5) Despite subsection (1), payments made under the *Ontario Municipal Employees Retirement System Act* or the *Ontario Municipal Employees Retirement System Act, 2006* with respect to past service may be provided for by the issue of debentures. 2006, c. 32, Sched. A, s. 179.

Restrictions

414. (1) Subject to this Act, after a debt has been contracted under a by-law, the municipality shall not, until the debt and interest have been paid,

(a) repeal the by-law or any by-law appropriating money from any source for the payment of the debt or the interest including the surplus income from any work financed by the debt; or

(b) alter any by-law referred to in clause (a) so as to diminish the amount to be raised annually. 2001, c. 25, s. 414 (1).

Repeal where only part of amount raised

(2) If a debenture by-law authorizes a municipality to raise an amount but the amount realized from the sale or loan of the debentures is less than the amount authorized, the municipality may repeal the debenture by-law with respect to the unused debentures and with respect to any amount that would have been required to be raised annually to repay the unused debentures. 2001, c. 25, s. 414 (2).

(3) REPEALED: 2006, c. 32, Sched. A, s. 180.

Registration of debenture by-law

415. (1) Within four weeks after the passing of a debenture by-law, the clerk may register a duplicate original or a certified copy of the by-law under seal of the municipality in any land registry division in which the municipality is located. 2001, c. 25, s. 415 (1).

Application to quash

(2) Subject to section 62 of the *Ontario Municipal Board Act*, if a by-law is registered under subsection (1) before the sale or other disposition of the debentures issued under it,

- (a) the debentures are valid according to the terms of the by-law; and
- (b) the by-law shall not be quashed unless, within three months after the registration, an application is made to a competent court to quash the by-law and a certified copy of the application under seal of the court is registered in the land registry office within that period. 2001, c. 25, s. 415 (2).

Timing

(3) After the expiration of the period referred to in clause (2) (b), if no application to quash the by-law has been made, the by-law is valid. 2001, c. 25, s. 415 (3).

Quashing part of by-law

(4) If application is made to quash only part of a by-law, the remainder of the by-law is valid after the expiration of the period referred to in clause (2) (b). 2001, c. 25, s. 415 (4).

Dismissal of application

(5) If the application is dismissed in whole or in part, a certificate of the dismissal may be registered and, if the period referred to in clause (2) (b) has expired, the by-law or so much of it as is not quashed is valid. 2001, c. 25, s. 415 (5).

Illegal by-law not validated

(6) Nothing in this section makes valid a by-law that requires but has not received the assent of the electors or a by-law which, on the face of it, does not substantially conform to the requirements set out in subsections 408 (3) and (4). 2001, c. 25, s. 415 (6).

Failure to register

(7) Failure to register a by-law as prescribed by this section does not invalidate it. 2001, c. 25, s. 415 (7).

Interest paid for over a year

416. If the interest on a debenture issued under a by-law has been paid for one year or more by the municipality or any part of the principal has been paid, the by-law and the debenture issued under it are valid and binding on the municipality. 2001, c. 25, s. 416.

Reserve funds

417. (1) If a local board, conservation authority or any other body exercising a power with respect to municipal affairs under any Act in unorganized territory does not have power under another Act or another section of this Act to establish and maintain a reserve fund, it may, under this subsection, provide in its budget for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend money. 2006, c. 32, Sched. A, s. 181; 2009, c. 34, Sched. I, s. 22.

Approval

(2) If the approval of a municipality is required by law for a capital expenditure or the issue of debentures by or on behalf of a local board, the local board must obtain the approval before providing for a reserve fund for those purposes in its budget. 2001, c. 25, s. 417 (2).

Investment

(3) The money raised by a body exercising a power with respect to municipal affairs under any Act in unorganized territory for a reserve fund shall be paid into a special account and may be invested only in the securities or classes of securities prescribed. 2001, c. 25, s. 417 (3).

Expenditure of reserve funds

(4) A municipality may by by-law provide that the money raised for a reserve fund established under subsection (1) may be spent, pledged or applied to a purpose other than that for which the fund was established. 2001, c. 25, s. 417 (4).

Regulations

(5) The Lieutenant Governor in Council may make regulations prescribing securities or classes of securities for the purpose of subsection (3). 2001, c. 25, s. 417 (5).

Investment

418. (1) A municipality may invest in prescribed securities, in accordance with the prescribed rules, money that it does not require immediately including,

- (a) money in a sinking, retirement or reserve fund;
- (b) money raised or received for the payment of a debt of the municipality or interest on the debt; and
- (c) proceeds from the sale, loan or investment of any debentures. 2001, c. 25, s. 418 (1).

Repayment

(2) An investment under subsection (1) shall be made repayable on or before the day on which the money is required and any earnings derived from the investment shall be credited to the fund from which the money was invested. 2001, c. 25, s. 418 (2).

Combined investments

(3) A municipality may combine money held in any fund and deal with the money in accordance with subsection (1). 2001, c. 25, s. 418 (3).

Allocation

(4) Earnings from combined investments shall be credited to each separate fund in proportion to the amount invested from it. 2001, c. 25, s. 418 (4).

(5) REPEALED: 2006, c. 32, Sched. A, s. 182 (1).

Regulations

(6) The Lieutenant Governor in Council may make regulations,

- (a) prescribing rules for the purpose of subsection (1);
- (b) prescribing and defining securities or classes of them for the purpose of subsection (1);
- (b.1) prescribing and defining financial instruments and agreements that municipalities may issue or enter into for or in relation to investments under subsection (1);
- (c) providing that a municipality does not have power to invest in securities or classes of securities specified in the regulation. 2001, c. 25, s. 418 (6); 2006, c. 32, Sched. A, s. 182 (2).

419. REPEALED: 2006, c. 32, Sched. A, s. 183.

Agreements

420. (1) A power given to a municipality under this Act to invest money includes the power to enter into an agreement for the investment of money with any other municipality or with,

- (a) a public hospital;
- (b) a university in Ontario that is authorized to operate under section 3 of the *Post-Secondary Education Choice and Excellence Act, 2000*;
- (c) a college established under section 5 of the *Ministry of Training, Colleges and Universities Act*;
- (d) a school board; or
- (e) any agent of an institution described in clauses (a) to (d). 2001, c. 25, s. 420 (1).

Regulations

(2) The Minister may make regulations,

- (a) prescribing additional persons or bodies or any class of them with which a municipality may enter into investment agreements;
- (b) prescribing conditions to be satisfied before a municipality may enter into an investment agreement with a person or body or class of either of them prescribed under clause (a). 2001, c. 25, s. 420 (2).

Loan of securities

421. (1) A municipality may lend any securities held by it if the loan is fully secured by cash or by securities prescribed in subsection 418 (6). 2001, c. 25, s. 421 (1).

Regulations

(2) The Minister may make regulations establishing conditions for lending securities under subsection (1). 2001, c. 25, s. 421 (2).

Offence

422. Every officer of a municipality whose duty it is to carry into effect any provision of a by-law for the borrowing of money who neglects or refuses to do so is guilty of an offence, even if the reason the officer neglects or refuses to fulfil his or her duty is the apparent authority to do so under a by-law that is illegally attempting to repeal or amend the borrowing by-law. 2001, c. 25, s. 422.

Prohibition

423. (1) A member of a municipal council who knowingly votes to authorize the borrowing of any amount larger than permitted under section 407 is disqualified from holding any municipal office for two years. 2001, c. 25, s. 423 (1).

Exception

(2) Subsection (1) does not apply to a member of council acting under an order or direction issued under Part III of the *Municipal Affairs Act*. 2001, c. 25, s. 423 (2).

Liability of members for diversion of funds

424. (1) If a council applies any money raised for a special purpose or collected for a sinking or retirement fund otherwise than permitted by this Act, each member who votes for the application,

- (a) is personally liable for the amount so applied which may be recovered in a court of competent jurisdiction; and
- (b) is disqualified from holding any municipal office for two years. 2001, c. 25, s. 424 (1); 2009, c. 18, Sched. 18, s. 10.

Action by ratepayer

(2) If a council, on the request in writing of a ratepayer, refuses or neglects for one month to bring a court action under clause (1) (a), the action may be brought by any ratepayer on behalf of all ratepayers. 2001, c. 25, s. 424 (2).

Penalty

(3) If a council neglects in any year to levy the amount required to be raised for a sinking or retirement fund, each member of the council is disqualified from holding any municipal office for two years, unless the member shows that he or she made reasonable efforts to procure the levying of the amount. 2001, c. 25, s. 424 (3).

Statement of treasurer

(4) If in any year an amount is or will be required by law to be raised for a sinking fund or retirement fund in a municipality, the treasurer of the municipality shall prepare for the council, before the budget for the year is adopted, a statement of the amount. 2001, c. 25, s. 424 (4).

Offence

- (5) A treasurer who contravenes subsection (4) is guilty of an offence. 2001, c. 25, s. 424 (5).

PART XIV ENFORCEMENT

OFFENCES AND PENALTIES

Authority to create offences

425. (1) A municipality may pass by-laws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence. 2006, c. 32, Sched. A, s. 184.

Same

(2) A police services board of a municipality may pass by-laws providing that a person who contravenes a by-law of the board passed under this Act is guilty of an offence. 2006, c. 32, Sched. A, s. 184.

