



BILL NO. 138

Government Bill

*2nd Session, 60th General Assembly
Nova Scotia
57 Elizabeth II, 2008*

An Act to Amend Chapter 18 of the Acts of 1998, the Municipal Government Act

CHAPTER 25
ACTS OF 2008

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 27, 2008**

The Honourable Jamie Muir
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
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**An Act to Amend Chapter 18
of the Acts of 1998,
the Municipal Government Act**

Be it enacted by the Governor and Assembly as follows:

1 Subsection 66(3) of Chapter 18 of the Acts of 1998, the *Municipal Government Act*, as amended by Chapter 35 of the Acts of 2001, is further amended by adding “or inter-municipal corporation” immediately after “party” in the fifth line.

2 Section 71 of Chapter 18, as amended by Chapter 14 of the Acts of 2001, Chapter 35 of the Acts of 2001 and Chapter 9 of the Acts of 2005, is further amended by striking out “by-law” wherever it appears in Section 71 and substituting in each case “policy”.

3 Subsection 152(2) of Chapter 18 is amended by adding immediately after clause (b) the following clause:

(ba) the full amount of any outstanding taxes arising before the tax sale where the purchaser paid less than the amount of the outstanding taxes on the land;

4 Chapter 18 is further amended by adding immediately after Section 171 the following Section:

171A Where this Act confers a specific power on a municipality in relation to a matter that can be read as coming within a general power also conferred by this Act, the general power is not to be interpreted as being limited by the specific power.

5 Chapter 18 is further amended by adding immediately after Section 172 the following Sections:

172A (1) In this Section, “vacant building” does not include a seasonal dwelling.

(2) The council of a municipality may acquire a property that contains a vacant building if the building is boarded up for a period of time that exceeds the length of time that it may be boarded up under a by-law made pursuant to subclause 172(1)(ja)(iii).

(3) Before deciding to acquire a property under subsection (2), the council shall provide seven days’ notice in writing to the owner, setting out the date, time and place of the meeting at which the decision to acquire the property will be discussed, and the owner must be given an opportunity to appear and be heard before any order is made.

(4) Notice under subsection (3) must be provided by service upon the owner or by posting the notice in a conspicuous place upon the property.

(5) Where the owner refuses to sell the property, the council may exercise the power of expropriation under Section 52 to acquire the property.

(6) The council may spend money under Section 65 to acquire the property and improve it.

172B (1) In this Section, “serviced area” means an area that has access to municipal water or wastewater service or that is identified as a “serviced area” in a municipal subdivision by-law.

(2) A council may make by-laws, for municipal purposes, requiring that existing trees or vegetation be retained or only removed pursuant to a municipal permit.

(3) Subsection (2) does not apply to

(a) land used for agricultural or forestry purposes;

(b) land that is in a serviced area and is only capable of being subdivided into three or fewer lots of a size that could be used for development; and

(c) land that is in an unserviced area and is only capable of being subdivided into ten or fewer lots that could be used for development.

6 (1) Clause 220(5)(q) of Chapter 18 is repealed and the following clause substituted:

(q) regulate or prohibit development in areas near airports in excess of 30 NEF/NEP (thirty noise exposure forecast/noise exposure projections) as set out on maps produced by an airport authority, as revised from time to time, and reviewed by Transport Canada;

(2) Subsection 220(6) of Chapter 18 is repealed.

7 Subsection 236(1) of Chapter 18 is amended by striking out “thirty metres” in the fourth line and substituting “the greater of thirty metres and the distance set by the land-use by-law or by policy”.

8 Chapter 18 is further amended by adding immediately after Section 250 the following Section:

250A (1) A municipality shall file a complete appeal record with the Board, and any other person as the Board may require, within fourteen business days of the municipality being notified by the Board of the appeal.

(2) A hearing must begin within forty-five days from the filing of the appeal record unless the Board determines that it is necessary for the interests of justice for the hearing to begin at some later time or unless all the parties agree that the hearing may begin at some later time.

(3) The Board shall render its decision within sixty days after the close of submissions by the parties, unless the Board otherwise states at the close of the hearing or unless it is necessary for the interests of justice.

(4) A decision of the Board is not invalid nor does the Board lose jurisdiction over a matter in the event that a decision is rendered later than sixty days after the close of submissions.

(5) In the event that the Board directs the filing of post-hearing written submissions, such submissions must be filed with the Board within fourteen days after the close of the hearing unless the Board determines that it is necessary for the interests of justice for such submissions to be submitted at some later time or unless all the parties agree that the submissions may be filed at some later time.

(6) Notwithstanding subsection 28(1) of the Utility and Review Board Act,

(a) the Board shall, by order, impose costs on a municipality that fails to file a complete appeal record within the time referred to in subsection (1); and

(b) the Board may, by order, impose costs on any party to an appeal that fails to meet any deadline or time limit established pursuant to this Section or otherwise established or imposed by the Board.

(7) When imposing costs pursuant to subsection (6), the Board shall consider, in addition to what the Board considers relevant, the financial ability of the party to pay and the conduct of the party in the appeal.

(8) This Section only applies to appeals to the Board made pursuant to this Part.

(9) This Section only applies to proceedings commenced on or after the coming into force of this Section.