Directors and officers

(3) A by-law under this section may provide that a director or officer of a corporation who knowingly concurs in the contravention of a by-law by the corporation is guilty of an offence. 2006, c. 32, Sched. A, s. 184.

Offence re obstruction, etc.

426. (1) No person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under this Act or under a by-law passed under this Act. 2006, c. 32, Sched. A, s. 184.

Occupied dwellings

(2) A refusal of consent to enter or to remain in a room or place actually used as a dwelling does not constitute hindering or obstruction within the meaning of subsection (1) unless the municipality is acting under an order under section 438 or a warrant under section 439 or in the circumstances described in clause 437 (d) or (e). 2006, c. 32, Sched. A, s. 184.

Orders under s. 438

(3) No person shall neglect or refuse to produce any information or thing or to provide any information required by any person acting pursuant to an order under section 438. 2006, c. 32, Sched. A, s. 184.

Offence

(4) Any person who contravenes subsection (1) or (3) is guilty of an offence. 2006, c. 32, Sched. A, s. 184.

Same, director or officer

(5) Every director or officer of a corporation who knowingly concurs in the contravention by the corporation under subsection (1) or (3) is guilty of an offence. 2006, c. 32, Sched. A, s. 184.

Offence re accessible parking

427. A by-law establishing a system of accessible parking shall provide that every person who contravenes the by-law is guilty of an offence and on conviction is liable to a fine of not less than \$300. 2009, c. 33, Sched. 26, s. 5 (2).

Offence re illegally parked vehicle

428. A by-law may provide that, where a vehicle has been left parked, stopped or standing in contravention of a by-law passed under this Act, the owner of the vehicle is guilty of an offence, even though the owner was not the driver of the vehicle at the time of the contravention of the by-law, and is liable to the applicable fine unless, at the time of the offence, the vehicle was in the possession of another person without the owner's consent. 2006, c. 32, Sched. A, s. 184.

Authority to establish fines

429. (1) Subject to subsection (4), a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act. 2006, c. 32, Sched. A, s. 184.

Same

- (2) Without limiting subsection (1), a system of fines may,
- (a) designate an offence as a continuing offence and provide for a minimum and maximum fine for each day or part of a day that the offence continues;
 - (b) designate an offence as a multiple offence and provide for a minimum and maximum fine for each offence included in the multiple offence;
 - (c) establish escalating fines for a second and subsequent convictions for the same offence; and
 - (d) establish special fines in addition to the regular fine for an offence which are designed to eliminate or reduce any economic advantage or gain from contravening the by-law. 2006, c. 32, Sched. A, s. 184.

Restrictions

- (3) The following rules apply to the system of fines:
- 1. A minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$100,000. However, a special fine may exceed \$100,000.
 - 2. In the case of a continuing offence, for each day or part of a day that the offence continues, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, despite paragraph 1, the total of all of the daily fines for the offence is not limited to \$100,000.

3. In the case of a multiple offence, for each offence included in the multiple offence, a minimum fine shall not exceed \$500 and a maximum fine shall not exceed \$10,000. However, despite paragraph 1, the total of all fines for each included offence is not limited to \$100,000. 2006, c. 32, Sched. A, s. 184.

Fine under another Act

(4) If the provisions of any other Act, other than the *Provincial Offences Act*, provide for the fines for a contravention of a by-law of a municipality, the municipality cannot establish a system of fines under this section with respect to the by-law. 2006, c. 32, Sched. A, s. 184.

Definition

(5) In this section,

“multiple offence” means an offence in respect of two or more acts or omissions each of which separately constitutes an offence and is a contravention of the same provision of a by-law. 2006, c. 32, Sched. A, s. 184.

Additional penalty re adult entertainment establishments

430. A municipality may provide that a person who is convicted of an offence for a contravention of a business licensing by-law dealing with an adult entertainment establishment may be liable to a term of imprisonment not exceeding one year in addition to any other applicable penalties. 2006, c. 32, Sched. A, s. 184.

Additional order to discontinue or remedy

431. If any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order,

- (a) prohibiting the continuation or repetition of the offence by the person convicted; and
- (b) in the case of a by-law described in section 135 or 142, requiring the person convicted to correct the contravention in the manner and within the period that the court considers appropriate. 2006, c. 32, Sched. A, s. 184.

Payments out of court

432. A by-law under section 425 may establish a procedure for the voluntary payment of penalties out of court where it is alleged that any of the following by-laws have been contravened:

1. By-laws related to the parking, standing or stopping of vehicles.
2. By-laws related to animals, as defined in section 11.1, being at large or trespassing. 2006, c. 32, Sched. A, s. 184.

Municipality entitled to fines

433. (1) Except as otherwise provided in this or any other Act, every fine imposed for a contravention of a by-law of a municipality or by-law of a local board of the municipality belongs to the municipality. 2006, c. 32, Sched. A, s. 184.

Proceeds in cases of obstruction

(2) The proceeds of any fine imposed in a prosecution conducted by a municipality for an offence under section 426 shall be paid to the treasurer of the municipality and section 2 of the *Administration of Justice Act* and section 4 of the *Fines and Forfeitures Act* do not apply with respect to that fine. 2006, c. 32, Sched. A, s. 184.

Fines, special cases

434. The fines imposed for the contravention of by-laws of any lower-tier municipality shall, where prosecuted by the police force of the upper-tier municipality, belong to the upper-tier municipality and, where prosecuted by any other person, belong to the lower-tier municipality whose by-law has been contravened. 2006, c. 32, Sched. A, s. 184.

POWERS OF ENTRY

Conditions governing powers of entry

435. (1) Unless otherwise provided in this Act, in an order under section 438 or in a warrant under section 439, the following conditions apply to the exercise of a power of entry of a municipality under this Act:

1. The power of entry shall be exercised by an employee, officer or agent of the municipality or a member of the police force of the municipality.
2. The person exercising the power must on request display or produce proper identification.
3. The person exercising the power may be accompanied by a person under his or her direction.

4. Notice of the proposed entry shall be provided to the occupier of the land, except,
 - i. where the entry is authorized under section 436, clause 437 (a) or (e) or section 439,
 - ii. where the entry is authorized under section 438 in respect of a premises other than a room or place actually used as a dwelling,
 - iii. where entry is authorized onto land under section 62, 87 or 97 or Part XI, or
 - iv. where the delay necessary to give notice of the entry would result in an immediate danger to the health or safety of any person.
5. The municipality shall restore the land to its original condition in so far as is practicable and shall provide compensation for any damages caused by the entry or by anything done on the land except where the entry,
 - i. is under section 446, or
 - ii. is under Part XI if, under that Part, the treasurer registers a notice of vesting, in the name of the municipality, in respect of the land. 2006, c. 32, Sched. A, s. 184.

Notice

(2) Where subsection (1) requires that notice of a proposed exercise of a power of entry be given, the notice must satisfy the following requirements:

1. The notice must be given to the occupier of the land in respect of which the power of entry will be exercised.
2. The notice must be given within a reasonable time before the power of entry is exercised.
3. The notice must be given by personal service in the case of a proposed exercise of a power of entry under section 79, 80 or 446 in respect of a room or place actually used as a dwelling.
4. In the case of a proposed exercise of a power of entry other than one described in paragraph 3, the notice must be given by personal service or prepaid mail or by posting the notice on the land in a conspicuous place. 2006, c. 32, Sched. A, s. 184.

Power of entry re inspection

436. (1) A municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

1. A by-law of the municipality passed under this Act.
2. A direction or order of the municipality made under this Act or made under a by-law of the municipality passed under this Act.
3. A condition of a licence issued under a by-law of the municipality passed under this Act.
4. An order made under section 431. 2006, c. 32, Sched. A, s. 184.

Inspection powers

- (2) By-laws passed under subsection (1) may provide that for the purposes of an inspection the municipality may,
- (a) require the production for inspection of documents or things relevant to the inspection;
 - (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to the inspection; and
 - (d) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection. 2006, c. 32, Sched. A, s. 184.

Samples

(3) A sample taken under clause (2) (d) shall be divided into two parts, and one part shall be delivered to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities. 2006, c. 32, Sched. A, s. 184.

Same

(4) If a sample is taken under clause (2) (d) and the sample has not been divided into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken. 2006, c. 32, Sched. A, s. 184.

Receipt

(5) A receipt shall be provided for any document or thing removed under clause (2) (b) and the document or thing shall be promptly returned after the copies or extracts are made. 2006, c. 32, Sched. A, s. 184.

Evidence

(6) Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the originals. 2006, c. 32, Sched. A, s. 184.

Restriction re dwellings

437. Despite any provision of this Act, a person exercising a power of entry on behalf of a municipality under this Act shall not enter or remain in any room or place actually being used as a dwelling unless,

- (a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of an order issued under section 438, a warrant issued under section 439 or a warrant under section 386.3;
- (b) an order issued under section 438 is obtained;
- (c) a warrant issued under section 439 is obtained;
- (d) a warrant issued under section 386.3 is obtained;
- (e) the delay necessary to obtain an order under section 438, to obtain a warrant under section 439 or to obtain the consent of the occupier would result in an immediate danger to the health or safety of any person; or
- (f) the municipality has given notice of its intention to enter to the occupier of the land as required under subsection 435 (2) and the entry is authorized under section 79, 80 or 446. 2006, c. 32, Sched. A, s. 184.

Inspection pursuant to order

438. (1) A municipality has the power to pass by-laws providing that the municipality may, in the circumstances set out in the by-laws, undertake inspections pursuant to orders under this section. 2006, c. 32, Sched. A, s. 184.

Order

(2) A provincial judge or justice of the peace may issue an order authorizing the municipality to enter on land for the purpose of carrying out an inspection for a purpose described in subsection 436 (1) and to exercise powers described in clauses 436 (2) (a) to (d) as specified in the order if he or she is satisfied by evidence under oath,

- (a) that the circumstances of the inspection are provided for in a by-law under subsection (1);
- (b) that the inspection is reasonably necessary; and
- (c) that one of the following conditions exists:
 - (i) where there is no by-law under section 436 which provides for inspections in such circumstances, the municipality has made a reasonable attempt to obtain the occupier's consent for the inspection,
 - (ii) where there is a by-law under section 436 which provides for inspections in such circumstances, the municipality has been prevented or is likely to be prevented from doing anything set out in subsection 436 (1) or (2). 2006, c. 32, Sched. A, s. 184.

Expiry of order

(3) An order under this section shall state the date on which it expires, which date shall not be later than 30 days after the day the order is issued. 2006, c. 32, Sched. A, s. 184.

Time for execution

(4) An order under this section may be executed only between 6 a.m. and 9 p.m. unless the order provides otherwise. 2006, c. 32, Sched. A, s. 184.

Notice

(5) In the case of an order authorizing an inspection of a room or place actually being used as a dwelling, the occupier must be given notice concerning when the inspection will be carried out. 2006, c. 32, Sched. A, s. 184.

Application without notice

- (6) An order under this section may be issued on application without notice. 2006, c. 32, Sched. A, s. 184.

Interpretation

(7) A by-law may be passed under subsection (1) and orders may be issued under subsection (2) whether or not there is a by-law under section 436. 2006, c. 32, Sched. A, s. 184.

Application of provisions

(8) Subsections 436 (3) to (6) apply with necessary modifications to this section. 2006, c. 32, Sched. A, s. 184.

Search warrant

439. (1) A provincial judge or justice of the peace may issue a warrant authorizing a person named in the warrant to enter and search a building, receptacle or place for the evidence specified in the warrant if he or she is satisfied by information on oath that there is reasonable ground to believe that,

- (a) an offence under this Act or a by-law passed under this Act has been committed; and
- (b) the entry into and search of the building, receptacle or place will afford evidence relevant to the commission of the offence. 2006, c. 32, Sched. A, s. 184.

Seizure

(2) In a search warrant, the provincial judge or justice of the peace may authorize the person named in the warrant to seize evidence specified in the warrant that there is reasonable ground to believe will afford evidence relevant to the commission of the offence. 2006, c. 32, Sched. A, s. 184.

Same

- (3) A person who seizes something under a search warrant shall,
 - (a) give a receipt for the thing seized to the person from whom it was seized; and
 - (b) bring the thing seized before the provincial judge or justice of the peace issuing the warrant or another provincial judge or justice to be dealt with according to law. 2006, c. 32, Sched. A, s. 184.

Time for execution

(4) A search warrant may be executed only between 6 a.m. and 9 p.m. unless it provides otherwise. 2006, c. 32, Sched. A, s. 184.

Application

(5) Sections 159 and 160 of the *Provincial Offences Act* apply with necessary modifications in respect of any thing seized under this section. 2006, c. 32, Sched. A, s. 184.

GENERAL ENFORCEMENT POWERS

Power to restrain

440. If any by-law of a municipality or by-law of a local board of a municipality under this or any other Act is contravened, in addition to any other remedy and to any penalty imposed by the by-law, the contravention may be restrained by application at the instance of a taxpayer or the municipality or local board. 2006, c. 32, Sched. A, s. 184.

Collection of unpaid licensing fines

441. (1) A municipality may authorize the treasurer or his or her agent to give the notice under subsection (2) at the times and in the manner set out in the by-law. 2006, c. 32, Sched. A, s. 184.

Notice

(2) If any part of a fine for a contravention of a business licensing by-law remains unpaid after the fine becomes due and payable under section 66 of the *Provincial Offences Act*, including any extension of time for payment ordered under that section, the authorized officer may give the person against whom the fine was imposed a written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than 21 days after the date of the notice. 2006, c. 32, Sched. A, s. 184.

Seizure

(3) If the fine remains unpaid after the final date specified in the notice, the fine is deemed to be unpaid taxes for the purposes of section 351. 2006, c. 32, Sched. A, s. 184.

Unpaid fines

441.1 Upon the request of a municipality that has entered into a transfer agreement under Part X of the *Provincial Offences Act*, the treasurer of a local municipality may add any part of a fine for a commission of a provincial offence that is in default under section 69 of the *Provincial Offences Act* to the tax roll for any property in the local municipality for which all of the owners are responsible for paying the fine and collect it in the same manner as municipal taxes. 2009, c. 33, Sched. 4, s. 4.

Enforcement of agreements, etc.

442. Where a duty or liability is imposed by statute or agreement upon any person in favour of a municipality or in favour of some or all of the residents of a municipality, the municipality may enforce it and obtain such relief and remedy as could be obtained,

- (a) in a proceeding by the Attorney General;
- (b) in a relator proceeding by any person in the name of the Attorney General; or
- (c) in a proceeding by the residents on their own behalf or on behalf of themselves and other residents. 2006, c. 32, Sched. A, s. 184.

Enforcement of loans by a municipality

443. (1) If a municipality makes a loan to any person to pay for the whole or any part of the cost of the person complying with a by-law of the municipality, the local municipality may, and upon the request of its upper-tier municipality shall, add the amount of the loan, together with interest at the rate of the loan given by the local municipality or its upper-tier municipality, to the tax roll for any land located in the local municipality if all the owners of the land are responsible for repaying the loan, and the local municipality may collect the amount owing in the same manner as municipal taxes over a period of years determined by the municipality that gave the loan. 2006, c. 32, Sched. A, s. 184.

Lien

(2) The amount of the loan, including interest accrued to the date the loan is repaid, is a lien on land upon the registration in the proper land registry office of a notice of lien. 2006, c. 32, Sched. A, s. 184.

Discharge

(3) When a loan is repaid in full, including interest, the municipality shall register a discharge of lien in the proper land registry office. 2006, c. 32, Sched. A, s. 184.

ORDERS AND REMEDIAL ACTIONS

Order to discontinue activity

444. (1) If a municipality is satisfied that a contravention of a by-law of the municipality passed under this Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity. 2006, c. 32, Sched. A, s. 184.

Same

- (2) An order under subsection (1) shall set out,
 - (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
 - (b) the date by which there must be compliance with the order. 2006, c. 32, Sched. A, s. 184.

Offence

(3) A by-law under section 425 may provide that any person who contravenes an order under subsection (1) is guilty of an offence. 2006, c. 32, Sched. A, s. 184.

Work order

445. (1) If a municipality is satisfied that a contravention of a by-law of the municipality passed under this Act has occurred, the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to do work to correct the contravention. 2006, c. 32, Sched. A, s. 184; 2009, c. 33, Sched. 21, s. 6 (38).

Same

- (2) An order under subsection (1) shall set out,

- (a) reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and
- (b) the work to be done and the date by which the work must be done. 2006, c. 32, Sched. A, s. 184.

Same

(3) An order under subsection (1) may require work to be done even though the facts which constitute the contravention of the by-law were present before the by-law making them a contravention came into force. 2006, c. 32, Sched. A, s. 184.

Offence

(4) A by-law under section 425 may provide that any person who contravenes an order under subsection (1) is guilty of an offence. 2006, c. 32, Sched. A, s. 184.

Remedial action

446. (1) If a municipality has the authority under this or any other Act or under a by-law under this or any other Act to direct or require a person to do a matter or thing, the municipality may also provide that, in default of it being done by the person directed or required to do it, the matter or thing shall be done at the person's expense. 2006, c. 32, Sched. A, s. 184.

Entry upon land

(2) For the purposes of subsection (1), the municipality may enter upon land at any reasonable time. 2006, c. 32, Sched. A, s. 184.

Recovery of costs

(3) The municipality may recover the costs of doing a matter or thing under subsection (1) from the person directed or required to do it by action or by adding the costs to the tax roll and collecting them in the same manner as property taxes. 2006, c. 32, Sched. A, s. 184.

Costs added to tax roll

(4) For the purposes of subsection (3), a local municipality shall, upon the request of its upper-tier municipality, add the costs of the upper-tier municipality to the tax roll. 2006, c. 32, Sched. A, s. 184.

Interest

(5) The costs include interest calculated at a rate of 15 per cent or such lesser rate as may be determined by the municipality, calculated for the period commencing on the day the municipality incurs the costs and ending on the day the costs, including the interest, are paid in full. 2006, c. 32, Sched. A, s. 184.

Lien for costs

(6) The amount of the costs, including interest, constitutes a lien on the land upon the registration in the proper land registry office of a notice of lien. 2006, c. 32, Sched. A, s. 184.

Same

(7) The lien is in respect of all costs that are payable at the time the notice is registered plus interest accrued at the rate established under subsection (5) to the date the payment is made. 2006, c. 32, Sched. A, s. 184.