9 Chapter 18 is further amended by adding immediately after Section 457 the following Sections:

457A (1) After consulting with the Union of Nova Scotia Municipalities, the Minister may appoint a Municipal Auditor General.

(2) The Auditor General must be a qualified auditor.

(3) Subject to this Section, the Municipal Auditor General holds office for a term of seven years and may not be re-appointed.

(4) The Municipal Auditor General may be removed from office by the Minister.

(5) The Municipal Auditor General reports to the council of every municipality on which the Municipal Auditor General performs an audit.

(6) A municipality may enter into an agreement pursuant to Section 60 for cost sharing, services sharing and administration in relation to the Municipal Auditor General.

(7) Where no agreement is entered into pursuant to subsection (6), the Minister may determine the matters referred to in that subsection.

457B (1) The Municipal Auditor General is responsible for assisting a council in holding itself and the municipality's administrators accountable for the quality

of stewardship over public funds and for achievement of value for money in the municipality's operations.

(2) The Municipal Auditor General shall examine in the manner and to the extent the Municipal Auditor General considers necessary, the accounts, procedures and programs of the municipality and any municipal body, as that term is defined in Section 461, or person or body corporate receiving a grant from the municipality, to evaluate

(a) whether the rules and procedures applied are sufficient to ensure an effective control of sums received and expended, adequate safeguarding and control of public property and appropriate records management;

(b) if money authorized to be spent has been expended with due regard to economy and efficiency;

(c) if money has been spent with proper authorization and according to an appropriation;

(d) if applicable procedures and policies encourage efficient use of resources and discourage waste and inefficiency; and

(e) whether programs, operations and activities have been effective.

(3) Without limiting the generality of subsection (2), the Municipal Auditor General shall examine those programs, policies and procedures as are reasonably requested by the council.

(4) The Municipal Auditor General shall report annually to the council in a public meeting and shall file such report with the Minister and, where the municipality has a chief administrative officer, the Municipal Auditor General shall inform the chief administrative officer of the contents of the report in advance of its submission to the council, except when such report or such contents address issues involving the chief administrative officer.

(5) In the report of the Municipal Auditor General, the Municipal Auditor General shall make recommendations, as appropriate, for improvements in the efficiency of a municipality.

(6) Notwithstanding subsection (1), the responsibilities of the Municipal Auditor General do not include the matters described in subsections 42(2) and (3).

(7) The authority of the Municipal Auditor General to exercise powers and perform duties extends to any person, body corporate or association who or that receives a grant directly or indirectly from a municipality and such authority applies only in respect of grants received by the grant recipient directly or indirectly from a municipality or a municipal body, as that term is defined in Section 461, after the date on which this Section comes into force.

(8) The Municipal Auditor General may delegate in writing to any person, other than a member of a council, any of the Municipal Auditor General's powers and duties under this Section.

(9) The Municipal Auditor General may continue to exercise the delegated powers and duties, notwithstanding the delegation.

457C (1) A municipality, a municipal body, as that term is defined in Section 461, and grant recipients referred to in subsections 457B(2) and (7) shall give the Municipal Auditor General such information regarding their powers, duties, activities, organization, financial transactions and methods of business as the Municipal Auditor General believes to be necessary to perform the Municipal Auditor General's duties under Section 457B.

(2) The Municipal 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 a municipality, a municipal body, as that term is defined in Section 461, or a grant recipient, as the case may be, that the Municipal Auditor General believes to be necessary to perform the Municipal Auditor General's duties under Section 457B.

(3) A disclosure to the Municipal Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

457D (1) The Municipal Auditor General may examine any person on oath on any matter pertinent to an audit or examination under Section 457B.

(2) The Municipal Auditor General has, in the performance of the Municipal Auditor General's duties, the same powers, privileges and immunities as a commissioner appointed under the *Public Inquiries Act*.

457E (1) The Municipal Auditor General, and every person acting under the instructions of the Municipal Auditor General, shall preserve secrecy with respect to all matters that come to the Municipal Auditor General's knowledge in the course of the Municipal Auditor General's duties under this Act.

(2) The Municipal Auditor General, or a person to whom powers are delegated pursuant to subsection 457B(8), shall keep in confidence all information obtained in the exercise of a power or in the performance of a duty of the Municipal Auditor General and shall not communicate this information to any person except

- (a) in the course of the administration of an enactment; or
- (b) in court proceedings.

(3) A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Municipal Auditor General under Section 457C that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege.

(4) This Section prevails over Part XX.

457F Neither the Municipal Auditor General nor any person acting under the instructions of the Municipal Auditor General is a competent or compellable witness in a civil proceeding in connection with anything done under Sections 457A to 457E.

10 Subsection 485(2) of Chapter 18 is amended by adding immediately after clause (n) the following clause:

(na) in accordance with subsections (4) or (5);

11 Section 513 of Chapter 18 is amended by striking out “or village” wherever it appears in Section 513 and substituting in each case “, village or inter-municipal corporation created pursuant to Section 60”.

12 Section 514 of Chapter 18 is amended by striking out “or village” wherever it appears in Section 514 and substituting in each case “, village or inter-municipal corporation created pursuant to Section 60”.

13 Section 515 of Chapter 18 is amended by striking out “or village” wherever it appears in Section 515 and substituting in each case “, village or inter-municipal corporation created pursuant to Section 60”.

14 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