Effect of payment

(8) Upon receiving payment of all costs payable plus interest accrued to the date of payment, the municipality shall register a discharge of the lien in the proper land registry office. 2006, c. 32, Sched. A, s. 184.

COURT ORDER TO CLOSE PREMISES

Closing premises, lack of licence

447. (1) Where an owner is convicted of knowingly carrying on or engaging in a trade, business or occupation on, in or in respect of any premises or any part of any premises without a licence required by a business licensing by-law, the court may order that the premises or part of the premises be closed to any use for a period not exceeding two years. 2006, c. 32, Sched. A, s. 184.

Same

(2) Where a person is convicted of a contravention of a licensing by-law passed under this Act, other than a conviction described in subsection (1), and the court determines that the owner or occupant of the premises or part of the premises in respect of which the conviction was made knew or ought to have known of the conduct which formed the subject-matter of

the conviction or of any pattern of similar conduct, the court may order that the premises or part of the premises be closed to any use for a period not exceeding two years. 2006, c. 32, Sched. A, s. 184.

Suspension of closing order

(3) Upon application of any person who has an interest in the premises ordered closed under this section, the Superior Court of Justice may suspend any closing order for such period and upon such conditions as are specified by the court,

- (a) if the court is satisfied that the use to which the premises will be put will not contravene a licensing by-law under this Act; and
- (b) if the applicant posts a cash bond for \$10,000 or such greater sum as the court determines, for such term as the court determines, to ensure that the premises will not be used in contravention of any by-law. 2006, c. 32, Sched. A, s. 184.

Discharge of closing order

(4) The Superior Court of Justice may discharge a closing order if, upon application, the court is satisfied that,

- (a) there has been or will be a change in the effective ownership of the premises subsequent to the commission of an offence described in subsection (1) or (2); and
- (b) the new owner can ensure that there will be no contravention of any licensing by-law passed under this Act. 2006, c. 32, Sched. A, s. 184.

Barring of entry

(5) If a closing order is made under this section, the police force responsible for policing in the municipality shall bar entry to all entrances to the premises or parts of the premises named in the order until the order has been suspended or discharged under this section. 2006, c. 32, Sched. A, s. 184.

Forfeiture of bond

(6) If a closing order is suspended under subsection (3) and after the suspension a person is convicted of an offence for contravening a licensing by-law under this Act in respect of the premises or part of them referred to in the closing order, a judge of the Superior Court of Justice may, upon application, order the forfeiture of the bond and the payment to the Crown of the proceeds and order the suspension lifted and the closing order reinstated. 2006, c. 32, Sched. A, s. 184.

No appeal

(7) No appeal lies from an order made under subsection (6). 2006, c. 32, Sched. A, s. 184.

Notice

(8) The municipality that passed the licensing by-law in respect of which a closing order was made is a party to any proceedings instituted under subsection (3), (4) or (6) in respect of the order and shall be given notice of the proceedings in accordance with the rules of the court. 2006, c. 32, Sched. A, s. 184.

By-law deemed passed by council

(9) For the purposes of subsection (8), if the licensing by-law was passed by the police services board or by any other person or body to whom the municipality has delegated the power to pass the by-law, the by-law is deemed to have been passed by the municipality. 2006, c. 32, Sched. A, s. 184.

Application for suspension or discharge of closing order

(10) Where an appeal is taken from a closing order or from a conviction in respect of which the order was made, the appellant may apply under subsection (3) for a suspension of the closing order until the disposition of the matter under appeal or any person may apply under subsection (4) for a discharge of the order but the commencement of an appeal does not stay the order. 2006, c. 32, Sched. A, s. 184.

Description of premises

(11) The description of any premises in a closing order by reference to its municipal address is sufficient for the purposes of the order. 2006, c. 32, Sched. A, s. 184.

Registration

(12) A closing order may be registered in the proper land registry office. 2006, c. 32, Sched. A, s. 184.

Definition

(13) In subsections (1) and (2),

“court” means the Ontario Court of Justice or a court to which an appeal may be taken under Part VII of the *Provincial Offences Act*. 2006, c. 32, Sched. A, s. 184.

Closing premises, public nuisance

447.1 (1) Upon application of a municipality, the Superior Court of Justice may make an order requiring that all or part of a premises within the municipality be closed to any use for a period not exceeding two years if, on the balance of probabilities, the court is satisfied that,

- (a) activities or circumstances on or in the premises constitute a public nuisance or cause or contribute to activities or circumstances constituting a public nuisance in the vicinity of the premises;
- (b) the public nuisance has a detrimental impact on the use and enjoyment of property in the vicinity of the premises including, but not limited to, impacts such as,
 - (i) trespass to property,
 - (ii) interference with the use of highways and other public places,
 - (iii) an increase in garbage, noise or traffic or the creation of unusual traffic patterns,
 - (iv) activities that have a significant impact on property values,
 - (v) an increase in harassment or intimidation, or
 - (vi) the presence of graffiti; and
- (c) the owner or occupants of the premises or part of the premises knew or ought to have known that the activities or circumstances constituting the public nuisance were taking place or existed and did not take adequate steps to eliminate the public nuisance. 2006, c. 32, Sched. A, s. 184.

Consent

(2) A municipality shall not make an application under subsection (1) with respect to a premises without the consent of the chief of police of the municipal police force or the detachment commander of the Ontario Provincial Police detachment that is responsible for policing the area which includes the premises and the consent shall not be refused unless, in the opinion of the chief of police or detachment commander, the application may have an impact on the operations of the police. 2006, c. 32, Sched. A, s. 184.

Notice to Attorney General

(3) After obtaining a consent under subsection (2) but before making an application under subsection (1), the municipality shall give 15 days notice of its intention to make an application under subsection (1) to the Attorney General. 2006, c. 32, Sched. A, s. 184.

Resulting action

- (4) The following conditions apply with respect to a notice given to the Attorney General under subsection (3):
1. If the Attorney General does not provide any comment to the municipality with respect to the application within the 15-day period, the municipality may proceed with the application.
 2. If the Attorney General provides comments to the municipality supporting the application within the 15-day period, the municipality may immediately proceed with the application.
 3. If the Attorney General provides comments to the municipality opposing the application within the 15-day period, the municipality may not proceed with the application. 2006, c. 32, Sched. A, s. 184.

Action by Attorney General

(5) The Attorney General may, at any time, take over or terminate an application under subsection (1) or be heard in person or by counsel on the application. 2006, c. 32, Sched. A, s. 184.

Contents of notice

- (6) A notice under subsection (3) shall include a description of,
- (a) the premises with respect to which the municipality intends to make the application;
 - (b) the activities or circumstances on or in the premises which, in the opinion of the municipality, constitute a public nuisance or cause or contribute to activities or circumstances constituting a public nuisance in the vicinity of the premises; and

(c) the detrimental impact on the use and enjoyment of property in the vicinity of the premises which, in the opinion of the municipality, is caused by the activities or circumstances described in clause (b). 2006, c. 32, Sched. A, s. 184.

Suspension of closing order

(7) Upon the application of any person who has an interest in the premises, the Superior Court of Justice may make an order suspending an order made under subsection (1) to permit such use, for such period and upon such conditions imposed on the applicant, including the posting of security, as may be specified by the court if, on the balance of probabilities, the court is satisfied that the use will not result in activities and circumstances constituting a public nuisance. 2006, c. 32, Sched. A, s. 184.

Discharge of closing order

(8) Upon the application of any person who has an interest in the premises, the Superior Court of Justice may make an order discharging an order made under subsection (1) if, on the balance of probabilities, the court is satisfied that circumstances have changed to the extent that after the discharge of the order the premises will not be used in a manner which will result in activities and circumstances constituting a public nuisance. 2006, c. 32, Sched. A, s. 184.

Barring entry

(9) If a closing order is made under this section, the police force responsible for policing in the municipality shall bar entry to all entrances to the premises or parts of the premises named in the order until the order has been suspended or discharged under this section. 2006, c. 32, Sched. A, s. 184.

No stay of order

(10) An application under this section does not stay an order under subsection (1). 2006, c. 32, Sched. A, s. 184.

Municipality to be party

(11) A municipality that obtains an order with respect to a premises under subsection (1) is entitled to be a party in proceedings under subsection (7) or (8) and shall be served with a copy of the notice initiating proceedings in accordance with the rules of the court. 2006, c. 32, Sched. A, s. 184.

Notice

(12) Notice of an application under this section shall be served on the Attorney General who is entitled to be heard in person or by counsel on the application. 2006, c. 32, Sched. A, s. 184.

Description of premises

(13) For the purpose of an order under this section, the municipal address of the premises is a sufficient description of the premises or part of the premises affected by the order. 2006, c. 32, Sched. A, s. 184.

Registration

(14) An order under this section may be registered in the proper land registry office. 2006, c. 32, Sched. A, s. 184.

Right not affected

(15) Nothing in this section affects the Attorney General's right to bring an injunction in the public interest. 2006, c. 32, Sched. A, s. 184.

Inspection of buildings containing marijuana grow operations

447.2 (1) If the clerk of a local municipality is notified in writing by a police force that a building located on land in the local municipality contained a marijuana grow operation, the local municipality shall ensure that an inspection of the building is conducted within a reasonable time after the clerk has been notified. 2006, c. 32, Sched. A, s. 184.

Persons who may conduct inspection

- (2) An inspection referred to in subsection (1) may be conducted by,
- (a) a by-law enforcement officer of any municipality or of any local board of any municipality; or
 - (b) an officer, employee or agent of any municipality or of any local board of any municipality whose responsibilities include the enforcement of a by-law, an Act or a regulation under an Act. 2006, c. 32, Sched. A, s. 184.

Nature of inspection

(3) The requirement in subsection (1) for an inspection is for an inspection that includes entering upon the land and into the building. 2006, c. 32, Sched. A, s. 184.

Powers to conduct inspection

(4) The inspection shall be conducted pursuant to the powers of entry and inspection that the person conducting the inspection otherwise has under law, but only to the extent that the person conducting the inspection is able to do so. 2006, c. 32, Sched. A, s. 184.

Action to be taken

(5) Upon conclusion of the inspection, the person who conducted the inspection shall take whatever actions he or she is authorized by law to take in order to make the building safe and otherwise protect the public. 2006, c. 32, Sched. A, s. 184.

Definition

(6) In this section,

“police force” means a municipal police force, the Ontario Provincial Police or the Royal Canadian Mounted Police. 2006, c. 32, Sched. A, s. 184.

Where marijuana grow operation is in a lower-tier municipality

447.3 (1) If the clerk of a lower-tier municipality is notified under subsection 447.2 (1) that a building located on land in the lower-tier municipality contained a marijuana grow operation, the lower-tier municipality shall, if in its opinion it is appropriate to do so, forward a copy of the notice referred to in subsection 447.2 (1) to the clerk of the upper-tier municipality of which the lower-tier municipality forms a part. 2006, c. 32, Sched. A, s. 184.

Same

(2) Upon the clerk of the upper-tier municipality being notified under subsection (1), the obligation under subsection 447.2 (1) to ensure that an inspection of the building is conducted becomes the obligation of both the lower-tier municipality and the upper-tier municipality. 2006, c. 32, Sched. A, s. 184.

Co-ordination of enforcement

447.4 (1) Without limiting sections 9, 10 and 11, those sections authorize a municipality to enter into agreements with a person or body in relation to matters of mutual interest for the purpose of co-ordinating the enforcement of by-laws, statutes and regulations. 2006, c. 32, Sched. A, s. 184.

Other matters not affected

(2) Subsection (1) does not affect the interpretation of other provisions of this Act, any other Act or any regulation made under this or any other Act. 2006, c. 32, Sched. A, s. 184.

Proof of by-laws

447.5 (1) If a court convicts a person for a contravention of a by-law of a municipality or of a local board of a municipality without proof of the by-law, another court hearing a motion to quash the conviction may dispense with such proof or may permit the by-law to be proved by affidavit or in such other manner as it considers appropriate. 2006, c. 32, Sched. A, s. 184.

Requirement as to proof

(2) Nothing in this section relieves a prosecutor from the duty of proving the by-law or entitles the convicting court to dispense with such proof. 2006, c. 32, Sched. A, s. 184.

Matters of evidence re other documents

Admissibility of certified copies

447.6 (1) A copy of any record under the control of the clerk of the municipality purporting to be certified by the clerk and under the seal of the municipality may be filed and used in any court or tribunal instead of the original and is admissible in evidence without proof of the seal or of the signature or official character of the person signing it, unless the court or tribunal otherwise directs. 2006, c. 32, Sched. A, s. 184.

Certified copies, local boards

(2) A copy of any record under the control of an officer of a local board purporting to be certified by the officer and under the seal of the local board or containing a statement by the officer that there is no seal may be filed and used in any court or tribunal instead of the original and is admissible in evidence without proof of the seal or statement or of the signature or official character of the person signing it, unless the court or tribunal otherwise directs. 2006, c. 32, Sched. A, s. 184.

Same, records

(3) A copy of any record transferred to a person pursuant to an agreement under section 254 and certified by the person or an officer of the person having responsibility for the record may be filed and used in any court or tribunal instead of the

original and is admissible in evidence without proof of the signature or official character of the person signing it, unless the court or tribunal otherwise directs. 2006, c. 32, Sched. A, s. 184.

Statement of licensing status

(4) In any prosecution or proceeding under a business licensing by-law providing for a system of licences for a business, a statement as to the licensing or non-licensing of any premises or person purporting to be signed by the clerk of a municipality, by the chief administrative officer of a police services board or by the chief administrative officer of any other person or body to whom the municipality has delegated its licensing powers is, without proof of the office or signature of the clerk or officer, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the statement for all purposes in the prosecution or proceeding. 2006, c. 32, Sched. A, s. 184.

Proof of seal or signature not required

(5) Every by-law purporting to be under the seal of a municipality and signed by head of council or presiding officer at the meeting at which the by-law is passed, when produced by the clerk or any other officer of the municipality charged with the custody of it, is admissible in evidence in all courts without proof of the seal or signature. 2006, c. 32, Sched. A, s. 184.

Photocopies

(6) A by-law or resolution passed under section 255 may provide that a specified copy of a record is deemed to be the original for the purposes of this section if the original has been destroyed in accordance with section 255 or the by-law or resolution under that section. 2006, c. 32, Sched. A, s. 184.

Admissibility

(7) Nothing in subsection (6) renders admissible in evidence a copy of a record that is not otherwise admissible by statute or the law of evidence. 2006, c. 32, Sched. A, s. 184.

Evidence re debentures

(8) If there is no original written record of or related to a debenture, any writing produced from an electronic or magnetic medium that is in a readily understandable form is admissible in evidence to the same extent as if it were an original written record. 2006, c. 32, Sched. A, s. 184.

Costs in legal proceedings

447.7 (1) Despite any Act, in any proceeding to which a municipality or local board is a party, costs adjudged to the municipality or local board shall not be disallowed or reduced merely because the counsel who earned the costs, or in respect of whose services the costs are charged, was a salaried officer of the municipality or local board or a salaried officer of another municipality acting on behalf of the local board and for that, or any other reason, was not entitled to recover any costs from the municipality or local board in respect of the services rendered. 2006, c. 32, Sched. A, s. 184.

Costs to general fund

(2) The costs recovered in any proceeding by or on behalf of a municipality or local board shall form part of the general funds of the municipality or local board, respectively. 2006, c. 32, Sched. A, s. 184.

Power to adopt other codes, etc.

447.8 (1) A by-law of a municipality or of a local board of a municipality made under this or any other Act may,

- (a) adopt by reference, in whole or in part, with such changes as the council or board considers appropriate, any code, standard, procedure or regulation as it stands at a specific date, as it stands at the time of adoption or as amended from time to time; and
- (b) require compliance with any code, standard, procedure or regulation so adopted. 2006, c. 32, Sched. A, s. 184.

Inspection

(2) A copy of a code, standard, procedure or regulation adopted under this section shall be available for public inspection. 2006, c. 32, Sched. A, s. 184.

Application of Part to other Acts

447.9 (1) This Part applies with necessary modifications to by-laws passed by a municipality or police services board of a municipality under any other Act except as otherwise provided in the other Act. 2006, c. 32, Sched. A, s. 184.

Exceptions

(2) Despite subsection (1), sections 435 to 439, 444 and 445 do not apply to by-laws passed by a municipality or a police services board under any other Act. 2006, c. 32, Sched. A, s. 184.

**PART XV
MUNICIPAL LIABILITY**

Immunity

448. (1) No proceeding for damages or otherwise shall be commenced against a member of council or an officer, employee or agent of a municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this Act or a by-law passed under it or for any alleged neglect or default in the performance in good faith of the duty or authority. 2001, c. 25, s. 448 (1).

Liability for torts

(2) Subsection (1) does not relieve a municipality of liability to which it would otherwise be subject in respect of a tort committed by a member of council or an officer, employee or agent of the municipality or a person acting under the instructions of the officer, employee or agent. 2001, c. 25, s. 448 (2).

Liability in nuisance re: water and sewage

449. (1) No proceeding based on nuisance, in connection with the escape of water or sewage from sewage works or water works, shall be commenced against,

- (a) a municipality or local board;
- (b) a member of a municipal council or of a local board; or
- (c) an officer, employee or agent of a municipality or local board. 2001, c. 25, s. 449 (1).

Definitions

(2) In this section,

“sewage works” means all or any part of facilities for the collection, storage, transmission, treatment or disposal of sewage, including a sewage system to which the *Building Code Act, 1992* applies; (“station d’épuration des eaux d’égout”)

“water works” means facilities for the collection, production, treatment, storage, supply or distribution of water, or any part of the facilities. (“station de purification de l’eau”) 2001, c. 25, s. 449 (2).

Rights preserved

(3) Subsection (1) does not exempt a municipality or local board from liability arising from a cause of action that is created by a statute or from an obligation to pay compensation that is created by a statute. 2001, c. 25, s. 449 (3).

Transition

(4) Subsection (1) does not apply if the cause of action arose before December 19, 1996. 2001, c. 25, s. 449 (4).

Policy decisions

450. No proceeding based on negligence in connection with the exercise or non-exercise of a discretionary power or the performance or non-performance of a discretionary function, if the action or inaction results from a policy decision of a municipality or local board made in a good faith exercise of the discretion, shall be commenced against,

- (a) a municipality or local board;
- (b) a member of a municipal council or of a local board; or
- (c) an officer, employee or agent of a municipality or local board. 2001, c. 25, s. 450.

**PART XVI
REGULATIONS AND FORMS**

Scope

451. A regulation under this Act may be general or specific in its application and may differentiate in any way and on any basis that the person or body making the regulation considers appropriate. 2001, c. 25, s. 451.

Regulations re the provincial interest

451.1 (1) If the Lieutenant Governor in Council considers that it is necessary or desirable in the provincial interest to do so, the Lieutenant Governor in Council may make regulations imposing limits and conditions on the powers of a municipality under sections 9, 10 and 11 or Part IV or providing that a municipality cannot exercise the powers in prescribed circumstances. 2006, c. 32, Sched. A, s. 185.

Deemed revocation

(2) A regulation made under subsection (1) is deemed to be revoked 18 months after the day on which the regulation comes into force, unless the regulation expires or is revoked before then. 2006, c. 32, Sched. A, s. 185.

Restriction

(3) The Lieutenant Governor in Council does not have the power to renew, or extend in time, a regulation made under subsection (1) or to replace it with a regulation of similar effect. 2006, c. 32, Sched. A, s. 185.

Same

(4) Subsection (3) does not affect any authority to make regulations under any other section of this or any other Act. 2006, c. 32, Sched. A, s. 185.

Effect on by-laws

(5) If a regulation made under subsection (1) imposes limits or conditions on a power of a municipality or provides that a municipality cannot exercise a power in prescribed circumstances, any by-law made by a municipality under the applicable power is inoperative to the extent of the limits, conditions or prohibition. 2006, c. 32, Sched. A, s. 185.

Regulations respecting powers

452. (1) The Lieutenant Governor in Council may make regulations authorizing municipalities to exercise a power that they had on December 31, 2002. 2001, c. 25, s. 452 (1).

Retroactive

(2) A regulation under subsection (1) may be retroactive to a day not earlier than January 1, 2003. 2001, c. 25, s. 452 (2).

Regulation to continue powers

(2.1) The Lieutenant Governor in Council may make regulations authorizing a municipality to exercise a power that it had on the day before this subsection comes into force. 2006, c. 32, Sched. A, s. 186 (1).

Retroactive

(2.2) A regulation under subsection (2.1) may be retroactive to a day not earlier than the day on which this subsection comes into force. 2006, c. 32, Sched. A, s. 186 (1).

Use of power

(3) A regulation under subsection (1) or (2.1) may provide for any matter that in the opinion of the Lieutenant Governor in Council is necessary or desirable to ensure that the use of the power by the municipality before the regulation is filed has the same effect as if the municipality had always had the power, including extinguishing any right, obligation or interest acquired or accrued. 2001, c. 25, s. 452 (3); 2006, c. 32, Sched. A, s. 186 (2).

Conflicts

(4) If there is a conflict between a regulation under this section and any Act or other regulation, the regulation under this section prevails. 2002, c. 17, Sched. A, s. 83.

Regulations, transitional matters

453. (1) The Minister may make regulations providing for transitional matters which, in the opinion of the Minister, are necessary or desirable,

- (a) to facilitate the implementation of this Act or any provision of this Act;
- (b) to deal with problems or issues arising as a result of the repeal of the old Act and the enactment of this Act;
- (c) to deal with problems or issues arising as a result of the amendment or repeal of an Act or a provision of an Act by this Act, the *Municipal Statute Law Amendment Act, 2002* or the *Municipal Statute Law Amendment Act, 2006*. 2001, c. 25, s. 453 (1); 2002, c. 17, Sched. A, s. 84; 2006, c. 32, Sched. A, s. 187.

Conflicts

(2) If there is a conflict between a regulation under this section and any Act or any regulation, the regulation under this section prevails. 2001, c. 25, s. 453 (2).

Forms

454. (1) The Minister may by order establish and require the use of forms for the purposes of this Act. 2001, c. 25, s. 454 (1).

Not regulation

(2) An order of the Minister under this section is not a regulation to which Part III (Regulations) of the *Legislation Act, 2006* applies. 2001, c. 25, s. 454 (2); 2006, c. 21, Sched. F, s. 136 (1).

PART XVII TRANSITION

Transition

Lower-tier municipality

455. (1) Every city, town, township and village that existed and formed part of a county, a regional or district municipality or the County of Oxford for municipal purposes on December 31, 2002,

- (a) is continued with the same name; and
- (b) has the status of a lower-tier municipality which stands in the place of the city, town, township or village, as the case may be, for all purposes. 2001, c. 25, s. 455 (1).

Single-tier municipality

(2) Every city, town, township and village that existed and did not form part of a county, a regional or district municipality or the County of Oxford for municipal purposes on December 31, 2002,

- (a) is continued with the same name; and
- (b) has the status of a single-tier municipality which stands in the place of the city, town, township or village, as the case may be, for all purposes. 2001, c. 25, s. 455 (2).

Upper-tier municipality

(3) Every county and every regional or district municipality and the County of Oxford that existed on December 31, 2002,

- (a) is continued with the same name; and
- (b) has the status of an upper-tier municipality which stands in the place of the county, regional or district municipality or the County of Oxford, as the case may be, for all purposes. 2001, c. 25, s. 455 (3).

Union of townships

(4) A township which was a union of townships on December 31, 2002 has the status of a lower-tier municipality or single-tier municipality under subsection (1) or (2), as the case may be, and does not for any purpose continue to be a union of townships. 2001, c. 25, s. 455 (4).

Union of counties

(5) A county which was a union of counties on December 31, 2002 has the status of an upper-tier municipality under subsection (3) and does not for any purpose continue to be a union of counties. 2001, c. 25, s. 455 (5).

Continuation

(6) Every local board of one or more cities, towns, townships, villages, counties, regional or district municipalities or the County of Oxford on December 31, 2002 is continued as a local board of the corresponding single-tier municipalities, lower-tier municipalities and upper-tier municipalities on January 1, 2003. 2002, c. 17, Sched. A, s. 85.

Police villages

456. (1) Despite the repeal of the old Act, police villages in existence on January 1, 2003 continue to exist until they are dissolved. 2001, c. 25, s. 456 (1).

Continuation

(2) Sections 332 to 357 of the old Act continue to apply to those police villages and the local municipalities in which they are located except,

- (a) a reference in those sections to a township or village shall be deemed to be a reference to a local municipality; and
- (b) the references in section 348 of the old Act to other provisions of the old Act shall be deemed to be references to those provisions as they read on December 31, 2002. 2001, c. 25, s. 456 (2).

Continuation of by-laws, resolutions

457. (1) If, as a result of this Act or the *Municipal Statute Law Amendment Act, 2002*, a city, town, township, village, county, regional or district municipality, the County of Oxford or a local board, as defined in the *Municipal Affairs Act*, that

existed on December 31, 2002 no longer has the authority to pass a by-law or resolution that was in force on December 31, 2002, despite the absence of authority,

- (a) the by-law or resolution continues in force until its repeal, expiration or January 1, 2006, whichever occurs first; and
- (b) the authority, as it read on December 31, 2002, continues to apply to the by-law or resolution passed under it before January 1, 2003. 2001, c. 25, s. 457 (1); 2002, c. 17, Sched. A, s. 86.

Restriction

- (2) A by-law or resolution described in subsection (1) shall not be amended. 2001, c. 25, s. 457 (2).

Effect

(3) Nothing in this section repeals or authorizes the repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the city, town, township, village, county, regional or district municipality or the County of Oxford. 2001, c. 25, s. 457 (3).

Continuation of by-laws, resolutions

457.1 (1) If, as a result of the enactment of the *Municipal Statute Law Amendment Act, 2006*, a municipality or a local board, as defined in the *Municipal Affairs Act*, that existed on the day before section 8 of Schedule A to that Act came into force no longer has the authority to pass a by-law or resolution that was in force on that day, despite the absence of authority,

- (a) the by-law or resolution continues in force until its repeal, expiration or three years after that day, whichever occurs first; and
- (b) the authority, as it read on that day, continues to apply to the by-law or resolution passed under it before that day. 2006, c. 32, Sched. A, s. 188.

Application of provisions

- (2) Subsections 457 (2) and (3) apply with necessary modifications to this section. 2006, c. 32, Sched. A, s. 188.

Deemed by-law re powers and duties

457.2 (1) This section applies if a person or body, other than a municipal services board, ceases to be authorized to exercise powers or perform duties on behalf of, or in relation to, a municipality by virtue of the coming into force of any provision of Schedule A to the *Municipal Statute Law Amendment Act, 2006*. 2006, c. 32, Sched. A, s. 188.

Same

(2) On the day on which the applicable provision comes into force, a municipality is deemed to have passed any by-law necessary under this Act to give the person or body any power or duty,

- (a) that the municipality is capable of giving to the person or body under this Act; and
- (b) that the person or body was authorized to exercise or perform, on behalf of or in relation to the municipality, immediately before that day. 2006, c. 32, Sched. A, s. 188.

Same

(3) If the deemed by-law is a delegation by-law, it is also deemed to provide that both the municipality and the delegate can exercise the delegated powers. 2006, c. 32, Sched. A, s. 188.

Amend or repeal

- (4) The municipality may amend or repeal the deemed by-law. 2006, c. 32, Sched. A, s. 188.

Composition of councils continued

458. On January 1, 2003, the composition of the council of a municipality, the method of electing or appointing its members, the number of votes given to each member and the titles of its members shall be the same as they were on December 31, 2002. 2001, c. 25, s. 458.

Wards continue

459. On January 1, 2003, the wards of a municipality and a local board are the same as they were on December 31, 2002. 2001, c. 25, s. 459; 2006, c. 32, Sched. A, s. 189.

Continuation of services

460. A lower-tier municipality that is lawfully providing a waste management service or facility on December 31, 2002 may, despite section 11, continue to provide the service or facility so long as there is no interruption in the continuity of providing the service or facility. 2001, c. 25, s. 460.

Conflict re: tree by-laws

461. (1) If, on January 1, 2003, there is a conflict between an upper-tier by-law and a lower-tier by-law relating to the regulation or prohibition of the destruction or injuring of trees, the by-law that is the most restrictive of the destruction or injuring of trees prevails. 2001, c. 25, s. 461.

By-laws made after December 31, 2002

(2) Subsection (1) does not apply to a conflict between a by-law of an upper-tier municipality passed after December 31, 2002 under this Act and a by-law of a lower-tier municipality passed after December 31, 2002 under this Act. 2002, c. 17, Sched. A, s. 87.

Agreement re: flood control

462. Despite the repeal of paragraph 15 of section 207 of the old Act, that paragraph continues to apply to land acquired by a municipality or land with respect to which a municipality has entered into a binding agreement to acquire before January 1, 2003. 2001, c. 25, s. 462.

Canals

463. Despite the repeal of the old Act, section 219 of that Act continues to apply to docks or slips authorized by a municipality to be constructed, maintained and used in its water canal before January 1, 2003. 2001, c. 25, s. 463.

Pensions

464. Despite the repeal of section 117 and paragraph 46 of section 207 of the old Act,

- (a) an approved pension plan, as defined in subsection 117 (1) of the old Act as it read on December 31, 2002, continues to exist until its assets are transferred to another approved pension plan or to the pension fund for the primary pension plan under the *Ontario Municipal Employees Retirement System Act, 2006* or it is wound up; and
- (b) those provisions, as they read on December 31, 2002, continue to apply for the purpose of administering, transferring the assets or winding up any approved pension plan in existence on December 31, 2002. 2001, c. 25, s. 464; 2006, c. 2, s. 49 (5).

465. REPEALED: 2002, c. 17, Sched. A, s. 88.

Past tax deferrals

466. Section 373 of the *Municipal Act*, as it read on December 31, 2000, continues to apply to deferrals given under that section before that date. 2001, c. 25, s. 466.

Liability re: fire service

467. Despite the repeal of the old Act, clause (e) of paragraph 31 of section 210 and paragraph 32 of section 210 of that Act continue to apply for the purpose of protecting a municipality from liability with respect to agreements entered into and emergency fire service plans adopted prior to January 1, 2003. 2001, c. 25, s. 467.

Board of control, City of London

468. Despite the repeal of the old Act, Part V of that Act continues to apply to the board of control of The Corporation of the City of London, subject to the following rules:

- 1. The board is deemed to be a board of control under section 64 of the old Act.
- 2. Subsection 64 (3) of the old Act does not apply to the board.
- 3. The references to a two-thirds vote in subsections 64 (2) and 68 (3), (6) and (7) of the old Act are deemed to be references to a majority vote. 2006, c. 32, Sched. A, s. 190.

Waste

469. (1) Despite the repeal of section 208.3 and subsections 209 (10), (12) and (13) of the old Act, sections 151 and 152 of the *Regional Municipalities Act*, section 36 of the *Regional Municipality of Durham Act*, section 34 of the *Regional Municipality of Halton Act*, sections 40 and 41 of the *Regional Municipality of Waterloo Act* and section 33 of the *Regional Municipality of York Act*,

- (a) any term, restriction or condition imposed by a municipality or the Ontario Municipal Board on an approval or consent under those sections continues to apply; and
- (b) those provisions, as they read on December 31, 2002, continue to apply for the purpose of making an appeal to the Ontario Municipal Board under them. 2001, c. 25, s. 469 (1).

By-laws re: waste, counties

(2) Despite the repeal of subsections 209 (15) to (18) and (25) to (29) of the old Act, those subsections, as they read on December 31, 2002, continue to apply to by-laws passed under subsection 209 (2) of the old Act before January 1, 2003. 2001, c. 25, s. 469 (2).

By-laws re: waste, regions

(3) Despite the repeal of sections 153, 157, 158 and 159 of the *Regional Municipalities Act*, those sections, as they read on December 31, 2002, continue to apply to by-laws passed or deemed to have been passed under section 150 of that Act before January 1, 2003, including by-laws made under that section as incorporated into other Acts by subsection 126 (7) of the *County of Oxford Act* and section 128 of the *District Municipality of Muskoka Act* as they read immediately before their repeal. 2001, c. 25, s. 469 (3).

By-laws re: waste, Waterloo

(4) Despite the repeal of clauses 41 (3) (d), (e) and (f) of the *Regional Municipality of Waterloo Act*, those clauses, as they read on December 31, 2002, continue to apply to by-laws passed under section 41 of that Act before January 1, 2003. 2001, c. 25, s. 469 (4).

Boundary orders

470. Despite the repeal of section 14 of the *Municipal Boundary Negotiations Act*, any order made under that Act continues to apply to the municipalities to which the order relates. 2001, c. 25, s. 470.

Telephone system

471. Despite the repeal of the *Telephone Act*, an approval or consent given by the Ontario Telephone Service Commission under section 42 or 43 of that Act, as it read on December 31, 2002, continues to apply to authorize a municipality to extend its telephone system into another municipality or into unorganized territory. 2001, c. 25, s. 471.

Dissolution of Oxford County Board of Health

472. (1) On January 1, 2003, the Oxford County Board of Health is dissolved. 2001, c. 25, s. 472 (1).

Transfer of assets and liabilities

(2) All assets and liabilities of the Oxford County Board of Health on December 31, 2002, including all rights, interests, approvals, registrations and entitlements, become the assets and liabilities of the County of Oxford on January 1, 2003, without compensation. 2001, c. 25, s. 472 (2).

By-laws, resolutions

(3) Every by-law and resolution of the Oxford County Board of Health that is in force on December 31, 2002 shall be deemed to be a by-law and resolution of the County of Oxford on January 1, 2003. 2001, c. 25, s. 472 (3).

Employees

(4) A person who is an employee of the Oxford County Board of Health on December 31, 2002 and who would, but for this section, still be an employee of the Oxford County Board of Health on January 1, 2003, is an employee of the County of Oxford on January 1, 2003. 2001, c. 25, s. 472 (4).

Not a termination

(5) A person's employment with the Oxford County Board of Health shall be deemed not to have been terminated for any purpose by anything in subsection (4). 2001, c. 25, s. 472 (5).

Terms in other Acts

473. (1) In any Act or regulation,

- (a) a reference to a tax collector of a municipality shall be deemed to be a reference to the treasurer of the municipality;
 - (b) a reference to a collector's roll of a municipality shall be deemed to be a reference to the tax roll of the municipality;
- and

(c) a reference to a clerk of a local municipality taking any action or receiving notice with respect to the collector's roll of the local municipality shall be deemed to be a reference to the treasurer of the local municipality. 2001, c. 25, s. 473 (1).

(2) REPEALED: 2002, c. 17, Sched. A, s. 89.

Taxes imposed under certain Parts of old Act

474. Despite the repeal of the old Act, Parts XXII.1, XXII.2 and XXII.3 of that Act continue to apply with respect to taxes imposed in accordance with those Parts, including any power under those Parts to make regulations relating to taxes payable under the old Act for any year ending before January 1, 2003. 2004, c. 31, Sched. 26, s. 9.

Transitional rules, municipal restructuring

474.1 (1) Despite the repeal of an Act or provision of an Act by this Act or by the *Municipal Statute Law Amendment Act, 2002* related to a municipal restructuring, any repealed provision setting out transitional rules with respect to by-laws, resolutions, official plans, agreements and assets and liabilities of a municipality, other than provisions dealing with employees, continues to apply in the same manner as it would have applied if it had not been repealed. 2002, c. 17, Sched. A, s. 90.

Transitional rules continued

(2) Despite the repeal of the authority to make a regulation or any provision of a regulation by this Act or by the *Municipal Statute Law Amendment Act, 2002* relating to a municipal restructuring, any provision for which the authority is repealed setting out transitional rules with respect to by-laws, resolutions, official plans, agreements and assets and liabilities of a municipality, other than provisions dealing with employees, continue to apply in the same manner as it would have applied if the authority had not been repealed. 2002, c. 17, Sched. A, s. 90.

Continuation of provisions re: restructuring

474.2 Despite the repeal of section 4 of the *Barrie-Vespra Annexation Act, 1984*, subsection 5 (1) of *The Brantford-Brant Annexation Act, 1980* and subsection 2 (3) of the *Sarnia-Lambton Act, 1989*, those provisions continue to apply until the date mentioned in each of them, respectively, and despite the repeal of subsections 5 (2) to (4) of *The Brantford-Brant Annexation Act, 1980*, those provisions continue to apply in the same manner as they would have applied if they had not been repealed. 2002, c. 17, Sched. A, s. 90; 2009, c. 29, s. 11 (1).

Certain tax credit by-laws

474.3 Despite the repeal of the *Municipal Elderly Residents' Assistance Act*, that Act continues to apply with respect to by-laws authorizing tax credits under that Act passed before January 1, 2003. 2002, c. 17, Sched. A, s. 90.

Pipe line

474.4 Despite the repeal of the *Barrie-Vespra Annexation Act, 1984*, section 6 of that Act continues to apply if any portion of the Trans-Canada Pipe Line, as it existed on December 31, 1983, located in the area annexed to the City of Barrie under that Act continues to exist. 2002, c. 17, Sched. A, s. 90.

Trust fund

474.5 Despite the repeal of section 20.1 of the *Regional Municipality of Durham Act*, that section continues to apply until the trust fund described in that section is depleted. 2002, c. 17, Sched. A, s. 90.

474.6, 474.7 REPEALED: 2007, c. 8, s. 218 (7).

Financial matters, London-Middlesex

474.8 Despite the repeal of sections 43 and 47 of the *London-Middlesex Act, 1992*, those sections continue to apply until December 31, 2003. 2002, c. 17, Sched. A, s. 90.

County of Simcoe

474.9 Despite the repeal of Part VIII of the *County of Simcoe Act, 1993*, that Part, including the power to make orders and regulations, continues to apply as if it had not been repealed with the following modifications:

1. In subsection 65 (2), the reference to subsections is to those subsections as they read immediately before their repeal by the *Municipal Act, 2001*.
2. In subclause 67 (1) (a) (ii), the reference to "*Municipal Act*" is changed to "*Municipal Act, 2001*".
3. In subsection 68 (3), the phrase "struck off the roll as uncollectible under section 441 of the *Municipal Act*" is replaced by "removed from the tax roll under section 354 of the *Municipal Act, 2001*".

4. In section 69, the reference to “37 (2) of the *Municipal Act*” is changed to “258 (2) of the *Municipal Act, 2001*”.
5. In subsection 71 (1), the reference to *Municipal Boundary Negotiations Act* is a reference to that Act as it read immediately before its repeal by the *Municipal Act, 2001*. 2002, c. 17, Sched. A, s. 90.

Local improvement matters

474.10 (1) Despite the repeal of the *Local Improvement Act*, any matter or proceeding commenced under that Act before January 1, 2003 shall be continued and finally disposed of under that Act. 2002, c. 17, Sched. A, s. 90.

Deemed commencement

(2) For the purposes of subsection (1), a proceeding to undertake a local improvement is deemed to have commenced under section 8, 10 or 12 of the *Local Improvement Act* when notice in Form 1, 2 or 3, respectively, of that Act has been given. 2002, c. 17, Sched. A, s. 90.

Continued application

474.10.1 Despite the repeal of subsection 9 (2) of this Act by section 8 of Schedule A to the *Municipal Statute Law Amendment Act, 2006*, that subsection, as it read on the day before its repeal, continues to apply to resolve ambiguities existing on that day. 2006, c. 32, Sched. A, s. 191.

PART XVII.1 MISCELLANEOUS MATTERS

474.11 REPEALED: 2009, c. 29, s. 11 (2).

County of Brant

474.12 (1) The portion of the County of Brant described in Schedule C to *The Brantford-Brant Annexation Act, 1980*, as that Act read on December 31, 2002, shall be designated by the County in its official plan, and in subsequent amendments thereto, so as to ensure the preservation of farmland, the provision of a municipal water supply and the development of mineral resource extraction and uses related to agriculture and mineral resource extraction. 2002, c. 17, Sched. A, s. 91.

Official plan

(2) Despite subsection (1), the official plan with respect to the area described in Schedule C may be amended in accordance with the *Planning Act* for any land use designation other than those referred to in subsection (1) if the City of Brantford and the County of Brant agree to the proposed land use designations. 2002, c. 17, Sched. A, s. 91.

City of Cornwall

474.13 (1) Despite any official plan or by-law of the City of Cornwall, the area described in Schedules A and B to *The City of Cornwall Annexation Act, 1974*, as it read on December 31, 2002, shall be deemed to be zoned for industrial purposes. 2002, c. 17, Sched. A, s. 91.

Limitation

(2) Nothing in subsection (1) limits the power of the Minister under section 47 of the *Planning Act*. 2002, c. 17, Sched. A, s. 91.

St. George

474.14 (1) The area of The Police Village of St. George, as it existed on December 31, 1980, the area described in the Schedule to the *Township of South Dumfries Act, 1989*, as it read on December 31, 2002, and any land added by the Ontario Municipal Board under subsection (2) is an urban service area of the County of Brant for the provision of garbage collection, street lighting, sidewalks and sewer and water services. 2002, c. 17, Sched. A, s. 91.

Alteration of boundary

(2) Upon application of the County of Brant, the Ontario Municipal Board may alter the boundary of the urban service area. 2002, c. 17, Sched. A, s. 91.

Restrictions

(3) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made in respect of an application under subsection (2). 2002, c. 17, Sched. A, s. 91; 2009, c. 33, Sched. 2, s. 47 (2).

County of Oxford

474.15 (1) The operating costs of the library system of the County of Oxford shall be raised by a special upper-tier levy under section 311 on the rateable property in its lower-tier municipalities other than the City of Woodstock and the Town of Tillsonburg. 2002, c. 17, Sched. A, s. 91.

Same

(2) The costs to the County of Oxford of operating and maintaining Woodingford Lodge shall be raised as part of the general upper-tier levy under section 311. 2002, c. 17, Sched. A, s. 91.

Waterloo

474.16 (1) The council of The Regional Municipality of Waterloo shall be deemed to be a board of a county library for the purposes of the *Public Libraries Act*. 2002, c. 17, Sched. A, s. 91.

Costs

(2) The operation of the library service of The Regional Municipality of Waterloo shall be limited to its lower-tier municipalities that had the status of a township on December 31, 2002. 2002, c. 17, Sched. A, s. 91.

Muskoka

474.17 The revenues and expenditures of a home maintained by The District Municipality of Muskoka under the *Long-Term Care Homes Act, 2007* may be included in the general revenues and expenditures of the district municipality and The District Municipality of Muskoka is not required to maintain a separate bank account in relation thereto. 2002, c. 17, Sched. A, s. 91; 2007, c. 8, s. 218 (8).

County of Middlesex

474.18 (1) The City of London shall, on or before March 1 in each year, pay the County of Middlesex, as compensation for the reduction in income due to the dissolution of the London-Middlesex Suburban Roads Commission, an amount determined in accordance with the following:

1. For 1998, the amount is the amount payable under the predecessor of this subsection for 1997.
2. For a year after 1998, the amount is determined in accordance with the following formula:

$$\text{Amount current year} = \text{Amount 1998} \times \frac{\text{Tax rate current year}}{\text{Tax rate 1998}}$$

where,

“Amount” means the amount payable under this subsection,

“Tax rate” means the City of London’s tax rate for the general local municipality levy for the residential/farm property class prescribed under the *Assessment Act*.

2002, c. 17, Sched. A, s. 91.

Regulations

(2) The Minister may make regulations providing for a different amount to be payable under subsection (1) than the amount that would otherwise be payable under that subsection. 2002, c. 17, Sched. A, s. 91.

Special reserve fund

(3) The County of Middlesex shall establish a special reserve fund designated for the capital costs of providing sewers and waterlines and shall place all payments received under subsection 48 (1) of the *London-Middlesex Act, 1992*, as that subsection read on December 31, 2002, in the special reserve fund. 2002, c. 17, Sched. A, s. 91.

Same

(4) The County shall not change the designation of the special reserve fund without the approval of the Minister. 2002, c. 17, Sched. A, s. 91.

Legislation Act, 2006

(5) Part III (Regulations) of the *Legislation Act, 2006* does not apply to a matter approved under subsection (4). 2006, c. 21, Sched. F, s. 120 (14).

County of Simcoe

474.19 (1) The council of each local municipality in the County of Simcoe shall be deemed to be a recreation committee under the *Ministry of Tourism and Recreation Act*. 2002, c. 17, Sched. A, s. 91.

Powers

(2) A council deemed to be a committee under subsection (1) may exercise its powers in respect of culture, parks, recreation and heritage matters under this Act. 2002, c. 17, Sched. A, s. 91.

Simcoe, consents

474.20 (1) The County of Simcoe shall, on January 1, 1994, be deemed to have received the approval of the Minister for the giving of consents and to have delegated that authority under subsection 54 (1) of the *Planning Act* to each local municipality. 2002, c. 17, Sched. A, s. 91.

Proviso

(2) Nothing in subsection (1) prevents the delegation, withdrawal of delegation or redelegation of the authority to give consents. 2002, c. 17, Sched. A, s. 91.

Regional municipalities

474.21 A regional municipality, except The District Municipality of Muskoka, has the powers, rights and duties of a board of health under the *Health Protection and Promotion Act*. 2002, c. 17, Sched. A, s. 91.

475.-484. OMITTED (AMENDS OR REPEALS OTHER ACTS). 2001, c. 25, ss. 475-484.

485. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2001, c. 25, s. 485.

486. OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2001, c. 25, s. 486.

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